

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

COMMONWEALTH SCIENTIFIC AND  
INDUSTRIAL RESEARCH  
ORGANISATION,

Plaintiff,

v.

CISCO SYSTEMS, INC.

Defendant.

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Case No. \_\_\_\_\_

Jury Trial Requested

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**COMMONWEALTH SCIENTIFIC AND INDUSTRIAL RESEARCH  
ORGANISATION'S COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Commonwealth Scientific and Industrial Research Organisation (“CSIRO” or “Plaintiff”) hereby submits this Complaint against Defendant Cisco Systems, Inc. (“Cisco”) and states as follows:

**THE PARTIES**

1. CSIRO is one of the largest and most diverse scientific research institutions in the world, and has a principal place of business at Limestone Avenue, Cambell ACT 2612, Australia.

2. CSIRO is informed and believes, and on that basis alleges, that Defendant Cisco is a corporation organized and existing under the laws of California, having a principal place of business at 170 West Tasman Drive, San Jose, California, 95134. Cisco is registered to do business in Texas and can be served with process through its registered agent, Prentice Hall Corporation System at 211 E. 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701-3218.

**JURISDICTION AND VENUE**

3. The 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, 35 U.S.C. §§ 1 *et seq.* Venue is proper in this federal district pursuant to 28 U.S.C. §§1391(b)-(c) and 1400(b) in that Defendant has done business in this District, has committed acts of infringement in this District, and continues to commit acts of infringement in this District, entitling CSIRO to relief.

**INFRINGEMENT OF U.S. PATENT NO. 5,487,069**

4. On January 23, 1996, United States Patent No. 5,487,069 (the “’069 Patent”) was duly and legally issued for inventions entitled “Wireless LAN.” CSIRO holds all rights and interest in the ’069 Patent. A true and correct copy of the ’069 Patent is attached hereto as Exhibit A.

5. On December 22, 2008, Intel Corporation filed with the U.S. Patent and Trademark Office (“PTO”) a request for reexamination of the ’069 Patent.

6. On March 15, 2011, the PTO issued an Ex Parte Reexamination Certificate. A true and correct copy of the Ex Parte Reexamination Certificate is attached hereto as Exhibit B.

7. Upon information and belief, Cisco has directly infringed and/or induced and/or contributed to the infringement of the ’069 Patent, including both the original claims and the new claims allowed in the reexamined patent, and continues to do so.

8. Upon information and belief, Cisco has infringed directly and indirectly and continues to infringe directly and indirectly the ’069 Patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, and/or offer for sale of products practicing the IEEE 802.11a, 802.11g, 802.11n and/or draft 802.11n standards. The accused products do not include products practicing or implementing the IEEE 802.11a/g/n and/or draft n standards solely through the use of Wireless LAN integrated circuits supplied by chip makers with valid licenses to the ’069 Patent. Cisco is liable for infringement of the ’069 Patent pursuant to 35 U.S.C. § 271.

9. The acts of infringement by Cisco have caused damage to CSIRO and CSIRO is entitled to recover from Cisco the damages sustained by CSIRO as a result of Cisco’s wrongful acts in an amount subject to proof at trial. The infringement of CSIRO’s exclusive rights under the ’069 Patent by Cisco has damaged and will continue to damage CSIRO, causing irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

10. Upon information and belief, Cisco has knowledge of its infringement of the ’069 Patent, yet Cisco continues to infringe said patent. The infringement of the ’069 Patent by Cisco is willful and deliberate, and with full knowledge of the patent, entitling CSIRO to increased

damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

**JURY DEMAND**

11. CSIRO hereby demands a trial by jury on all issues.

**PRAYER FOR RELIEF**

WHEREFORE, CSIRO requests entry of judgment in its favor and against Cisco as follows:

- a. A declaration that Cisco has infringed and is infringing the '069 Patent;
- b. An Order permanently enjoining Cisco, its officers, agents, employees, and those acting in privity with it, from further direct and/or indirect infringement of the '069 Patent;
- c. An award of damages to CSIRO arising out of the infringement of the '069 Patent by Cisco, including enhanced damages pursuant to 35 U.S.C. § 284, together with prejudgment and post-judgment interest, in an amount according to proof;
- d. An award of attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law; and,
- e. Granting CSIRO its costs and further relief as the Court may deem just and proper.

Dated: July 1, 2011

Respectfully submitted,

**KERR & WAGSTAFFE LLP**

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