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RUCKUS WIRELESS, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

RUCKUS WIRELESS, INC., a Delaware corporation,

Plaintiff,

v.

HARRIS CORPORATION, a Delaware corporation,

Defendant.

CASE NO. CV-11-1944-LHK

AMENDED COMPLAINT FOR DECLARATORY JUDGMENT OF PATENT INVALIDITY, NON-INFRINGEMENT, AND UNENFORCEABILITY

REQUEST FOR INJUNCTIVE RELIEF

JURY TRIAL DEMANDED

NATURE OF THE ACTION

1. Plaintiff Ruckus Wireless, Inc. ("Ruckus") brings this Complaint against Harris Corporation ("Harris") seeking declaratory and injunctive relief for Defendant's anticompetitive, predatory, and exclusionary conduct.

2. Harris is engaged in a consciously-developed scheme to illicitly monopolize the Smart Wi-Fi Technology marketplace through the attempted enforcement of expired and unenforceable patents.

3. Notwithstanding said unenforceability, Harris is asserting said patents against third-parties such as Ruckus. Harris is asserting these patents notwithstanding their knowledge that said patents are expired and unenforceable.

4. These illegal, anticompetitive, predatory, and exclusionary acts threaten to eliminate competition in Smart Wi-Fi Technology marketplace whereby Harris would ultimately obtain a monopoly market share through elimination of competitors, including Ruckus.

5. Said litigation threatens to cause Ruckus to lose existing and prospective customers. Said illicit litigation will, further, cause Ruckus to expend significant resources in an attempt to correct the pervasive misconceptions caused by Harris' illicit behavior. Said litigation also gives possible rise to violations of the antitrust laws of the United States.

6. Ruckus brings this action for relief from the harm that Defendant's illegal scheme has and continues to cause. Ruckus brings this action for a declaratory judgment that the patent-in-suit is unenforceable.

JURISDICTION AND VENUE

7. This is a complaint for declaratory relief under the declaratory judgment laws of the United States, Title 28 of the United States Code §§ 2201 and 2202.

8. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

9. This Court has personal jurisdiction, general and specific, over Harris because they have sufficient minimum contacts to establish personal jurisdiction in this district, including but not limited to Harris regularly transacting business within this judicial district and Harris regularly selling products in this judicial district. On information and belief, Ruckus alleges that Harris derives substantial revenues from sales in this district. Harris, too, has consented to jurisdiction within the Northern District of California in the course of prior litigations.

10. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c).

THE PARTIES

11. Ruckus is a corporation organized under the laws of the State of Delaware and has a principal place of business at 880 West Maude Avenue, Sunnyvale, California.

12. Ruckus designs, manufactures, and markets Smart Wi-Fi products and Smart Wireless LAN systems. Ruckus sells Smart Wi-Fi products and Smart Wireless LAN systems (i.e., Smart Wi-Fi Technology) throughout the United States.

13. Smart Wi-Fi Technology uses an intelligent, high-gain directional antenna system and quality of service technologies to extend the range of Wi-Fi signals and automatically adapt to environmental changes.

14. Ruckus Smart Wi-Fi Products and Smart Wireless LAN systems— Smart Wi-Fi Technology— make wireless communications more reliable. Ruckus products and technology transform Wi-Fi from a technology of convenience into a ubiquitous utility. Ruckus products and technology help enterprises and carriers reduce the cost of deployment, increase the range and reliability of their Wi-Fi networks and ensure consistent performance at range.

15. Harris is a corporation organized under the laws of the State of Delaware. Harris has a principal place of business at 1025 W. NASA Boulevard, Melbourne, Florida.

INTRADISTRICT ASSIGNMENT

16. Pursuant to Civil L.R. 3-2(c), this action may be assigned on a district-wide basis.

FACTUAL BACKGROUND

Harris Approaches Ruckus Concerning the '515 Patent

17. At some point after February 7, 2011, Ruckus and Harris began discussions concerning Harris' belief that Ruckus was infringing one or more claims of U.S. Patent Number 6,504,515 (the '515 Patent). Harris first identified the '515 Patent as purportedly being violated by Ruckus at some point after February 7, 2011. A true and correct copy of the '515 Patent is attached hereto as Exhibit A.

18. Prior to February 7, 2011 and its discussions with Harris, Ruckus was not aware of the '515 Patent.

19. Ruckus is informed and believes and thereon alleges that Harris, prior to February 7, 2011, did not mark any product with the '515 Patent in accordance with 35 U.S.C. § 287(a).

20. Ruckus was not on notice as to the '515 Patent until after February 7, 2011.

Harris Intentionally Allows the '515 Patent to Expire

21. The '515 Patent issued on January 7, 2003.

22. Under the United States patent laws, specifically 35 U.S.C. § 41(b)(1), a maintenance fee is due 7 years and six months after the grant of a patent.

23. This maintenance fee for the '515 Patent came due on July 7, 2010.

24. Harris did not pay this maintenance fee on or before July 7, 2010.

25. Section 41(b) of Title 35 also provides that "[u]nless payment of the applicable maintenance fee is received in the United States Patent and Trademark Office on or before the date the fee is due or within a grace period of 6 months thereafter, the patent will expire as of the end of such grace period."

26. The aforementioned maintenance fee, with a six month grace period, would have come due on January 7, 2011.

27. The aforementioned maintenance fee was not received by the Patent Office within the six month grace period that expired on January 7, 2011.

28. The '515 Patent expired on January 7, 2011.

29. Harris was aware of the expiration of the '515 Patent no later than February 7, 2011, as a result of the United States Patent and Trademark Office issuing a *Notice of Patent Expiration* to Harris' attorney of record for the '515 Patent. A true and correct copy of the *Notice of Patent Expiration* for the '515 Patent is attached hereto as Exhibit B. At the time the present action was filed, the '515 Patent was still expired.

Harris Commences The Florida Action *After* Expiration of the '515 Patent and Notice

30. On April 15, 2011, Harris filed suit against Ruckus in the United States District Court for the Middle District of Florida, Orlando Division (the "Florida Action"). The Florida Action is captioned *Harris Corporation v. Ruckus Wireless, Inc*. (6:11-cv-618-ORL-18-KRS). The Florida Action alleges that Ruckus "has infringed and is still infringing" the '515 Patent.

31. Notwithstanding being affirmatively on notice as to the expiration of the '515 Patent on February 7, 2011, Harris first informed Ruckus of its alleged infringement of the '515 Patent on a date after February 7, 2011.

32. Notwithstanding being affirmatively on notice as to the expiration of the '515 Patent on February 7, 2011, Harris filed the Florida Action on April 15, 2011, a full three months after the '515 Patent expired and a full two months after being placed on actual notice that the '515 Patent had expired.

33. 35 U.S.C. § 287 provides that "no damages shall be recovered by the patentee in any action for infringement, except on proof that the infringer was notified of the infringement and continued to infringe thereafter, in which event damages may be recovered only for infringement occurring after such notice."

34. Ruckus was not constructively aware of the '515 Patent prior to the Florida Action because Harris does not mark any product in accordance with 35 U.S.C. § 287(a).

35. Ruckus was not actually aware of the '515 Patent. Ruckus cannot be liable for damages on the '515 Patent until having been placed on notice.

36. Ruckus was placed on notice after the '515 Patent expired. Ruckus cannot be liable for damages.

37. Notwithstanding the fact that Ruckus is not and cannot be liable for damages, Harris filed the Florida Action.

38. Notwithstanding the fact that Harris lacked standing to enforce the '515 Patent at the time it filed the Florida Action, Harris later filed an Amended Complaint in that action on May 23, 2011. The Amended Complaint still seeks enforcement of the '515 Patent notwithstanding the lack of standing at the time the Florida Action was originally filed.

39. In the Amended Complaint filed in the Florida Action, Harris now asserts claims against Ruckus for infringement of a second patent -- United States Patent No. 7,916,684 ("the '684 Patent") -- in addition to the '515 Patent. A true and correct copy of the '684 Patent is attached hereto as Exhibit C.

40. Because Harris lacked standing to enforce the '515 Patent at the time it filed the Florida Action, Harris's Amended Complaint in the Florida Action is a nullity and cannot cure the defect in Harris's standing in the Florida Action. Ruckus, therefore, cannot be liable for damages for alleged infringement of either the '515 or '684 Patents in the Florida Action. Ruckus has moved to dismiss the Florida Action due to Harris's lack of standing.

41. In the Florida Action, Harris failed to allege in its Amended Complaint that it marked any product with the '515 Patent, or that it provided actual notice of alleged infringement to Ruckus prior to the '515 Patent's expiration. Thus, Harris failed to allege compliance with 35 U.S.C. § 287, despite having actual knowledge of its failure to comply with 35 U.S.C. § 287 by virtue of Ruckus's original Complaint filed in this Action on April 21, 2011.

42. Harris' actions in seeking to enforce the '515 and '684 Patents, specifically the filing of the original and amended complaints in the Florida Action, are objectively baseless as there can be no success on the merits.

43. Ruckus has been specifically injured by Harris' anticompetitive conduct and enforcement strategy through at least the need to defend against illicit claims asserted in the Florida Action.

COUNT I

DECLARATORY JUDGMENT OF UNENFORCEABILITY OF THE '515 PATENT

44. Ruckus incorporates the provisions of the foregoing paragraphs as if specifically set forth herein.

45. Harris' action concerning allegations of infringement of the '515 Patent and the filing of the Florida Action give rise to a substantial controversy between Ruckus and Harris.

46. The '515 Patent is unenforceable against Ruckus with respect to current and future conduct, including but not limited to activity after February 7, 2011, because the '515 Patent is expired.

47. The '515 Patent is unenforceable against Ruckus with respect to conduct by Ruckus prior to February 7, 2011, because Ruckus was not on notice as to the '515 Patent—either actually or constructively—prior to that date.

48. Notwithstanding the foregoing, Harris brought the Florida Action.

49. An actual and justiciable controversy therefore exists between Harris and Ruckus with respect to Harris' anticompetitive, predatory, and exclusionary conduct in enforcing the expired and unenforceable '515 Patent.

COUNT II

DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '684 PATENT

50. Ruckus incorporates the provisions of the foregoing paragraphs as if specifically set forth herein.

51. Harris has expressly charged Ruckus with infringement of the '684 Patent.

52. Ruckus has not infringed, either literally or under the doctrine of equivalents, nor jointly infringed, nor contributed to infringement by others, nor actively induced others to infringe, any claim of the '684 patent.

53. An actual controversy, within the meaning of 35 U.S.C. §§ 1338, 2201, and 2202, exists between Ruckus on the one hand, and Harris, on the other hand, regarding the non-infringement of the asserted claims of the '684 Patent.

54. Ruckus is entitled to judgment declaring that it has not infringed, nor contributed to infringement by others, nor actively induced others to infringe, any claim of the '684 Patent.

COUNT III

DECLARATORY JUDGMENT OF INVALIDITY OF THE '684 PATENT

55. Ruckus incorporates the provisions of the foregoing paragraphs as if specifically set forth herein.

56. Harris has expressly charged Ruckus with infringement of the '684 Patent.

57. The claims of the '684 Patent are invalid for one or more of the following reasons: the alleged invention(s) of the '684 Patent are unpatentable under 35 U.S.C. §§ 102 and/or 103; the specification of the '684 Patent, including the claims, fails to meet one or more requirements of 35 U.S.C. § 112; and/or the '684 Patent does not otherwise meet one or more requirements of Part II of Title 35 of the United States Code. The claims of the '684 Patent are, for example, anticipates and/or obvious in light of at least U.S. patent number 7,164,667.

58. An actual controversy, within the meaning of 35 U.S.C. §§ 1338, 2201, and 2202, exists between Ruckus on the one hand, and Harris, on the other hand, regarding the invalidity of the asserted claims of the '684 Patent.

59. Ruckus is entitled to judgment declaring that the claims of the '684 Patent are invalid.

PRAYER FOR RELIEF

WHEREFORE Ruckus requests the following relief:.

A. That Judgment be entered in favor of Ruckus and against Harris on Count I, specifically that the '515 Patent be found unenforceable;

B. That Judgment be entered in favor of Ruckus and against Harris on Count II, specifically Ruckus has not infringed the '684 Patent, either literally or under the doctrine of equivalents, nor jointly/contributorily, nor actively induced others to infringe any claim of the '684 Patent.

C. That Judgment be entered in favor of Ruckus and against Harris on Count III, declaring that the asserted claims of the '684 Patent are invalid;

D. Preliminary and permanent relief enjoining Harris, its officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice by personal service or otherwise, from asserting or threatening to assert against Ruckus or any parent subsidiary, affiliate, supplier, distributor, customer or potential customer of Ruckus, or any users of Ruckus's products or services, any charge of infringement of the '515 or '684 Patents;

E. That Harris account for damages sustained by Ruckus as a result of defending against the attempted enforcement of patents that are either unenforceable, invalid and/or not infringed, specifically the '515 and '684 Patents.;

F. That Ruckus be awarded its costs and reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and

G. For such other relief as the Court deems just and proper.

Dated: June 29, 2011

LEWIS AND ROCA LLP

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DEMAND FOR JURY TRIAL

Ruckus demands a trial by jury on all issues so triable.

Dated: June 29, 2011 LEWIS AND ROCA LLP

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