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20 CORE OPTICAL TECHNOLOGIES, LLC

21 **UNITED STATES DISTRICT COURT**
22 **CENTRAL DISTRICT OF CALIFORNIA**

23 CORE OPTICAL TECHNOLOGIES,
24 LLC, a California limited liability
25 company,

26 Plaintiff,

27 v.

28 FUJITSU NETWORK
COMMUNICATIONS, INC., a
California corporation,

Defendant.

Case No.: 8:16-CV-00437

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

1 Plaintiff Core Optical Technologies, LLC ("Plaintiff" or "Core Optical
2 Technologies"), by and through its undersigned counsel, files this Complaint
3 against defendant Fujitsu Network Communications, Inc. ("Defendant"), and
4 alleges as follows:

5 **JURISDICTION AND VENUE**

6 1. This is an action for infringement of U.S. Patent No. 6,782,211,
7 entitled "Cross Polarization Interface [sic] Canceler," which was duly issued by the
8 United States Patent and Trademark Office on August 24, 2004 ("the '211 patent").
9 This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.
10 §§1331 and 1338(a) because the claims arise under the patent laws of the United
11 States, 35 U.S.C. §§1, *et seq.*

12 2. This Court has personal jurisdiction over Defendant, which conducts
13 continuous and systematic business in California, including, upon information and
14 belief, in this judicial district. Defendant is incorporated in California. Defendant
15 also markets, manufactures, uses, offers for sale, sells, imports, and/or distributes
16 the infringing products at issue in this case throughout the United States including,
17 upon information and belief, within this judicial district. Further, Defendant uses,
18 induces its customers' use of, and/or contributes to its customers' use of the
19 infringing products at issue in this case to perform one or more patented methods of
20 the '211 patent throughout the United States, including upon information and belief,
21 in this judicial district.

22 3. Venue is proper within this judicial district under 28 U.S.C. §§1391(b)
23 and (c) because Defendant transacts business within this judicial district, offers for
24 sale products that infringe the '211 patent in this judicial district, and upon
25 information and belief induces its customers to commit infringing acts in this
26 judicial district. In addition, venue is proper because Core Optical Technologies
27 resides in this judicial district and Core Optical Technologies has and continues to
28 suffer harm in this judicial district. Moreover, a substantial part of the events

1 giving rise to this action occurred in this judicial district, including the inventive
2 activities giving rise to the '211 patent.

3 **THE PARTIES**

4 4. Core Optical Technologies is a limited liability company organized
5 and existing under the laws of the State of California, and has a principal place of
6 business located at 18792 Via Palatino, Irvine, California 92603.

7 5. Defendant is a corporation organized and existing under the laws of
8 the State of California, and has a place of business located at 2801 Telecom
9 Parkway, Richardson, Texas 75082.

10 6. At all times relevant to this lawsuit, Defendant made, used, offered to
11 sell, sold, imported, and/or distributed infringing products throughout the United
12 States, and used, induced its customers' use of, and/or contributed to its customers'
13 use of the infringing products within the United States to perform one or more of
14 the patented methods set forth in the '211 patent.

15 **THE ASSERTED PATENT**

16 7. Mark Core, the sole named inventor of the '211 patent, earned his
17 Ph.D. in electrical and computer engineering from the University of California,
18 Irvine, and is the CEO and President of Core Optical Technologies. The pioneering
19 technology set forth in the '211 patent greatly increases data transmission rates in
20 fiber optic networks by enabling two optical signals transmitted in the same
21 frequency band, but at generally orthogonal polarizations, to be recovered at a
22 receiver. The patented technology that enables the recovery of these signals
23 includes coherent optical receivers and related methods that mitigate cross-
24 polarization interference associated with the transmission of the signals through the
25 fiber optic network. The patented coherent receivers and methods mitigate the
26 effects of chromatic dispersion, polarization mode dispersion, and polarization
27 dependent loss that limit the performance of optical networks, thereby greatly
28 increasing the transmission distance and eliminating or reducing the need for a

1 variety of conventional network equipment such as amplifiers, regenerators, and
2 compensators. The patented technology set forth in the '211 patent has been
3 adopted by Defendant in at least their packet-optical transport products and systems
4 described below.

5 8. On November 5, 1998, Mark Core filed with the United States Patent
6 and Trademark Office ("USPTO") Provisional Patent Application No. 60/107,123
7 ("the '123 application") directed to his pioneering inventions. On November 4,
8 1999, Mark Core filed with the USPTO a non-provisional patent application, U.S.
9 Patent Application No. 09/434,213 ("the '213 application"), claiming priority to the
10 '123 application. On August 24, 2004, the USPTO issued the '211 patent from the
11 '213 application. The entire right, title, and interest in and to the '211 patent,
12 including all rights to past damages, has been assigned to Core Optical
13 Technologies in an assignment recorded with the USPTO. A copy of the '211
14 patent is attached as **Exhibit 1**.

15 GENERAL ALLEGATIONS

16 9. Defendant and/or its parent, divisions, subsidiaries, and/or agents is
17 engaged in the business of making, using, distributing, importing, offering for sale,
18 and/or selling 40G (coherent) and 100G solutions that embody the patented
19 inventions disclosed and claimed in the '211 patent ("the Infringing Products").
20 Upon information and belief, the Infringing Products include, without limitation,
21 Defendant's 100G Transponder, 100G Muxponder, 40G Transponder (coherent),
22 FLASHWAVE 9500 Packet Optical Networking Platform, FLASHWAVE 7500
23 Packet Optical Networking Platform (coherent), and modules that include
24 Defendant's 40G or 100G dual polarization coherent optical receivers, as well as
25 any of Defendant's other products that incorporate its dual polarization coherent
26 optical receivers.

27 10. Additionally, upon information and belief, the only use of certain
28 components of the Infringing Products, such as the 100G Transponder, 100G

1 Muxponder, and 40G Transponder (coherent), is to perform one or more of the
2 claimed methods in the '211 patent.

3 **CLAIMS FOR RELIEF**

4 11. Plaintiff repeats and realleges each and every allegation contained in
5 Paragraphs 1-10, inclusive, of this Complaint with the same force and effect as if
6 set forth at length herein.

7 12. Defendant has directly infringed, and continues to directly infringe,
8 one or more claims of the '211 patent (including, but not limited to, claim 15, and
9 upon information and belief claims 30, 33, 35, and 37) under 35 U.S.C. §271(a) by
10 making, having made, using, offering for sale, and/or selling directly and/or
11 through intermediaries, in this district and/or elsewhere in the United States, one or
12 more of the Infringing Products, and/or by importing into the United States one or
13 more of the Infringing Products.

14 13. Defendant has indirectly infringed, and continues to indirectly
15 infringe, the '211 patent under 35 U.S.C. §271(b) by knowingly and actively
16 inducing infringement of one or more claims of the '211 patent (including, but not
17 limited to, claims 30, 33, 35, and 37). Upon information and belief, Defendant had
18 knowledge of the '211 patent from a time prior to the filing of this Complaint. For
19 example, upon information and belief, Defendant had knowledge of the '211 patent
20 as a result of the filing of Core Optical Technologies' Complaint for infringement of
21 the '211 patent in Central District of California Case No. SACV 12-1872 AG,
22 styled *Core Optical Technologies, LLC v. Ciena Corporation, et al.* Defendant has
23 actively and knowingly encouraged and induced infringement of one or more
24 claims of the '211 patent, for example, by instructing, aiding, assisting, and
25 encouraging the use of one or more of its Infringing Products in an infringing
26 manner, and by selling one or more Infringing Products that have no non-infringing
27 uses to customers who, in turn, use them to perform one or more of the patented
28 methods disclosed and claimed in the '211 patent. The direct infringers of the '211

1 patent that are being induced by Defendant include its customers that use the
2 Infringing Products.

3 14. Defendant has also indirectly infringed, and continues to indirectly
4 infringe, one or more of the claims of the '211 patent (including, but not limited to,
5 claims 15, 30, 33, 35, and 37) under 35 U.S.C. §271(c) through, among other
6 things, unlawfully selling or offering to sell within the United States, or importing
7 into the United States, one or more of the Infringing Products, which products
8 constitute a material part of the claimed inventions of the '211 patent, which
9 Defendant knows to be especially made or especially adapted for use in
10 infringement of the '211 patent, and which are not staple articles or commodities of
11 commerce suitable for substantial non-infringing use. The direct infringers for
12 Defendant's contributory infringement under 35 U.S.C. §271(c) include, without
13 limitation, its customers and users of the Infringing Products.

14 15. Defendant's infringement of the '211 patent has caused, and will
15 continue to cause, significant damage to Core Optical Technologies. As a result,
16 Core Optical Technologies is entitled to an award of damages adequate to
17 compensate it for the infringement in an amount that is in no event less than a
18 reasonable royalty pursuant to 35 U.S.C. §284. Core Optical Technologies is also
19 entitled to recover prejudgment interest, post-judgment interest, and costs.

20 16. Upon information and belief, although Defendant had knowledge of
21 the '211 patent before the filing of this Complaint, Defendant has nevertheless
22 continued to directly and indirectly infringe the '211 patent, despite an objectively
23 high likelihood that its actions constitute infringement of the '211 patent.
24 Accordingly, Defendant's infringement has been and continues to be willful, and
25 Core Optical Technologies is entitled to enhanced damages under 35 U.S.C. §284.

26 17. As a result of Defendant's infringement of the '211 patent, Core
27 Optical Technologies has suffered irreparable harm and impairment of the value of
28 its patent rights, and is now suffering, and will continue to suffer, the violation of

1 its patent rights unless and until Defendant is permanently enjoined by this Court
2 from infringing the '211 patent under 35 U.S.C. §283. Plaintiff has no adequate
3 remedy at law and is entitled to a permanent injunction against Defendant and its
4 Infringing Products.

5 18. This case is an "exceptional" case within the meaning of 35 U.S.C.
6 §285, and Core Optical Technologies is entitled to an award of attorneys' fees.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Core Optical Technologies prays for relief as follows:

9 1. Judgment be entered in favor of Core Optical Technologies against
10 Defendant;

11 2. Core Optical Technologies be awarded compensatory damages for
12 infringement of the '211 patent, in an amount to be determined at trial, as well as
13 interest thereon;

14 3. Core Optical Technologies be awarded costs of the suit;

15 4. Defendant and its customers be permanently enjoined from infringing
16 the '211 patent (directly and/or indirectly), including being permanently enjoined
17 from inducing others to infringe the '211 patent;

18 5. The Court determines that Defendant's infringement is willful, and that
19 Core Optical Technologies is entitled to collect enhanced damages up to three times
20 the actual damages found or assessed;

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1 6. The Court declare this an exceptional case under 35 U.S.C. §285 and
2 award Core Optical Technologies its attorneys' fees and any other costs incurred in
3 connection with this action; and

4 7. The Court grant such further relief as the Court deems just and proper.

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6 Dated: March 7, 2016

Respectfully submitted,

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MANATT, PHELPS & PHILLIPS, LLP

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By: /s/ Lawrence R. LaPorte

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Lawrence R. LaPorte

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Attorneys for Plaintiff
CORE OPTICAL TECHNOLOGIES, LLC

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DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b) and Local Rule 38-1 of the Central District of California, plaintiff Core Optical Technologies, LLC hereby demands a trial by jury on all issues triable in this action.

Dated: March 7, 2016

Respectfully submitted,
MANATT, PHELPS & PHILLIPS, LLP

By: /s/ Lawrence R. LaPorte
Lawrence R. LaPorte
Attorneys for Plaintiff
CORE OPTICAL TECHNOLOGIES, LLC