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(14)

FILED
JAN 10 2018

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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13 MERAKEI, INC.

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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION

18 MERAKEI, INC.,
a Delaware corporation,
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Plaintiff,
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vs.
21 CLEARPATH NETWORKS, INC.,
22 a Delaware Corporation,
23 Defendant.

Case No. **C 13 0145**

**COMPLAINT FOR
DECLARATORY JUDGMENT KAW
JURY TRIAL DEMANDED**

1 Meraki, Inc. ("Meraki") hereby alleges for its complaint against defendant ClearPath
2 Networks, Inc. ("ClearPath"), on personal knowledge as to its own activities and on information
3 and belief as to the activities of others, as follows:

4 **NATURE OF THIS ACTION**

5 1. This is an action for declaratory judgment of noninfringement and invalidity of
6 three United States patents pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202,
7 and the United States Patent Law, 35 U.S.C. § 100 *et seq.*, and for such other relief as the Court
8 deems just and proper.

9 **THE PARTIES**

10 2. Plaintiff Meraki is a corporation organized and existing under the laws of
11 Delaware, with its principal place of business at 660 Alabama Street, San Francisco, California
12 94110. Meraki is a leader in cloud networking offering easy-to-deploy on-premise networking
13 solutions that can be centrally managed from the cloud.

14 3. Meraki's products have collected accolades from the industry press and have been
15 described as "game changers." Meraki was termed a "visionary" in Gartner's 2012 Magic
16 Quadrant for Wired and Wireless LAN Infrastructure which "excels in the delivery of network
17 service applications beyond typical vendors" and has a "loyal customer base." Meraki also was
18 named one of CRN's 25 Coolest Emerging Vendors for 2012, and its Enterprise Cloud Platform
19 was named an Infoworld 2012 Technology of the Year Award Winner.

20 4. On November 18, 2012, Cisco Systems, Inc. ("Cisco") announced its intention to
21 acquire Meraki for approximately \$1.2 billion. On December 20, 2012, Cisco's acquisition of
22 Meraki was completed. Meraki now is a wholly-owned subsidiary of Cisco.

23 5. On information and belief, Defendant ClearPath Networks, Inc. ("ClearPath") is a
24 Delaware corporation with its principal place of business at 300 North Continental Boulevard,
25 Suite 400, El Segundo, California 90245.

26 **INTRADISTRICT ASSIGNMENT**

27 6. Pursuant to Civil Local Rule 3-2(c), this is an Intellectual Property Action to be
28 assigned on a district-wide basis.

BACKGROUND

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2 7. United States Patent No. 7,783,800 (“the ’800 patent”) is entitled “Systems and
3 Methods for Managing a Network.” The ’800 patent states that it issued on August 24, 2010. A
4 true and correct copy of the ’800 patent is attached as Exhibit A.

5 8. United States Patent No. 8,078,777 (“the ’777 patent”) is entitled “Systems and
6 Methods for Managing a Network.” The ’777 patent states that it issued on December 13, 2011.
7 A true and correct copy of the ’777 patent is attached as Exhibit B.

8 9. United States Patent No. 8,341,317 issued from application Serial No. 13/272,311
9 and states that it issued on December 25, 2012. Collectively, United States Patent No. 8,341,317
10 and application Serial No. 13/272,311 are referred to as “the ’317 patent.” The ’317 patent is
11 entitled “Systems and Methods for Managing a Network.” A true and correct copy of the ’317
12 patent is attached as Exhibit C. The ’800 patent, the ’777 patent, and the ’317 patent are
13 collectively referred to as the “ClearPath patents.” The ClearPath patents are related patents all
14 stemming from a common parent application.

15 10. On November 18, 2012, Cisco announced its intention to acquire Meraki in a deal
16 valued at approximately \$1.2 billion.

17 11. On November 28, 2012, counsel for ClearPath, James R. Kyper, wrote to Meraki
18 CEO, Sanjit Biswas, claiming ClearPath “launched the world’s first cloud managed network
19 services platform” and asserting ClearPath’s ’800 and ’777 patents, and its then-pending
20 application Serial No. 13/272,311 which issued as the ’317 patent, “include claims that are
21 applicable to certain offerings of Meraki.” The letter included a claim chart that purported to
22 “illustrate[] how the elements of Claim 1 of the ’800 patent can be readily mapped to certain
23 aspects of Meraki’s products and services.” The letter continued that “infringement of ClearPath’s
24 patent rights by Meraki is apparent,” and stated that ClearPath is “open to discussing an amicable
25 resolution to this situation prior to pursuing legal proceedings or filing a complaint in federal
26 court.” A true and correct copy of ClearPath’s November 28 letter is attached as Exhibit D.

27 12. On November 28, 2012, ClearPath’s CEO Cliff Young also wrote to Cisco
28 asserting, among other things, that ClearPath’s “patented technology is being pervasively

1 infringed upon by the core Meraki platform” and that “[t]he methods used and capabilities offered
2 are identical in many respects to how we have done it since 2003.”

3 13. On December 7, 2012, Mr. Young sent an email to Meraki’s investors. That email
4 stated that ClearPath “became aware of Meraki’s core cloud managed network services capability”
5 “[f]ollowing the recent announcement of the Meraki acquisition” and said ClearPath was “quite
6 stunned to learn that [its] patented technology is being pervasively infringed upon by the Meraki
7 core platform.” Mr. Young also quoted a Meraki investor’s blog posting which referred to “cloud-
8 based software to control the hardware” and asserted that the methods described in that posting
9 “are identical in many respects to exactly how we have done it since 2003.”

10 14. On December 20, 2012, after Cisco completed its acquisition of Meraki,
11 representatives of ClearPath, Meraki, and Cisco met in San Francisco, California to discuss a
12 potential resolution. At the meeting, ClearPath reasserted its belief that Meraki infringes the
13 ClearPath patents.

14 15. Following that meeting, on January 2, 2013, ClearPath provided a licensing
15 proposal to Meraki entitled “FINAL SETTLEMENT PROPOSAL.” ClearPath’s “FINAL
16 SETTLEMENT PROPOSAL” to Meraki reconfirmed that ClearPath accuses Meraki of infringing
17 the ’800, ’777, and ’317 patents. It demands licensing fees that vastly exceed the value, if any, of
18 the asserted patents, and it threatens imminent litigation against Meraki unless Meraki acquiesces
19 to ClearPath’s proposal.

20 **JURISDICTION AND VENUE**

21 16. This Court has exclusive subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331,
22 1338(a), 2201, and 2202, and the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

23 17. Venue is proper in this judicial district under 28 U.S.C. § 1391.

24 18. Meraki and its products have not infringed and do not infringe, either directly or
25 indirectly, any valid and enforceable claim on any of the ClearPath patents, and thus Meraki does
26 not require a license to the ClearPath patents. In view of ClearPath’s repeated and express
27 allegations of infringement against Meraki and threats to file suit against Meraki, a substantial

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1 controversy exists between the parties which is of sufficient immediacy and reality to warrant
2 declaratory relief.

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4 **FIRST CAUSE OF ACTION**
(Declaratory Judgment of Invalidity of U.S. Patent No. 7,783,800)

5 19. Meraki repeats and realleges each and every allegation set forth in paragraphs 1
6 through 18, inclusive, and incorporates them by reference herein.

7 20. ClearPath contends that Meraki is infringing the '800 patent, including without
8 limitation because of Meraki's MX product (the product used in ClearPath's exemplary claim
9 chart), and needs to license the '800 patent.

10 21. The '800 patent is invalid because it fails to satisfy the conditions and requirements
11 for patentability as set forth, *inter alia*, in Sections 101, 102, 103, and/or 112 of Title 35 of the
12 United States Code. On information and belief, the '800 patent is invalid, for example, because
13 ClearPath offered for sale products and services that practice the claims of the '800 patent more
14 than one year before the claimed priority date of the '800 patent. As discussed above, ClearPath's
15 CEO quoted Meraki's investor's blog posting which referred to "cloud-based software to control
16 the hardware" and asserted that the methods described "are identical in many respects to exactly
17 how we have done it since 2003." ClearPath websites dating back to 2002 suggest the methods
18 were used as early as 2002. Further, the '800 patent is invalid in view of, for example, U.S. Patent
19 Nos. 6,587,874 and 6,012,088.

20 22. On at least the basis that the '800 patent is invalid, Meraki does not need a license
21 to the '800 patent, and it has a right to continue providing products and services without a license
22 to ClearPath's '800 patent.

23 23. Accordingly, an actual, valid, and justiciable controversy has arisen and exists
24 between Meraki and ClearPath. A judicial determination and declaration are necessary and
25 appropriate at this time in order that the parties may ascertain their respective rights and duties
26 regarding the '800 patent.

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1 were used as early as 2002. Further, the '777 patent is invalid in view of, for example, U.S. Patent
2 Nos. 6,587,874 and 6,012,088.

3 30. On at least the basis that the '777 patent is invalid, Meraki does not need a license
4 to the '777 patent, and it has a right to continue providing products and services without a license
5 to ClearPath's '777 patent.

6 31. Accordingly, an actual, valid, and justiciable controversy has arisen and exists
7 between Meraki and ClearPath. A judicial determination and declaration are necessary and
8 appropriate at this time in order that the parties may ascertain their respective rights and duties
9 regarding the '777 patent.

10 **FOURTH CAUSE OF ACTION**
11 **(Declaratory Judgment of Noninfringement of U.S. Patent No. 8,078,777)**

12 32. Meraki repeats and realleges each and every allegation set forth above in
13 paragraphs 1 through 31, inclusive, and incorporates them by reference herein.

14 33. The accused Meraki products, including without limitation Meraki's MX product,
15 have not infringed and do not infringe, directly or indirectly, any valid and enforceable claim of
16 the '777 patent, either literally or under the doctrine of equivalents. Accordingly, Meraki does not
17 need a license to the '777 patent, and it has a right to continue providing products and services
18 without a license to or interference from ClearPath's '777 patent.

19 34. Accordingly, an actual, valid, and justiciable controversy has arisen and exists
20 between Meraki and ClearPath. Meraki desires a prompt and definitive judicial determination and
21 declaration that its products do not infringe any valid claim of the '777 patent. Such a
22 determination and declaration are necessary and appropriate at this time in order that the parties
23 may ascertain their respective rights and duties.

24 **FIFTH CAUSE OF ACTION**
25 **(Declaratory Judgment of Invalidity of U.S. Patent No. 8,341,317)**

26 35. Meraki repeats and realleges each and every allegation set forth in paragraphs 1
27 through 34, inclusive, and incorporates them by reference herein.

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DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38 and Civil Local Rule 3-6(a), Meraki hereby demands a jury trial of all issues triable by a jury.

Dated: January 10, 2013

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

By: 
Stefani E. Shanberg

Attorneys for Plaintiff
MERAKEI, INC.