

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

ORCKIT CORPORATION,

Plaintiff,

v.

CISCO SYSTEMS, INC.,

Defendant.

Civil Action No. 2:22-cv-276

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Orckit Corporation (“Orckit” or “Plaintiff”) submits this complaint for patent infringement against Defendant Cisco Systems, Inc. (“Cisco” or “Defendant”), requests a trial by jury, and alleges the following upon actual knowledge with respect to itself and its own acts and upon information and belief as to all other matters:

NATURE OF ACTION

1. This is an action for patent infringement. Orckit alleges that Cisco infringes U.S. Patents Nos. 6,680,904 (“the ’904 Patent”), 7,545,740 (“the ’740 Patent”), 8,830,821 (“the ’821 Patent”), and 10,652,111 (“the ’111 Patent”) (collectively, “the Asserted Patents”), copies of which are attached hereto.

2. Orckit alleges that Cisco: (1) directly and indirectly infringes the Asserted Patents by making, using, offering for sale, selling, and importing certain networking hardware and software; (2) induces infringement of the Asserted Patents and contributes to others’ infringement of the Asserted Patents; and (3) infringes the Asserted Patents willfully. Orckit seeks damages and other relief for Cisco’s wrongful conduct.

PARTIES

3. Orckit is a Delaware Corporation and owns the Asserted Patents by assignment.

4. Cisco is a Delaware corporation with its principal place of business at 170 West Tasman Drive, San Jose, California 95134.

5. Cisco is registered to do business in Texas, maintains places of business in Texas, and conducts business in Texas. Cisco has at least two places of business in this district, including a multi-building campus with over 1,400 employees at 2250 East President George Bush Turnpike, Richardson, Texas 75082, and a 162,000 square foot data center at 2260 Chelsea Blvd., Allen, Texas 75013. The Collin County Appraisal District appraised these facilities at a combined value over \$300,000,000.

6. Cisco has a permanent and continuous presence in Texas and a regular and established place of business in the Eastern District of Texas.

JURISDICTION AND VENUE

7. This action arises under the patent laws of the United States, 35 U.S.C. § 271 *et seq.* The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. The Court has personal jurisdiction over Cisco. As alleged above, Cisco has sufficient minimum contacts with Texas so that this action does not offend due process or the traditional notions of fair play and substantial justice and so that Texas's long-arm statute is satisfied. Among other factors, Cisco is registered in Texas, is domiciled in this district, and has a continuous presence in and systematic contact with this district. Specifically, Cisco regularly conducts business at its facilities in Richardson and Allen and derives substantial revenue from the goods and services that it provides to its customers in Texas. Cisco also undertakes a portion of its infringing activities in Texas—including by making, using, importing, offering for sale,

and selling products and services that infringe the Asserted Patents—directly and through its distributors, retailers, and other intermediaries.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. §§1391(b), (c), (d) and 1400(b) because Cisco has a permanent and continuous presence in, has committed acts of infringement in, and maintains a regular and established place of business in this district.

FACTUAL ALLEGATIONS

Orckit Communications Ltd. and Its Breakthrough Communications Technology

10. The patented technology is rooted in research by Orckit Communications Ltd. (later reorganized and renamed Orckit-Corrigent Ltd.), a company founded in Israel in 1990 by Izhak Tamir. The company was a pioneer in the development of infrastructure-level networking products, and in its first decade became the market leader in Asymmetric Digital Subscriber Line (ADSL) technology, winning a client base that included some of the world’s preeminent telecommunications providers. The company went public, and in 1996 was listed in the United States on the Nasdaq Stock Exchange.

11. Building from that initial success, Orckit Communications Ltd. turned its attention to overcoming significant limitations in Ethernet, the predominant technology used for local area networks used in offices, schools and other local environments. With the proliferation of data and the development of the Internet, demand for the data transmission skyrocketed. While Ethernet could be used to connect a limited number of computers, it was not well suited to the delivery of video, voice, and other applications with higher bandwidth requirements for a larger number of users. The existing standard for delivering voice communications, known as the Synchronous Optical Network (“SONET”) protocol, was not a viable alternative because it was not designed to process data in an efficient and scalable way. As a result, providers like

cable companies were required to develop and install their own infrastructure to deliver services and could not rely on a single network to provide different services in parallel.

12. Orckit Communications Ltd.’s solutions addressed those shortcomings. It quickly recognized that existing solutions could accommodate network traffic only so long as data occupied only a small portion of overall network traffic. The company’s technology overcame those limitations by enhancing Ethernet switching and routing to optimize the transmission of data, voice and video, including those using Internet Protocol (“IP”) telecommunications networks. The capacity, reliability, and resilience offered by Orckit Communications Ltd.’s inventions opened up the possibility of the transmission of data, voice, and video services on the same network—the hugely valuable “bundled services” or “triple-play services” sought by both telecommunications companies and their customers.

13. Between 2000 and 2010, Orckit Communications Ltd. invested hundreds of millions of US dollars in research and development of those solutions. It earned recognition around the world for those innovations and won contracts to rebuild national telecommunications infrastructure systems along with hundreds of patents—including those at issue in this lawsuit.

14. With the economic downturn of 2007 and 2008, many of Orckit Communications Ltd.’s most significant potential customers dramatically reduced their infrastructure spending. Even with its superior technology the company was unable to weather the global recession and ultimately went into liquidation.

15. Plaintiff Orckit Corporation obtained all rights in the Asserted Patents.

The Asserted Patents

U.S. Patent No. 6,680,904

16. Orckit is the lawful owner of all rights, title and interest in U.S. Patent No. 6,680,904 (“the ’904 Patent”) entitled “BI-DIRECTIONAL CHAINING OF NETWORK ACCESS PORTS” (attached as Exhibit 1), including the right to sue and recover for infringement thereof. The ’904 Patent was duly and legally issued on January 20, 2004, naming Menachem Kaplan, David Zelig, Roy Kinamon, Eli Aloni, Ron Sdayoor, Eric Paneth and Eli Magal as the inventors.

17. The ’904 Patent has 26 claims: 6 independent claims and 20 dependent claims.

18. The ’904 Patent presented novel and unconventional apparatuses and methods for (among other things) “efficient, high-speed transfer of data packets within an access multiplexer system.” Ex. 1, ’904 Patent at 1:65-67. The inventions patented in the ’904 Patent include, for example, “slave” and “master” units that are “connected in one or more daisy chains between the active and standby masters and are configured so that both downstream and upstream packets can be transmitted in either direction along each of the chains.” *Id.* at 2:11-14. Thus, “if a failure occurs in any one of the slaves or in a link between them, the traffic direction in the chain in which the failure has occurred is simply reversed so as to run through the standby master.” *Id.* at 2:15-18. “An advantage of the architecture of system 31 is that additional slaves may be added to the chains as needed, without having to change the number of interfaces associated with masters 30, and 32.” *Id.* at 6:33-36 One embodiment of the inventions of the ’904 Patent is shown in Fig. 3, reproduced below:

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