

**QPSX DEVELOPMENTS 5 PTY LTD.,**

*Plaintiff,*

vs.

**JUNIPER NETWORKS, INC., et al.**

*Defendants.*

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**Case No. 2:05CV-268 (TJW)**

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff QPSX Developments 5 Pty Ltd, (“QPSX”) for its First Amended Complaint against Defendants Juniper Networks, Inc. (“Juniper Networks”), Nortel Networks, Inc. (“Nortel”), Lucent Technologies, Inc. (“Lucent”), Cisco Systems, Inc. (“Cisco”), and Alcatel USA, Inc. (“Alcatel”) alleges as follows:

**THE PARTIES**

1. QPSX is an Australian Company having its principal place of business at 16 Ord Street, West Perth, Western Australia 6005.

2. Juniper Networks is a corporation duly organized and existing under the laws of the State of California, having a principal place of business at 1194 North Mathilda Avenue, Sunnyvale, California 94089. Juniper Networks transacts business within this district. Juniper Networks, Inc. has filed an answer in this litigation and may be served through its attorneys of record.

3. Nortel is a corporation duly organized and existing under the laws of the State of Delaware, having a principal place of business at 8200 Dixie Road, Suite 100, Brampton, Ontario L6T 5P6, Canada. Nortel transacts business within this district. Nortel Networks, Inc. has filed an answer in this litigation and may be served through its attorneys of record.

4. Lucent is a corporation duly organized and existing under the laws of the State of

Delaware, having a principal place of business at 600 Mountain Avenue, Murray Hill, New Jersey 07974. Lucent transacts business within this district. Lucent Technologies, Inc. has filed an answer in this litigation and may be served through its attorneys of record.

5. Cisco is a corporation duly organized and existing under the laws of the State of California, having a principal place of business at 170 West Tasman Drive, San Jose, California 95134. Cisco transacts business within this district. Cisco Systems, Inc. has filed an answer in this litigation and may be served through its attorneys of record.

6. Alcatel is a corporation duly organized and existing under the laws of the State of Delaware, having a principal place of business at 3400 W. Plano Parkway, Plano, Texas 75075. Alcatel transacts business within this district. Alcatel USA, Inc. has filed an answer in this litigation and may be served through its attorneys of record.

### **JURISDICTION**

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 271 *et seq.* The Court has personal jurisdiction over the Defendants in that each of them has committed acts of direct and indirect infringement within Texas and this judicial district giving rise to this action and each of the Defendants conducts business within Texas and this judicial district sufficient to establish minimum contacts with the forum such that the exercise of jurisdiction over each of the Defendants would not offend traditional notions of fair play and substantial justice.

### **VENUE**

8. Each of the Defendants has committed acts of direct and indirect infringement within this judicial district giving rise to this action and does business in this district, including

one or more of the infringing acts of offering for sale, making sales, using infringing products and providing service and support to their respective customers in this district. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) (c) and 1400(b).

**INFRINGEMENT OF U.S. PATENT NO. 5,689,499**

2. On November 18, 1997, United States Patent No. 5,689,499 (the ‘499 Patent) was duly and legally issued for an invention entitled “Method and Apparatus for Managing the Statistical Multiplexing of Data in Digital Communication Networks.” QPSX is the legal assignee of the ‘499 Patent and holds all rights, title and interest in the ‘499 Patent. A true and correct copy of the ‘499 Patent is attached hereto as Exhibit 1.

3. Each of the Defendants has infringed and continues to infringe the ‘499 Patent. The infringing conduct includes one or more of the manufacture, use, sale, importation, or offer for sale of products and services and the practice of the methods claimed in the ‘499 Patent; and inducing and contributing to the manufacture, use, sale, importation, or offer for sale of such products and services and the practice of the methods claimed in the ‘499 Patent. Each of the Defendants is liable for willful infringement of the ‘499 Patent pursuant to 35 U.S.C. § 271.

4. Each of the Defendants’ acts of infringement has caused damage to QPSX, and QPSX is entitled to recover from each Defendant the damages sustained by QPSX as a result of their individual wrongful acts in an amount subject to proof at trial. Each of the Defendants’ infringement of QPSX’s exclusive rights under the ‘499 Patent will continue to damage QPSX, causing irreparable harm, for which there is no adequate remedy at law, unless it is enjoined by this Court.

**PRAYER FOR RELIEF**

WHEREFORE, QPSX prays for judgment and seeks relief against each of the Defendants as follows:

- (a) For judgment that the '499 Patent has been and continues to be infringed by each Defendant;
- (b) For an accounting of all damages sustained by QPSX as the result of the acts of infringement by each Defendant;
- (c) For preliminary and permanent injunctions enjoining the aforesaid acts of infringement by each Defendant, their officers, agents, servants, employees, subsidiaries and attorneys, and those persons acting in concert with them, including related individuals and entities, customers, representatives, OEMS, dealers, distributors;
- (d) For actual damages;
- (e) For prejudgment interest and post-judgment interest;
- (f) For enhanced damages pursuant to 35 U.S.C. § 284;
- (g) For attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law, jointly and severally against each Defendant;
- (h) For all costs of suit, jointly and severally against each Defendant; and
- (i) For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

/s/ Robert S. Harrell

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 6, 2006, a copy of Plaintiff QPSX Developments 5 Pty Ltd.'s

First Amended Complaint was served via e-mail and/or CM/ECF upon the following:

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