

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

CHIRIMAR SYSTEMS, INC., D/B/A
CMS TECHNOLOGIES AND
CHIRIMAR HOLDING COMPANY,

Plaintiffs,

v.

ALCATEL-LUCENT S.A.,
ALCATEL-LUCENT USA INC.,
ALCATEL-LUCENT HOLDINGS, INC., AND
ALCATEL-LUCENT ENTERPRISE USA INC.

Defendants.

CIVIL ACTION No. 6:15-cv-00163

PATENT CASE

JURY TRIAL DEMANDED

COMPLAINT

Chrimar Systems Inc. d/b/a CMS Technologies (“Chrimar”) and Chrimar Holding Company, LLC (“Holding”) file this Complaint against the above-named Defendants for infringement of United States Patent Nos. 8,155,012 (“the ’012 Patent”) and 8,942,107 (“the ’107 Patent”), collectively the “Patents-in-Suit.”

THE PARTIES

1. Chrimar is a Michigan corporation with a place of business located at 36528 Grand River Avenue, Suite A-1, Farmington Hills, Michigan 48335.
2. Holding is a Texas limited liability company with a place of business located at 911 NW Loop 281, Suite 211-14, Longview, Texas 75605.
3. Chrimar and Holding are collectively referred to as “Plaintiffs” or “CMS.”

4. Alcatel-Lucent S.A. is a French corporation with its principal place of business located at 148/152 route de la Reine 92100 Boulogne-Billancourt, 92100 France. This Court has personal jurisdiction over Alcatel-Lucent S.A.
5. Alcatel-Lucent USA, Inc. is a Delaware corporation with its principal place of business located at 600-700 Mountain Avenue, Murray Hill, New Jersey 07974. This Court has personal jurisdiction over Alcatel-Lucent USA, Inc.
6. Alcatel-Lucent Holdings, Inc. is a Delaware corporation with its principal place of business located at 3400 West Plano Parkway, Plano, Texas 75075. This Court has personal jurisdiction over Alcatel-Lucent Holdings, Inc.
7. Alcatel-Lucent Enterprise USA Inc. is a Delaware corporation with its principal place of business located at 26801 Agoura Road Calabasas, California 91301. This Court has personal jurisdiction over Alcatel-Lucent Enterprise USA Inc.
8. Alcatel-Lucent S.A., Alcatel-Lucent USA, Inc., Alcatel-Lucent Holdings, Inc., and Alcatel-Lucent Enterprise USA Inc. are collectively referred to as “Alcatel.”

JURISDICTION AND VENUE

9. This action arises under the patent laws of the United States, 35 U.S.C. § 101 *et seq.*
10. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).
11. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b).
12. This Court has personal jurisdiction over Alcatel because Alcatel has engaged in continuous and systematic activities in the state of Texas, including in this district. In addition, Alcatel has committed, and continue to commit acts of infringement in the state of Texas, including in this district.

PATENTS-IN-SUIT

13. Chrimar is the owner and assignee of the '012 Patent, entitled "System and Method for Adapting a Piece of Terminal Equipment" and Holding is the exclusive licensee of the '012 Patent. CMS owns all substantial rights in the '012 Patent, including the right to exclude others and to enforce, sue and recover damages for past and future infringement. A true and correct copy of the '012 Patent is attached as Exhibit A.
14. The '012 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.
15. Chrimar is the owner and assignee of the '107 Patent, entitled "Piece of Ethernet Terminal Equipment" and Holding is the exclusive licensee of the '107 Patent. CMS has ownership of all substantial rights in the '107 Patent, including the right to exclude others and to enforce, sue and recover damages for past and future infringement. A true and correct copy of the '107 Patent is attached as Exhibit B.
16. The '107 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.
17. The '012 and the '107 Patents are collectively the Patents-in-Suit.

ACCUSED PRODUCTS

18. Upon information and belief, Alcatel makes, uses, offers to sell, sells, and/or imports powered devices ("PDs") that comply with IEEE 802.3af and/or 802.3at. Such products include, but are not limited to, VOIP phones (e.g., the OmniTouch and Deskphone products), wireless access points (e.g., the OmniAccess products), and small cells (e.g., the Metro Cell and Enterprise Cell products), collectively the "Accused Products."

19. Upon information and belief, the Accused Products are offered for sale and sold throughout the United States, including within the Eastern District of Texas.
20. Alcatel has purposefully and voluntarily placed the Accused Products into the stream of commerce with the expectation that these products will be purchased and used by end users in the United States, including end users in the Eastern District of Texas.
21. Alcatel provides direct and indirect support concerning the Accused Products to end users, including end users within the Eastern District of Texas.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 8,155,012

22. CMS incorporates paragraphs 1 through 23 herein by reference.
23. Alcatel has and continues to directly infringe the '012 Patent in violation of 35 U.S.C. § 271(a) by making, using, offering for sale, selling, and/or importing into the United States the Accused Products.
24. Alcatel has and continues to indirectly infringe the '012 Patent in violation of 35 U.S.C. § 271(b) by inducing its partners, customers, distributors, and/or end users to use, offer for sale, and sell the Accused Products, and therefore Alcatel induces others to directly infringe the '012 Patent.
25. End users that use the Accused Products directly infringe the '012 Patent.
26. Alcatel has been on notice of the '012 Patent since at least as early as November of 2013.
27. Alcatel has not produced or relied upon an opinion of counsel suggesting that the '012 Patent is invalid or that the Accused Products do not infringe the '012 Patent.

28. CMS has been damaged as a result of Alcatel's infringing conduct described in this Count.

29. Unless enjoined by this Court, Alcatel will continue to infringe the '012 Patent.

COUNT II

INFRINGEMENT OF U.S. PATENT NO. 8,942,107

30. CMS incorporates paragraphs 1 through 32 herein by reference.

31. Alcatel has and continues to directly infringe the '107 Patent in violation of 35 U.S.C. § 271(a) by making, using, offering for sale, selling, and/or importing into the United States the Accused Products.

32. Alcatel has and continues to indirectly infringe the '107 Patent in violation of 35 U.S.C. § 271(b) by inducing its partners, customers, distributors, and/or end users to use, offer for sale, and sell the Accused Products, and therefore Alcatel induces others to directly infringe the '107 Patent.

33. End users that use the Accused Products directly infringe the '107 Patent.

34. Alcatel has been on notice of the '107 Patent since at least the filing date of this Complaint, but on information and belief, it has been aware of the '107 Patent since before the filing date of this Complaint.

35. Alcatel has not produced or relied upon an opinion of counsel suggesting that the '107 Patent is invalid or that the Accused Products do not infringe the '107 Patent.

36. CMS has been damaged as a result of Alcatel's infringing conduct described in this Count.

37. Unless enjoined by this Court, Alcatel will continue to infringe the '107 Patent.

ADDITIONAL ALLEGATIONS

- 38. CMS has complied with 35 U.S.C. § 287.
- 39. Alcatel's infringement of the '012 Patent has been willful.
- 40. Alcatel has been on notice of the '012 Patent since at least November of 2013, but has done nothing to curb its infringing conduct.

JURY DEMAND

CMS hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

CMS requests that this Court find in its favor and against Alcatel, and that this Court grant CMS the following relief:

- a. Enter judgment that Alcatel has infringed the '012 Patent;
- b. Enter judgment that Alcatel has infringed the '107 Patent;
- c. Enter judgment that Alcatel's infringement of the '012 Patent has been willful, and that Alcatel's continued infringement of the '012 Patent is willful;
- d. Award Plaintiffs damages in an amount adequate to compensate Plaintiffs for Alcatel's infringement of the '012 and '107 Patents, but in no event less than a reasonable royalty in accordance with 35 U.S.C. § 284;
- e. Award enhanced damages based on Alcatel's willful infringement of the '012 Patent;
- f. Award Plaintiffs pre-judgment and post-judgment interest to the full extent allowed under the law, as well as their costs;

- g. Declare that this is an exceptional case and award Plaintiffs their reasonable attorneys' fees incurred in this action;
- h. Enjoin Alcatel and all others in active concert with Alcatel from further infringement of the '012 and '107 Patents; and
- i. Award such other relief as the Court may deem appropriate and just under the circumstances.

Dated: March 6, 2015

Respectfully submitted,

/s/ Richard W. Hoffmann

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