

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

HEWLETT-PACKARD CO.,)	
)	
Plaintiff,)	
)	
v.)	
)	
CHRIMAR SYSTEMS, INC. d/b/a)	Case No. _____
CMS TECHNOLOGIES,)	
)	DEMAND FOR JURY TRIAL
Defendant.)	
)	

**HEWLETT-PACKARD CO.’S COMPLAINT
AND DEMAND FOR JURY TRIAL**

Plaintiff Hewlett-Packard Company (“HP”), for its Complaint against Defendant ChriMar Systems, Inc. d/b/a CMS Technologies (“ChriMar”), hereby demands a jury trial and alleges as follows:

NATURE OF THE ACTION

1. HP seeks a declaratory judgment of patent noninfringement, invalidity, and unenforceability due to unclean hands, estoppel, waiver, and/or implied license of United States Patent No. 8,155,012, entitled “System and Method for Adapting a Piece of Terminal Equipment,” (the “’012 patent”) pursuant to the Patent Laws of the United States, 35 U.S.C. § 100 *et seq.*, and such other relief as the Court deems just and proper.

2. A true and correct copy of the '012 patent is attached hereto as Exhibit A.

3. HP also brings an action for breach of contract by ChriMar for breach of the IEEE's patent policy and bylaws that required ChriMar to disclose through a Letter of Assurance patents or patent applications, including the '012 and its applications, that ChriMar believed were infringed by the practice of actual and/or proposed standards of the IEEE.

4. HP also brings an action under Section 17200 *et seq.* of the California Business and Professions Code for ChriMar's unfair business practices related to its conduct before the IEEE and its enforcement of the '012 patent and related patents.

PARTIES

5. Plaintiff Hewlett-Packard Co. is a corporation organized under the laws of Delaware with its principal place of business at 3000 Hanover Street, Palo Alto, California.

6. On information and belief, Defendant 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.

JURISDICTION AND VENUE

7. This Court has jurisdiction over these claims pursuant to, and without limitation, 28 U.S.C. §§ 1331, 1338(a), and 1367; the Declaratory Judgment Act 28 U.S.C. §§ 2201 and 2202; and the patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

8. The Court also has supplemental jurisdiction over the state law claims asserted in this Complaint under 28 U.S.C. § 1367 because the state and federal claims arise from a common nucleus of operative facts.

9. An actual and justiciable controversy exists between ChriMar and HP as to the noninfringement, invalidity, and unenforceability of the '012 patent. 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 HP. In connection with ChriMar's campaign targeting PoE products, HP is currently involved in litigation against ChriMar with respect to U.S. patent No. 7,457,250 (the "'250 patent").¹ HP's Complaint against ChirMar involves PoE products implementing the IEEE 802.3af and 802.3at standards. HP maintains that the '012 patent is invalid,

¹ *ChriMar Systems, Inc. v. Cisco Systems, Inc.*, No. 3:13-cv-1300-JSW (N.D. Cal.) ("the NDCA case").

unenforceable, and not infringed by HP's PoE products, including products implementing the IEEE 802.3af and 802.3at standards.²

10. 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 '012 patent. ChriMar has availed itself of the laws of this district through its portfolio licensing efforts targeting PoE products and its patent infringement claims involving that portfolio in this district.

11. 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.

² In the NDCA case, HP has counterclaimed for a declaratory judgment that the '250 patent, parent to the '012 patent, is invalid, unenforceable, and not infringed by HP's PoE products, including products implementing the IEEE 802.3af and 802.3at standards.

BACKGROUND

A. CHRIMAR'S PATENTS

12. ChriMar's patent portfolio includes the '012 patent, the '250 patent, U.S. patent No. 6,650,622 (the "622 patent"), and U.S. patent No. 5,406,260 (the "260 patent").

13. The '012 patent, entitled "System and Method for Adapting a Piece of Terminal Equipment," reports that it was filed on September 26, 2008 as Application No. 12/239,001, issued on April 10, 2012. The '012 patent reports that it is a continuation of Application No. 10/668,708, filed on September 23, 2003, now U.S. patent No. 7,457,250 ("the '250 patent"), which is a continuation of Application No. 09/370,430, filed on August 9, 1999, now U.S. patent No. 6,650,622, which is a continuation-in-part of Application No. PCT/US99/07846, filed on April 8, 1999. The inventors named on the '012 patent are John F. Austermann, III, and Marshall B. Cummings.

14. As alleged herein, the '012 patent was not duly and legally issued.

15. On information and belief, ChriMar is the current assignee of the '012 patent.

16. The '250 patent, entitled "System for Communicating with Electronic Equipment," reports that it was filed on September 23, 2003, issued on November 25, 2008 and then had a reexamination certificate issued on March 1, 2011. The

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