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15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**

17 MELLANOX TECHNOLOGIES, LTD.

18 Plaintiff,

19 v.

20 METHODE ELECTRONICS, INC.,

21 Defendant.
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Case No.: 4:15-CV-03730-PJH

**SECOND AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiff Mellanox Technologies, Ltd. (“Mellanox” or “Plaintiff”), by and through counsel,
2 for its Second Amended Complaint against Defendant Methode Electronics, Inc. (“Methode” or
3 “Defendant”), alleges on knowledge as to its actions, and upon information and belief as to the
4 actions of others, as follows:

5 1. Mellanox brings this patent infringement action to stop Methode from continuing its
6 wrongful and unlicensed use of Mellanox’s patented technologies for adapters used in interconnect
7 solutions for data transmission in communications infrastructure.

8 2. Mellanox has a history of innovation, and today designs and manufactures widely
9 used end-to-end solutions, including integrated circuits (ICs), adapter cards, switch systems, cables,
10 modules, software, services and accessories, employs hundreds of employees around the world and
11 maintains and protects its research and development investment with a patent portfolio reflecting the
12 efforts and innovation of their engineers. Mellanox enforces its patent rights when necessary to
13 protect its research investment and protect the efforts of their employees from unauthorized use.

14 3. Methode, and its products, make use of Mellanox’s patented technology and infringe
15 U.S. Patent No. 7,934,959 entitled “Adapter for Pluggable Module” (“the ’959 Patent”) (Exhibit A
16 hereto).

17 4. Mellanox’s products serve as the building blocks for creating reliable and scalable
18 communication solutions, including devices that practice Mellanox’s patents. For example, the ’959
19 Patent is practiced by Mellanox’s QSFP-SFP+ module, part number MAM1Q00A-QSA (described
20 as “Quad to Serial Small Form Factor Pluggable (QSA) Adapter” in Exhibit B hereto).

21 5. Mellanox seeks damages in an amount adequate to compensate for Methode’s
22 infringement, a permanent injunction barring Methode from continuing to infringe Mellanox’s
23 patents, and attorneys’ fees and costs associated with this action.

24 **THE PARTIES**

25 6. Plaintiff Mellanox Technologies, Ltd. is an Israeli company with its principal place of
26 business at Hakidma 26, Ofer Industrial Park, Yokneam 2069200 Israel. Mellanox develops,
27 markets, and sells end-to-end interconnect solutions and services related to data transmission in
28 communication infrastructure. Mellanox has a licensee, Mellanox Technologies, Inc., which is a

1 wholly owned subsidiary of Mellanox Technologies, Ltd. and a California corporation with its
2 principal place of business at 350 Oakmead Parkway, Suite 100, Sunnyvale, CA 94085.

3 7. Upon information and belief, Defendant Methode is a Delaware corporation.
4 Methode's registered agent for service of process is The Corporation Trust Company, Corporation
5 Trust Center, 1209 Orange Street, Wilmington, DE. Upon information and belief, Methode also
6 operates a place of business at 2025 Gateway Place, Suite #235, San Jose, CA 95110 where
7 Methode, among other things, develops, uses, offers for sale, and sells the Methode Adaptor, as
8 described below, and other products, within the State of California, and within this District.

9 **JURISDICTION AND VENUE**

10 8. This action arises under the Patent Act, Title 35 of the United States Code, and is an
11 action for patent infringement under § 271.

12 9. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C.
13 §§ 1331 and 1338(a).

14 10. This Court has personal jurisdiction over Methode because, among other things, and
15 upon information and belief, Methode has a place of business in this District where Defendant
16 develops, uses, offers for sale, and sells its Adaptor, as described below, and other products, within
17 the State of California and by deriving significant revenue from such sales.

18 11. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

19 **INTRADISTRICT ASSIGNMENT**

20 12. Because this action is an Intellectual Property Action within the meaning of Civil
21 Rule 3-2(c), the action is to be assigned on a district-wide basis.

22 **CLAIM 1 – INFRINGEMENT OF U.S. PATENT NO. 7,934,959**

23 13. The allegations contained in Paragraphs 1 through 12 above are incorporated herein
24 by reference.

25 14. On May 3, 2011, the United States Patent Office duly and lawfully issued the '959
26 Patent. Mellanox at all relevant times has been and is the lawful owner of all right, title, and interest
27 in and to the '959 Patent, including the right to sue for and recover for infringement thereof,
28 including injunctive relief and damages for past infringement. The term of the '959 Patent has not

1 expired. A true and correct copy of the '959 Patent is attached hereto as Exhibit A.

2 **Methodé's Direct Infringement**

3 15. The allegations contained in Paragraphs 1 through 14 above are incorporated herein
4 by reference

5 16. Methodé has made, used, offered to sell, sold, and/or imported into the United States
6 transceiver modules including at least the QSFP+ to SFP+ Adaptor (the "Adaptor"), and continues to
7 do so, without authority from the patent holder. A description of this Methodé product taken from
8 Methodé's website is attached hereto as Exhibit C. Methodé describes the Adaptor as a "[h]igh
9 performance bi-directional module allowing next generation network gear to interoperate with
10 legacy devices by allowing the SFP+ module to access channel one of a QSFP+ motherboard." (Ex.
11 C, at 1). A schematic of the Adaptor taken from Methodé's website is attached hereto as Exhibit D.
12 The schematic is entitled "QSFP+ to SFP+ Adaptor" and depicts that the Adaptor is configured to be
13 inserted into a QSFP+ receptacle and to receive a SFP+ connector. Ex. D, at 1. In the schematic
14 Methodé depicts an "area [that] shows hollow area of Adaptor space to be completely filled by SFP+
15 module." *Id.* This schematic further depicts, in the lower right hand corner, inserting a SFP+
16 module into the Adaptor. *Id.* These materials disclose to customers how to use the Adaptor by
17 inserting it into a QSFP+ receptacle and inserting a SFP+ connector into the Adaptor.

18 17. Methodé has directly infringed, and continues to directly infringe, the '959 Patent
19 within the prohibitions of at least 35 U.S.C. § 271(a), including but not limited to independent
20 Claims 1 and 6 by making, using, offering to sell, selling, and/or importing into the United States the
21 Adaptor. The Adaptor meets the limitations of at least Claim 1, and Methodé is directly infringing at
22 least Claim 1 by making, selling, having sold, and/or importing the Adaptor.

23 18. Further, upon information and belief, Methodé's use of the Adaptor for, *inter alia*,
24 testing directly infringes at least Claims 1 and 6. Specifically, upon information and belief, Methodé
25 uses the invention claimed in the '959 Patent in the United States. Methodé advertises the testing of
26 its products, which includes the Adaptor, on Methodé's website, as shown on the excerpt attached
27 hereto as Exhibit E. Methodé advertises that "Methodé does more than test our products rigorously;
28 we also help write the industry standards. Our industry specialists average more than ten years [of]

1 experience utilizing advanced diagnostic equipment and techniques to verify our products meet both
2 your exacting specifications and ours.” Ex. E, at 1. Upon information and belief, such testing
3 allows Methode to “verify” the functionality of the Adaptor and market that the Adaptor “provides
4 support for Loss of Signal and TxFault and responds by asserting TxDisable when a fault condition
5 is detected.” Ex. C, at 1. This testing requires, upon information and belief, that Methode insert the
6 Adaptor into a four-channel SFP receptacle and insert a single-channel SFP cable connector into the
7 Adaptor. Methode further states that Methode has test locations in North America, from which
8 Mellanox is informed and believes that Methode’s use of the claimed invention occurs in the United
9 States. *Id.*

10 **Methode’s Contributory Infringement**

11 19. The allegations contained in Paragraphs 1 through 18 above are incorporated herein
12 by reference.

13 20. Methode has contributorily infringed the ’959 Patent within the prohibitions of at
14 least 35 U.S.C. § 271(c), including but not limited to independent Claims 1 and 6 and continues to
15 do so. During the term of the ’959 Patent and within the United States, Methode has made,
16 imported, sold and offered for sale the Adaptor, and continues to make, import, sell and offer for sale
17 the Adaptor, for use by Methode’s customers and end users; for offer for sale and resale by
18 Methode’s customers; and for inclusion in products made, offered and sold by Methode’s customers.
19 The use of the Adaptors by Methode’s customers and end users, and the offer for sale and re-sale of
20 the Adaptors and other products made, offered or sold by Methode’s customers, practice at least
21 Claims 1 and 6 of the ’959 Patent and thus directly infringe. The Adaptor constitutes a material part
22 of the invention claimed in the ’959 Patent, and thus, the Adaptor is a material part of the Adaptor
23 and end products used and/or sold by Methode’s customers, because it is the very component or
24 product that allows the adaptation of a Small Form-Factor Pluggable (e.g., SFP+) connector cable
25 into a four-channel (e.g., Quad Small Form-Factor Pluggable+ (a.k.a. QSFP+)) receptacle. Upon
26 information and belief, the end users and customers of Methode’s Adaptor directly infringe at
27 Claims 1 and 6 of the ’959 Patent by using and/or offering for sale and reselling the Adaptor in the
28 United States, and by offering for sale and reselling in the United States products that contain the

1 Adaptor, including without limitation blade system servers.

2 21. Methode has known of the '959 Patent since well prior to the filing of this
3 Complaint. In particular, Methode had knowledge of the '959 Patent at least as early as December
4 2012, if not earlier, as reflected by Methode's communications with Mellanox at that time in which
5 the '959 Patent was discussed. Methode has also known since at least as early as December 2012, if
6 not earlier, that the making, use, offer for sale and sale of Adaptors and products containing
7 Adaptors by Methode's customers and end users would directly infringe the '959 Patent. Upon
8 information and belief, the Adaptor is not a staple article or commodity of commerce capable of
9 substantial non-infringing use; indeed, the Adaptor has no substantial non-infringing uses. The
10 Adaptor is known by Methode to be especially made or especially adapted for use in an infringement
11 of the '959 Patent, including at least Claims 1 and 6. Specifically, as stated in Methode's online
12 marketing materials to consumers and the public at large, the Adaptor is specifically made for
13 allowing a "SFP+ device to seamlessly communicate with [a] QSFP+ host." *Id.* This is how
14 Methode markets the Adaptor and, on information and belief, why customers purchase, and how
15 customers and end users use, the Adaptor: by using the Adaptor connect an "SFP+ device" to "a
16 QSFP+ host." Further, the Adaptor is not, and Methode does not describe the Adaptor to be, capable
17 of any other uses. Upon information and belief, Methode knew that providing materials regarding
18 using the Adaptor to its customers would result, and has resulted, in Methode's customers and end
19 users directly infringing the '959 Patent as described above.

20 **Methode's Induced Infringement**

21 22. The allegations contained in Paragraphs 1 through 21 above are incorporated herein
22 by reference.

23 23. As discussed above, Mellanox is informed and believes that Methode's customers and
24 end users directly infringe at least Claims 1 and/or 6 of the '959 Patent by using and/or reselling
25 Methode's Adaptor in the United States. Methode has induced such direct infringement of the '959
26 Patent within the prohibitions of at least 35 U.S.C. § 271(b), including but not limited to independent
27 Claims 1 and 6 and continues to do so.

28 24. Methode has been on notice of the '959 Patent and of the infringement of the '959

1 Patent since well prior to the filing of this complaint. Methode had knowledge of the '959 Patent and
2 of the infringement of the '959 Patent at least as early as December 2012, if not earlier, as reflected
3 by its communications with Mellanox at that time.

4 25. In particular, Methode has known that providing the materials (discussed above)
5 about use or resale of the Adaptor to its customers and end users would result, and has resulted, in
6 Methode's customers and end users directly infringing the '959 Patent. Upon information and
7 belief, Methode provided, and continues to provide, materials and directions to its customers, as
8 described in detail above, with the specific intent to encourage Methode's customers and end users
9 to directly infringe at least Claims 1 and 6 of the '959 Patent. Upon information and belief,
10 Methode's customers and end users of the Adaptors have directly infringed at least Claims 1 and 6
11 of the '959 Patent.

12 26. Upon information and belief, Methode's infringement of the '959 Patent has been
13 willful and deliberate, despite an objectively high likelihood that its actions constitute infringement
14 of the '959 Patent.

15 27. Mellanox has been and will continue to be damaged and irreparably injured unless
16 this Court enjoins Methode's infringing activities.

17 **Methode's Willfull Infringement**

18 28. Methode's past and continuing infringement has been deliberate and willful. As
19 discussed above, Methode has known of the '959 Patent since at least December 2012—years before
20 the filing of the original complaint in this case. In communications that began in December 2012,
21 Methode did not state when Methode first learned of the '959 Patent, and of Methode's infringement
22 of the '959 patent, but upon information and belief Methode knew of the '959 Patent at some time
23 prior to these communications. Upon information and belief, Methode knows, and has known since
24 at least December 2012, that there was and is an objectively high likelihood that the Adaptor
25 practices one or more claims of the '959 Patent. This is because, as discussed above, the making,
26 use, offer for sale, sale and importation of the Adaptor clearly practice at least Claims 1 and 6 of the
27 '959 Patent, which Methode knew of by at least December 2012. Despite this objectively high
28 likelihood the Defendants have continued to make, use, sell, offer for sale, and/or import the Adaptor

1 into the United States despite knowing that there was an objectively high likelihood of infringement
2 of the '959 Patent. To the extent Methode did not know of the objectively high likelihood of
3 infringement, it was so obvious that this should have been known to Methode. Thus, Methode's
4 infringement has been willful since at December 2012.

5 **PRAYER FOR RELIEF**

6 1. Enter judgment for Mellanox and against Methode for infringement of the '959
7 Patent;

8 2. Enter judgment that the infringement of Methode was and is willful;

9 3. Preliminarily and permanently enjoin Methode, its officers, directors, principals,
10 agents, sales representatives, servants, employees, successors, assigns, affiliates, subsidiaries, and all
11 those acting in concert or participation with them, from directly or indirectly infringing, inducing
12 infringements, or contributing to the infringement of any claim of the '959 Patent;

13 4. Enter judgment in favor of Mellanox and against Methode for an amount that will
14 adequately compensate it for Methode's infringement, including Mellanox's lost profits but under no
15 circumstances an amount less than a reasonable royalty for Methode's use of Mellanox's patented
16 inventions;

17 5. Enter judgment in favor of Mellanox and against Methode for pre-judgment interest
18 on all damages awarded;

19 6. Enter judgment in favor of Mellanox and against Methode for three times the amount
20 of damages pursuant to 35 U.S.C. § 284 because of Methode's willful infringement;

21 7. Declare this case to be exceptional and enter judgment in favor of Mellanox and
22 against Methode for Mellanox's attorneys' fees and costs pursuant to 35 U.S.C. § 285;

23 8. Enter judgment in favor of Mellanox and against Methode for Mellanox's costs of
24 suit; and

25 9. Enter such other and further relief as the Court may deem just and proper.
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1 DATED: March 17, 2016

ALSTON & BIRD LLP

2
3 /s/ Ryan W. Koppelman

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Mellanox Technologies, Ltd.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury to decide all issues so triable in this case.

DATED: March 17, 2016

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