

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

GORDIUM INNOVATIONS LLC,

Plaintiff,

v.

FUJITSU FRONTECH NORTH AMERICA,  
INC., FUJITSU MICROELECTRONICS  
AMERICA, INC., FUJITSU NETWORK  
COMMUNICATIONS INC., and FUJITSU  
LIMITED

Defendant.

Civil Action No. 1:13-cv-01490-RGA

JURY TRIAL DEMANDED

**PLAINTIFF GORDIUM INNOVATIONS LLC’S FIRST AMENDED COMPLAINT FOR  
PATENT INFRINGEMENT AND DEMAND FOR JURY TRIAL**

Plaintiff Gordium Innovations LLC (“Gordium” or “Plaintiff”), for its Complaint against defendants Fujitsu Frontech North America, Inc. (a subsidiary of Fujitsu Group), Fujitsu Microelectronics America, Inc., Fujitsu Network Communications, Inc., and Fujitsu Limited (collectively “Defendants”), alleges the following:

**NATURE OF THE ACTION**

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 1, *et seq.*

**THE PARTIES**

2. Plaintiff Gordium is a limited liability company organized under the laws of the State of Texas with its principal place of business at 106 Fannin Avenue, Round Rock, TX 78664-5219.

3. Upon information and belief, defendant Fujitsu Frontech North America, Inc., a subsidiary of Fujitsu Group, is a corporation organized under the laws of the State of Delaware,

with its principal place of business at 27121 Towne Centre Drive, Suite 100, Foothill Ranch, CA 92610.

4. Upon information and belief, defendant Fujitsu Microelectronics America Inc. has a principal place of business at 1250 E. Arques Avenue, Sunnyvale, CA 94088-3470.

5. Upon information and belief, defendant Fujitsu Network Communications Inc. is a corporation organized under the laws of the State of Delaware, with a principal place of business at 2801 Telecom Parkway, Richardson, TX 75082.

6. Upon information and belief, defendant Fujitsu Limited has places of business at 6660 Hawaii Kai Drive, Honolulu, HI 96825; 733 Third Avenue, New York, NY 10017; and Republic Place, 1776 Eye Street, N.W., Suite 880, Washington DC 20006.

### **JURISDICTION AND VENUE**

7. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

8. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.

9. Upon information and belief, Defendants regularly conducts business in this judicial district and has committed acts of patent infringement in this judicial district including, *inter alia*, selling and offering to sell infringing products and services in this judicial district.

10. Upon information and belief, Defendants have ongoing and systematic contacts with this judicial district and the United States. In particular, defendants Fujitsu Frontech North America, Inc. and Fujitsu Network Communications Inc. are incorporated in Delaware and the other Fujitsu defendants regularly conduct business within this judicial district.

11. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and 1400(b).

**COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,697,385**

12. The allegations set forth in the foregoing paragraphs 1 through 11 are incorporated into this First Claim for Relief.

13. On February 24, 2004, U.S. Patent No. 6,697,385 (“the ’385 Patent”), entitled “Circuit(s), Method(s) and Architecture for Configurable Packet Re-timing in Network Repeater Hubs,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’385 Patent is attached as Exhibit A to this Complaint.

14. Gordium is the assignee and owner of the right, title and interest in and to the ’385 Patent, including the right to assert all causes of action arising under the ’385 Patent and the right to any remedies for its infringement.

15. In violation of 35 U.S.C. § 271, Defendants have directly infringed and continue to directly infringe, literally and/or under the doctrine of equivalents, the ’385 Patent by making, using, selling and/or offering for sale in the United States, including in this Judicial District, networking products capable of providing features claimed in at least claims 1-6 and 14 of the ’385 Patent (“the ’385 Accused Products and Services”), without the authority of Gordium.

16. The ’385 Accused Products and Services include, but are not limited to, the XG2600 Ethernet, the XG Series, the MB87Q3140, the MB86C69RBC, the FLASHWAVE® 9410, the PRIMERGY BX Ethernet Switch/IBP 10Gbit/s 18/8, the PRIMERGY BX Ethernet Switch/IBP 1Gbit/s 36/12, the MB86C69RBC 'AXEL-X2', the MB87Q3141, the MB8AA3020, the CELSIUS, the FDX2460, the AXS1800 OLT, the FDX 340, the GEOSTREAM FDX HUB 1000, the MB86C69, and the ESW1GSC010IN.

17. Upon information and belief, Defendants had knowledge of the ’385 Patent at least as early as August 28, 2013, the date of the filing of the original complaint in this case.

18. Upon information and belief, Defendants have committed and continue to commit acts of contributory infringement of one or more claims of the '385 Patent under 35 U.S.C. § 271(c) by selling, offering to sell, and/or importing products including the '385 Accused Services and Products for the '385 Patent, knowing or willfully blind, at least as of the date of the filing of the original complaint, to the fact that these products and service constitute a material part of the invention, were especially made or especially adapted for use in an infringement of the '385 Patent, and have no substantial non-infringing uses.

19. Upon information and belief, Defendants have induced and continue to induce others to infringe one or more claims of the '385 Patent under § 271(b) by, among other things, and with specific intent, actively and knowingly, at least as of the date of the filing of this complaint, aiding and abetting others to infringe, including, but not limited to Defendants' customers whose use of the '385 Accused Services and Products constitutes direct infringement of at least claims 1-6 and 14 of the '385 Patent. In particular, Defendants have acted and continue to act with specific intent to make others, such as its customers, infringe by advertising and selling products and providing instruction manuals showing infringing uses of the products and services. On information and belief, Defendants have engaged in, and continue to engage in, such actions with specific intent to cause infringement or with willful blindness to the resulting infringement.

20. Because of Defendants' infringing activities, Gordium has suffered damages and will continue to suffer damages in the future.

21. Defendants have had notice of infringement of the '385 Patent at least as of the date of the filing of the original complaint, and thereafter continued to infringe the patent. On information and belief, Defendants' infringement has been and continues to be willful.

**JURY DEMAND**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure and Civil L.R. 3-6(a), Gordium demands a trial by jury on all issues triable as such.

**PRAYER FOR RELIEF**

WHEREFORE, Gordium respectfully requests that this Court enter judgment for Gordium and against Defendants as follows:

- A. An adjudication that Defendants have infringed the '385 Patent;
- B. An award of damages to be paid by Defendants adequate to compensate Gordium for Defendants' past infringement of the '385 Patent and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. An injunction ordering Defendants to pay an ongoing royalty in an amount to be determined for any continued infringement after the date judgment is entered;
- D. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff's reasonable attorneys' fees;
- E. An award of treble damages under 35 U.S.C. § 284;
- F. An award to Gordium of such further relief at law or in equity as the Court deems just and proper.

Dated: December 5, 2013

STAMOULIS & WEINBLATT LLC

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