

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

MPH TECHNOLOGIES OY)	
)	
Plaintiff,)	Civil Action No.
)	
v.)	Judge
)	Magistrate Judge
ZYXEL COMMUNICATIONS)	
CORPORATION, ZYXEL)	
COMMUNICATIONS, INC.,)	
NETGEAR, INC., CHECK POINT)	
SOFTWARE TECHNOLOGIES, LTD.)	
AND CHECK POINT)	
SOFTWARE TECHNOLOGIES, INC.)	
)	JURY TRIAL DEMANDED
Defendants.)	

COMPLAINT

Plaintiff, MPH Technologies Oy (“MPH”), complains of defendants, ZyXEL Communications Corporation, ZyXEL Communications, Inc., NETGEAR, Inc., Check Point Software Technologies, Ltd. and Check Point Software Technologies, Inc., as follows:

NATURE OF THE SUIT

1. This is a suit for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code § 1 et seq. This Court has exclusive jurisdiction over the subject matter of this Complaint under 28 U.S.C. § 1338(a).

PARTIES

2. MPH is a Finnish corporation with its principal place of business at Tekniikantie 14, 02150 Espoo, Finland.

3. MPH owns all right, title, interest in and has standing to sue for the infringement of United States Patent 7,346,926, entitled “Method for Sending Messages Over Secure Mobile Communication Links” and issued on March 18, 2008 by the United States Patent and Trademark Office (“the ‘926 Patent”). MPH is a privately held technology company that is involved in the research and development of network mobility and security and associated internet technologies.

4. The technologies and inventions claimed and described in the ‘926 patent were initially conceived and developed by Intra Secure Networks. Intra Secure Networks (later known as Netseal Oy and Netseal Mobility Technologies) (“Netseal”) was founded in 1996 in Finland and became a technology leader in the area of mobile security. Netseal’s extensive research, development and innovation efforts were funded and supported by a number of Finnish governmental agencies and well-known venture capital firms such as Fidelity Ventures. MPH, formed by former officers of Netseal, continues to engage in the fundamental research and development in the areas of network mobility and security.

5. Check Point Software Technologies, Ltd. is an Israeli company with its principal place of business at 5 Ha’Solelim Street, Tel Aviv 67897. Check Point Software Technologies, Inc., a subsidiary of Check Point Software Technologies, Ltd., is a Delaware corporation and is located at 800 Bridge Parkway, Redwood City, California 94065 (collectively “Check Point”). Check Point provides products, services and technologies in the areas of, among other things, network security and network management, and claims to provide “protection against all types of threats, reduce[] security complexity and lower[] total cost of ownership” for its customers and clients

which it claims include all of Fortune 100 Companies.

6. Check Point sells products and services throughout the United States and conducts substantial business in this judicial district, including providing the products, services, technologies and/or methods accused of infringement in this judicial district. Check Point maintains sales offices in this judicial district, including those located in Chicago and Lisle. Check Point's products, services, technologies and/or methods have also been sold and offered for sale through its "Value-Added Resellers" with offices in this judicial district, including Statim (Waukegan), Guardian Technologies, Inc. (Aurora), CDW Corporation (Vernon Hills), NCC Networks Inc. (Elgin), Advanced System Designs (Elmhurst and Morton), Akibia (Oak Brook), Forsythe Solutions Group (Skokie) and Konsultek (Elgin). Check Point has also sold products, services, technologies and/or methods through such "Check Point Managed Service Providers" and "Partners" located in this judicial district as Statim (Northbrook), Konsultek (Elgin), TechPro, Inc. (Geneva), SlipStream I.T. Inc. (Chicago), Procom Enterprises, Ltd. (Chicago), Onward Technologies, Inc. (Chicago), and Nexum, Inc. (Chicago).

7. Check Point is doing business in this judicial district, has purposefully availed itself of the privilege of conducting business within this judicial district, has established sufficient minimum contacts with the State of Illinois such that it should reasonably and fairly anticipate being hailed into court in Illinois, and has purposefully directed activities at residents of Illinois. At least a portion of the patent infringement claims alleged herein arise out of or is related to one or more of the foregoing activities.

8. NETGEAR, Inc. ("NETGEAR") is a Delaware corporation with its principal place of business at 350 East Plumeria Drive, San Jose, California 95134. NETGEAR

provides products, services and technologies in the areas of, among other things, network security and network management throughout the United States.

9. NETGEAR sells products and services throughout the United States and conducts substantial business in this judicial district, including providing the products, services, technologies and/or methods accused of infringement in this judicial district. NETGEAR's products, services, technologies and/or methods have been sold and offered for sale through such retailers located in this district as Best Buy, Fry's, Micro Center, Office Depot, Radio Shack, Staples and Walmart. NETGEAR has also provided its products, services, technologies and methods through such online merchants conducting business in this district as Amazon.com, Buy.com, CDW.com, Dell.com, eSecurity, NCIZ.com, Newegg.com, PC Connection, ProVantage, TigerDirect.com and Walmart. NETGEAR has also provided its products, services and technologies in this district through such "distribution partners" or re-sellers having offices in this judicial district as ASI (Addison), D&H (Bolingbrook), Ma Labs (Glendale Heights) and Computer Dynamics of Northwest Illinois (Freeport).

10. NETGEAR is doing business in this judicial district, has purposefully availed itself of the privilege of conducting business within this judicial district, has established sufficient minimum contacts with the State of Illinois such that it should reasonably and fairly anticipate being hailed into court in Illinois, and has purposefully directed activities at residents of Illinois. At least a portion of the patent infringement claims alleged herein arise out of or is related to one or more of the foregoing activities.

11. ZyXEL Communications Corporation is a Taiwanese company with its principal place of business at Hsinchu Science and Industrial Park, Taiwan and

operates 33 sales offices throughout the world, including those located in the United States. ZyXEL Communications, Inc., a subsidiary of ZyXEL Communications Corporation, is a California corporation with its principal place of business at 1130 North Miller Street, Anaheim, California. ZyXEL Communications, Inc. is the North American Headquarters for ZyXEL Communications Corporation. Both ZyXEL entities (collectively "ZyXEL") provide products, services and technologies in the areas of network security and network management in the United States, claiming to be "one of the few companies in the world capable of offering complete networking solutions ranging from DSL customer premise equipment, central office equipment, Internet security appliances, switches, WLAN equipment, network-attached storage and centralized network management systems."

12. ZyXEL sells its products and services throughout the United States and conducts substantial business in this judicial district, including providing the products, services, technologies and/or methods accused of infringement in this judicial district. ZyXEL's products, services, technologies and/or methods have been sold and offered for sale through such re-sellers with offices located in this district as Shartega Systems, Inc. (Hillside), OneMark LLC (Chicago), HundredRupees (St. Charles), Cr2, Inc. (Hoffman Estates), IT Solutions (Chicago), Integrated Business Group Inc. (Schaumburg), ITiliti (Chicago), VACK Inc., (Schaumburg), NetFunction, Inc. (Chicago), VLTconnect, Inc. (Chicago), Redwood Systems Group (Tinley Park), Axcell Technologies, Inc. (Riverwoods), Swift Technologies, Inc. (Elgin), CTO Networks Corporation (Mundelein), ETech Business Solutions (Chicago), I.T. Works, Inc. (Chicago), Chicago Cyber Corp. (Chicago), BAY Software & Consulting Inc. (Tinley

Park), WubCo Security Company (Bolingbrook), Computer Renaissance (Fairview Heights). Such products, services and/or technologies are also sold and offered through such online merchants conducting business in this district as Amazon.com, Buy.com, Dell.com, Newegg.com, Pc Connection. ProVantage, Sam's Club and TechDepot as well as ZyXEL's own online store.

13. ZyXEL is doing business in this judicial district, has purposefully availed itself of the privilege of conducting business within this judicial district, has established sufficient minimum contacts with the State of Illinois such that it should reasonably and fairly anticipate being hailed into court in Illinois, and has purposefully directed activities at residents of Illinois. At least a portion of the patent infringement claims alleged herein arise out of or is related to one or more of the foregoing activities.

VENUE

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

PATENT INFRINGEMENT

15. Check Point has infringed one or more of the claims of the '926 patent through, among other activities, its manufacture, use, importation, sale and/or offer for sale of products, services, technologies and/or methods covered by one or more of the claims of the '926 patent in the United States within the meaning of 35 U.S.C. § 271(a). Such acts of infringement include making, using, marketing, distributing, providing, testing, configuring, selling and/or offering to sell in the United States and importing into the United States, but not limited to, products, services, technologies and/or methods (along with its authorizations and licenses associated with such products, services,

technologies and/or methods) known as, referred to as, sold under or embodying the technologies of Check Point's VPN-1 MASS (Multi-Access Security Solution), Power - 1 Security Appliances, UTM - 1 Security Appliances, Safe@Office Appliances, VPN-1 Security Gateways, VPN- Power VSX, VPN-1 VE, VPN-1 SecureClient Mobile, Check Point Endpoint Security – Secure Access, Check Point Endpoint Security – Total Security, Check Point Security Gateways, and Check Point VPN Security Gateway Blades.

16. Check Point has indirectly infringed and continues to indirectly infringe one or more of the claims of the '926 patent under 35 U.S.C. § 271(b) by knowingly and actively inducing infringement of those claims. Check Point has had actual knowledge of the '926 patent and MPH's allegation of infringement against Check Point at least since May 5, 2009. Check Point has knowingly and actively induced infringement of one or more of the claims of the '926 patent through, among other things, the sale, offer for sale and importation into the United States of the accused products, services, technologies and/or methods and by advertising, marketing, distributing, providing, testing, training, configuring, installing, licensing, authorizing and instructing the use of its products, services, technologies and/or methods covered by one or more of the claims of the '926 patent. The direct infringers that are being induced by Check Point include, without limitation, users of, Check Point's products, services, technologies and/or methods accused of infringement of the '926 patent as well as authorized re-sellers, service providers and partners for such products, services, technologies and/or methods.

17. Check Point has also indirectly infringed and continues to indirectly infringe one or more of the claims of the '926 patent under 35 U.S.C. § 271(c) through, among other things, the sale, offer for sale and importation into the United States of its accused products, services, technologies and/or methods and by advertising, marketing, distributing, providing, testing, training, configuring, installing, licensing and authorizing and instructing the use of products, services, technologies and/or methods, which constitute a material part of the patented inventions of one or more of the claims of the '926 patent, which Check Point knows are especially made or adapted for use in an infringement of one or more of the claims of the '926 patent and which are not a staple article of commerce suitable for non-infringing uses. The direct infringers for Check Point's contributory infringement under 35 U.S.C. § 271(c) include, without limitation, users of Check Point's products, services, technologies and/or methods accused of infringement of the '926 patent as well as authorized re-sellers, service providers and partners for such products, services, technologies and/or methods.

18. NETGEAR has infringed one or more of the claims of the '926 patent through, among other activities, its manufacture, use, importation, sale and/or offer for sale of products, services, technologies and/or methods covered by one or more of the claims of the '926 patent in the United States within the meaning of 35 U.S.C. § 271(a). Such acts of infringement include making, using, marketing, distributing, providing, testing, configuring, selling and/or offering to sell in the United States and importing into the United States including, but not limited to, products, services, technologies and/or methods (along with its authorizations and licenses associated with such products, services, technologies and/or methods) known as, referred to as, sold under or

embodying the technologies of ProSafe® VPN Client Software, Dual WAN Gigabit SSL VPN Firewall, ProSafe® Dual WAN VPN Firewall with 8-port 10/100 Switch, ProSafe® VPN Firewall with 8-port 10/100 Switch, ProSafe™ VPN Firewall 8 w/8 Port 10/100 Switch, ProSafe™ VPN Firewall 8 with 4 Port 10/100 Mbps Switch, ProSafe™ 802.11g Wireless ADSL Modem VPN Firewall Router, ProSafe® Wireless-N VPN Firewall, and ProSafe® 802.11Wireless VPN Firewall 8 with 8-port 10/100 Mbps Switch.

19. NETGEAR has indirectly infringed and continues to indirectly infringe one or more of the claims of the '926 patent under 35 U.S.C. § 271(b) by knowingly and actively inducing infringement of those claims. NETGEAR has had actual knowledge of the '926 patent and MPH's allegation of infringement against NETGEAR at least since May 14, 2009. NETGEAR has knowingly and actively induced infringement of one or more of the claims of the '926 patent through, among other things, the sale, offer for sale and importation into the United States of the accused products, services, technologies and/or methods and by advertising, marketing, distributing, providing, testing, training, configuring, installing, licensing, authorizing and instructing the use of its products, services, technology and/or methods covered by one or more of the claims of the '926 patent. The direct infringers that are being induced by NETGEAR include, without limitation, users of NETGEAR's products, services, technologies and/or methods accused of infringement of the '926 patent as well as authorized re-sellers, service providers and partners for such products, services, technologies and/or methods.

20. NETGEAR has also indirectly infringed and continues to indirectly infringe one or more of the claims of the '926 patent under 35 U.S.C. § 271(c) through, among

other things, the sale, offer for sale and importation into the United States of the accused products, services, technologies and/or methods and by advertising, marketing, distributing, providing, testing, training, configuring, installing, licensing and authorizing and instructing the use of products, services, technology and/or methods, which constitute a material part of the patented inventions of one or more of the claims of the '926 patent, which NETGEAR knows are especially made or adapted for use in an infringement of one or more of the claims of the '926 patent and which are not a staple article of commerce suitable for non-infringing uses. The direct infringers for NETGEAR's contributory infringement under 35 U.S.C. § 271(c) include, without limitation, users of NETGEAR's products, services, technologies and/or methods accused of infringement of the '926 patent as well as authorized re-sellers, service providers and partners for such products, services, technologies and/or methods.

21. ZyXEL has infringed one or more of the claims of the '926 patent through, among other activities, its manufacture, use, importation, sale and/or offer for sale of products, services, technologies and/or methods covered by one or more of the claims of the '926 patent in the United States within the meaning of 35 U.S.C. § 271(a). Such acts of infringement include making, using, marketing, distributing, providing, testing, configuring, selling and/or offering to sell in the United States and importing into the United States, including, but not limited to, products, services, technologies and/or methods (along with its authorizations and licenses associated with such products, services, technologies and/or methods) known as, referred to as, sold under or embodying the technologies of ZyWALLUSG100, ZyWALLUSG200, ZyWALLUSG300,

ZyWALLUSG1000, ZyWALL 2 Plus, ZyWALL 2WG, ZyWALL 5UTM, ZyWALL 35UTM, ZyWALL 1050, and ZyWALL IPSec VPN Client.

22. ZyXEL has indirectly infringed and continues to indirectly infringe one or more of the claims of the '926 patent under 35 U.S.C. § 271(b) by knowingly and actively inducing infringement of those claims. ZyXEL has had actual knowledge of the '926 patent and MPH's allegation of infringement against ZyXEL at least since April 15, 2009. ZyXEL has knowingly and actively induced infringement of one or more of the claims of the '926 patent through, among other things, the sale, offer for sale and importation into the United States of the accused products, services, technologies and/methods and by advertising, marketing, distributing, providing, testing, training, configuring, installing, licensing, authorizing and instructing the use of its products, services, technologies and/or methods covered by one or more of the claims of the '926 patent. The direct infringers that are being induced by ZyXEL include, without limitation, users of, ZyXEL's products, services, technologies and/or methods accused of infringement of the '926 patent as well as authorized re-sellers, service providers and partners for such products, services, technologies and/or methods.

23. ZyXEL has also indirectly infringed and continues to indirectly infringe one or more of the claims of the '926 patent under 35 U.S.C. § 271(c) through, among other things, the sale, offer for sale and importation into the United States of the accused products, services, technologies and/or methods and by advertising, marketing, distributing, providing, testing, training, configuring, installing, licensing and authorizing and instructing the use of products, services, technologies and/or methods, which constitute a material part of the patented inventions of one or more of the claims of the

'926 patent, which ZyXEL knows are especially made or adapted for use in an infringement of one or more of the claims of the '926 patent and which are not a staple article of commerce suitable for non-infringing uses. The direct infringers for ZyXEL's contributory infringement under 35 U.S.C. § 271(c) include, without limitation, users of ZyXEL's products, services, technologies and/or methods accused of infringement of the '926 patent as well as authorized re-sellers, service providers and partners for such products, services, technologies and/or methods.

24. The acts of infringement of the '926 patent by each of the defendants have injured MPH, and MPH is entitled to recover damages adequate to compensate it for such infringement from each defendant, but, in no event, less than a reasonable royalty.

25. The acts of infringement of the '926 patent by each of the defendants have injured and will continue to injure MPH unless and until this Court enters an injunction prohibiting further acts of infringement and, specifically, enjoining further use, offers for sale and/or sale of the accused products, services, technologies and/or methods of each of the defendants that are covered by the claims of the '926 patent.

NOTICE, KNOWLEDGE, AND WILLFULNESS

26. MPH has complied with all applicable provisions of 35 U.S.C. § 287 regarding marking and notice of the '926 patent.

27. Each defendant's infringement has occurred with knowledge of the '926 patent and willfully and deliberately in violation of 35 U.S.C. § 284. Each of the defendants were given actual notice of the '926 patent in or about April or May 2009 when MPH provided the '926 patent and informed them they were infringing one or more of the claims of the '926 patent. Each defendant has not taken adequate and

necessary steps to avoid infringement. Instead, each defendant has continued to infringe the '926 patent in an objectively reckless manner, with complete disregard of MPH's rights in the '926 patent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, MPH, asks this Court to enter judgment against each of the defendants and against their respective subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with the defendants, granting the following relief:

A. An award of damages adequate to compensate MPH for the infringement that has occurred, together with prejudgment interest from the date infringement of the '926 patent began;

B. An award to MPH of all remedies available under 35 U.S.C. §§ 284 and 285;

C. A permanent injunction prohibiting further direct infringement, inducement of infringement and contributory infringement of the '926 patent; and,

D. Such other and further relief as this Court or a jury may deem proper and just.

JURY DEMAND

MPH TECHNOLOGIES OY requests a trial by jury on all issues so triable.

Dated: February 2, 2010

/s/ Christopher J. Lee

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