

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

FREEDOM PATENTS LLC,

Plaintiff,

v.

HEWLETT PACKARD ENTERPRISE
COMPANY and ARUBA NETWORKS,
LLC,

Defendants.

CIVIL ACTION NO. 4:24-cv-536

ORIGINAL COMPLAINT FOR
PATENT INFRINGEMENT

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Freedom Patents LLC (“Freedom Patents” or “Plaintiff”) files this original complaint against Defendants Hewlett Packard Enterprise Company and Aruba Networks, LLC (collectively, “HPE” or “Defendants”), alleging, based on its own knowledge as to itself and its own actions and based on information and belief as to all other matters, as follows:

PARTIES

1. Freedom Patents is a limited liability company formed under the laws of the State of Texas, with its principal place of business at 2325 Oak Alley, Tyler, Texas, 75703.

2. Defendant Hewlett Packard Enterprise Company (“Hewlett Packard Enterprise”) is a corporation duly organized and existing under the laws of the State of Delaware. It has a place of business at 3001 Dallas Parkway, Frisco, TX 75034. Hewlett Packard Enterprise may be served with process through its registered agent, CT Corporation System, at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

3. Hewlett Packard Enterprise—together with its subsidiaries and affiliates—describes itself as “a global technology leader focused on developing intelligent solutions that

allow customers to capture, analyze and act upon data seamlessly from edge to cloud.”¹ It also describes itself as “one of the world’s leading enterprise technology companies.”²

4. Defendant Aruba Networks, LLC (“Aruba”) is a limited liability company duly organized and existing under the laws of the State of Delaware. Aruba may be served with process through its registered agent, CT Corporation System, at 1999 Bryan St., Suite 900, Dallas, TX 75201.

5. Aruba is an indirect wholly owned subsidiary of Hewlett Packard Enterprise Company. Aruba provides mobile network access services.

6. Defendants Hewlett Packard Enterprise and Aruba (collectively, HPE”) are part of an interrelated group of companies which together, with their affiliates, comprise one of the largest networking providers in the United States, including under the “aruba,” “HPE,” and “Hewlett Packard Enterprises” brands.

7. The HPE defendants named above and their affiliates are part of the same corporate structure and distribution chain for the making, importing, offering to sell, selling, and using of the accused devices in the United States, including in the State of Texas generally and this judicial district in particular.

8. 8. The HPE defendants named above and their affiliates share the same management, common ownership, advertising platforms, facilities, distribution chains and platforms, and accused product lines and products involving related technologies.

¹ <https://www.hpe.com/us/en/about/intellectual-property-portfolio.html#:~:text=HPE%20is%20a%20global%20technology,seamlessly%20from%20edge%20to%20cloud.>

² <https://www.hpe.com/us/en/about/history.html>

9. The HPE defendants named above and their affiliates regularly contract with customers regarding products made for or on behalf of those customers.

10. Thus, the HPE defendants named above and their affiliates operate as a unitary business venture and are jointly and severally liable for the acts of patent infringement alleged herein.

11. The parties to this action are properly joined under 35 U.S.C. § 299 because the right to relief asserted against Defendants jointly and severally arises out of the same series of transactions or occurrences relating to the making and using of the same products or processes, including access points and routers bearing at least the “aruba,” “HPE,” and “Hewlett Packard Enterprises” brands or that are otherwise made for use with services provided by HPE. Additionally, questions of fact common to all defendants will arise in this action.

JURISDICTION AND VENUE

12. This is an action for infringement of United States patents arising under 35 U.S.C. §§ 271, 281, and 284–85, among others. This Court has subject matter jurisdiction of the action under 28 U.S.C. § 1331 and § 1338(a).

13. This Court has personal jurisdiction over HPE pursuant to due process and/or the Texas Long Arm Statute because, *inter alia*, (i) HPE has done and continues to do business in Texas; and (ii) HPE has committed and continues to commit acts of patent infringement in the State of Texas, including making, using, offering to sell, and/or selling accused products in Texas, and/or importing accused products into Texas, including by Internet sales and sales via retail and wholesale stores, inducing others to commit acts of patent infringement in Texas, and/or committing a least a portion of any other infringements alleged herein; and (iii) HPE is registered to do business in Texas.

14. Venue is proper in this district as to HPE pursuant to 28 U.S.C. § 1400(b). Venue is further proper because HPE has committed and continues to commit acts of patent infringement in this district, including making, using, offering to sell, and/or selling accused products in this district, and/or importing accused products into this district, including by Internet sales and sales via retail and wholesale stores, inducing others to commit acts of patent infringement in Texas, and/or committing at least a portion of any other infringements alleged herein in this district. HPE has regular and established places of business in this district, including at least at 3001 Dallas Parkway, Frisco, TX 75034.

HPE offices and executive briefing centers

Use our list of locations to find your way to one of our office headquarter locations or Executive Briefing Centers. To find an official HPE Partner near you, use our [Find a Partner locator](#).

[View our worldwide office locations](#) →

WW Corporate Headquarters - Spring, TX - United States
1701 E Mossy Oaks Rd
Spring, TX 77389
[See location using Google Maps](#) →

New York, NY - United States
461 Fifth Avenue
New York, NY 10017
[See location using Google Maps](#) →

San Jose, CA - United States
6280 America Center Drive
San Jose, CA 95002
[See location using Google Maps](#) →

Roseville, CA - United States
8000 Foothills Boulevard
Roseville, CA 95747
[See location using Google Maps](#) →

Alpharetta, GA - United States
5555 Windward Parkway
Alpharetta, GA 30004
[See location using Google Maps](#) →

Fort Collins, CO - United States
3404 E Harmony Road
Fort Collins, CO 80528
[See location using Google Maps](#) →

HPE Nimble Storage - Durham, NC - United States
1015 Swabia Court
Durham, NC 27703
[See location using Google Maps](#) →

Frisco, TX Office
3001 Dallas Parkway
Frisco, TX 75034-8660
[See location using Google Maps](#) →



Source: <https://www.hpe.com/us/en/contact-hpe.html>

BACKGROUND

15. The patents-in-suit generally relate to improvements in wireless communication technology that allow users to communicate over a wireless network. In particular, the patents are directed to methods and systems for selecting antennas in multiple-input, multiple-output (MIMO) wireless networks.

16. The technology of the patents-in-suit was developed by engineers at the Mitsubishi Electric Research Laboratories (MERL), which is the North American arm of Mitsubishi Electric. MERL was founded in 1991 in Cambridge, Massachusetts, and has been known for its focus on innovation and long-range research.³ From its beginning, MERL was focused on pioneering new technologies in various industries, including computer graphics, digital communication, medical imaging, transportation etc.⁴ In the early 2000s, for example, “MERL focused on standardization and developments of new emerging technologies,” such as “antenna selection, channel equalization, efficient channel state estimation, and Orthogonal Frequency Division Multiplexing (OFDM).”⁵

17. The inventions disclosed in the patents-in-suit have been cited during patent prosecution multiple times by electronics companies, including Apple, Broadcom, Cisco, Ericsson, Fujitsu, Hewlett Packard, Hitachi, Huawei, Intel, Kyocera, LG Electronics, Marvell, MediaTek, Motorola Mobility, Nokia, NTT Docomo, Panasonic, Philips, Qualcomm, Siemens, Samsung, Sharp, Sony, Toshiba, and ZTE.

COUNT I

DIRECT INFRINGEMENT OF U.S. PATENT NO. 8,284,686

18. On October 9, 2012, United States Patent No. 8,284,686 (“the ’686 Patent”) was duly and legally issued by the United States Patent and Trademark Office for an invention entitled “Antenna/Beam Selection Training in MIMO Wireless LANS with Different Sounding Frames.”

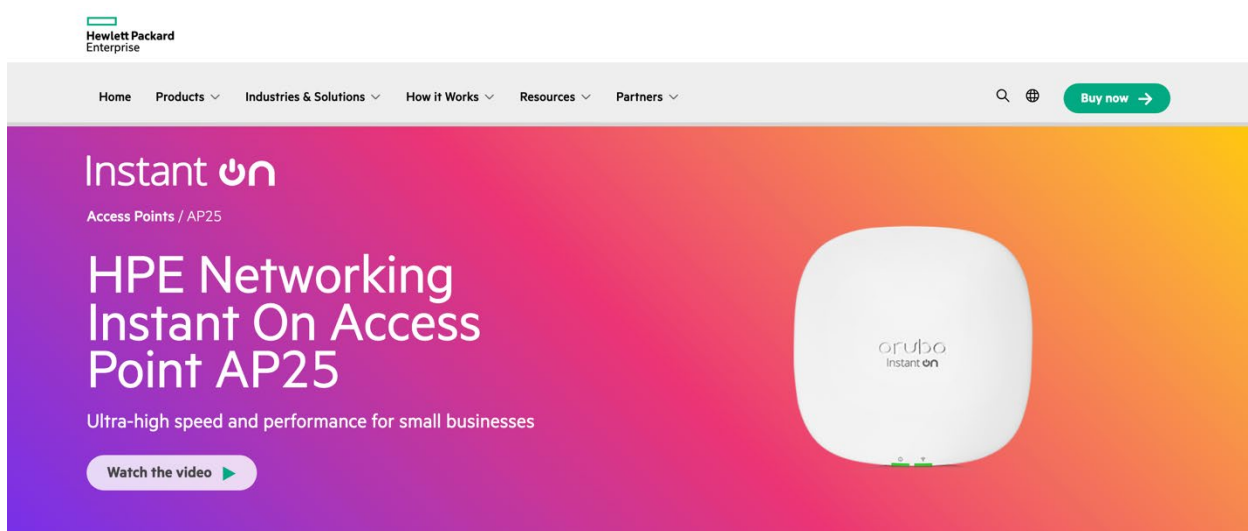
³ See <https://www.merl.com/company/history>.

⁴ See <https://www.merl.com/public/MERL-30Years.pdf>.

⁵ *Id.* at 22.

19. Freedom Patents is the owner of the '686 Patent, with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the '686 Patent against infringers, and to collect damages for all relevant times.

20. HPE made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems including, for example, HPE Networking Instant On Access Point AP25 and HPE Aruba Networking 7000 series Mobility Controllers, and other products⁶ that comply with the IEEE 802.11ax-2021 standard and implement MIMO Wi-Fi capabilities (“accused products”).



Source: <https://www.arubainstanton.com/products/access-points/access-point-25/>

⁶ See, e.g., Model Nos. AP-655, AP-635, AP-615, AP-555, AP-534, AP-535, AP-514, AP-515, AP-504, AP-505, AP-565EX, AP-567EX, AP-565, AP-567, AP-574, AP-575, AP-577, AP-584, AP-585, AP-587, AP-585EX, AP-587EX, AP-575EX, AP-577EX, AP-518, AP-505H, AP-503H, AP-22, AP-25, 9004, 7205, 7005, 7008, 7010, 7024, 7030, MCR-HW-1K, MCR-HW-5K, MCR-HW-10K, Aruba UXI G6 Series sensor, AP-734, AP-735, AP-503, AP-675, AP-677, AP-679, AP-675EX, AP-677EX, AP-679EX, AP-634, AP-605R, AP-605CM12, AP-605H, APINH605, AP-503R, APINR503, AP27, AP27D, AP21, AP32, and AP-654, etc.

Product features


HPE Networking Instant On Access Point AP25 has all the features you need right out of the box

- [Wi-Fi CERTIFIED 6™ Instant On AP25](#) >
- 2.5G Ethernet uplink port
- 160MHz client bandwidth support
- Superior coverage and capacity
- TWT (Target Wake Time)
- Backward-compliant

Wi-Fi CERTIFIED 6™ Instant On AP25

The Wi-Fi CERTIFIED 6™ program is designed to ensure that Wi-Fi 6-capable devices meet the highest standards for security and interoperability. Wi-Fi 6 certification guarantees high-speed and advanced features like orthogonal frequency division multiple access (OFDMA), downlink multi-user multiple-input multiple-output (MU-MIMO) technology, and the next generation of Wi-Fi security, WPA3.


Source: <https://www.arubainstanton.com/products/access-points/access-point-25/#features>



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HPE Aruba Networking 7000 series mobility controllers

Improved network performance, visibility, and control



Key features

- Support for new Wi-Fi 6/6E (802.11ax), WPA3 and Enhanced Open—and existing standards
- Patented HPE Aruba Networking ClientMatch technology can now group together Wi-Fi 6 capable devices
- HPE Aruba Networking Dynamic

HPE Aruba Networking 7000 Series Mobility Controllers enhance WLAN performance by centralizing all control functionality for individual HPE Aruba Networking access points (APs) to improve AP utilization, security, and client roaming. Ideally suited for midsize campuses and branches, the 7000 Series can be deployed using Zero Touch Provisioning to simplify deployment.

access points and include multiple fiber WAN uplinks. With 8Gbps of maximum throughput to perform Policy Enforcement Firewall (PEF) features, the 7000 Series delivers plenty of horsepower for the most demanding enterprise environments.

For enhanced resiliency and availability, the 7000 Series can be clustered together in a network.

Source: <https://www.arubanetworks.com/resource/7000-series-data-sheet>

Regulatory and safety compliance

Features	7010	7030
Regulatory SKU information	ARCNO103	ARCN7030
Minimum HPE Aruba Networking operating system release	8.x	8.x
Wi-Fi Certified WPA3, AOS 8.4; Wi-Fi Certified Enhanced Open, AOS 8.4; <u>Wi-Fi 6 (802.11ax)</u> , AOS 8.4; Wi-Fi Certified 802.11ad, AOS 8.4		

Source: https://www.arubanetworks.com/assets/ds/DS_7000Series.pdf

21. By doing so, HPE has directly infringed (literally and/or under the doctrine of equivalents) at least Claims 1 and 21 of the '686 Patent. *See* Exhibit A. HPE's infringement in this regard is ongoing.

22. The HPE Networking Instant On Access Point AP25 and HPE Aruba Networking 7000 series Mobility Controllers are exemplary accused products.

23. HPE directly infringes the '686 Patent when, for example, it and/or its agents use the accused products, including during testing of the accused products. HPE also directly infringes the '686 Patent when the accused products are used after purchase by a customer or end user. For example, the accused products are built with hardware and/or software components that control the operation of the accused products. These components cause the accused products to perform the steps of the claimed invention after, for example, receiving sounding packets. HPE also directly infringes the '686 Patent by exercising direction or control over the use of the accused products by others, including its affiliates, its subsidiaries, its business partners (including certification and testing organizations), and/or its customers and end-users. HPE contracts with, advises, and/or encourages such persons to engage in conduct satisfying one or more elements of the asserted claims, deriving a financial or other benefit (e.g., improved wireless communications) from doing so. HPE conditions these benefits on, for example, such persons performing certain activities involving the accused products during

specified conditions that cause the accused products to perform the steps of the claimed method (e.g., after receiving sounding packets).

24. HPE has had knowledge of the '686 Patent at least as of the date when it was notified of the filing of this action.

25. Freedom Patents has been damaged as a result of the infringing conduct by HPE alleged above. Thus, HPE is liable to Freedom Patents in an amount that adequately compensates it for such infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

26. Freedom Patents has neither made nor sold unmarked articles that practice the '686 Patent, and is entitled to collect pre-filing damages for the full period allowed by law for infringement of the '686 Patent.

COUNT II

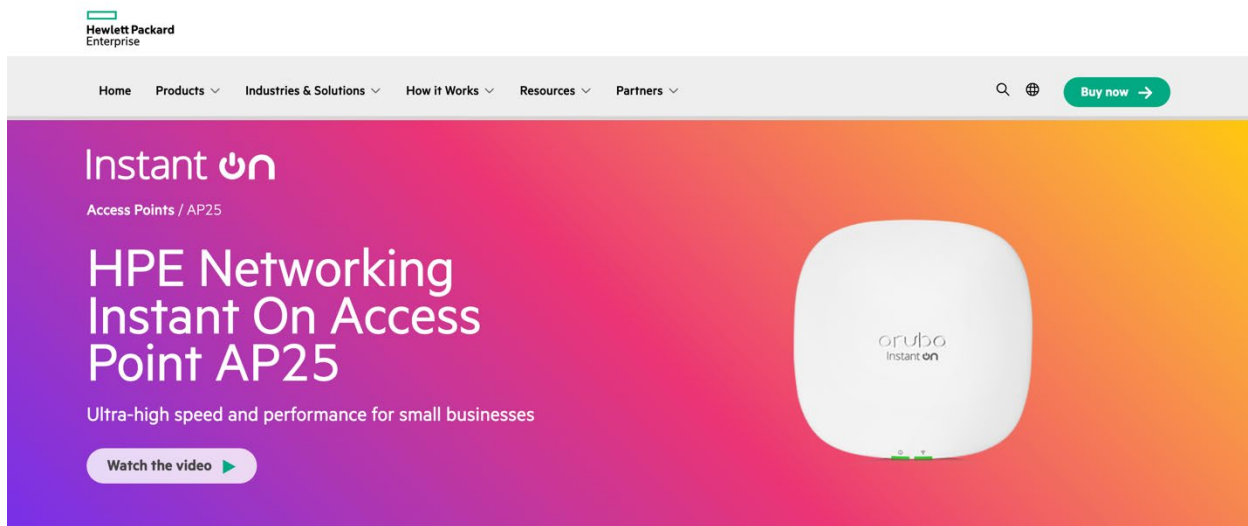
DIRECT INFRINGEMENT OF U.S. PATENT NO. 8,374,096

27. On February 12, 2013, United States Patent No. 8,374,096 (“the '096 Patent”) was duly and legally issued by the United States Patent and Trademark Office for an invention entitled “Method for Selecting Antennas and Beams in MIMO Wireless LANs.”

28. Freedom Patents is the owner of the '096 Patent, with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the '096 Patent against infringers, and to collect damages for all relevant times.

29. HPE used products and/or systems including, for example, its products and/or systems including, for example, HPE Networking Instant On Access Point AP25 and HPE Aruba

Networking 7000 series Mobility Controllers, and other products⁷ that comply with the IEEE 802.11ax-2021 standard and implement MIMO Wi-Fi capabilities (“accused products”).



Source: <https://www.arubainstanton.com/products/access-points/access-point-25/>

⁷ See, e.g., Model Nos. AP-655, AP-635, AP-615, AP-555, AP-534, AP-535, AP-514, AP-515, AP-504, AP-505, AP-565EX, AP-567EX, AP-565, AP-567, AP-574, AP-575, AP-577, AP-584, AP-585, AP-587, AP-585EX, AP-587EX, AP-575EX, AP-577EX, AP-518, AP-505H, AP-503H, AP-22, AP-25, 9004, 7205, 7005, 7008, 7010, 7024, 7030, MCR-HW-1K, MCR-HW-5K, MCR-HW-10K, Aruba UXI G6 Series sensor, AP-734, AP-735, AP-503, AP-675, AP-677, AP-679, AP-675EX, AP-677EX, AP-679EX, AP-634, AP-605R, AP-605CM12, AP-605H, APINH605, AP-503R, APINR503, AP27, AP27D, AP21, AP32, and AP-654, etc.

Product features


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- Backward-compliant

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Source: <https://www.arubainstanton.com/products/access-points/access-point-25/#features>



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HPE Aruba Networking 7000 Series Mobility Controllers enhance WLAN performance by centralizing all control functionality for individual HPE Aruba Networking access points (APs) to improve AP utilization, security, and client roaming. Ideally suited for midsize campuses and branches, the 7000 Series can be deployed using Zero Touch Provisioning to simplify deployment.

access points and include multiple fiber WAN uplinks. With 8Gbps of maximum throughput to perform [Policy Enforcement Firewall \(PEF\)](#) features, the 7000 Series delivers plenty of horsepower for the most demanding enterprise environments.

For enhanced resiliency and availability, the 7000 Series can be clustered together in a network.

Source: <https://www.arubanetworks.com/resource/7000-series-data-sheet>

Regulatory and safety compliance

Features	7010	7030
Regulatory SKU information	ARCNO103	ARCN7030
Minimum HPE Aruba Networking operating system release	8.x	8.x
Wi-Fi Certified WPA3, AOS 8.4; Wi-Fi Certified Enhanced Open, AOS 8.4; <u>Wi-Fi 6 (802.11ax)</u> , AOS 8.4; Wi-Fi Certified 802.11ad, AOS 8.4		

Source: https://www.arubanetworks.com/assets/ds/DS_7000Series.pdf

30. By doing so, HPE has directly infringed (literally and/or under the doctrine of equivalents) at least Claim 1 of the '096 Patent. *See* Exhibit B. HPE's infringement in this regard is ongoing.

31. The HPE Networking Instant On Access Point AP25 and HPE Aruba Networking 7000 series Mobility Controllers are exemplary accused products.

32. HPE directly infringes the '096 Patent when, for example, it and/or its agents use the accused products, including during testing of the accused products. HPE also directly infringes the '096 Patent when the accused products are used after purchase by a customer or end user. For example, the accused products are built with hardware and/or software components that control the operation of the accused products. These components cause the accused products to perform the steps of the claimed invention after, for example, receiving sounding packets. HPE also directly infringes the '096 Patent by exercising direction or control over the use of the accused products by others, including its affiliates, its subsidiaries, its business partners (including certification and testing organizations), and/or its customers and end-users. HPE contracts with, advises, and/or encourages such persons to engage in conduct satisfying one or more elements of the asserted claims, deriving a financial or other benefit (e.g., improved wireless communications) from doing so. HPE conditions these benefits on, for example, such persons performing certain activities involving the accused products during

specified conditions that cause the accused products to perform the steps of the claimed method (e.g., after receiving sounding packets).

33. HPE has had knowledge of the '096 Patent at least as of the date when it was notified of the filing of this action.

34. Freedom Patents has been damaged as a result of the infringing conduct by HPE alleged above. Thus, HPE is liable to Freedom Patents in an amount that adequately compensates it for such infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

35. Freedom Patents has neither made nor sold unmarked articles that practice the '096 Patent, and is entitled to collect pre-filing damages for the full period allowed by law for infringement of the '096 Patent.

COUNT III

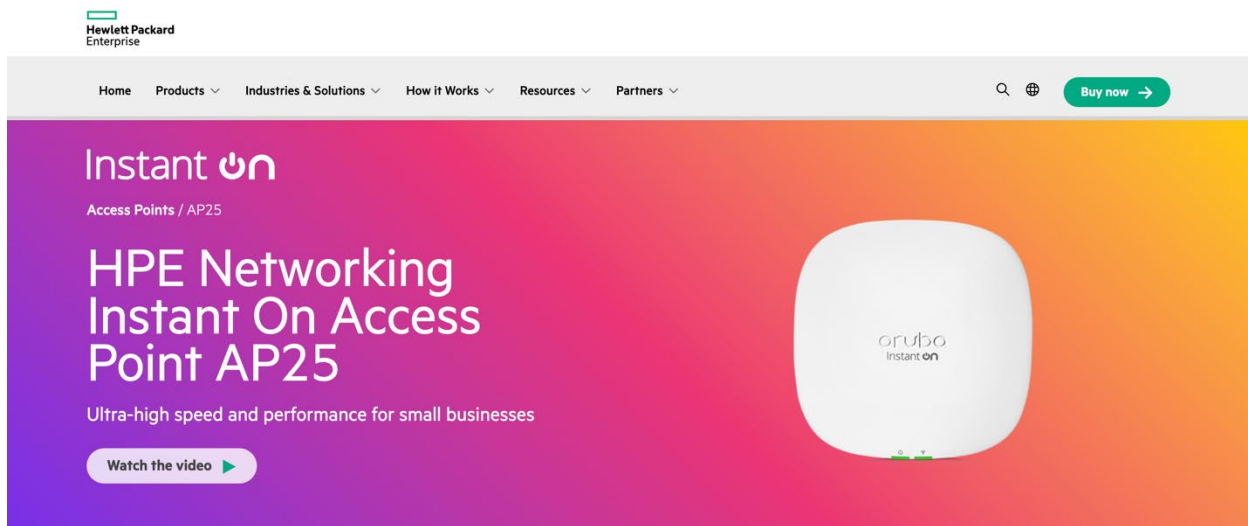
DIRECT INFRINGEMENT OF U.S. PATENT NO. 8,514,815

36. On August 20, 2013, United States Patent No. 8,514,815 (“the '815 Patent”) was duly and legally issued by the United States Patent and Trademark Office for an invention entitled “Training Signals for Selecting Antennas and Beams in MIMO Wireless LANs.”

37. Freedom Patents is the owner of the '815 Patent, with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the '815 Patent against infringers, and to collect damages for all relevant times.

38. HPE used products and/or systems including, for example, its HPE Networking Instant On Access Point AP25 and HPE Aruba Networking 7000 series Mobility Controllers,

and other products⁸ that comply with the IEEE 802.11ax-2021 standard and implement MIMO Wi-Fi capabilities (“accused products”).



Source: <https://www.arubainstanton.com/products/access-points/access-point-25/>

⁸ See, e.g., Model Nos. AP-655, AP-635, AP-615, AP-555, AP-534, AP-535, AP-514, AP-515, AP-504, AP-505, AP-565EX, AP-567EX, AP-565, AP-567, AP-574, AP-575, AP-577, AP-584, AP-585, AP-587, AP-585EX, AP-587EX, AP-575EX, AP-577EX, AP-518, AP-505H, AP-503H, AP-22, AP-25, 9004, 7205, 7005, 7008, 7010, 7024, 7030, MCR-HW-1K, MCR-HW-5K, MCR-HW-10K, Aruba UXI G6 Series sensor, AP-734, AP-735, AP-503, AP-675, AP-677, AP-679, AP-675EX, AP-677EX, AP-679EX, AP-634, AP-605R, AP-605CM12, AP-605H, APINH605, AP-503R, APINR503, AP27, AP27D, AP21, AP32, and AP-654, etc.

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Source: <https://www.arubainstanton.com/products/access-points/access-point-25/#features>



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For enhanced resiliency and availability, the 7000 Series can be clustered together in a network.

Source: <https://www.arubanetworks.com/resource/7000-series-data-sheet>

Regulatory and safety compliance

Features	7010	7030
Regulatory SKU information	ARCN0103	ARCN7030
Minimum HPE Aruba Networking operating system release	8.x	8.x
Wi-Fi Certified WPA3, AOS 8.4; Wi-Fi Certified Enhanced Open, AOS 8.4; <u>Wi-Fi 6 (802.11ax)</u> , AOS 8.4; Wi-Fi Certified 802.11ad, AOS 8.4		

Source: https://www.arubanetworks.com/assets/ds/DS_7000Series.pdf

39. By doing so, HPE has directly infringed (literally and/or under the doctrine of equivalents) at least Claim 1 of the '815 Patent. *See* Exhibit C. HPE's infringement in this regard is ongoing.

40. The HPE Networking Instant On Access Point AP25 and HPE Aruba Networking 7000 series Mobility Controllers are exemplary accused products.

41. HPE directly infringes the '815 Patent when, for example, it and/or its agents use the accused products, including during testing of the accused products. HPE also directly infringes the '815 Patent when the accused products are used after purchase by a customer or end user. For example, the accused products are built with hardware and/or software components that control the operation of the accused products. These components cause the accused products to perform the steps of the claimed invention after, for example, receiving sounding packets. HPE also directly infringes the '815 Patent by exercising direction or control over the use of the accused products by others, including its affiliates, its subsidiaries, its business partners (including certification and testing organizations), and/or its customers and end-users. HPE contracts with, advises, and/or encourages such persons to engage in conduct satisfying one or more elements of the asserted claims, deriving a financial or other benefit (e.g., improved wireless communications) from doing so. HPE conditions these benefits on, for example, such persons performing certain activities involving the accused products during

specified conditions that cause the accused products to perform the steps of the claimed method (e.g., after receiving sounding packets).

42. HPE has had knowledge of the '815 Patent at least as of the date when it was notified of the filing of this action.

43. In addition, HPE has had knowledge of the '815 Patent at least as of June 22, 2016, when it was cited in a published European patent application for European Patent No. EP3033841, which is assigned to an HPE subsidiary, Hewlett Packard Enterprise Development LP. Hewlett Packard Enterprise Development LP employees Jung Gun Lee, Souvik Sen, and Raul Etkin—who are named inventors of EP3033841—and others involved in the prosecution of the patent, have had knowledge of the '815 Patent well before this lawsuit was filed.

44. Freedom Patents has been damaged as a result of the infringing conduct by HPE alleged above. Thus, HPE is liable to Freedom Patents in an amount that adequately compensates it for such infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

45. Freedom Patents has neither made nor sold unmarked articles that practice the '815 Patent, and is entitled to collect pre-filing damages for the full period allowed by law for infringement of the '815 Patent.

**ADDITIONAL ALLEGATIONS REGARDING INFRINGEMENT
AND PERSONAL JURISDICTION**

46. HPE has also indirectly infringed the '686 Patent, the '096 Patent, and the '815 Patent by inducing others to directly infringe the '686 Patent, the '096 Patent, and the '815 Patent.

47. HPE has induced the end users and/or HPE's customers to directly infringe (literally and/or under the doctrine of equivalents) the '686 Patent, the '096 Patent, and the '815 Patent by using the accused products.

48. HPE took active steps, directly and/or through contractual relationships with others, with the specific intent to cause them to use the accused products in a manner that infringes one or more claims of the '686 Patent, the '096 Patent, and the '815 Patent, including, for example, claims 1 and 21 of the '686 Patent, claim 1 of the '096 Patent, and claim 1 of the '815 Patent.

49. Such steps by HPE included, among other things, advising or directing customers, end users, and others (including distributors and equipment services entities) to use the accused products in an infringing manner; advertising and promoting the use of the accused products in an infringing manner; and/or distributing instructions that guide users to use the accused products in an infringing manner.

50. HPE performed these steps, which constitute joint and/or induced infringement, with the knowledge of the '686 Patent, the '096 Patent, and the '815 Patent and with the knowledge that the induced acts constitute infringement.

51. HPE was and is aware that the normal and customary use of the accused products by HPE's customers would infringe the '686 Patent, the '096 Patent, and the '815 Patent. HPE's inducement is ongoing.

52. HPE has also induced its affiliates, or third-party manufacturers, shippers, distributors, retailers, or other persons acting on its or its affiliates' behalf, to directly infringe (literally and/or under the doctrine of equivalents) at least claim 21 of the '686 Patent by importing, selling or offering to sell the accused products.

53. HPE has a significant role in placing the accused products in the stream of commerce with the expectation and knowledge that they will be purchased by consumers in Texas and elsewhere in the United States.

54. HPE purposefully directs or controls the making of accused products and their shipment to the United States, using established distribution channels, for sale in Texas and elsewhere within the United States.

55. HPE purposefully directs or controls the sale of the accused products into established United States distribution channels, including sales to nationwide retailers and wholesalers, including, for example, Amazon. HPE's established United States distribution channels include one or more United States based affiliates and third-parties working on behalf of HPE.

56. HPE purposefully directs or controls the sale of the accused products online and in nationwide retailers and wholesalers, including for sale in Texas and elsewhere in the United States, and expects and intends that the accused products will be so sold.

57. HPE purposefully places the accused products—whether by itself or through subsidiaries, affiliates, or third parties—into an international supply chain, knowing that the accused products will be sold in the United States, including Texas. Therefore, HPE also facilitates the sale of the accused products in Texas.

58. HPE took active steps, directly and/or through contractual relationships with others, with the specific intent to cause such persons to import, sell, or offer to sell the accused products in a manner that infringes claim 21 of the '686 Patent.

59. Such steps by HPE included, among other things, making or selling the accused products outside of the United States for importation into or sale in the United States, or knowing

that such importation or sale would occur; and directing, facilitating, or influencing its affiliates, or third-party manufacturers, shippers, distributors, retailers, or other persons acting on its or its affiliates' behalf, to import, sell, or offer to sell the accused products in an infringing manner.

60. HPE performed these steps, which constitute induced infringement, with the knowledge of the '686 Patent, the '096 Patent, and the '815 Patent, and with the knowledge that the induced acts would constitute infringement.

61. HPE performed such steps in order to profit from the eventual sale of the accused products in the United States.

62. HPE's inducement is ongoing.

63. HPE has also indirectly infringed by contributing to the infringement of the '686 Patent, the '096 Patent, and the '815 Patent. HPE has contributed to the direct infringement of the '686 Patent, the '096 Patent, and the '815 Patent by the end user of the accused products.

64. The accused products have special features that are specially designed to be used in an infringing way and that have no substantial uses other than ones that infringe the '686 Patent, the '096 Patent, and the '815 Patent, including, for example, claims 1 and 21 of the '686 Patent, claim 1 of the '096 Patent, and claim 1 of the '815 Patent.

65. The special features include, for example, hardware and/or software components especially adapted for transmitting/receiving sounding packets and estimating channel matrices for the selection of antennas in a multiple-input, multiple-output wireless network, used in a manner that infringes the '686 Patent, the '096 Patent, and the '815 Patent.

66. These special features constitute a material part of the invention of one or more of the claims of the '686 Patent, the '096 Patent, and the '815 Patent, and are not staple articles of commerce suitable for substantial non-infringing use.

67. HPE's contributory infringement is ongoing.

68. HPE has had actual knowledge of the '686 Patent and the '096 Patent at least as of the date when it was notified of the filing of this action. Since at least that time, HPE has known the scope of the claims of the '686 Patent and the '096 Patent, the products that practice the '686 Patent and the '096 Patent and that Freedom Patents is the owner of the '686 Patent, the '096 Patent, and the '815 Patent.

69. HPE has had actual knowledge of the '815 Patent at least as early as June 22, 2016, when it was cited in a published European patent application and/or as of the date when it was notified of the filing of this action. Since at least that time, HPE has known the scope of the claims of the '815 Patent and the products that practice the '815 Patent.

70. By the time of trial, HPE will have known and intended (since receiving such notice) that its continued actions would infringe and actively induce and contribute to the infringement of one or more claims of the '686 Patent, the '096 Patent, and the '815 Patent.

71. Furthermore, HPE has a policy or practice of not reviewing the patents of others (including instructing its employees to not review the patents of others), and thus has been willfully blind of Freedom Patents' patent rights. *See, e.g.*, M. Lemley, "Ignoring Patents," 2008 Mich. St. L. Rev. 19 (2008).

72. HPE's customers have infringed the '686 Patent, the '096 Patent, and the '815 Patent. HPE encouraged its customers' infringement.

73. HPE's direct and indirect infringement of the '686 Patent, the '096 Patent, and the '815 Patent has been, and/or continues to be willful, intentional, deliberate, and/or in conscious disregard of Freedom Patents' rights under the patents-in-suit.

74. Freedom Patents has been damaged as a result of HPE's infringing conduct alleged above. Thus, HPE is liable to Freedom Patents in an amount that adequately compensates it for such infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

JURY DEMAND

Freedom Patents hereby requests a trial by jury on all issues so triable by right.

PRAYER FOR RELIEF

Freedom Patents requests that the Court find in its favor and against HPE, and that the Court grant Freedom Patents the following relief:

- a. Judgment that one or more claims of the '686 Patent, the '096 Patent, and the '815 Patent have been infringed, either literally and/or under the doctrine of equivalents, by HPE and/or all others acting in concert therewith;
- b. A permanent injunction enjoining HPE and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert therewith from infringement of the '686 Patent, the '096 Patent, and the '815 Patent; or, in the alternative, an award of a reasonable ongoing royalty for future infringement of the '686 Patent, the '096 Patent, and the '815 Patent by such entities;
- c. Judgment that HPE account for and pay to Freedom Patents all damages to and costs incurred by Freedom Patents because of HPE's infringing activities and other conduct complained of herein, including an award of all increased damages to which Freedom Patents is entitled under 35 U.S.C. § 284;
- d. That Freedom Patents be granted pre-judgment and post-judgment interest on the damages caused by HPE's infringing activities and other conduct complained of herein;
- e. That this Court declare this an exceptional case and award Freedom Patents its

reasonable attorney's fees and costs in accordance with 35 U.S.C. § 285; and

f. That Freedom Patents be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: June 14, 2024

Respectfully submitted,

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