

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CISCO SYSTEMS, INC.,

Plaintiff,

v.

CHRIMAR SYSTEMS INC.,
d/b/a CMS TECHNOLOGIES,

Defendant.

Case No.

Honorable

Magistrate Judge

COMPLAINT AND JURY DEMAND

Plaintiff Cisco Systems, Inc. ("Cisco") hereby demands a jury trial and alleges as follows for its complaint against Defendant ChriMar Systems Inc. d/b/a CMS Technologies ("ChriMar"):

COMPLAINT

PARTIES

1. Cisco Systems, Inc. is a California corporation with its principal place of business on Tasman Drive in San Jose, California 95134.

2. On information and belief, ChriMar Systems, Inc. d/b/a CMS Technologies is a Michigan corporation with its principal place of business at 36528 Grand River Avenue, Suite A-1 in Farmington Hills, Michigan.

Cisco 1048

JURISDICTION AND VENUE

3. This action is predicated on the patent laws of the United States, Title 35 of the United States Code, with a specific remedy sought based upon the laws authorizing actions for declaratory judgment in the courts of the United States, 28 U.S.C. §§ 2201 and 2202. This court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a), and 1367.

4. An actual and justiciable controversy exists between ChriMar and Cisco as to the noninfringement, invalidity, and unenforceability of U.S. Patent Nos. 8,902,760 ("760 Patent") and 8,942,107 ("107 Patent") (attached as Exhibits A and B respectively). As further alleged below, ChriMar is and has been engaged in a campaign to license and enforce its patent portfolio against manufacturers and sellers of Power over Ethernet ("PoE") networking products, including Cisco. In connection with ChriMar's licensing campaign targeting PoE products, Cisco is currently involved in litigation against ChriMar with respect to U.S. Patent No. 7,457,250 ("250 Patent").¹ This litigation involves PoE products implementing the IEEE 802.3af and IEEE 802.3at amendments to the IEEE 802.3 standard. Cisco has also brought a declaratory judgment action against ChriMar with respect to

¹ *ChriMar Systems, Inc. v. Cisco Systems, Inc.*, No. 4:13-cv-1300-JSW (N.D. Cal.) ("the NDCA case").

related U.S. Patent No. 8,155,012 ("012 Patent") in this Court.² The '760 Patent issued in December 2014, and ChriMar has included the '760 Patent in its public statements concerning its PoE licensing campaign. The '107 Patent issued at the end of January 2015. Cisco maintains that the '250, '012, '760, and '107 Patents are invalid, unenforceable, and are not infringed by Cisco's PoE products capable of implementing the IEEE 802.3af and IEEE 802.3at amendments to the IEEE 802.3 standard.³

5. This Court has personal jurisdiction over ChriMar at least because, on information and belief, ChriMar is a Michigan corporation having its principal place of business within the Eastern District of Michigan at 36528 Grand River Avenue, Suite A-1 in Farmington Hills, Michigan. ChriMar has made substantial business contacts in Michigan including product sales to Michigan entities, and ChriMar's campaign to enforce and license its patent portfolio, including the '760 Patent and '107 Patent, has a substantial relationship to Michigan. ChriMar has availed itself of the laws of this district in connection with its current portfolio

² *Cisco Systems, Inc. v. ChriMar Systems, Inc.*, No. 2:14-cv-10290 (E.D. Mich.). That action is currently stayed pending resolution of the N.D. Cal. litigation.

³ In the NDCA case, Cisco has counterclaimed for a declaratory judgment that the '250 Patent, parent to the '012, '760, and '107 Patents, is invalid, unenforceable, and not infringed by Cisco's PoE products, including products implementing the IEEE 802.3af and 802.3at amendments.

licensing efforts targeting PoE products, including by litigating patent infringement claims involving that portfolio in this district.

6. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1), (c) and § 1400(b) at least because ChriMar is subject to personal jurisdiction in this District and is located within this District and because a substantial part of the events that give rise to the claims herein occurred in this district.

INTRODUCTION

7. During standardization of the "Power over Ethernet" technology by the Institute for Electrical and Electronics Engineers ("IEEE"), ChriMar deceptively and intentionally failed to disclose its belief that its then-pending and open patent application that led to both the '760 Patent and the '107 Patent covered certain functions being incorporated into the standards, and its licensing position about those patents or their applications. As alleged in further detail below, ChriMar participated in the standard-setting process of the IEEE and was fully aware of the rules and policies governing such participation, including with respect to the disclosure of intellectual property rights to the IEEE. In violation of those rules and policies, however, ChriMar selectively disclosed only one of its patents to the IEEE — a patent that was in a different patent family than the '760 and '107 Patents — while deceptively hiding its belief about the applicability of the pending

'760 and '107 Patent-related application to the standard from the IEEE and the participants in the standards-setting process.

8. ChriMar's plan at the time of this deception was to draft the claims to cover the standard and then hold producers and consumers of Power over Ethernet standardized technologies hostage to ChriMar's demands for supracompetitive royalty rates once industry participants and consumers became "locked-in" to the standards. Cisco denies any infringement, but under ChriMar's apparent infringement theories and enforcement campaigns, ChriMar's deceptive conduct at the IEEE — not any intrinsic value of the technology claimed by the '760 Patent or '107 Patent — gave it monopoly power in the relevant technology markets alleged herein.

9. Due to ChriMar's intentional deception of the IEEE as part of its scheme, as further alleged herein, ChriMar has committed standards-related fraud, breached its contractual obligations to the IEEE, rendered the '760 and '107 Patents unenforceable due to its unclean hands, and violated Section 17200 of the California Business and Professions Code.

BACKGROUND

A. CHRIMAR'S PATENTS

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