

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

<p>CISCO SYSTEMS, INC. and CISCO-LINKSYS LLC</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>ESN, LLC</p> <p style="text-align: center;">Defendant.</p>	<p>⋮</p> <p>⋮</p> <p>⋮</p> <p>⋮</p> <p>⋮</p> <p>⋮</p> <p>⋮</p> <p>⋮</p> <p>⋮</p> <p>⋮</p>	<p>Civil Action No.:</p> <p>JURY TRIAL DEMANDED</p> <p>OCTOBER 16, 2007</p>
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COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiffs Cisco Systems, Inc. (“CSI”) and Cisco-Linksys LLC (“Linksys”) (collectively “Cisco”), by and through their attorneys, allege as follows:

1. This is a civil action arising under the Patent Laws of the United States, 35 U.S.C. §§ 101, *et seq.*, seeking a declaratory judgment that no valid and enforceable claim of United States Patent Number 7,283,519 (the “’519 Patent”) is infringed by CSI or Linksys. A copy of the ’519 Patent retrieved from the United States Patent and Trademark Office website is attached as Exhibit A.

PARTIES

2. Plaintiff CSI is a corporation organized and existing under the laws of the state of California, with its principal place of business at 170 West Tasman Drive, San Jose, California 95134.

3. Plaintiff Linksys is a corporation organized and existing under the laws of the state of California, with its principal place of business at 121 Theory Drive, Irvine, California 92612.

4. On information and belief, Defendant ESN, LLC (“ESN”) is a limited liability corporation with its principal place of business at 35 Juniper Road, Bloomfield, Connecticut 06002. The United States Patent and Trademark Office identifies ESN as the assignee of the ’519 Patent.

JURISDICTION AND VENUE

5. Cisco files this complaint against ESN pursuant to the Patent Laws of the United States, 35 U.S.C. §§ 101, *et seq.*, with a specific remedy sought based upon the laws authorizing actions for declaratory judgment in the federal courts of the United States, 28 U.S.C. §§ 2201 and 2202.

6. This Court has subject matter jurisdiction over this action, which arises under the Patent Laws of the United States, pursuant to 28 U.S.C. §§ 1331, 1338(a) and 2201.

7. Venue in this District is proper under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

EXISTENCE OF AN ACTUAL CONTROVERSY

8. There is an actual controversy within the jurisdiction of this Court under 28 U.S.C. §§ 2201 and 2202.

9. Over the last several months, Cisco received letters and other communication from ESN alleging that Cisco infringed the ’519 Patent and that ESN would hire litigation counsel and sue Cisco when the patent issued.

10. On October 15, 2007, ESN filed suit in the Eastern District of Texas against CSI and Linksys, styled *ESN, LLC v. Cisco Systems Inc. et al.*, Court File No. 5:07CV156, asserting that CSI and Linksys infringe the ’519 Patent. However, no such patent had been

issued by the United States Patent and Trademark Office at the time ESN filed its complaint. Cisco intends to move to dismiss that complaint for lack of subject matter jurisdiction.

11. On October 16, 2007, the United States Patent and Trademark Office issued U.S. Patent Number 7,283,519 to Defendant ESN, LLC.

FIRST COUNT
DECLARATORY JUDGMENT REGARDING THE '519 PATENT

12. Cisco hereby restates and realleges the allegations set forth in paragraphs 1 through 11 and incorporates them by reference.

13. Cisco has reasonable apprehension of being sued by ESN due to (a) ESN's failed attempt to sue on the '519 Patent before it was issued, and (b) prior threats by ESN regarding litigation against Cisco over the '519 Patent.

14. By reason of the foregoing facts, a ripe and justiciable controversy exists between the parties regarding whether the '519 Patent is valid, and if so, whether CSI or Linksys infringe this patent.

15. Declaratory relief is necessary and appropriate in this case because the Court's judgment on the issues of patent invalidity and non-infringement will afford Cisco relief from the uncertainty and controversy surrounding ESN's intent to enforce the '519 Patent against Cisco.

16. Cisco does not infringe any claim of the '519 Patent.

17. The '519 Patent is invalid for failure to comply with one or more requirements under the Patent Laws of the United States, 35 U.S.C. §§ 101, *et seq.*

PRAYER FOR RELIEF

WHEREFORE, Cisco prays for judgment as follows:

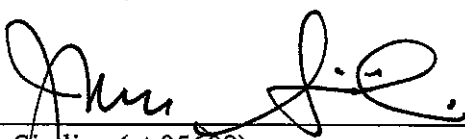
- (a) a declaration that all claims of the '519 Patent are invalid;
- (b) a declaration that Cisco does not infringe any of the claims of the '519 Patent;
- (c) a declaration that ESN, and each of its officers, employees, agents, alter egos, attorneys, and any persons in active concert or participation with them be restrained and enjoined from further prosecuting or instituting any action against Cisco claiming that the '519 Patent is valid, enforceable, or infringed, or from representing that the products or services of Cisco infringe the '519 Patent;
- (d) a judgment that ESN take nothing, including no recovery under 35 U.S.C. § 154(d);
- (e) a judgment declaring this case exceptional under 35 U.S.C. § 285 and awarding Cisco its attorneys' fees and costs in connection with this case; and
- (f) an award to Cisco of any other relief, in law and in equity, as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Cisco demands trial by jury for all claims triable by jury pursuant to Fed. R. Civ. P. 38.

PLAINTIFFS,
CISCO SYSTEMS, INC. AND CISCO-LINKSYS LLC

By: _____



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