

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SRI INTERNATIONAL, INC., a California
Corporation,

Plaintiff,

v.

CISCO SYSTEMS, INC., a California
Corporation,

Defendant.

C. A. No. _____

JURY TRIAL DEMANDED

**COMPLAINT FOR PATENT INFRINGEMENT
AND DEMAND FOR JURY TRIAL**

Plaintiff SRI International, Inc. hereby alleges as follows:

THE PARTIES

1. SRI International, Inc. (“SRI”) is an independent, not-for-profit research institute incorporated under the laws of California, and has a regular and established place of business at 333 Ravenswood Avenue, Menlo Park, California, 94025.

2. Defendant Cisco Systems, Inc. (“Cisco”) is incorporated under the laws of California, with its principal place of business at 170 West Tasman Drive, San Jose, California, 95134.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 U.S.C. § 1 *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

4. Upon information and belief, Cisco is subject to this Court’s general jurisdiction because Cisco has minimum contacts within the State and District of Delaware (including via its

website and via sales of its products and services), pursuant to due process and/or the Delaware Long Arm Statute, because Cisco personally availed itself of the privileges of conducting business in the State and District of Delaware, and because Cisco regularly conducts and solicits business within the State and District of Delaware. Cisco has brought suit in the District of Delaware; including 1:2011-cv-00086; 1:2011-cv-00425; 1:2010-cv-00687, 1:2007-cv-00113, 1:2007-cv-00671.

5. Upon information and belief, venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), (c) and/or 28 U.S.C. § 1400 because, *inter alia*, Cisco is subject to personal jurisdiction in this judicial district.

GENERAL ALLEGATIONS

6. SRI is an independent, not-for-profit research institute that conducts client-supported research and development for government agencies, commercial businesses, foundations, and other organizations. Among its many areas of research, SRI has engaged in fundamental research related to computer security and, more specifically, to large computer network intrusion detection systems and methods, for which SRI has received approximately nine U.S. patents.

7. Each of the patents at issue here, United States Patent No. 6,711,615 (“the ’615 patent”) and United States Patent No. 6,484,203 (“the ’203 patent”), has been the subject of two reexamination proceedings in the U.S. Patent and Trademark Office. (*See* Reexamination Control Nos. 90/008,125 & 90/009,126 (regarding the ’203 patent); 90/008,113 & 90/009,127 (regarding the ’615 patent).) On September 29, 2010 and September 30, 2010, the Patent Office confirmed the patentability of all claims of the SRI ’203 and ’615 patents, respectively, over the prior art cited in the reexamination proceedings.

8. On August 26, 2004, SRI brought suit against, *inter alia*, Symantec Corp. for infringement of the '615 and '203 patents in the District of Delaware. *See SRI International, Inc. v. Internet Sec. Sys., Inc. & Symantec Corp.*, Civ. No. 04-1199-SLR (D. Del. Aug. 26, 2004). On September 18, 2008, a Delaware jury found that Symantec infringed the '615 patent and the '203 patent.

9. The Delaware jury in the Symantec litigation also found that the asserted claims of the SRI patents were not proven invalid in view of the prior art and arguments presented at the trial.

10. Among other issues, Symantec appealed the jury's verdict that the SRI patents were not invalid. On November 5, 2010, the U.S. Court of Appeals for the Federal Circuit affirmed the jury verdict that the SRI patents were not proven invalid. *SRI Int'l, Inc. v. Internet Sec. Sys.*, 401 Fed. App'x 530 (Fed. Cir. 2010).

11. On November 3, 2011, SRI and Symantec settled the litigation and entered into a license agreement on confidential terms. *SRI Int'l, Inc. v. Internet Sec. Sys., Inc.*, Civ. No. 04-1199-SLR, D722 (D. Del. Nov. 14, 2011).

12. On April 23, 2012, SRI and Symantec settled a subsequent litigation asserting the same patents against other Symantec products and entered into a license agreement on confidential terms. *SRI Int'l, Inc. v. Symantec Corp.*, Civ. No. 11-131-SLR-MPT, D152 (D. Del. Apr. 27, 2012).

13. On March 14, 2013, SRI and IBM also entered into a license agreement regarding SRI's "EMERALD" network intrusion patents, which includes the '605 and '203 patents. The terms of this agreement are confidential.

14. Cisco provides various intrusion prevention and intrusion detection products and services, including at least the Cisco Intrusion Prevention System; Cisco ASA 5500-X Series IPS Solution; Cisco IPS 4500 Series Sensor; Cisco IPS 4300 Series Sensor; Cisco IPS 4200 Series Sensor; Cisco IOS Intrusion Prevention System (IPS); Cisco ASA 5500 Series Content Security and Control Security Services Module (CSC-SSM); Cisco Adaptive Security Appliance

Advanced Inspection and Prevention Security Services Module (ASA AIP SSM); Cisco Catalyst 6500 Series Intrusion Detection System (ISDM-2) Module; Cisco Intrusion Prevention System Advanced Integration Module (IPS AIM) and Network Module (IPS NME) for Cisco Integrated Services Routers; Cisco IPS Manager Express; Cisco Security Manager; Cisco Monitoring, Analysis and Response System (MARS); Cisco Remote Management Services; Cisco Services for IPS; and Cisco Intrusion Detection System, and related products and services (collectively “CISCO IPS AND IDS PRODUCTS AND SERVICES”) to its customers, and directly and through its affiliates, sells, and offers to sell those products and services throughout the United States and elsewhere. Cisco sells its products and services directly to customers online through its website. Cisco also sells its products and services through partner resellers located within the District of Delaware. On its website, Cisco advertises customer case studies for customers using its Security Products. Cisco includes network intrusion detection and prevention capabilities as part of those services and products. On information and belief, CISCO IPS AND IDS PRODUCTS AND SERVICES include products and services that comprise a substantial portion of Cisco’s “Security” product category. On information and belief, in fiscal year 2012, Cisco’s net product sales associated with its Security products was more than \$1.3 billion.

15. Cisco uses the CISCO IPS AND IDS PRODUCTS AND SERVICES to provide infringing products and services.

16. On July 23, 2013, Cisco announced a definitive agreement to acquire Sourcefire for approximately \$2.7 billion. Cisco announced that the acquisition is expected to close during the second half of calendar year 2013. According to the July 23 Cisco announcement, “Sourcefire delivers innovative, highly automated security through continuous awareness, threat detection and protection across its industry-leading portfolio, including next-generation intrusion prevention systems, next-generation firewalls, and advanced malware protection.” In particular, Sourcefire makes, uses, and sells Sourcefire’s Next-Generation IPS, Next-Generation Firewall, and Centralized Management products and services. On information and belief, Sourcefire’s Next-Generation IPS, Next-Generation Firewall, and Centralized Management utilize the

inventions disclosed in the '615 and '203 patents. If and when the Cisco/Sourcefire transaction closes, SRI will amend this complaint as appropriate.

FIRST CAUSE OF ACTION

I. INFRINGEMENT OF U.S. PATENT NO. 6,711,615 AND REEXAMINATION CERTIFICATE U.S. 6,711,615 C1

17. The allegations of paragraphs 1-16 are incorporated for this First Cause of Action as though fully set forth herein.

18. SRI is now, and has been since its issuance, the assignee and sole owner of all right, title, and interest in United States Patent No. 6,711,615, entitled "Network Surveillance" ("the '615 patent"), which was duly and legally issued on March 23, 2004. On January 18, 2011, the Patent Office issued a reexamination certificate confirming the patentability of the claims of the '615 patent. A true and correct copy of the '615 patent is attached hereto as Exhibit A. A true and correct copy of the '615 patent's reexamination certificate is attached hereto as Exhibit B.

19. SRI provided notice of infringement of the '615 patent to Cisco at least by May 9, 2012. On information and belief Cisco has, and has had since prior to May 9, 2012, actual knowledge of the '615 patent.

20. Upon information and belief, Cisco has been and is now infringing the '615 patent and associated reexamination certificate in this District and elsewhere by using, selling, and/or offering to sell, intrusion prevention and intrusion detection products and services to others, including intrusion prevention and intrusion detection products and services employing systems and methods covered by one or more claims of the '615 patent. Cisco's infringing acts include, but are not limited to, providing and offering to provide CISCO IPS AND IDS PRODUCTS AND SERVICES and related products and services to customers using systems and methods covered by the '615 patent claims.

21. Upon information and belief, Cisco has induced infringement of the '615 patent and its associated reexamination certificate by Cisco's customers who use CISCO IPS AND IDS PRODUCTS AND SERVICES and related products and services. Upon information and belief, Cisco has known and now knows that the use of CISCO IPS AND IDS PRODUCTS AND SERVICES and related products and services, which Cisco actively teaches and encourages, infringes the '615 patent. Upon information and belief, Cisco knew or should have known its actions would induce actual infringement. Upon information and belief, Cisco specifically intended users of CISCO IPS AND IDS PRODUCTS AND SERVICES and related products and services to infringe the '615 patent and knew that the users' acts constituted infringement.

22. Cisco's acts of infringement have injured and damaged SRI.

23. Cisco has, and has had, actual knowledge of the '615 patent and its infringement has been and continues to be willful. In particular, Cisco was aware that it had and has no substantive non-infringement defense, yet continued to infringe even after a jury, the Court of Appeals for the Federal Circuit, and the Patent Office have all confirmed the validity of the '615 patent claims. In addition, the primary prior art Cisco has relied upon as allegedly invalidating the '615 patent is the RealSecure and NetRanger prior art.. The Patent Office considered the RealSecure and NetRanger prior art during the reexamination proceeding and issued a reexamination certificate confirming the patentability of the claims of the '615 patent. Cisco's infringement is therefore willful and makes this case exceptional.

SECOND CAUSE OF ACTION

II. INFRINGEMENT OF U.S. PATENT NO. 6,484,203 AND REEXAMINATION CERTIFICATE U.S. 6,484,203 C1

24. The allegations of paragraphs 1-23 are incorporated for this Second Cause of Action as though fully set forth herein.

25. SRI is now, and has been since its issuance, the assignee and sole owner of all right, title, and interest in United States Patent No. 6,484,203, entitled Hierarchical Event Monitoring and Analysis” (“the ’203 patent”), which was duly and legally issued on November 19, 2002. On January 11, 2011, the Patent Office issued a reexamination certificate confirming the patentability of the claims of the ’203 patent. A true and correct copy of the ’203 patent is attached hereto as Exhibit C. A true and correct copy of the ’203 patent’s reexamination certificate is attached hereto as Exhibit D.

26. SRI provided notice of infringement of the ’203 patent to Cisco at least by May 9, 2012. On information and belief Cisco has, and has had since prior to May 9, 2012, actual knowledge of the ’203 patent.

27. Upon information and belief, Cisco has been and is now infringing the ’203 patent and associated reexamination certificate in this District and elsewhere by using, selling, and/or offering to sell, intrusion prevention and intrusion detection products and services to others, including intrusion prevention and intrusion detection products and services employing systems and methods covered by one or more claims of the ’203 patent. Cisco's infringing acts include, but are not limited to, providing and offering to provide CISCO IPS AND IDS PRODUCTS AND SERVICES and related products and services to customers using systems and methods covered by the ’203 patent claims.

28. Upon information and belief, Cisco has induced infringement of the ’203 patent and its associated reexamination certificate by Cisco's customers who use CISCO IPS AND IDS PRODUCTS AND SERVICES and related products and services. Upon information and belief, Cisco has known and now knows that the use of CISCO IPS AND IDS PRODUCTS AND SERVICES and related products and services, which Cisco actively teaches and encourages, infringes the ’203 patent. Upon information and belief, Cisco knew or should have known its actions would induce actual infringement. Upon information and belief, Cisco specifically intended users of CISCO IPS AND IDS PRODUCTS AND SERVICES and related products and services to infringe the ’203 patent and knew that the users' acts constituted infringement.

29. Cisco's acts of infringement have injured and damaged SRI.

30. Cisco has, and has had, actual knowledge of the '203 patent and its infringement has been and continues to be willful. In particular, Cisco was aware that it had and has no substantive non-infringement defense, yet continued to infringe even after a jury, the Court of Appeals for the Federal Circuit, and the Patent Office have all confirmed the validity of the '203 patent claims. In addition, the primary prior art Cisco has relied upon as allegedly invalidating the '203 patent is the RealSecure and NetRanger prior art. The Patent Office considered the RealSecure and NetRanger prior art during the reexamination proceeding and issued a reexamination certificate confirming the patentability of the claims of the '203 patent. Cisco's infringement is therefore willful and makes this case exceptional.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following relief:

- (a) damages in an amount to be determined at trial;
- (b) an accounting for infringing use and sales or offers for sale of products and services not presented at trial, and an award by the Court of additional damages for any such infringing activities;
- (c) enhanced damages pursuant to 35 U.S.C. § 284;
- (d) costs and reasonable attorney fees incurred in connection with this action pursuant to 35 U.S.C. § 285; and
- (e) such other and further relief as the Court deems appropriate.

A JURY TRIAL IS DEMANDED BY PLAINTIFF.

Dated: September 4, 2013

FISH & RICHARDSON P.C.

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