

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

OROSTREAM LLC,

Plaintiff,

v.

ROCKWELL AUTOMATION, INC.,

Defendant.

C.A. NO. _____

PATENT CASE

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Orostream LLC files this Original Complaint for Patent Infringement against Rockwell Automation, Inc., and would respectfully show the Court as follows:

I. THE PARTIES

1. Plaintiff Orostream LLC (“Orostream” or “Plaintiff”) is a Texas limited liability company with its principal place of business at 3401 Custer Road, Suite 125-B, Plano, Texas 75023.

1. On information and belief, defendant Rockwell Automation, Inc. (“Defendant”), is a corporation organized and existing under the laws of the State of Delaware, with its place of business at 1201 South 2nd Street, Milwaukee, WI 53204. Defendant has a registered agent in Delaware at The Corporation Trust Company, 1209 Orange Street, Wilmington, DE 19801.

II. JURISDICTION AND VENUE

2. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction of such action under 28 U.S.C. §§ 1331 and 1338(a).

3. On information and belief, Defendant is subject to this Court’s specific and general personal jurisdiction, pursuant to due process and the Delaware Long-Arm Statute, due

at least to its business in this forum, including at least a portion of the infringements alleged herein. Furthermore, Defendant is subject to this Court's specific and general personal jurisdiction because Defendant is a Delaware corporation.

4. Without limitation, on information and belief, within this state, Defendant has used the patented inventions thereby committing, and continuing to commit, acts of patent infringement alleged herein. In addition, on information and belief, Defendant has derived revenues from its infringing acts occurring within Delaware. Further, on information and belief, Defendant is subject to the Court's general jurisdiction, including from regularly doing or soliciting business, engaging in other persistent courses of conduct, and deriving substantial revenue from goods and services provided to persons or entities in Delaware. Further, on information and belief, Defendant is subject to the Court's personal jurisdiction at least due to its sale of products and/or services within Delaware. Defendant has committed such purposeful acts and/or transactions in Delaware such that it reasonably should know and expect that it could be haled into this Court as a consequence of such activity.

5. Venue is proper in this district under 28 U.S.C. § 1400(b). On information and belief, Defendant is incorporated in Delaware. On information and belief, from and within this District Defendant has committed at least a portion of the infringements at issue in this case.

6. For these reasons, personal jurisdiction exists and venue is proper in this Court under 28 U.S.C. § 1400(b).

III. COUNT I
(PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 5,768,508)

7. Plaintiff incorporates the above paragraphs herein by reference.

8. On June 16, 1998, United States Patent No. 5,768,508 ("the '508 Patent") was duly and legally issued by the United States Patent and Trademark Office. The '508 Patent is

titled “Computer Network System and Method for Efficient Information Transfer.” A true and correct copy of the ‘508 Patent is attached hereto as Exhibit A and incorporated herein by reference.

9. Orostream is the assignee of all right, title and interest in the ‘508 patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the ‘508 Patent. Accordingly, Plaintiff possesses the exclusive right and standing to prosecute the present action for infringement of the ‘508 Patent by Defendant.

10. The ‘508 patent has been cited as prior art during the prosecution history of over 100 subsequently-issued United States patents, including patents assigned to IBM, Intel, Facebook, Gateway, Hitachi, Microsoft, Nokia, Oracle, and Veritas Software.

11. **Direct Infringement.** Upon information and belief, Defendant has been directly infringing at least claim 26 of the ‘508 patent in the State of Delaware and elsewhere in the United States, by using Wi-Fi routers that prioritize Internet traffic, including Stratix 5100 Wireless Access Point/Workgroup Bridge (“Accused Instrumentality”), to perform a method of connecting an information provider and a user node of a computer network, performed by a master program. The Accused Instrumentality performs registering the user node (*e.g.*, an Internet enabled user device such as a laptop, mobile phone) at a master node (*e.g.*, the Accused Instrumentality). The user node (*e.g.*, an Internet enabled user device such as a laptop, mobile phone) registers with the Accused Instrumentality by connecting (wired or wirelessly) with the accused instrumentalities (with or without using a password).

12. The Accused Instrumentality performs receiving, through the master node (*e.g.*, the Accused Instrumentality), a node ID (*e.g.*, MAC address) from the user node (*e.g.*, an

Internet enabled user device such as a laptop, mobile phone). (*See, e.g.*, Stratix 5100 Wireless Access Point/Workgroup Bridge User Manual, Rockwell Automation Publ. 1783-UM006A-ED-P at 54, 224-225 (May 2014)). A MAC (Media Access Control) address is a unique alphanumeric identifier used to distinguish a device from others on a network. (*See, e.g., id.*; [https://technet.microsoft.com/en-us/library/cc757419\(v=ws.10\).aspx](https://technet.microsoft.com/en-us/library/cc757419(v=ws.10).aspx)).

13. The Accused Instrumentality accesses a master database for profile information corresponding to the node ID. For example, the Accused Instrumentality accesses an internal table or a database for data to be appropriately transmitted to a particular user device that made the request for the data. The internal table or database is accessed for profile information, for example, a DHCP lease table is maintained in the Accused Instrumentality which stores profile information available to the Accused Instrumentality such as a MAC address, IP address, or Lease period corresponding to a user device. The Accused Instrumentality forms the internal table/database with the available profile information corresponding to the node ID, such as the MAC address.

14. The Accused Instrumentality transmits to the user node (*e.g.*, an Internet enabled user device such as a laptop, mobile phone), through the master node (*e.g.*, the Accused Instrumentality), a target information reference (*e.g.*, address information for accessing a web page of a file categorized in low priority group that a user requested) corresponding to the accessed profile information (*e.g.*, requested content is tied to the IP address of the particular user device that requested it). The target information reference (*e.g.*, address information identifying a server or computer that a user will need to obtain information from in order to access a web page or an FTP file) is a pointer to target information to be delivered to the user node (*e.g.*, a user-set low priority data packet to an Internet enabled user device such as a laptop,

mobile phone, etc.) while transferring non-target information without additional communication delay (*e.g.*, higher priority applications such as audio/video less than a certain user specified latency as shown below, which the Accused Instrumentality gives a higher priority class) will be prioritized.

15. For example, the Accused Instrumentality will receive address information pointing to the server or computers delivering content (*e.g.*, data packets sent from other servers or computers will contain the IP address of the server/computer in the data packet's header). These data packets are forwarded to the appropriate device (which requested access to the Internet information) based upon a destination IP address belonging to a particular device (corresponding to the accessed profile information for the particular device that requested access to the Internet information, or the device seeking to receive data from a particular Internet address) that is also within the header. The Accused Instrumentality will reference its routing table in order to forward data packets to an addressed device accordingly.

16. Furthermore, the Accused Instrumentality has QOS settings that allow prioritization of certain Internet traffic while allowing other traffic to continue. For example, a data packet in the user-set low priority group will be delivered to the user device while transferring non-target information without additional communication delay (*e.g.*, higher priority applications such as audio/video less than a certain user specified latency as shown below (data packet in user-set high priority group) is prioritized and transferred without delay). The Accused Instrumentality can classify particular wireless data packets as network traffic that is less sensitive (*e.g.*, target information) and place a lower priority on the transfer of target information (*e.g.*, general data and background traffic) so as not to delay the continued transfer of non-target

information (e.g., higher priority applications such as audio/video less than a certain user specified latency as shown below (data packet in user-set high priority group)).

QoS Policies Page

This page lets you configure the quality of service (QoS) on your access point. With this feature, you can provide preferential treatment to certain traffic. Without QoS, the access point offers best-effort service to each packet, regardless of the packet contents or size. It sends the packets without any assurance of reliability, delay bounds, or throughput.

Figure 69 - QoS Policy Page

The screenshot displays the 'QoS POLICIES' configuration page for a Stratix 5100 Series access point. The interface includes a navigation menu on the left with options like Telnet/SSH, Hot standby, CDP, DNS, Filters, HTTP, QoS, Stream, SNMP, SNTP, VLAN, ARP Caching, and Band Select. The main content area is titled 'Services: QoS Policies' and contains a 'Create/Edit Policies' section. This section includes a 'Create/Edit Policy' dropdown set to '< NEW >', a 'Policy Name' input field set to '< NEW >', and a 'Classifications' list box with a 'Delete Classification' button below it. The 'Match Classifications' section features 'IP Precedence' set to 'Routine (0)', 'IP DSCP' set to 'Best Effort' (with a '(0-63)' range), and 'Apply Class of Service' options for 'Best Effort (0)'. The 'Filter' section shows 'No Filters defined' with a 'Define Filters' link. The 'Rate Limiting' section includes 'Bits per Sec.' (8000-2000000000) and 'Burst Rate (Bytes)' (1000-512000000) fields. Finally, the 'Conform Action' is set to 'Transmit' and the 'Exceed Action' is set to 'Drop'.

(See, e.g., Stratix 5100 Wireless Access Point/Workgroup Bridge User Manual, Rockwell Automation Publ. 1783-UM006A-ED-P at 54, 224-225 (May 2014)).

Stream Page

The Stream page sets the user priority for stream services and where you can increase or decrease data rates.

Figure 75 - Stream Page

The screenshot displays the configuration page for the Stream service on a Stratix 5100 Series device. The interface includes a navigation menu on the left with options like Telnet/SSH, CDP, DNS, and Stream. The main content area is titled 'Services: Stream' and contains two sections: 'Packet Handling per User Priority' and 'Low Latency Packet Rates'.

Packet Handling per User Priority:

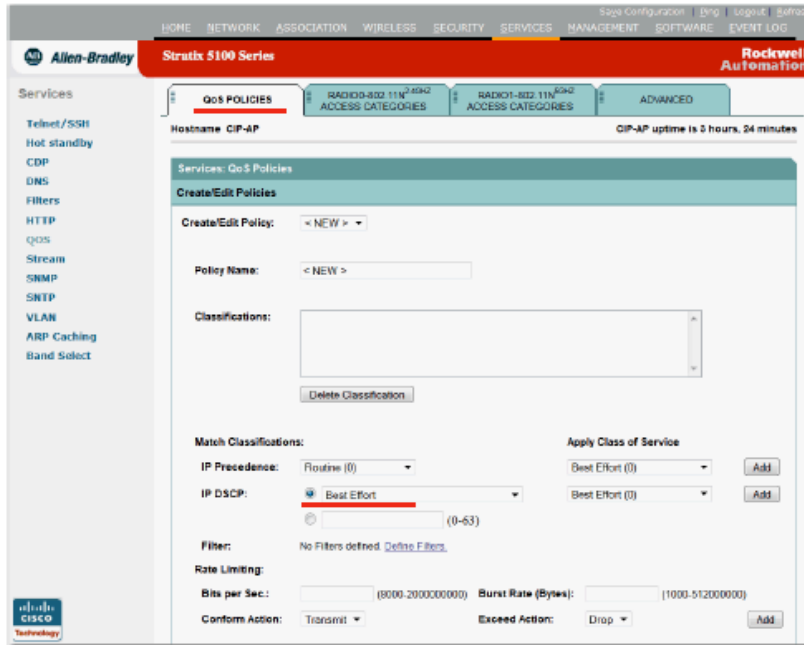
User Priority	Packet Handling	Max Retries for Packet Discard
CoS 0 (Best Effort)	Reliable	NO DISCARD (0-128)
CoS 1 (Background)	Reliable	NO DISCARD (0-128)
CoS 2 (Spare)	Reliable	NO DISCARD (0-128)
CoS 3 (Excellent)	Reliable	NO DISCARD (0-128)
CoS 4 (Controlled Load)	Reliable	NO DISCARD (0-128)
CoS 5 (Video)	Reliable	NO DISCARD (0-128)
CoS 6 (Voice)	Reliable	NO DISCARD (0-128)
CoS 7 (Network Control)	Reliable	NO DISCARD (0-128)

Low Latency Packet Rates:

1.0Mb/sec :	<input type="radio"/> Nominal	<input type="radio"/> Non-Nominal	<input checked="" type="radio"/> Disable
2.0Mb/sec :	<input type="radio"/> Nominal	<input type="radio"/> Non-Nominal	<input checked="" type="radio"/> Disable
5.5Mb/sec :	<input type="radio"/> Nominal	<input type="radio"/> Non-Nominal	<input checked="" type="radio"/> Disable

Follow these steps to configure QoS on your access point.

1. From the top menu, click Services.
2. From the Services menu, click QoS.



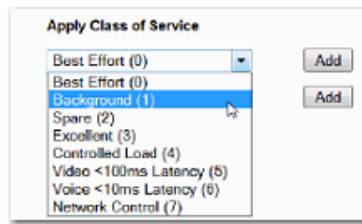
3. Select <NEW> Create/Edit Policy field or select an existing policy.
4. Type a name for the QoS policy in the Policy Name entry field.

The name can contain up to 25 alphanumeric characters. Do not include spaces in the policy name.

If the packets you need to prioritize contain IP precedence information in the IP header TOS field, select an IP precedence classification from the IP Precedence pull-down menu. Menu selections include these items:

- Routine (0)
- Priority (1)
- Immediate (2)
- Flash (3)
- Flash Override (4)
- Critic/CCP (5)
- Internet Control (6)
- Network Control (7)

- From the Apply Class of Service pull-down menu, select the class of service that you want the access point to apply packets to the type that you selected from the IP Precedence menu.



- The access point matches your IP Precedence selection with your class of service selection.



These are the settings in the Apply Class of Service menu:

- Best Effort (0)
- Background (1)
- Spare (2)
- Excellent (3)
- Control Lead (4)
- Video <100 ms Latency (5)
- Voice <100 ms Latency (6)
- Network Control (7)

- Click Add beside the Class of Service menu for IP Precedence.

The classification appears in the Classifications field. To delete a classification, select it and click Delete beside the Classifications field.

If the packets that you need to prioritize contain IP DSCP precedence information in the IP header TOS field, select an IP DSCP classification from the IP DSCP pull-down menu. These are the menu choices:

- Best Effort
- Assured Forwarding - Class 1 Low
- Assured Forwarding - Class 1 Medium
- Assured Forwarding - Class 1 High
- Assured Forwarding - Class 2 Low
- Assured Forwarding - Class 2 Medium
- Assured Forwarding - Class 2 High
- Assured Forwarding - Class 3 Low
- Assured Forwarding - Class 3 Medium
- Assured Forwarding - Class 3 High
- Assured Forwarding - Class 4 Low

(*e.g.*,

<https://web.archive.org/web/20141228161717/http://ab.rockwellautomation.com:80/Networks-and-Communications/Stratix-5100-Wireless-Router#documentation>).

17. Plaintiff has been damaged because of Defendant's infringing conduct. Defendant is thus liable to Plaintiff for damages in an amount that adequately compensates Plaintiff for such Defendant's infringement of the '508 patent, *i.e.*, in an amount that by law cannot be less than would constitute a reasonable royalty for the use of the patented technology, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

18. On information and belief, Defendant has had at least constructive notice of the '508 patent by operation of law, and there are no marking requirements that have not been complied with.

IV. JURY DEMAND

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court find in its favor and against Defendant, and that the Court grant Plaintiff the following relief:

- a. Judgment that one or more claims of United States Patent No. 5,768,508 have been infringed, either literally and/or under the doctrine of equivalents, by Defendant;
- b. Judgment that Defendant account for and pay to Plaintiff all damages to and costs incurred by Plaintiff because of Defendant's infringing activities and other conduct complained of herein;
- c. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein; and

- d. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

August 2, 2018

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