

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

802 Systems Inc.,

Plaintiff,

v.

Cisco Systems, Inc.,

Defendant.

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Civil Action No. 2:20-cv-00315-JRG-RSP

Jury Trial Demanded

**PLAINTIFF 802 SYSTEMS INC.'S
DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS AND
IDENTIFICATION OF DOCUMENT PRODUCTION ACCOMPANYING
DISCLOSURE PURSUANT TO LOCAL PATENT RULES 3-1 AND 3-2**

Pursuant to Local Patent Rules 3-1 and 3-2, Plaintiff 802 Systems Inc. (“Plaintiff” or “802 Systems”) makes its Disclosures of Asserted Claims and Infringement Contentions against Defendant Cisco Systems, Inc. (“Defendant” or “Cisco”) and Identification of Document Production Accompanying Disclosure.

Based on 802 Systems’s review of publicly available information, 802 Systems presents these Infringement Contentions reflecting its current analysis of facts presently known to it. To the best of 802 Systems’s knowledge, information, and belief, formed after an inquiry that is reasonable under the circumstances, the information contained in this disclosure is complete and correct.

Rule 3-1: Disclosure of Asserted Claims and Infringement Contentions

3-1(a) Each claim of each patent in suit that is allegedly infringed by each opposing party;

Based on the information currently available to it, 802 Systems asserts Claims 1, 2, 3, 4, 11, 12, 13, 14, 15, 16, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 61, 64, and 65 of U.S. Patent No. 7,013,482 (“the ’482 Patent”) as being infringed by Cisco under 35 U.S.C. §§ 271(a) and 217(b).

Based on the information currently available to it, 802 Systems asserts Claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, and 17 of U.S. Patent No. 8,458,784 (“the ’784 Patent”) as being infringed by Cisco under 35 U.S.C. §§ 271(a) and 217(b).

Based on the information currently available to it, 802 Systems asserts Claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, and 18 of U.S. Patent No. 7,031,267 (“the ’267 Patent”) as being infringed by Cisco under 35 U.S.C. §§ 271(a) and 217(b).

Cisco directly infringes the asserted patents under 35 U.S.C. § 271(a) by making, using, selling, offering to sell, and/or importing the Accused Products and by practicing the method claims within the United States. Upon information and belief, Cisco uses or has used one or more of the Accused Products at least in its offices and/or data centers, including at least those located in this District. Cisco is also liable for indirect infringement under 35 U.S.C. § 271(b) through its inducement of its customers’ infringement of the asserted patents. Cisco’s customers have infringed and continue to infringe the Patents-in-Suit by using the Accused Products purchased from Cisco. Through its product manuals and/or sales and marketing activities, Cisco solicits, instructs, encourages, and aids and abets its customers to purchase and use the Accused Products in an infringing way. Cisco has knowledge of the Patents-in-Suit at least as of the filing of this lawsuit.

Upon information and belief, Cisco has been aware of 802 Systems and/or one or more of the Patents-in-Suit since before the filing of this lawsuit. The asserted ’482 Patent was cited by the Examiner during prosecution of U.S. Patent No. 7,266,754 (to Cisco Technology, Inc.) in

connection with a Notice of Allowance dated February 22, 2007. Thereafter, Cisco Technology, Inc. cited the '482 Patent in Information Disclosure Statements dated June 13, 2007, submitted in connection with the prosecution of U.S. Patent Nos. 7,257,840, 7,472,416, and 7,565,694. U.S. Patent Application Publication No. 2002/0080771 (which is the application that led to the asserted '267 Patent) was cited by the Examiner and used in an obviousness rejection in an office action during prosecution of U.S. Patent No. 7,313,635 (to Cisco Technology, Inc.) dated September 30, 2005. Thereafter, Cisco Technology, Inc. cited the same application (U.S. Patent Application Publication No. 2002/0080771) in an Information Disclosure Statement dated November 3, 2005, submitted in connection with the prosecution of U.S. Patent No. 7,313,686. The asserted '267 Patent was cited by the Examiner and used to reject all pending claims as anticipated under 35 U.S.C. § 102(e) in an office action dated October 10, 2006, in connection with the prosecution of U.S. Patent No. 8,296,452.

Additionally, upon information and belief, Cisco and/or its representatives were aware of one or more of the Patents-in-Suit at least through the prosecution activities described above. Cisco's ongoing actions are with specific intent to cause infringement of one or more claims of each of the Patents-in-Suit. Further discovery may reveal earlier knowledge of one or more of the Patents-in-Suit, which would provide additional evidence of Cisco's specific intent and/or willful blindness with respect to infringement.

3-1(b) Separately for each asserted claim, each accused apparatus, product, device, process, method, act, or other instrumentality (“Accused Instrumentality”) of each opposing party of which the party is aware. This identification shall be as specific as possible. Each product, device, and apparatus must be identified by name or model number, if known. Each method or process must be identified by name, if known, or by any product, device, or apparatus which, when used, allegedly results in the practice of the claimed method or process;

Based on the information currently available to it, 802 Systems accuses each following apparatus, product, device, or other instrumentality (“Accused Instrumentality”) of Cisco as infringing one or more claims of the ’482, ’784, and ’267 Patents. Upon information and belief, each of the following products infringes the claims of the Patents-in-Suit, are components/modules of an infringing system, and/or practice the claimed methods at least when Cisco’s Nexus Series Switches are deployed in a data center. Each of the following products is therefore implicated by 802 Systems’s infringement allegations and is therefore accused in this case.

Switch/Model Series	Model Number ¹
Cisco Nexus 3000 Switch Series	Nexus 3048
Cisco Nexus 3100 Switch Series	Nexus 31128PQ
Cisco Nexus 3100 Switch Series	Nexus 3132Q-X
Cisco Nexus 3100 Switch Series	Nexus 3132Q-XL
Cisco Nexus 3100 Switch Series	Nexus 3164Q
Cisco Nexus 3100 Switch Series	Nexus 3172PQ
Cisco Nexus 3100 Switch Series	Nexus 3172PQ-XL
Cisco Nexus 3100 Switch Series	Nexus 3172TQ-XL
Cisco Nexus 3100-V Switch Series	Nexus 31108PC-V
Cisco Nexus 3100-V Switch Series	Nexus 31108TC-V
Cisco Nexus 3100-V Switch Series	Nexus 3132Q-V
Cisco Nexus 3100-Z Switch Series	Nexus 3132C-Z
Cisco Nexus 3200 Switch Series	Nexus 3232C
Cisco Nexus 3200 Switch Series	Nexus 3264C-E
Cisco Nexus 3200 Switch Series	Nexus 3264Q
Cisco Nexus 3400 Switch Series	Nexus 3408-S
Cisco Nexus 3400 Switch Series	Nexus 34180YC
Cisco Nexus 3400 Switch Series	Nexus 3432D-S
Cisco Nexus 3400 Switch Series	Nexus 3464C
Cisco Nexus 3500 Switch Series	Nexus 3524-X
Cisco Nexus 3500 Switch Series	Nexus 3524-XL
Cisco Nexus 3500 Switch Series	Nexus 3548-X
Cisco Nexus 3500 Switch Series	Nexus 3548-XL
Cisco Nexus 3550 Switch Series	Nexus 3550-F Fusion HPT
Cisco Nexus 3550 Switch Series	Nexus 3550-F Fusion L1
Cisco Nexus 3550 Switch Series	Nexus 3550-F Fusion L2
Cisco Nexus 3550 Switch Series	Nexus 3550-F Fusion Mux
Cisco Nexus 3550 Switch Series	Nexus 3550-H Hydra L1-144

¹ Each model number includes a number of individual product IDs.

Switch/Model Series	Model Number ¹
Cisco Nexus 3550 Switch Series	Nexus 3550-H Hydra L1-160
Cisco Nexus 3600 Switch Series	Nexus 36180YC-R
Cisco Nexus 3600 Switch Series	Nexus 3636C-R
Cisco Nexus 5500 Switch Series, 1/10 Gbps Platform	Nexus 5548P
Cisco Nexus 5500 Switch Series, 1/10 Gbps Platform	Nexus 5548UP
Cisco Nexus 5500 Switch Series, 1/10 Gbps Platform	Nexus 5596T
Cisco Nexus 5500 Switch Series, 1/10 Gbps Platform	Nexus 5596UP
Cisco Nexus 5600 Switch Series, 10-Gbps Platforms	Nexus 56128P
Cisco Nexus 5600 Switch Series, 10-Gbps Platforms	Nexus 56128P
Cisco Nexus 5600 Switch Series, 10-Gbps Platforms	Nexus 5672UP
Cisco Nexus 5600 Switch Series, 10-Gbps Platforms	Nexus 5672UP-16G
Cisco Nexus 5600 Switch Series, 40-Gbps Platforms	Nexus 5624Q
Cisco Nexus 5600 Switch Series, 40-Gbps Platforms	Nexus 5648Q
Cisco Nexus 5600 Switch Series, 40-Gbps Platforms	Nexus 5696Q
Cisco Nexus 5000 Switch Series	Nexus 5010
Cisco Nexus 5000 Switch Series	Nexus 5020
Cisco Nexus 9200 Switch Series, Nexus 9200 1/10/25/40/50/100 GE Switches	Nexus 9216YC-X
Cisco Nexus 9200 Switch Series, Nexus 9200 1/10/25/40/50/100 GE Switches	Nexus 9272Q
Cisco Nexus 9200 Switch Series, Nexus 9200 1/10/25/40/50/100 GE Switches	Nexus 92304QC
Cisco Nexus 9200 Switch Series, Nexus 9200 1/10/25/40/50/100 GE Switches	Nexus 9236C
Cisco Nexus 9200 Switch Series, Nexus 9200 1/10/25/40/50/100 GE Switches	Nexus 92300YC
Cisco Nexus 9200 Switch Series, Nexus 9200 1/10/25/40/50/100 GE Switches	Nexus 92348GC-X
Cisco Nexus 9300 Switch Series, Nexus 9300 40/100 GE Switches	Nexus 9364C
Cisco Nexus 9300 Switch Series, Nexus 9300 40/100 GE Switches	Nexus 9336C-FX2
Cisco Nexus 9300 Switch Series, Nexus 9300 40/100 GE Switches	Nexus 9332C
Cisco Nexus 9300 Switch Series, Nexus 9300 40/100 GE Switches	Nexus 9364C-GX
Cisco Nexus 9300 Switch Series, Nexus 9300 1/10/25GE Fiber Switches	Nexus 93180C-EX
Cisco Nexus 9300 Switch Series, Nexus 9300 1/10/25GE Fiber Switches	Nexus 93180YC-FX
Cisco Nexus 9300 Switch Series, Nexus 9300 1/10/25GE Fiber Switches	Nexus 93180YC-FX3S
Cisco Nexus 9300 Switch Series, Nexus 9300 1/10/25GE Fiber Switches	Nexus 93240YC-FX2

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