

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

INTERNET MACHINES LLC

Plaintiff,

v.

Civil Action No. _____

ASUS COMPUTER INTERNATIONAL;
AVNET, INC.;
BEST BUY CO., INC. D/B/A BEST BUY;
BESTBUY.COM, LLC;
BEST BUY STORES, LP;
CDW CORPORATION;
CDW LLC D/B/A CDW;
MOUSER ELECTRONICS, INC.;
PHOENICS ELECTRONICS CORP.;
PLX TECHNOLOGY, INC.;
SAMSUNG ELECTRONICS AMERICA,
INC.; AND
TIGER DIRECT, INC.

Defendants.

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Internet Machines LLC files this Complaint against ASUS COMPUTER INTERNATIONAL; AVNET, INC.; BEST BUY CO., INC. D/B/A BEST BUY; BESTBUY.COM, LLC; BEST BUY STORES, LP; CDW CORPORATION; CDW LLC D/B/A CDW; MOUSER ELECTRONICS, INC.; PHOENICS ELECTRONICS CORP.; PLX TECHNOLOGY, INC., SAMSUNG ELECTRONICS AMERICA, INC. and TIGER DIRECT, INC. (collectively "Defendants").

PARTIES

1. Internet Machines LLC ("iMac" or "Plaintiff") is a Texas Limited Liability Company with its place of business at 208 N. Green Street, Suite 310 in Longview, Texas.

2. Defendant ASUS COMPUTER INTERNATIONAL (“ASUS”) is, on information and belief, a California corporation with a place of business at 800 Corporate Way, Fremont, CA 94539.

3. Defendant AVNET, INC. (“AVNET”) is, on information and belief, a New York corporation with a place of business at 2211 South 47th Street, Phoenix Arizona 85034.

4. Defendant BEST BUY CO., INC. D/B/A BEST BUY, A CALIFORNIA CORPORATION (“BEST BUY CO.”) is, on information and belief, a Minnesota corporation with a place of business at 7601 Penn Ave. S., Richfield, MN 55423.

5. Defendant BESTBUY.COM, LLC (“BESTBUY.COM”) is, on information and belief, a Virginia Limited Liability Company with a place of business at 7601 Penn Ave. S., Richfield, MN 55423.

6. Defendant BEST BUY STORES, LP (“BEST BUY STORES”) is, on information and belief, a Virginia Limited Partnership with a place of business at 7601 Penn Ave. S., Richfield, MN 55423. BEST BUY CO., BESTBUY.COM and BEST BUY STORES are collectively referred to hereinafter as “BEST BUY.”

7. Defendant CDW CORPORATION (“CDW CORP.”) is, on information and belief, an Illinois corporation with a place of business at 200 N. Milwaukee Ave., Vernon Hills, Illinois 60061.

8. Defendant CDW LLC D/B/A CDW (“CDW LLC”) is, on information and belief, an Illinois Limited Liability Company with a place of business at 200 N. Milwaukee Ave., Vernon Hills, Illinois 60061. CDW CORP. and CDW LLC are collectively referred to hereinafter as “CDW.”

9. Defendant MOUSER ELECTRONICS, INC. (“MOUSER”) is, on information and belief, a Delaware corporation with a place of business at 1000 N. Main St., Mansfield, TX 76063-1514.

10. Defendant PHOENICS ELECTRONICS CORP. (“PHOENICS”) is, on information and belief, a Delaware corporation with a place of business at 239 Littleton Rd., Suite 1A, Westford, Massachusetts 01886.

11. Defendant PLX TECHNOLOGY, INC. (“PLX”) is, on information and belief, a Delaware corporation with a place of business at 870 W. Maude Avenue, Sunnyvale, CA 94085.

12. Defendant SAMSUNG ELECTRONICS AMERICA, INC. (“SAMSUNG”) is, on information and belief, a New York corporation with a place of business at 105 Challenger Road, Ridgefield Park, NJ.

13. Defendant TIGER DIRECT, INC. (“TIGER DIRECT”) is, on information and belief, a Florida corporation with a place of business at 7795 West Flagler St., Suite 35, Miami, FL. 33144.

JURISDICTION AND VENUE

14. 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). On information and belief, Defendants are subject to this Court’s specific and general personal jurisdiction, pursuant to due process and/or the Texas Long Arm Statute, due at least to their substantial business in this forum, including at least a portion of the infringements alleged herein. Without limitation, on information and belief, within this state the Defendants have engaged in at least the selling and offering for sale, or they have at least induced or contributed to the selling, offering for sale or use of the accused methods and apparatuses

identified herein below. In addition, on information and belief, Defendants have derived substantial revenues from the foregoing. Further, on information and belief, Defendants are subject to the Court's general jurisdiction, including from regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to persons or entities in Texas.

15. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). On information and belief, from and within this Judicial District each Defendant has committed at least a portion of the infringements at issue in this case. Without limitation, on information and belief, within this district the Defendants have engaged in at least the selling and offering for sale, or they have at least induced or contributed to the selling, offering for sale or use of the accused methods and apparatuses identified herein below. In addition, on information and belief, Defendants have derived substantial revenues from the foregoing. Further, on information and belief, Defendants are subject to personal jurisdiction in this District for at least the same reasons noted above with respect to personal jurisdiction within the State of Texas.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 7,454,552

16. United States Patent No. 7,454,552 ("the '552 patent") entitled "Switching with Transparent and Non-Transparent Ports" was filed on November 18, 2004 and issued on November 18, 2008. The '552 patent is entitled to priority from U.S. Application No. 60/523,246, which was filed on Nov. 18, 2003.

17. The named inventors of the '552 patent are Heath Stewart, Michael de la Garrigue and Chris Haywood.

18. iMac is the assignee of all right, title and interest in the '552 patent. Accordingly, iMac has standing to bring this lawsuit for infringement of the '552 patent.

19. One or more claims of the '552 patent cover, inter alia, various apparatuses or methods comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent port, a second transparent port, and a third, non-transparent port, and logic for routing or transporting data between said ports.

20. On information and belief, Defendant ASUS has been and now is infringing the '552 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent port, a second transparent port, and a third, non-transparent port, and logic for routing or transporting data between said ports.

21. Further, on information and belief, at least since becoming aware of the '552 patent, ASUS has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '552 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

22. Upon information and belief, any such induced infringement by ASUS would necessarily involve intent for the direct infringement the '552 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the '552 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

23. Defendant ASUS is thus liable for infringement of the '552 patent pursuant to 35 U.S.C. § 271.

24. On information and belief, Defendant AVNET has been and now is infringing the '552 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent port, a second transparent port, and a third, non-transparent port, and logic for routing or transporting data between said ports.

25. Further, on information and belief, at least since becoming aware of the '552 patent, AVNET has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '552 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

26. Upon information and belief, any such induced infringement by AVNET would necessarily involve intent for the direct infringement the '552 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the '552 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

27. Defendant AVNET is thus liable for infringement of the '552 patent pursuant to 35 U.S.C. § 271.

28. On information and belief, Defendant BEST BUY has been and now is infringing the '552 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first

transparent port, a second transparent port, and a third, non-transparent port, and logic for routing or transporting data between said ports.

29. Further, on information and belief, at least since becoming aware of the ‘552 patent, BEST BUY has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the ‘552 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

30. Upon information and belief, any such induced infringement by BEST BUY would necessarily involve intent for the direct infringement the ‘552 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the ‘552 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

31. Defendant BEST BUY is thus liable for infringement of the ‘552 patent pursuant to 35 U.S.C. § 271.

32. On information and belief, Defendant CDW has been and now is infringing the ‘552 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent port, a second transparent port, and a third, non-transparent port, and logic for routing or transporting data between said ports.

33. Further, on information and belief, at least since becoming aware of the ‘552 patent, CDW has been or now is indirectly infringing by way of inducing infringement and/or

contributing to the infringement of the '552 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

34. Upon information and belief, any such induced infringement by CDW would necessarily involve intent for the direct infringement the '552 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the '552 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

35. Defendant CDW is thus liable for infringement of the '552 patent pursuant to 35 U.S.C. § 271.

36. On information and belief, Defendant MOUSER has been and now is infringing the '552 patent in the State of Texas, in this judicial district, and elsewhere in the PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent port, a second transparent port, and a third, non-transparent port, and logic for routing or transporting data between said ports.

37. Further, on information and belief, at least since becoming aware of the '552 patent, MOUSER has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '552 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

38. Upon information and belief, any such induced infringement by MOUSER would necessarily involve intent for the direct infringement the '552 patent and the aiding or abetting of

such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the '552 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

39. Defendant MOUSER is thus liable for infringement of the '552 patent pursuant to 35 U.S.C. § 271.

40. On information and belief, Defendant PHOENICS has been and now is infringing the '552 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent port, a second transparent port, and a third, non-transparent port, and logic for routing or transporting data between said ports.

41. Further, on information and belief, at least since becoming aware of the '552 patent, PHOENICS has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '552 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

42. Upon information and belief, any such induced infringement by PHOENICS would necessarily involve intent for the direct infringement the '552 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the '552 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

43. Defendant PHOENICS is thus liable for infringement of the '552 patent pursuant to 35 U.S.C. § 271.

44. On information and belief, Defendant SAMSUNG has been and now is infringing the '552 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent port, a second transparent port, and a third, non-transparent port, and logic for routing or transporting data between said ports.

45. Further, on information and belief, at least since becoming aware of the '552 patent, SAMSUNG has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '552 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

46. Upon information and belief, any such induced infringement by SAMSUNG would necessarily involve intent for the direct infringement the '552 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the '552 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

47. Defendant SAMSUNG is thus liable for infringement of the '552 patent pursuant to 35 U.S.C. § 271.

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 7,421,532

48. United States Patent No. 7,421,532 (“the ‘532 patent”) is entitled “Switching with Transparent and Non-Transparent Ports.”

49. The ‘532 patent was filed on January 6, 2005 and issued on September 2, 2008.

50. The ‘532 patent is a continuation-in-part of U.S. Application No. 10/993,277 filed Nov. 18, 2004 (now the ‘552 patent), which is entitled to priority from U.S. Application No. 60/523,246 filed Nov. 18, 2003.

51. The named inventors of the ‘532 patent are Heath Stewart, Michael de la Garrigue and Chris Haywood.

52. iMac is the assignee of all right, title and interest in the ‘532 patent. Accordingly, iMac has standing to bring this lawsuit for infringement of the ‘532 patent.

53. One or more claims of the ‘532 patent cover, inter alia, various apparatuses or methods comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent interface, a second transparent interface, a third, non-transparent, interface, and circuitry or functionality, for example, logic, for switching or transferring data between said interfaces.

54. On information and belief, Defendant ASUS has been and now is infringing the ‘532 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent interface, a second transparent interface, a third, non-transparent, interface, and circuitry or functionality, for example, logic, for switching or transferring data relative to said interfaces.

55. Further, on information and belief, at least since becoming aware of the '532 patent, ASUS has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '532 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

56. Upon information and belief, any such induced infringement by ASUS would necessarily involve intent for the direct infringement the '532 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the '532 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

57. Defendant ASUS is thus liable for infringement of the '532 patent pursuant to 35 U.S.C. § 271.

58. On information and belief, Defendant AVNET has been and now is infringing the '532 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent interface, a second transparent interface, a third, non-transparent, interface, and circuitry or functionality, for example, logic, for switching or transferring data relative to said interfaces.

59. Further, on information and belief, at least since becoming aware of the '532 patent, AVNET has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '532 patent in the State of Texas, in this judicial district,

and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

60. Upon information and belief, any such induced infringement by AVNET would necessarily involve intent for the direct infringement the '532 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the '532 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

61. Defendant AVNET is thus liable for infringement of the '532 patent pursuant to 35 U.S.C. § 271.

62. On information and belief, Defendant BEST BUY has been and now is infringing the '532 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent interface, a second transparent interface, a third, non-transparent, interface, and circuitry or functionality, for example, logic, for switching or transferring data relative to said interfaces.

63. Further, on information and belief, at least since becoming aware of the '532 patent, BEST BUY has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '532 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

64. Upon information and belief, any such induced infringement by BEST BUY would necessarily involve intent for the direct infringement the '532 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the '532 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

65. Defendant BEST BUY is thus liable for infringement of the '532 patent pursuant to 35 U.S.C. § 271.

66. On information and belief, Defendant CDW has been and now is infringing the '532 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent interface, a second transparent interface, a third, non-transparent, interface, and circuitry or functionality, for example, logic, for switching or transferring data relative to said interfaces.

67. Further, on information and belief, at least since becoming aware of the '532 patent, CDW has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '532 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

68. Upon information and belief, any such induced infringement by CDW would necessarily involve intent for the direct infringement the '532 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an

infringement of the '532 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

69. Defendant CDW is thus liable for infringement of the '532 patent pursuant to 35 U.S.C. § 271.

70. On information and belief, Defendant MOUSER has been and now is infringing the '532 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent interface, a second transparent interface, a third, non-transparent, interface, and circuitry or functionality, for example, logic, for switching or transferring data relative to said interfaces.

71. Further, on information and belief, at least since becoming aware of the '532 patent, MOUSER has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '532 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

72. Upon information and belief, any such induced infringement by MOUSER would necessarily involve intent for the direct infringement the '532 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the '532 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

73. Defendant MOUSER is thus liable for infringement of the '532 patent pursuant to 35 U.S.C. § 271.

74. On information and belief, Defendant PHOENICS has been and now is infringing the '532 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent interface, a second transparent interface, a third, non-transparent, interface, and circuitry or functionality, for example, logic, for switching or transferring data relative to said interfaces.

75. Further, on information and belief, at least since becoming aware of the '532 patent, PHOENICS has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '532 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

76. Upon information and belief, any such induced infringement by PHOENICS would necessarily involve intent for the direct infringement the '532 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the '532 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

77. Defendant PHOENICS is thus liable for infringement of the '532 patent pursuant to 35 U.S.C. § 271.

78. On information and belief, Defendant SAMSUNG has been and now is infringing the '532 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent interface, a second transparent interface, a third, non-transparent, interface, and circuitry or functionality, for example, logic, for switching or transferring data relative to said interfaces.

79. Further, on information and belief, at least since becoming aware of the '532 patent, SAMSUNG has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '532 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

80. Upon information and belief, any such induced infringement by SAMSUNG would necessarily involve intent for the direct infringement the '532 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the '532 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

81. Defendant SAMSUNG is thus liable for infringement of the '532 patent pursuant to 35 U.S.C. § 271.

COUNT III
INFRINGEMENT OF U.S. PATENT NO. 7,814,259

82. United States Patent No. 7,814,259 ("the '259 patent") is entitled "PCI Express Switch with Backwards Compatibility."

83. The '259 patent was filed on August 20, 2008 and issued on October 12, 2010.

84. The '259 patent is a continuation of U.S. Application No. 11/031,853, filed January 6, 2005 (now the '532 patent) ,which is a continuation-in-part of U.S. Application No. 10/993,277 filed Nov. 18, 2004 (now the '552 patent), which is entitled to priority from U.S. Application No. 60/523,246 filed Nov. 18, 2003.

85. The named inventors of the '259 patent are Heath Stewart, Michael de la Garrigue and Chris Haywood.

86. iMac is the assignee of all right, title and interest in the '259 patent. Accordingly, iMac has standing to bring this lawsuit for infringement of the '259 patent.

87. One or more claims of the '259 patent cover, inter alia, various apparatuses or methods comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent port, a second transparent port, a third port configurable to be transparent or non-transparent, and circuitry or functionality, for example, logic, for switching or transferring data between said ports.

88. On information and belief, Defendant ASUS has been and now is infringing the '259 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent port, a second transparent port, a third port configurable to be transparent or non-transparent, and circuitry or functionality, for example, logic, for switching or transferring data between said ports.

89. Further, on information and belief, at least since becoming aware of the '259 patent, ASUS has been or now is indirectly infringing by way of inducing infringement and/or

contributing to the infringement of the '259 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

90. Upon information and belief, any such induced infringement by ASUS would necessarily involve intent for the direct infringement the '259 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the '259 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

91. Defendant ASUS is thus liable for infringement of the '259 patent pursuant to 35 U.S.C. § 271.

92. On information and belief, Defendant AVNET has been and now is infringing the '259 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent port, a second transparent port, a third port configurable to be transparent or non-transparent, and circuitry or functionality, for example, logic, for switching or transferring data between said ports.

93. Further, on information and belief, at least since becoming aware of the '259 patent, AVNET has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '259 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

94. Upon information and belief, any such induced infringement by AVNET would necessarily involve intent for the direct infringement the '259 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the '259 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

95. Defendant AVNET is thus liable for infringement of the '259 patent pursuant to 35 U.S.C. § 271.

96. On information and belief, Defendant BEST BUY has been and now is infringing the '259 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent port, a second transparent port, a third port configurable to be transparent or non-transparent, and circuitry or functionality, for example, logic, for switching or transferring data between said ports.

97. Further, on information and belief, at least since becoming aware of the '259 patent, BEST BUY has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '259 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

98. Upon information and belief, any such induced infringement by BEST BUY would necessarily involve intent for the direct infringement the '259 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve

knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the '259 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

99. Defendant BEST BUY is thus liable for infringement of the '259 patent pursuant to 35 U.S.C. § 271.

100. On information and belief, Defendant CDW has been and now is infringing the '259 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent port, a second transparent port, a third port configurable to be transparent or non-transparent, and circuitry or functionality, for example, logic, for switching or transferring data between said ports.

101. Further, on information and belief, at least since becoming aware of the '259 patent, CDW has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '259 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

102. Upon information and belief, any such induced infringement by CDW would necessarily involve intent for the direct infringement the '259 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the '259 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

103. Defendant CDW is thus liable for infringement of the '259 patent pursuant to 35 U.S.C. § 271.

104. On information and belief, Defendant MOUSER has been and now is infringing the '259 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent port, a second transparent port, a third port configurable to be transparent or non-transparent, and circuitry or functionality, for example, logic, for switching or transferring data between said ports.

105. Further, on information and belief, at least since becoming aware of the '259 patent, MOUSER has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '259 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

106. Upon information and belief, any such induced infringement by MOUSER would necessarily involve intent for the direct infringement the '259 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the '259 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

107. Defendant MOUSER is thus liable for infringement of the '259 patent pursuant to 35 U.S.C. § 271.

108. On information and belief, Defendant PHOENICS has been and now is infringing the '259 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent port, a second transparent port, a third port configurable to be transparent or non-transparent, and circuitry or functionality, for example, logic, for switching or transferring data between said ports.

109. Further, on information and belief, at least since becoming aware of the '259 patent, PHOENICS has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '259 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

110. Upon information and belief, any such induced infringement by PHOENICS would necessarily involve intent for the direct infringement the '259 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the '259 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

111. Defendant PHOENICS is thus liable for infringement of the '259 patent pursuant to 35 U.S.C. § 271.

112. On information and belief, Defendant PLX has been and now is infringing the '259 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising

PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent port, a second transparent port, a third port configurable to be transparent or non-transparent, and circuitry or functionality, for example, logic, for switching or transferring data between said ports.

113. Further, on information and belief, at least since becoming aware of the ‘259 patent, PLX has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the ‘259 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

114. Upon information and belief, any such induced infringement by PLX would necessarily involve intent for the direct infringement the ‘259 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the ‘259 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

115. Defendant PLX is thus liable for infringement of the ‘259 patent pursuant to 35 U.S.C. § 271.

116. On information and belief, Defendant SAMSUNG has been and now is infringing the ‘259 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent port, a second transparent port, a third port configurable to be transparent or non-

transparent, and circuitry or functionality, for example, logic, for switching or transferring data between said ports.

117. Further, on information and belief, at least since becoming aware of the ‘259 patent, SAMSUNG has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the ‘259 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

118. Upon information and belief, any such induced infringement by SAMSUNG would necessarily involve intent for the direct infringement the ‘259 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the ‘259 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

119. Defendant SAMSUNG is thus liable for infringement of the ‘259 patent pursuant to 35 U.S.C. § 271.

120. On information and belief, Defendant TIGER DIRECT has been and now is infringing the ‘259 patent in the State of Texas, in this judicial district, and elsewhere in the United States by actions comprising making, using, selling or offering to sell methods or apparatuses comprising PCIExpress Switches, with such switch apparatuses or methods comprising a first transparent port, a second transparent port, a third port configurable to be transparent or non-transparent, and circuitry or functionality, for example, logic, for switching or transferring data between said ports.

121. Further, on information and belief, at least since becoming aware of the ‘259 patent, TIGER DIRECT has been or now is indirectly infringing by way of inducing infringement and/or contributing to the infringement of the ‘259 patent in the State of Texas, in this judicial district, and elsewhere in the United States, including in connection with inducing or contributing to the sale, offering for sale or use of said switches by others.

122. Upon information and belief, any such induced infringement by TIGER DIRECT would necessarily involve intent for the direct infringement the ‘259 patent and the aiding or abetting of such infringement, and any such contributory infringement would necessarily involve knowledge that such switch methods or apparatuses are especially made or especially adapted for use in an infringement of the ‘259 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

123. Defendant TIGER DIRECT is thus liable for infringement of the ‘259 patent pursuant to 35 U.S.C. § 271.

124. As a result of Defendants’ infringing conduct, Defendants should be held liable to iMac in an amount that adequately compensates iMac for their infringement, which, by law, can be no less than a reasonable royalty.

125. On information and belief, Defendants have had at least constructive notice of the ‘552, ‘532 and ‘259 patents by operation of law, and there are no marking requirements that have not been complied with.

126. iMac reserves the right to take discovery regarding Defendants actual pre-suit notice of the ‘552, ‘532 and/or ‘259 patents. In any event, on information and belief, iMac contends that, at a minimum, should the Defendants continue infringing the ‘552, ‘532 and/or ‘259 patents during the pendency of this suit, such infringement necessarily is willful, including

because Defendants' infringement is clear and, at a minimum, any continued infringement would necessarily be an objectively reckless act.

PRAYER FOR RELIEF

WHEREFORE, iMac respectfully requests that this Court enter:

1. A judgment in favor of iMac that Defendants have infringed, directly, jointly, and/or indirectly, by way of inducing and/or contributing to the infringement of the '552, '532 and '259 patents;
2. A judgment that the Defendants' infringement is now and/or has been willful and objectively reckless;
3. A permanent injunction enjoining Defendants, and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement, inducing the infringement of, or contributing to the infringement of the '552, '532 and '259 patents;
4. A judgment and order requiring Defendants to pay iMac its damages, costs, expenses, and prejudgment and post-judgment interest for Defendants' infringement of the '552, '532 and '259 patents as provided under 35 U.S.C. § 284;
5. An award to iMac for enhanced damages as provided under 35 U.S.C. § 284;
6. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to iMac its reasonable attorneys' fees; and
7. Any and all other relief to which iMac may show itself to be entitled.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

October 17, 2010

Respectfully submitted,

INTERNET MACHINES LLC

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