

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

CIAN IP LLC,

Plaintiff,

v.

AGILENT TECHNOLOGIES, INC.,

Defendant.

Civil Action No. 3:11-cv-3351-M

JURY TRIAL DEMANDED

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**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

This is an action for patent infringement in which Plaintiff Cian IP LLC (“Cian IP”) makes the following allegations against Defendant Agilent Technologies, Inc. (“Agilent”).

**BACKGROUND**

1. Cian IP is the owner by assignment of United States Patent No. 5,659,680 (“the ’680 Patent”) entitled “PC Compatible Modular Based Diagnostic System.”
2. This is a patent infringement action alleging that Agilent has infringed and continues to infringe the ’680 Patent without a license.
3. Cian IP seeks monetary damages of no less than a reasonable royalty pursuant to 35 U.S.C. § 284. Cian IP also seeks injunctive relief to prevent further infringement of the ’680 Patent.

**PARTIES**

4. Plaintiff Cian IP LLC is a Texas limited liability company with its principal place of business at 3301 W. Marshall Avenue, Suite 303, Longview, Texas 75604.

5. Defendant Agilent Technologies, Inc. is a Delaware corporation with its corporate headquarters and principal place of business at 5301 Stevens Creek Boulevard, Santa Clara, California 95051.

**JURISDICTION AND VENUE**

6. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Agilent. Agilent has conducted and does conduct business within the State of Texas. Agilent, directly and/or through intermediaries (including other Agilent entities, subsidiaries, distributors, sales agents, and others), ships, distributes, offers for sale, sells, and/or advertises its products (including, but not limited to, the products that are accused of infringement in this lawsuit) in the United States, the State of Texas, and the Northern District of Texas. Agilent (directly and/or through intermediaries, including other Agilent entities, subsidiaries, distributors, sales agents, and others) has purposefully and voluntarily placed one or more of its products (including, but not limited to, the products that are accused of infringement in this lawsuit), as described below in Count 1, into the stream of commerce with the expectation that they will be purchased by customers in the Northern District of Texas. These infringing products have been and continue to be purchased by customers in the Northern District of Texas. Agilent has committed the tort of patent infringement within the State of Texas, and, more particularly, within the Northern District of Texas as alleged in more detail below.

8. Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400(b).

**COUNT I**

**INFRINGEMENT OF U.S. PATENT NO. 5,659,680**

9. Cian IP refers to and incorporates herein the allegations of Paragraphs 1 through 8 above.

10. United States Patent No. 5,659,680 (“the ’680 Patent”), entitled “PC Compatible Modular Based Diagnostic System,” was duly and legally issued by the United States Patent and Trademark Office on August 19, 1997 after a full and fair examination. A true and correct copy of the ’680 Patent is attached as Exhibit A.

11. Cian IP is the sole assignee of the ’680 Patent and has the exclusive right to sue for infringement and recover damages.

12. Agilent has infringed and continues to infringe the ’680 Patent by making, using, offering to sell, selling (directly or through intermediaries or authorized agents under Agilent’s control), and/or importing, in this judicial district and elsewhere in the United States, certain PC-based modular test systems that use and embody the patented inventions claimed in the ’680 Patent. The infringing PC-based modular test systems include, without limitation, systems sold under the following product family names: Agilent PCIe Test Solutions, Agilent PXI/PXIe Modular Systems, and Agilent AXIe Modular Systems. Upon information and belief, Agilent’s infringing systems may be made, used, sold, offered for sale, and/or imported under other product names, product family names, and/or model numbers. Agilent is thus liable for direct infringement of the ’680 Patent pursuant to 35 U.S.C. § 271(a).

13. Agilent has induced and contributed and continues to induce and contribute to its customers’ direct infringement of the ’680 Patent by using PC-based modular test systems sold by Agilent that embody the patented inventions claimed in the ’680 Patent and/or by making or

using other PC-based modular test systems that embody the patented inventions claimed in the '680 Patent and that include one or more component parts sold or offered for sale by Agilent.

14. Agilent actively induces its customers to infringe the patented inventions claimed in the '680 Patent by, *inter alia*, providing technical support and documentation on how to: (1) combine Agilent's components with other components and PC-based computer hardware, sold by Agilent or others, to make infringing PC-based modular test systems; and (2) use Agilent's infringing PC-based modular test systems. A significant portion of such technical support and documentation is readily accessed and publicly available through Agilent's website. Upon information and belief, Agilent provides additional non-public technical support and documentation to its customers. Since at least the time of this lawsuit, Agilent has known that its systems and components are used by customers in an infringing manner or is and has been willfully blind to such infringing use. Agilent is thus liable for inducing others to infringe claims of the '680 Patent pursuant to 35 U.S.C. § 271(b).

15. Agilent offers to sell and sells (directly or through intermediaries or authorized agents under Agilent's control) to its customers in this judicial district and elsewhere in the United States, component parts, including, without limitation, chassis, backplanes, motherboards, controllers, test modules, and connection circuits, including, without limitation, PCIe Exerciser cards. Among other things, Agilent's components are designed to be used with and connected to interoperable components made or sold by others and PC-based computer hardware (e.g., laptops, desktops, workstations, servers, and USB keyboards) to make infringing PC-based modular test systems. Each of Agilent's components is specifically adapted for use in infringing PC-based modular test systems, constitutes a material part of the infringing PC-based modular test systems, and is not suitable for substantial non-infringing uses. Since at least the time of this

lawsuit, Agilent has known that its customers have used its components in a manner that directly infringes the '680 Patent or is and has been willfully blind to such infringing use. Agilent is thus liable for contributory infringement of the '680 Patent pursuant to 35 U.S.C. § 271(c).

16. Pursuant to 35 U.S.C. § 284, Cian IP is entitled to recover from Agilent the damages sustained by Cian IP as a result of Agilent's wrongful acts in an amount subject to proof at trial, no less than a reasonable royalty.

17. Agilent's infringement of the '680 Patent will continue to damage Cian IP, causing irreparable harm for which there is no adequate remedy at law, unless Agilent is enjoined by this Court.

**JURY DEMAND**

18. Cian IP hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

**PRAYER FOR RELIEF**

19. Plaintiff Cian IP LLC respectfully requests this Court to enter judgment in its favor against Agilent, granting the following relief:

- A. An adjudication that Agilent has infringed and continues to infringe the '680 Patent;
- B. An award to Cian IP of damages adequate to compensate it for Agilent's acts of infringement, no less than a reasonable royalty, together with prejudgment interest;
- C. An award of Cian IP's costs of suit and reasonable attorneys' fees pursuant to 35 U.S.C. § 285 due to the exceptional nature of this case, or as otherwise permitted by law;

- D. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining Agilent from further acts of infringement; and
- E. Any further relief that this Court deems just and proper.

Date: June 29, 2012

Respectfully Submitted:

/s/ Donald Puckett

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**CERTIFICATE OF SERVICE**

On this 29th day of June, 2012, a copy of the foregoing FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT was served on all counsel of record pursuant to the Court's Electronic Notification System.

/s/ Donald Puckett

Donald Puckett