



laws of Japan, with its principal place of business located 4-1-1 Kamikodanaka, Nakahara-ku, Kawasaki-shi, Kanagawa, 211-8588, Japan, and may be served pursuant to the provisions of the Hague Convention. Fujitsu is a leading manufacturer and seller of computer equipment in the world and in the United States. Upon information and belief, Fujitsu does business in Texas and in the Eastern District of Texas, directly or through its intermediaries.

### **JURISDICTION**

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1, *et seq.* This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Defendants. Defendants regularly conducts business and have committed acts of patent infringement and/or have induced acts of patent infringement by others in this Judicial District and/or have contributed to patent infringement by others in this Judicial District, the State of Texas, and elsewhere in the United States.

5. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391 because, among other things, Defendants Fujitsu Ltd., and Fujitsu Optical Components Limited (FOC) are not residents in the United States, and thus may be sued in any judicial district pursuant to 28 U.S.C. § 1391(c)(3). Upon information and belief, Defendant Fujitsu America Inc. maintains a regular and established place of business at 2791 Telecom Pkwy, Richardson, Texas 75082 in Collin County within this judicial district. Additionally, upon information and belief, Fujitsu also maintains a facility at 2801 Telecom Pkwy, Richardson, Texas 75082, also within this judicial district. Upon information and belief, Defendants have committed the acts of infringement alleged herein within this judicial district.

6. Defendants are subject to this Court's jurisdiction pursuant to due process and/or the Texas Long Arm Statute due at least to its substantial business in this State and Judicial District, including (a) at least part of its past infringing activities, (b) regularly doing or soliciting business in Texas, and/or (c) engaging in persistent conduct and/or deriving substantial revenue from goods and services provided to customers in Texas.

### **PATENTS-IN-SUIT**

7. On January 16, 2007, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 7,164,692 (the "'692 Patent") entitled "Apparatus and Method for Transmitting 10 Gigabit Ethernet LAN Signals Over a Transport System." A true and correct copy of the '692 Patent is available at <http://pdfpiw.uspto.gov/.piw?docid=7164692>.

8. On September 2, 2008, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 7,420,975 (the "'975 Patent") entitled "Method and Apparatus For High-Speed Frame Tagger." A true and correct copy of the '975 Patent is available at <http://pdfpiw.uspto.gov/.piw?docid=7420975>.

9. Winterspring is the sole and exclusive owner of all right, title, and interest in the '692 and '975 Patents (the "Patents-in-Suit") and holds the exclusive right to take all actions necessary to enforce its rights to the Patent-in-Suit, including the filing of this patent infringement lawsuit. Winterspring also has the right to recover all damages for past, present, and future infringement of the Patents-in-Suit and to seek injunctive relief as appropriate under the law.

### **FACTUAL ALLEGATIONS**

10. The Patents-in-Suit generally relate to systems and methods for routing data over a network.

11. The '692 Patent generally discloses an apparatus and method for transmitting LAN signals over a transport system. A system sends or receives a signal to or from a transport system, converts the signal to an intermediate form, re-clocks the intermediate signal, reconverts and then transmits the signal. The technology described in the '692 Patent was developed by Jeffrey Lloyd Cox and Samir Satish Seth. By way of example, this technology is implemented today in servers, computers, network switches, modules, and transceivers that receive, convert, monitor, and send 10-Gigabit LAN signals.

12. The '975 Patent discloses an apparatus and methods for examining a packet, determining a protocol type and tagging the packet. The technology described in the '975 Patent was developed by Velamur Krishnamachari and Dinesh Annayya from Cypress Semiconductor Corporation. By way of example, this technology is implemented today in computers, network switches, modules, and software which implement packet tagging.

13. Fujitsu has infringed and is continuing to infringe the Patents-in-Suit by making, using, offering to sell, selling, and/or importing products which implement the technology disclosed in the above Patents-in-Suit.

**COUNT I**  
**(Infringement of the '692 Patent)**

14. Paragraphs 1 through 13 are incorporated by reference as if fully set forth herein.

15. Winterspring has not licensed or otherwise authorized Defendant to make, use, offer for sale, sell, or import any products that embody the inventions of the '692 Patent.

16. Defendants have and continue to directly infringe the '692 Patent, either literally or under the doctrine of equivalents, without authority and in violation of 35 U.S.C. § 271, by making, using, offering to sell, selling, and/or importing into the United States products that satisfy each and every limitation of one or more claims of the '692 Patent. Such products include, but are not

limited to, servers, computers, network switches, modules, and transceivers that receive, convert, monitor, and send 10-Gigabit LAN signals that receive, convert, monitor, and send 10GE LAN signals.

17. For example, Defendants have and continue to directly infringe at least claim 10 of the '692 Patent by making, using, offering to sell, selling, and/or importing into the United States products that receive, convert, and monitor 10GE LAN signals.

18. For example, Fujitsu PSWITCH 2048 performs a method of transferring 10GE LAN client signals from a transport system to a client system comprising receiving the 10GE LAN client signal transmitted over the transport system, converting the 10GE LAN client signal to an intermediate signal, recovering clock data from the intermediate signal, recovering a data stream from the intermediate signal, reconvertng the intermediate signal to the 10GE LAN client signal; transferring the 10GE LAN client signal to a client system; and monitoring the intermediate form with a monitoring device wherein the monitoring device is a 10GE LAN media access controller.

19. Defendants have and continue to indirectly infringe one or more claims of the '692 Patent by knowingly<sup>1</sup> and intentionally inducing others, including Fujitsu customers and end-users, to directly infringe, either literally or under the doctrine of equivalents, by making, using, offering to sell, selling and/or importing into the United States products that receive, convert, monitor, and send 10GE LAN signals.

20. Defendants, with knowledge that these products, or the use thereof, infringe the '692 Patent at least as of the date of this Complaint, knowingly and intentionally induced, and

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<sup>1</sup> Defendants had prior knowledge of the '692 patent. For example, Japanese Patent application JP2005500530A (now Japanese Patent JP3881001) was filed by Fujitsu Ltd. on June 6, 2003. The examiner cited to the '692 patent family during the prosecution of this patent. Japanese application JP2006075438A (now Japanese patent JP464839) was filed by Fujitsu Ltd. on March 17, 2006. The examiner cited to the '692 patent family during the prosecution of this patent.

continue to knowingly and intentionally induce, direct infringement of the '692 Patent by providing these products to end users for use in an infringing manner.

21. Defendants induced infringement by others, including end users, with the intent to cause infringing acts by others or, in the alternative, with the belief that there was a high probability that others, including end users, infringe the '692 Patent, but while remaining willfully blind to the infringement.

22. Winterspring has suffered damages as a result of Defendants' direct and indirect infringement of the '692 Patent in an amount to be proved at trial.

23. Winterspring has suffered, and will continue to suffer, irreparable harm as a result of Defendants' infringement of the '692 Patent, for which there is no adequate remedy at law, unless Defendants' infringement is enjoined by this Court.

**COUNT II**  
**(Infringement of the '975 Patent)**

24. Paragraphs 1 through 13 are incorporated by reference as if fully set forth herein.

25. Winterspring has not licensed or otherwise authorized Defendant to make, use, offer for sale, sell, or import any products that embody the inventions of the '975 Patent.

26. Defendants have and continue to directly infringe the '975 Patent, either literally or under the doctrine of equivalents, without authority and in violation of 35 U.S.C. § 271, by making, using, offering to sell, selling, and/or importing into the United States products that satisfy each and every limitation of one or more claims of the '975 Patent. Such products include, but are not limited to in computers, network switches, modules, and software which implement packet tagging that perform packet tagging.

27. For example, Defendants have and continue to directly infringe at least claim 5 of the '975 Patent by making, using, offering to sell, selling, and/or importing into the United States products that perform packet tagging:

28. For example, the Fujitsu PSWITCH 2048 includes an apparatus comprising a network processor interface suitable for coupling to a network processor and a central processor interface suitable for coupling to a central processor. Upon information and belief, Fujitsu PSWITCH 2048 further includes a protocol determination logic block to determine a protocol type of data in a packet, wherein the protocol determination logic compares the protocol information in a first pass to predetermined values to procedure a first result and, if the first result is positive, compares the protocol information in a second pass to predetermined values to produce a second result, the first and second results forming a set of results (*e.g.*, VLAN tagging). Upon information and belief, Fujitsu PSWITCH 2048 further comprises a tag select logic block to apply a tag to the packet indicating that the packet has an unknown protocol type if the first result is negative and if the first result is positive, the packet should be sent to either the central processor interface or the network processor interface based on the set of results.

29. Defendants have and continue to indirectly infringe one or more claims of the '975 Patent by knowingly and intentionally inducing others, including Fujitsu customers and end-users, to directly infringe, either literally or under the doctrine of equivalents, by making, using, offering to sell, selling and/or importing into the United States infringing products.

30. Defendants, with knowledge that these products, or the use thereof, infringed the '975 Patent at least as of the date of this Complaint, knowingly and intentionally induced, and continue to knowingly and intentionally induce, direct infringement of the '975 Patent by providing these products to end users for use in an infringing manner.

31. Defendants induced infringement by others, including end users, with the intent to cause infringing acts by others or, in the alternative, with the belief that there was a high probability that others, including end users, infringe the '975 Patent, but while remaining willfully blind to the infringement.

32. Winterspring has suffered damages as a result of Defendants' direct and indirect infringement of the '975 Patent in an amount to be proved at trial.

33. Winterspring has suffered, and will continue to suffer, irreparable harm as a result of Defendants' infringement of the '975 Patent, for which there is no adequate remedy at law, unless Defendants' infringement is enjoined by this Court.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury for all issues so triable.

**PRAYER FOR RELIEF**

WHEREFORE, Winterspring prays for relief against Defendant as follows:

a. Entry of judgment declaring that Defendants have directly and/or indirectly infringed one or more claims of the Patents-in-Suit;

b. An order pursuant to 35 U.S.C. § 283 permanently enjoining Defendants, its officers, agents, servants, employees, attorneys, and those persons in active concert or participation with it, from further acts of infringement of one or more of the Patents-in-Suit;

c. An order awarding damages sufficient to compensate Winterspring for Defendants' infringement of the Patents-in-Suit, but in no event less than a reasonable royalty, together with interest and costs;

d. Entry of judgment declaring that this case is exceptional and awarding Winterspring its costs and reasonable attorney fees under 35 U.S.C. § 285; and,



e. Such other and further relief as the Court deems just and proper.

Dated: June 3, 2023

Respectfully submitted,

/s/ Vincent J. Rubino, III

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