

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

ORTIZ & ASSOCIATES CONSULTING, LLC, Plaintiff,)	
)	
)	
)	Civil Action No.
v.)	
)	
NETGEAR, INC., Defendant.)	
)	
)	JURY TRIAL DEMANDED
)	

PLAINTIFF’S ORIGINAL COMPLAINT

Plaintiff Ortiz & Associates Consulting, LLC (“Ortiz”) files this Original Complaint and demand for jury trial seeking relief from patent infringement of the claims of U.S. Patent Nos. 9,147,299 (“the ‘299 patent”) and 9,459,285 (“the ‘285 patent”) (collectively referred to as the “Patents-in-Suit”) by Netgear, Inc. (“Defendant” or “Netgear”).

I. THE PARTIES

1. Ortiz & Associates Consulting, LLC is a New Mexico limited liability company with its principal place of business located in Albuquerque, NM.

2. On information and belief, Netgear, Inc. is a corporation organized and existing under the laws of Delaware having a principal place of business 350 Easter Plumeria Drive, San Jose, California 95134, and authorized to do business in Delaware. Defendant can be served through its registered agent, Incorporating Services, Ltd., 3500 S DuPoint Hwy, Dover, DE 19901, at its place of business, or anywhere else it may be found.

3. On information and belief, Defendant sells and offers to sell products and services throughout Delaware, including in this judicial district, introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in Delaware and this judicial district, and otherwise directs infringing activities to this judicial district in connection with its products and services.

II. JURISDICTION AND VENUE

4. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff's claim arises under an Act of Congress relating to patents, namely, 35 U.S.C. § 271.

5. This Court has personal jurisdiction over Defendant because: (i) Defendant is present within or has minimum contacts within the State of Delaware and this judicial district; (ii) Defendant has purposefully availed itself of the privileges of conducting business in the State of Delaware and in this judicial district; and (iii) Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Delaware and in this judicial district.

6. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b). Defendant has committed acts of infringement and has a regular and established place of business in this District. Further, venue is proper because Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Delaware and this District.

7. INFRINGEMENT

A. Infringement of the ‘299 Patent

8. On September 29, 2015, U.S. Patent No. 9,147,299 (“the ‘299 patent”, attachment as **Exhibit C**) entitled “Systems, Methods and Apparatuses For Brokering Data Between Wireless Devices, Servers and Data Rendering Devices” was duly and legally issued by the U.S. Patent and Trademark Office. Plaintiff owns the ‘299 patent by assignment.

9. The ‘299 patent relates to novel and improved systems and methods for communication over public network.

10. Defendant maintained, operated, and administered systems, products, and services that infringed one or more of claims 1-6 of the ‘299 patent, literally or under the doctrine of equivalents. Defendant puts the inventions claimed by the ‘299 patent into service (i.e., used them); but for Defendant’s actions, the claimed-inventions embodiments involving Defendant’s products and services would never have been put into service. Defendant’s acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant’s procurement of monetary and commercial benefit from it.

11. Support for the allegations of infringement may be found in the following exemplary table included as **Exhibit A**. These allegations of infringement are preliminary and are therefore subject to change.

12. Defendant has caused Plaintiff damage by direct infringement of the claims of the ‘299 patent.¹

III. Infringement of the ‘285 Patent

¹ Plaintiff reserves the right to amend to add claims for indirect infringement, including inducement and contributory, and/or willful infringement, to the extent fact discovery shows Defendant’s pre-expiration knowledge of the patent.

13. On January 17, 2017, U.S. Patent No. 9,549,285 (“the ‘285 patent”, attachment as **Exhibit D**) entitled “Systems, Methods and Apparatuses For Brokering Data Between Wireless Devices, Servers and Data Rendering Devices” was duly and legally issued by the U.S. Patent and Trademark Office. Plaintiff owns the ‘285 patent by assignment.

14. The ‘285 patent relates to novel and improved systems and methods for communication over public network.

15. Defendant maintained, operated, and administered systems, products, and services that infringed one or more of claims 1-13 of the ‘285 patent, literally or under the doctrine of equivalents. Defendant puts the inventions claimed by the ‘285 patent into service (i.e., used them); but for Defendant’s actions, the claimed-inventions embodiments involving Defendant’s products and services would never have been put into service. Defendant’s acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant’s procurement of monetary and commercial benefit from it.

16. Support for the allegations of infringement may be found in the following exemplary table included as **Exhibit B**. These allegations of infringement are preliminary and are therefore subject to change.

17. Defendant has caused Plaintiff damage by direct infringement of the claims of the ‘285 patent.²

IV. JURY DEMAND

Plaintiff hereby requests a trial by jury on issues so triable by right.

² Plaintiff reserves the right to amend to add claims for indirect infringement, including inducement and contributory, and/or willful infringement, to the extent fact discovery shows Defendant’s pre-expiration knowledge of the patent.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

- a. enter judgment that Defendant has infringed the claims of the ‘299 patent and the ‘285 patent (collectively, “the patents-in-suit”);
- b. award Plaintiff damages in an amount sufficient to compensate it for Defendant’s infringement, in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;
- c. award Plaintiff an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
- d. award Plaintiff such other and further relief as this Court deems just and proper.

DATED: May 9, 2022

Respectfully submitted,

Chong Law Firm PA

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