

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

RING PROTECTION LLC	§	
	§	
Plaintiff,	§	CIVIL ACTION NO. 3:18-cv-3055
	§	
v.	§	JURY TRIAL DEMANDED
	§	
NEC CORPORATION OF AMERICA	§	
	§	
	§	
Defendant.	§	

COMPLAINT FOR INFRINGEMENT OF PATENT

COMES NOW, Plaintiff Ring Protection LLC (“Ring” or Plaintiff), through the undersigned attorneys, and respectfully alleges, states, and prays as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement under the Patent Laws of the United States, Title 35 United States Code (“U.S.C.”) to prevent and enjoin defendant NEC Corporation of America (hereinafter “Defendant”) from infringing and profiting, in an illegal and unauthorized manner and without authorization and/or of the consent from Ring, from U.S. Patent No. 6,892,329 (the “329 patent”, attached hereto as Exhibit “A”) (the “Patent-in-Suit”) pursuant to 35 U.S.C. § 271, and to recover damages, attorney’s fees, and costs.

THE PARTIES

2. Plaintiff Ring is a Delaware entity with its principal place of business at 16192 Coastal Hwy., Lewes, DE 19958.

3. Upon information and belief, Defendant is a company organized and existing under the laws of the State of Nevada, having a principal place of business at 3929 W. John Carpenter

Freeway, Irving, Texas 75063. Upon information and belief, Defendant may be served with process at National Registered Agents, Inc., 1999 Bryan St., Suite 900, Dallas, Texas 75201.

JURISDICTION AND VENUE

4. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the action arises under the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq.*

5. This Court has personal jurisdiction over Defendant by virtue of its systematic and continuous contacts with the forum state, including residing in Texas, as well as because of the injury to Ring, and the cause of action Ring has risen, as alleged herein.

6. Defendant is subject to this Court's personal jurisdiction pursuant to due process and/or the Texas Long-Arm Statute, *Tex. Civ. Prac. & Rem. Code § 17.042.*, due at least to its substantial business and purposeful availment of this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this judicial district.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1400(b) because Defendant has committed acts of infringement and has a regular and established place of business in this district.

FACTUAL ALLEGATIONS

8. On May 10, 2005, the United States Patent and Trademark Office ("USPTO") duly and legally issued the '329 patent, entitled "Selective Protection for Ring Topologies" after a full and fair examination. (Exhibit A).

9. Ring is presently the owner of the patent, having received all right, title and interest in and to the '329 patent from the previous assignee of record. Ring possesses all rights of recovery under the '329 patent, including the exclusive right to recover for past infringement.

10. The '329 patent contains three (3) independent claims and twenty-one (21) dependent claims.

11. The '329 patent claims, *inter alia*, a method for fault protection in a bidirectional ring network.

12. Defendant commercializes, *inter alia*, products that incorporates a method for fault protection in a bidirectional ring network that include each and every element of at least one claim of the '329 patent.

13. Upon information and belief, to the extent any marking was required by 35 U.S.C. § 287 with regards to the '329 Patent, Plaintiff has complied with such requirements.

DEFENDANT'S PRODUCTS

14. The accused products include, but are not limited to, the "SpectralWave U-Node" (the "Accused Product"). Publicly available information describing the Accused Product shows that the Accused Product provides a method for fault protection in a bidirectional ring network, in which packet traffic is transmitted simultaneously in both clockwise and counterclockwise directions around the network, as recited in the preamble of claim 1 of the '329 patent. For example, the Accused Product comprises a method for fault protection in which data is routed in clockwise and a copy of the data is routed in counterclockwise direction.¹

15. As recited in claim 1, the method provided by the Accused Product comprises transmitting first and second flows of packets around the bidirectional ring network while defining

¹ <https://www.necam.com/docs/?id=52E0F890-0B9D-4160-9205-620162E23BB5>, last visited September 20, 2018

the first flow as a wrapping flow and the second flow as a non-wrapping flow. For example, the Accused Product supports Four-Fiber SONET BLSR, in which a ring switching flow is considered as the first flow and a span switching flow is considered as the second flow.

16. As recited in claim 1, the method provided by the Accused Product comprises, upon detection by a node in the network that a segment of the network proximal to the node has failed, wrapping the packets in the first flow at the node between the clockwise and counterclockwise directions so as to avoid the failed segment. For example, in the event of certain link failures, the Accused Product performs a ring switch protection switching mechanism wherein it re-routes the packet travelling in clockwise direction to counterclockwise direction (or vice versa) on detection of link failure, thus wrapping the packets so as to avoid the failed link.

17. As recited in claim 1, the method provided by the Accused Product comprises, upon detection by a node in the network that a segment of the network proximal to the node has failed, steering the packets in the second flow in one of the clockwise and counterclockwise directions so as to reach a destination of the second flow while avoiding the failed segment. For example, in the event of certain link failures, the Accused Product performs a span switch protection switching mechanism wherein it re-routes the packet travelling in clockwise direction to a different span (but maintaining the direction) on detection of link failure, thus steering the packets towards their destination while avoiding the failed span.

18. The elements described in paragraphs 13-17 are covered by at least claim 1 of the '329 patent.

COUNT I
(DIRECT INFRINGEMENT OF THE '329 PATENT)

19. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1 to 18.

20. In violation of 35 U.S.C. § 271, Defendant is now, and has been directly infringing the '329 patent.

21. Defendant has had knowledge of infringement of the '329 patent at least as of the service of the present complaint.

22. Defendant has directly infringed and continues to directly infringe at least claim 1 of the '329 patent by using, selling and/or offering to sell the Accused Product without authority in the United States, and will continue to do so unless enjoined by this Court. For example, Defendant sells, offers to sell and advertises the Accused Product in this District. As a direct and proximate result of Defendant's direct infringement of the '329 patent, Plaintiff has been and continues to be damaged.

23. By engaging in the conduct described herein, Defendant has injured Ring and is thus liable for infringement of the '329 patent, pursuant to 35 U.S.C. § 271(a).

24. Defendant has committed these acts of infringement without license or authorization.

25. As a result of Defendant's infringement of the '329 patent, Ring has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs.

26. Ring will continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this Court. As such, Ring is entitled to compensation for any continuing and/or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement.

COUNT II
(INDIRECT INFRINGEMENT OF THE '329 PATENT)

27. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1 to 26.

28. In violation of 35 U.S.C. § 271(b), Defendant is now, and has been indirectly infringing the '329 patent.

29. Defendant's customers, users, and/or licensees are directly infringing, literally infringing and/or infringing the '329 Patent under the doctrine of equivalents.

30. Defendant has had knowledge of infringement of the '329 patent at least as of the service of the present complaint.

31. Defendant has indirectly infringed and continues to indirectly infringe at least claim 1 of the '329 patent by actively inducing its respective customers, users, and/or licensees to directly infringe by using the Accused Product. Defendant engaged or will have engaged in such inducement having knowledge of the '329 patent. Furthermore, Defendant knew or should have known that its action would induce direct infringement by others and intended that its actions would induce direct infringement by others. For example, Defendant sells, offers to sell and advertises the Accused Product through websites or digital distribution platforms that are available in Texas, specifically intending that its customers use it.² Furthermore, Defendant's customers' use of the Accused Product is facilitated by the invention described in the '329 patent. As a direct and proximate result of Defendant's indirect infringement by inducement of the '329 patent, Plaintiff has been and continues to be damaged.

32. By engaging in the conduct described herein, Defendant has injured Ring and is thus liable for infringement of the '329 patent, pursuant to 35 U.S.C. § 271.

² <https://www.necam.com/docs/?id=52E0F890-0B9D-4160-9205-620162E23BB5>

33. Defendant has committed these acts of infringement without license or authorization.

34. As a result of Defendant's infringement of the '329 patent, Ring has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs. Ring will continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this Court. As such, Ring is entitled to compensation for any continuing and/or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement

DEMAND FOR JURY TRIAL

35. Ring demands a trial by jury of any and all causes of action.

PRAYER FOR RELIEF

WHEREFORE, Ring prays for the following relief:

1. That Defendant be adjudged to have infringed the Patent-in-Suit directly, literally and/or under the doctrine of equivalents;
2. That Defendant be adjudged to have induced its respective customers, users, and/or licensees to infringe the Patent-in-Suit;
3. That Defendant, its officers, directors, agents, servants, employees, attorneys, affiliates, divisions, branches, parents, and those persons in active concert or participation with any of them, be permanently restrained and enjoined from directly infringing the Patent-in-Suit;
4. An award of damages pursuant to 35 U.S.C. §284 sufficient to compensate Ring for the Defendant's past infringement and any continuing or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement, including compensatory damages;

5. An assessment of pre-judgment and post-judgment interest and costs against Defendant, together with an award of such interest and costs, in accordance with 35 U.S.C. §284; and

6. That Ring have such other and further relief as this Court may deem just and proper.

Dated: November 16, 2018

Respectfully Submitted,

By: /s/Neal Massand

Neal Massand

USDC Bar No. 24047205

NI, WANG & MASSAND, PLLC

8140 Walnut Hill Lane, Suite 500

Dallas, Texas 75231

Telephone: 972-331-4601

Facsimile: 972-314-0900

nmassand@nilawfirm.com

Eugenio J. Torres-Oyola

USDC No. 215505

Ferraiuoli LLC

221 Plaza, 5th Floor

221 Ponce de León Avenue

San Juan, PR 00917

Telephone: (787) 766-7000

Facsimile: (787) 766-7001

Email: etorres@ferraiuoli.com

Jean G. Vidal Font

USDC No. 227811

Ferraiuoli LLC

221 Plaza, 5th Floor

221 Ponce de León Avenue

San Juan, PR 00917

Telephone: (787) 766-7000

Facsimile: (787) 766-7001

Email: jvidal@ferraiuoli.com

Victor Rodríguez-Reyes

USDC-PR No. 228510

Ferraiuoli LLC

221 Plaza, 5th Floor

221 Ponce de León Avenue

San Juan, PR 00917

Telephone: (787) 766-7000

Facsimile: (787) 766-7001

Email: vrodriguezreyes@ferraiuoli.com

**ATTORNEYS FOR PLAINTIFF
RING PROTECTION LLC**