

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

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

Plaintiffs,

v.

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

Defendants.

CIVIL ACTION NO.

PATENT CASE

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs Chrimar Systems Inc. d/b/a CMS Technologies (“Chrimar”) and Chrimar Holding Company, LLC (“Holding”) file this Original Complaint (“the Complaint”) for infringement of United States Patent Nos. 9,019,838 (“the ’838 Patent”) and 8,902,760 (“the ’760 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 75604.
3. Chrimar and Holding are collectively referred to as “Plaintiffs” or “CMS.”

4. 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.

5. 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.

6. 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.

7. Alcatel-Lucent USA, Inc., Alcatel-Lucent Holdings, Inc., and Alcatel-Lucent Enterprise USA Inc. are collectively referred to as “Alcatel” or “Defendants.”

JURISDICTION AND VENUE

8. This action arises under the patent laws of the United States, 35 U.S.C. § 101 *et seq.*

9. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

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

11. This Court has personal jurisdiction over Defendants because Defendants have engaged in continuous and systematic activities in the state of Texas, including in this district.

PATENTS-IN-SUIT

12. Chrimar is the owner and assignee of the '838 Patent, entitled “Central Piece of Network Equipment” and Holding is the exclusive licensee of the '838 Patent. CMS owns all substantial rights in the '838 Patent. A true and correct copy of the '838 Patent is attached as Exhibit A.

13. The '838 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

14. Chrimar is the owner and assignee of the '760 Patent, entitled "Network System and Optional Tethers" and Holding is the exclusive licensee of the '760 Patent. CMS owns all substantial rights in the '760 Patent. A true and correct copy of the '760 Patent is attached as Exhibit B.

15. The '760 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

ALCATEL'S ACCUSED PRODUCTS

16. Upon information and belief, Alcatel makes, uses, offers to sell, sells, and/or imports powered devices ("PDs") that comply with and/or are compatible 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 PD Products."

17. Upon information and belief, Alcatel makes, uses, offers to sell, sells, and/or imports power sourcing equipment ("PSEs") that comply with and/or are compatible with IEEE 802.3af and/or 802.3at. Such products include, but are not limited to, switches (e.g., the OmniSwitch and OmniStack products) and PoE injectors, collectively the "Accused PSE Products."

18. The Accused PD Products and the Accused PSE Products are 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. 9,019,838

22. CMS incorporates paragraphs 1 through 21 herein by reference.

23. Alcatel has and continues to directly infringe the '838 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 PSE Products.

24. Alcatel has and continues to indirectly infringe the '838 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 PSE Products, and therefore Alcatel induces others to directly infringe the '838 Patent.

25. End users that use the Accused PSE Products directly infringe the '838 Patent.

26. Alcatel has been on notice of the '838 Patent since at least as of the filing date of this Complaint, but on information and belief, it was aware of the '838 Patent before the filing of this Complaint.

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

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 8,902,760

28. CMS incorporates paragraphs 1 through 27 herein by reference.
29. Alcatel has and continues to directly infringe the '760 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.
30. Alcatel has and continues to indirectly infringe the '760 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 '760 Patent.
31. Alcatel has and continues to indirectly infringe the '760 Patent in violation of 35 U.S.C. § 271(c) by offering to sell, selling, and/or importing the Accused PD Products and/or Accused PSE Products into the United States.
32. The Accused PD Products and/or Accused PSE Products are components of a patented machine, manufacture, combination, or system, constitute a material part of the invention as claimed in the '760 Patent, and Alcatel knows the same to be especially made or especially adapted for use in a manner that infringes one or more claims of the '760 Patent.
33. The Accused Products are not a staple article or commodity of commerce suitable for substantial noninfringing use.
34. End users that use the Accused Products directly infringe the '760 Patent.

35. Alcatel has been on notice of the '760 Patent since at least as of the filing date of this Complaint, but on information and belief, it has been aware of the '760 Patent before the filing of this Complaint.

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

ADDITIONAL ALLEGATIONS

37. CMS has complied with 35 U.S.C. § 287.

38. Alcatel's continued infringement of the Patents-in-Suit after being on notice of the Patents-in-Suit is willful.

JURY DEMAND

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

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

e. Award enhanced damages based on Alcatel's willful infringement of the Patents-in-Suit;

f. Order Alcatel to pay Plaintiffs a royalty for any continued infringement of the Patents-in-Suit;

g. Declare that this is an exceptional case and award Plaintiffs their reasonable attorneys' fees incurred in this action; and

h. Award such other relief as the Court may deem appropriate and just under the circumstances.

Dated: July 1, 2015

Respectfully submitted,

/s/ Justin S. Cohen

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