

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

CONSOLIDATED WORK STATION
COMPUTING, LLC,

Plaintiff,

v.

- (1) ACER AMERICA CORPORATION;
- (2) CDW CORPORATION;
- (3) CYBERTRON INTERNATIONAL
INC.;
- (4) EGENERA, INC.;
- (5) FREEDOM USA, INC. dba
AVADIRECT CUSTOM COMPUTERS;
- (6) FUJITSU AMERICA, INC.;
- (7) HEWLETT-PACKARD COMPANY;
- (8) HUAWEI TECHNOLOGIES USA INC.;
- (9) MCAFEE, INC.;
- (10) NEC CORPORATION OF AMERICA;
- (11) NEXT INTERNATIONAL, INC.;
- (12) PC CONNECTION EXPRESS, INC.;
- (13) PC MALL, INC.;
- (14) SIGNAL MICRO SYSTEMS, INC.;
- (15) SUPER MICRO COMPUTER, INC.;
- (16) TIGERDIRECT, INC.; and
- (17) UNIQUE DIGITAL TECHNOLOGY,
INC.;

Defendants.

CIVIL ACTION NO. 6:11-CV-696

ORIGINAL COMPLAINT FOR
PATENT INFRINGEMENT

JURY TRIAL DEMANDED

Plaintiff CONSOLIDATED WORK STATION COMPUTING, LLC files this Original Complaint against the above-named defendants, based on its own knowledge with respect to itself and its own actions and based on information and belief as to all other matters, as follows:

PARTIES

1. Consolidated Work Station Computing, LLC (“CWSC”) is a Texas limited liability company.

2. Defendant Acer America Corporation (“Acer”) is a corporation organized and existing under the laws of the State of California with a principal place of business located at 333 West San Carlos Street, Suite 1500, San Jose, California 95110. Acer can be served via its registered agent for service of process: CT Corporation System, 350 N. St. Paul St., Suite 2900; Dallas, Texas 75201-4234.

3. Defendant CDW Corporation (“CDW”) is a corporation organized and existing under the laws of the State of Delaware with a principal place of business located at 200 N. Milwaukee Avenue; Vernon Hills, Illinois 60061. Under the Texas Long Arm Statute, as well as the Texas Business Corporations Act, CDW can be served by serving the Secretary of State because CDW is doing business in Texas but has not registered an agent for the service of process in Texas. The address of CDW’s home, home office, and principal office is 200 N. Milwaukee Avenue; Vernon Hills, Illinois 60061.

4. Defendant Cybertron International Inc. (“Cybertron”) is a corporation organized and existing under the laws of the state of Kansas with a principal place of business at 4747 S. Emporia Street; Wichita, Kansas 67216. Under the Texas Long Arm Statute, as well as the Texas Business Corporations Act, Cybertron can be served by serving the Secretary of State because Cybertron is doing business in Texas but has not registered an agent for the service of process in Texas. The address of Cybertron’s home, home office, and principal office is 4747 S. Emporia Street; Wichita, Kansas 67216.

5. Defendant Egenera, Inc. (“Egenera”) is a corporation organized and existing under the laws of the state of Delaware with a principal place of business at 165 Forest Street; Marlborough, MA 01752. Under the Texas Long Arm Statute, as well as the Texas Business Corporations Act, Egenera can be served by serving the Secretary of State because Egenera is doing business in Texas but has not registered an agent for the service

of process in Texas. The address of Egenera's home, home office, and principal office is 165 Forest Street; Marlborough, MA 01752.

6. Defendant Freedom USA, Inc. dba AVADirect Custom Computers ("AVA") is a corporation organized and existing under the laws of the state of Ohio with a principal place of business at 1750 Highland Road, Suite 4; Twinsburg, OH 44087. Under the Texas Long Arm Statute, as well as the Texas Business Corporations Act, AVA can be served by serving the Secretary of State because AVA is doing business in Texas but has not registered an agent for the service of process in Texas. The address of AVA's home, home office, and principal office is 1750 Highland Road, Suite 4; Twinsburg, OH 44087.

7. Defendant Fujitsu America, Inc. ("Fujitsu") is a corporation organized and existing under the laws of the state of California with a principal place of business at 1250 East Argue Avenue; Sunnyvale, CA 94085-5401. Fujitsu can be served via its registered agent for service of process: CT Corporation System; 350 N. St. Paul St., Ste. 2900; Dallas, Texas 75201-4234.

8. Defendant Hewlett-Packard Company is a corporation organized and existing under the laws of the state of Delaware. HP has a substantial presence in Plano, Texas (HP Enterprise Services, formerly Electronic Data Systems, Inc.), as well as in Houston, Texas (from its acquisition of Compaq). HP can be served via its registered agent for service of process: CT Corporation System; 350 N. St. Paul St., Ste. 2900; Dallas, Texas 75201-4324.

9. Defendant Huawei Technologies USA Inc. ("Huawei") is a corporation organized and existing under the laws of the State of Texas with a principal place of business located at 5700 Tennyson Parkway; Ste. 500; Plano, Texas 75024. Huawei can be served via its registered agent for service of process: CT Corporation System, 350 N. St. Paul St., Suite 2900; Dallas, Texas 75201-4234.

10. Defendant McAfee, Inc. ("McAfee") is a corporation organized and existing under the laws of the State of Delaware with a principal place of business located at 5000

Headquarters Drive; Plano, Texas 75024. McAfee can be served via its registered agent for service of process: CT Corporation System, 350 N. St. Paul St., Suite 2900; Dallas, Texas 75201-4234.

11. Defendant NEC Corporation of America (“NEC”) is a corporation organized and existing under the laws of the state of Nevada with a principal place of business at 6535 North State Highway 161; Irving, Texas 75039. NEC can be served via its registered agent for service of process: National Registered Agents, Inc.; 16055 Space Center Blvd., Ste. 235; Houston, Texas 77062.

12. Defendant Next International, Inc. (“Next”) is a corporation organized and existing under the laws of the state of Texas with a principal place of business at 13725 Gamma Road; Farmers Branch, Texas 75244. Next can be served via its registered agent for service of process: Hussein Kursad Dogru; 13622 Neutron Road; Dallas, Texas 75244.

13. Defendant PC Connection Express, Inc. (“PCE”) is a corporation organized and existing under the laws of the state of Delaware with a principal place of business at 222 International Drive, Suite 125; Portsmouth, NH 03801. Under the Texas Long Arm Statute, as well as the Texas Business Corporations Act, PCE can be served by serving the Secretary of State because PCE is doing business in Texas but has not registered an agent for the service of process in Texas. The address of PCE’s home, home office, and principal office is 222 International Drive, Suite 125; Portsmouth, NH 03801.

14. Defendant PC Mall, Inc. (“PC Mall”) is a corporation organized and existing under the laws of the State of Delaware with a principal place of business located at 2555 West 90th Street, Ste. 201; Torrance, CA 90504. Under the Texas Long Arm Statute, as well as the Texas Business Corporations Act, PC Mall can be served by serving the Secretary of State because PC Mall is doing business in Texas but has not registered an agent for the service of process in Texas. The address of PC Mall’s home, home office, and principal office is 2555 West 90th Street, Ste. 201; Torrance, CA 90504.

15. Defendant Signal Micro Systems, Inc. (“SMS”) is a corporation organized and existing under the laws of the state of Texas with a principal place of business at 16837 Addison Road, Ste. 300; Addison, Texas 75001. SMS can be served via its registered agent for service of process: Brent Dell; 4472 Spring Valley Road; Dallas, Texas 75244.

16. Defendant Super Micro Computer, Inc. (“Super Micro”) is a corporation organized and existing under the laws of the state of Delaware with a principal place of business at 980 Rock Avenue; San Jose, CA 95131. Under the Texas Long Arm Statute, as well as the Texas Business Corporations Act, Super Micro can be served by serving the Secretary of State because Super Micro is doing business in Texas but has not registered an agent for the service of process in Texas. The address of Super Micro’s home, home office, and principal office is 980 Rock Avenue; San Jose, CA 95131.

17. Defendant TigerDirect, Inc. (“TigerDirect”) is a corporation organized and existing under the laws of the State of Florida with a principal place of business located at 7795 West Flagler St., Ste. 35; Miami, FL 33144. Under the Texas Long Arm Statute, as well as the Texas Business Corporations Act, TigerDirect can be served by serving the Secretary of State because TigerDirect is doing business in Texas but has not registered an agent for the service of process in Texas. The address of TigerDirect’s home, home office, and principal office is 7795 West Flagler St., Ste. 35; Miami, FL 33144.

18. Defendant Unique Digital Technology, Inc. (“UDI”) is a corporation organized and existing under the laws of the state of Texas with a principal place of business at 10595 Westoffice Drive; Houston, TX 77042 as well as an office in Dallas, Texas. UDI can be served via its registered agent for service of process: 10595 Westoffice; 10595 Westoffice Drive; Houston, Texas 77042.

JURISDICTION AND VENUE

19. This is an action for infringement of a United States patent arising under 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has subject matter jurisdiction of the action under 28 U.S.C. §1331 and §1338(a).

20. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b). Upon information and belief, each defendant has transacted business in this district, and has committed and/or induced acts of patent infringement in this district.

21. Each defendant is 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 each defendant's substantial business in this forum, 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 Texas and in this district.

JOINDER

22. Defendants are properly joined under 35 U.S.C. § 299(a)(1) because a right to relief is asserted against the parties jointly, severally, and in the alternative with respect to the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, and/or selling the same accused products. Specifically, as alleged in detail below, defendants are alleged to infringe the patent in suit with respect to a large number of overlapping blade server products.

23. Defendants are properly joined under 35 U.S.C. § 299(a)(2). Questions of fact will arise that are common to all defendants, including for example, whether the overlapping blade server products alleged to infringe have features that meet the limitations of one or more claims of the patent-in-suit, and what reasonable royalty will be adequate to compensate the owner of the patent-in-suit for its infringement.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 6,823,475

24. On November 23, 2004, United States Patent No. 6,823,475 (“the 475 patent”) was duly and legally issued by the United States Patent and Trademark Office for an invention entitled “PC-CPU Motherboards With Common Fault-Tolerant Power Supply.” A true and correct copy of the 475 patent is attached hereto as Exhibit A.

25. CWSC is the owner of the 475 patent with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the 475 patent against infringers, and to collect damages for all relevant times.

26. Acer directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least AB blade server systems) that infringed one or more claims of the 475 patent. In addition, Acer induced infringement and/or contributed to the infringement of one or more of the claims of the 475 patent by its customers. Acer’s infringements were willful and with full knowledge of the 475 patent and/or with willful blindness to its existence.

27. CDW directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least Fujitsu, HP, and McAfee blade server systems) that infringed one or more claims of the 475 patent. In addition, CDW induced infringement and/or contributed to the infringement of one or more of the claims of the 475 patent by its customers. CDW’s infringements were willful and with full knowledge of the 475 patent and/or with willful blindness to its existence.

28. Cybertron directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least Bladetrion blade server systems) that infringed one or more claims of the 475 patent. In addition, Cybertron induced infringement and/or contributed

to the infringement of one or more of the claims of the 475 patent by its customers. Cybertron's infringements were willful and with full knowledge of the 475 patent and/or with willful blindness to its existence.

29. Egenera directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least HP, Fujitsu, and Egenera BladeFrame blade server systems) that infringed one or more claims of the 475 patent. In addition, Egenera induced infringement and/or contributed to the infringement of one or more of the claims of the 475 patent by its customers. Egenera's infringements were willful and with full knowledge of the 475 patent and/or with willful blindness to its existence.

30. AVA directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least Supermicro blade server systems) that infringed one or more claims of the 475 patent. In addition, AVA induced infringement and/or contributed to the infringement of one or more of the claims of the 475 patent by its customers. AVA's infringements were willful and with full knowledge of the 475 patent and/or with willful blindness to its existence.

31. Fujitsu directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least Primergy blade server systems) that infringed one or more claims of the 475 patent. In addition, Fujitsu induced infringement and/or contributed to the infringement of one or more of the claims of the 475 patent by its customers. Fujitsu's infringements were willful and with full knowledge of the 475 patent and/or with willful blindness to its existence.

32. HP directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least BladeSystem blade server systems) that infringed one or more claims of

the 475 patent. In addition, HP induced infringement and/or contributed to the infringement of one or more of the claims of the 475 patent by its customers. HP's infringements were willful and with full knowledge of the 475 patent and/or with willful blindness to its existence.

33. Huawei directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least Tecal blade server systems) that infringed one or more claims of the 475 patent. In addition, Huawei induced infringement and/or contributed to the infringement of one or more of the claims of the 475 patent by its customers. Huawei's infringements were willful and with full knowledge of the 475 patent and/or with willful blindness to its existence.

34. McAfee directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least Content Security blade server systems) that infringed one or more claims of the 475 patent. In addition, McAfee induced infringement and/or contributed to the infringement of one or more of the claims of the 475 patent by its customers. McAfee's infringements were willful and with full knowledge of the 475 patent and/or with willful blindness to its existence.

35. NEC directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least Sigma Blade blade server systems) that infringed one or more claims of the 475 patent. In addition, NEC induced infringement and/or contributed to the infringement of one or more of the claims of the 475 patent by its customers. NEC's infringements were willful and with full knowledge of the 475 patent and/or with willful blindness to its existence.

36. Next directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems

(including at least Supermicro server systems) that infringed one or more claims of the 475 patent. In addition, Next induced infringement and/or contributed to the infringement of one or more of the claims of the 475 patent by its customers. Next's infringements were willful and with full knowledge of the 475 patent and/or with willful blindness to its existence.

37. PCE directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least HP and Supermicro blade server systems) that infringed one or more claims of the 475 patent. In addition, PCE induced infringement and/or contributed to the infringement of one or more of the claims of the 475 patent by its customers. PCE's infringements were willful and with full knowledge of the 475 patent and/or with willful blindness to its existence.

38. PC Mall directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least Supermicro, HP, Acer, Huawei, and McAfee blade server systems) that infringed one or more claims of the 475 patent. In addition, PC Mall induced infringement and/or contributed to the infringement of one or more of the claims of the 475 patent by its customers. PC Mall's infringements were willful and with full knowledge of the 475 patent and/or with willful blindness to its existence.

39. SMS directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least HP and Supermicro blade server systems) that infringed one or more claims of the 475 patent. In addition, SMS induced infringement and/or contributed to the infringement of one or more of the claims of the 475 patent by its customers. SMS's infringements were willful and with full knowledge of the 475 patent and/or with willful blindness to its existence.

40. Super Micro directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least SuperBlade blade server systems) that infringed one or more claims of the 475 patent. In addition, Super Micro induced infringement and/or contributed to the infringement of one or more of the claims of the 475 patent by its customers. Super Micro's infringements were willful and with full knowledge of the 475 patent and/or with willful blindness to its existence.

41. TigerDirect directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least Cybertron and HP blade server systems) that infringed one or more claims of the 475 patent. In addition, TigerDirect induced infringement and/or contributed to the infringement of one or more of the claims of the 475 patent by its customers. TigerDirect's infringements were willful and with full knowledge of the 475 patent and/or with willful blindness to its existence.

42. UDI directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least Supermicro server systems) that infringed one or more claims of the 475 patent. In addition, UDI induced infringement and/or contributed to the infringement of one or more of the claims of the 475 patent by its customers. UDI's infringements were willful and with full knowledge of the 475 patent and/or with willful blindness to its existence.

43. CWSC has been damaged as a result of the infringing conduct by defendants alleged above and, thus, such defendants are liable to CWSC in an amount that adequately compensates it for their infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

JURY DEMAND

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

PRAYER FOR RELIEF

CWSC requests that the Court find in its favor and against defendants, and that the Court grant CWSC the following relief:

- a. Judgment that one or more claims of United States Patent No. 6,823,475 have been infringed, either literally and/or under the doctrine of equivalents, by one or more defendants and/or by others to whose infringement defendants have contributed and/or by others whose infringement has been induced by defendants;
- b. 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 infringement of, or contributing to infringement of the 475 patent;
- c. Judgment that defendants account for and pay to CWSC all damages to and costs incurred by CWSC because of defendants' infringing activities and other conduct complained of herein;
- d. That defendants' infringements be found to be willful, and that the Court award treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284;
- e. That CWSC be granted pre-judgment and post-judgment interest on the damages caused by defendants' infringing activities and other conduct complained of herein;
- f. That this Court declare this an exceptional case and award CWSC its reasonable attorney's fees and costs in accordance with 35 U.S.C. § 285; and
- g. That CWSC be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: December 22, 2011

Respectfully submitted,

/s/ Matthew J. Antonelli
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