

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

RELAY IP, INC.,

Plaintiff,

v.

HITACHI CABLE AMERICA, INC.,

Defendant.

C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Relay IP, Inc. (“Relay IP”) alleges the following for its complaint against Defendants Hitachi Cable America, Inc.

THE PARTIES

1. Plaintiff Relay IP, Inc. is a corporation formed under the laws of the State of Delaware having its principal place of business at 2331 Mill Road, Suite 100, Alexandria, VA 22314.

2. Defendant Hitachi Cable America, Inc. is a corporation organized under the laws of the State of New York with a principal office at 10 Bank Street, Suite 590, White Plains, NY 10606-1947. Defendant Hitachi Cable America, Inc. may be served with process via mail to its agent Bingham Dana Murase, Attn: Fumiaki Mizuki, Esq., 399 Park Ave, New York, NY 10022.

JURISDICTION AND VENUE

3. This is a patent infringement action. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§1331 and 1338.

4. The Court has personal jurisdiction over Defendant because it has availed itself, under the Delaware long arm statute, of the rights and benefits of this District by conducting

business in this jurisdiction, including by promoting products for sale via the internet, which are accessible to and accessed by residents of this District.

5. Venue is proper in this District pursuant to 28 U.S.C. §§1391(b)-(c) and §1400(b), because substantial acts of infringement have occurred in this District.

COUNT ONE
INFRINGEMENT OF U.S. PATENT NO. 5,331,637

6. On July 19, 1994, U.S. Patent No. 5,331,637 (the “’637 Patent”) entitled “Multicast Routing Using Core Based Trees” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’637 Patent is attached as Exhibit A hereto.

7. Plaintiff Relay IP is the sole and exclusive owner of all right, title, and interest in the ’637 Patent and holds the exclusive right to take all actions, including the filing of this patent infringement lawsuit, necessary to enforce its rights to the ’637 Patent. Relay IP also has the right to recover all damages for past, present, and future infringement of the ’637 Patent and to seek injunctive relief as appropriate under the law.

8. Defendant has infringed and continues to directly infringe one or more claims of the ’637 Patent, including at least Claim 1, by using the method claimed in testing equipment that it sells and has sold for use by its customers to also practice the method of at least Claim 1 of the ’637 Patent. Such equipment includes, for example and without limitation, equipment from the following product lines and all other routing platforms that support/enable the practice of the PIM-SM standard:

Apresia 15000-64XL-PSR
Apresia 15000-32XL-PSR
Apresia 13000-X24-PSR
Apresia 13200-48X-PSR
Apresia 13100-48X -PSR
Apresia 13000-24GX-PSR

Apresia 13200-52GT-PSR
Apresia 13200-52GT
Apresia 5428GT
Apresia 5412GT-PoE
Apresia 3448G-PSR
Apresia 3424GT-HiPoE
Apresia 3448GT
Apresia 3424GT-SS
Apresia 5412GT-HRSS
Apresia 3108FG2
Apresia 3124GT-HR2

Such equipment can be and, upon information and belief, is used by Defendant in testing and is also used by its customers in their operations to practice the Protocol Independent Multicast-Sparse Mode standard (PIM-SM) for multicast routing.¹ In practicing the PIM-SM standard, Defendant and its customers directly infringe one or more claims of the '637 Patent, including at least Claim 1. Defendant's act of using its equipment to practice the PIM-SM standard constitutes infringement under 35 U.S.C. §271 for which it is directly liable.

9. Defendant has also induced its customers to directly infringe one or more claims of the '637 Patent, including at least Claim 1. Defendant has known about the '637 Patent and its applicability to the equipment manufactured and/or sold by Defendants since at least as early as January 31, 2012 via a notice letter from Relay IP's predecessor-in-interest. Defendant knows that its equipment is designed to and is capable of enabling practice of the PIM-SM standard and that at least some of its customers purchase that equipment in order to practice the standard. Defendant therefore also knows that its customers are infringing one or more claims of the '637 Patent, including at least Claim 1, when the customers implement the PIM-SM standard using Defendants' equipment.

¹ See, e.g., RFC 4601 at <http://tools.ietf.org/html/rfc4601>.

10. Defendant specifically intends to induce infringement by its customers by providing equipment designed to enable customers to practice the PIM-SM standard and infringe at least Claim 1 of the '637 Patent. Defendant also encourages that infringement by providing product support and/or help forums for its customers who are using equipment provided by Defendant to establish systems and networks that practice the PIM-SM standard and infringe at least Claim 1 of the '637 Patent. For instance, Defendant provides documentation intending to assist its customers in practicing Claim 1 of the '637 Patent by operating in accordance with the PIM-SM standard.²

11. Defendant's acts of direct and indirect infringement have been willful with full knowledge of the claims of the '637 Patent. Defendant had continued the use, sales, manufacture and/or support of its equipment since receiving notice of the '637 Patent despite an objectively high likelihood that its acts or its customers' acts with that equipment infringe at least Claim 1 of the '637 Patent. Defendant knew or should have known of the risk of infringement at least as of January 31, 2012.

12. As a result of Defendant's direct and indirect infringement, Plaintiff Relay IP has been damaged monetarily and is entitled to adequate compensation of no less than a reasonable royalty pursuant to 35 U.S.C. § 284. As a result of Defendant's willful infringement, Relay IP is further entitled to enhanced damages pursuant to 35 U.S.C. § 284.

JURY DEMAND

Plaintiff requests a jury on all issues so triable.

² See, e.g., Hitachi IPv6 Multicast, PIM-SM at http://www.apnoms.org/2006/publication/hmj/Poster_Sessions/PS-12.pdf

PRAYER

WHEREFORE, Plaintiff respectfully requests that the Court:

- A. Enter judgment that Defendant has directly infringed, either literally or by equivalents, the '637 Patent;
- B. Enter judgment that Defendant has induced infringement of the '637 Patent;
- C. Enter judgment that Defendant has willfully infringed the '637 Patent;
- D. Award Plaintiff damages for Defendant's infringement in an amount to be determined at trial, including enhanced damages, costs, and pre and post-judgment interest; and
- E. Award any other relief deemed just and proper.

May 3, 2013

BAYARD, P.A.

OF COUNSEL:

Paul V. Storm
Sarah M. Paxson
GARDERE WYNNE SEWELL LLP
1601 Elm Street, Suite 3000
Dallas, Texas 75201
(214) 999-3000
pvstorm@gardere.com
spaxson@gardere.com

/s/ Richard D. Kirk (rk0922)
Richard D. Kirk (rk0922)
Stephen B. Brauerman (sb4952)
Vanessa R. Tiradentes (vt5398)
222 Delaware Avenue, Suite 900
Wilmington, DE 19801
(302) 655-5000
rkirk@bayardlaw.com
sbraerman@bayardlaw.com
vtiradentes@bayardlaw.com

Attorneys for Plaintiff Relay IP, Inc.