

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

HEWLETT-PACKARD CO.,)	
)	
Plaintiff,)	
)	Case No.
v.)	
)	HON.
CHRIMAR SYSTEMS, INC. d/b/a)	
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 Nos. 8,902,760 (the “760 Patent”), entitled “Network System and Optional Tethers,” and 8,942,107 (the “107 Patent”), entitled “A Piece of Ethernet Terminal Equipment,” 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.

{36692/1/DT932199.DOC:1}

2. A true and correct copy of the '760 Patent is attached hereto as Exhibit A. A true and correct copy of the '107 Patent is attached hereto as Exhibit B.

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 that ChriMar believed were infringed by the practice of actual and/or proposed standards of the IEEE, such as ChriMar's '760 and '107 Patent-related applications.

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 '760 Patent, the '107 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 ‘760 and ‘107 Patents. 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 licensing 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 This litigation involves PoE products implementing the IEEE 802.3af and IEEE 802.3at amendments to the IEEE 802.3 standard. HP has also brought a declaratory judgment action against ChriMar with respect to related U.S.

¹ *ChriMar Systems, Inc. v. Cisco Systems, Inc.*, No. 4:13-cv-1300-JSW (N.D. Cal.) (“*ChriMar v. Cisco*”).

Patent No. 8,155,012 (the “‘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. HP maintains that the ‘250, ‘012, ‘760, and ‘107 Patents are invalid, unenforceable, and are not infringed by HP’s PoE products capable of implementing the IEEE 802.3af and IEEE 802.3at amendments to the IEEE 802.3 standard.³

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 ‘760 and ‘107 Patents, has a substantial relationship to Michigan. ChriMar has availed itself of the laws of this district in connection with its current portfolio licensing

² *Hewlett-Packard Co. v. ChriMar Systems, Inc.*, No. 2:14-cv-10292 (E.D. Mich.). That action is currently stayed pending resolution of the N.D. Cal. litigation.

³ In *ChriMar v. Cisco*, HP 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 HP’s PoE products, including products implementing the IEEE 802.3af and 802.3at standards.

efforts targeting PoE products, including by litigating 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.

BACKGROUND

A. CHRIMAR'S PATENTS

12. ChriMar's patent portfolio includes the '107 Patent, the '760 Patent, the '250 Patent, the '012 Patent, U.S. Patent No. 6,650,622 (the "'622 Patent'"), and U.S. Patent No. 5,406,260 (the "'260 Patent'").

13. The '107 Patent, entitled "Piece of Ethernet Terminal Equipment," reports that it was filed on February 10, 2012 as Application No. 13/370,918, and issued on January 27, 2015. The '107 Patent reports that it is a continuation of Application No. 12/239,001, filed on September 26, 2008, now the '012 Patent, which is a continuation of Application No. 10/668,708, filed on September 23, 2003, now the '250 Patent, which is a continuation of Application No. 09/370,430, filed on August 9, 1999, now the '622 Patent, which is a continuation-in-part of application No. PCT/US99/07846, filed on April 8, 1999. The inventors named on the '107 Patent are John F. Austermann, III and Marshall B. Cummings.

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