

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

POWERLINE INNOVATIONS, LLC,
Plaintiff,
v.
NETGEAR, INC.
Defendant.

Civil Action No. 6:12-cv-763

JURY TRIAL DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff Powerline Innovations, LLC ("Plaintiff"), by and through its undersigned counsel, files this Original Complaint against NETGEAR, Inc. ("Defendant"), as follows:

NATURE OF THE ACTION

1. This is a patent infringement action to stop Defendant's infringement of Plaintiff's United States Patent No. 8,157,581, titled "Thermal Management Method and Device for Powerline Communications" (the "'581 Patent"), a copy of which is attached hereto as Exhibit A). Plaintiff is the assignee of the '581 Patent. Plaintiff seeks injunctive relief and monetary damages.

PARTIES

2. Plaintiff is a limited liability company organized and existing under the laws of the State of Texas. Plaintiff maintains its principal place of business at 555 Republic Drive, Suite 200, Plano, TX 75074. Plaintiff is authorized to do business in Texas. Plaintiff is the assignee of the '581 Patent, and possesses the right to sue for infringement and recover past damages.

3. On information and belief, Defendant NETGEAR, Inc. ("NETGEAR") is a Delaware corporation with its principal place of business at 350 East Plumeria Drive, San Jose,

CA 95134. This Defendant has appointed Incorporating Services, Ltd., 3500 South Dupont Highway, Dover, DE 19901, as its agent for service of process.

JURISDICTION AND VENUE

4. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271, 281, 283, 284, and 285. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

5. The Court has personal jurisdiction over Defendant because: Defendant has minimum contacts within the State of Texas and the Eastern District of Texas; Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in the Eastern District of Texas; Defendant has sought protection and benefit from the laws of the State of Texas; Defendant regularly conducts business within the State of Texas and within the Eastern District of Texas; and Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Texas and in the Eastern District of Texas.

6. More specifically, Defendant, directly and/or through intermediaries, ships, distributes, offers for sale, sells, and/or advertises (including the provision of an interactive web page) its products and services in the United States, the State of Texas, and the Eastern District of Texas. Upon information and belief, Defendant has committed patent infringement in the State of Texas and in the Eastern District of Texas, has contributed to patent infringement in the State of Texas and in the Eastern District of Texas, and/or has induced others to commit patent infringement in the State of Texas and in the Eastern District of Texas. Defendant solicits and has solicited customers in the State of Texas and in the Eastern District of Texas. Defendant has many paying customers who are residents of the State of Texas and the Eastern District of Texas

and who each use and have used the respective Defendant's products and services in the State of Texas and in the Eastern District of Texas.

7. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1391 and 1400(b).

COUNT I – PATENT INFRINGEMENT

8. The '581 Patent was duly and legally issued by the United States Patent and Trademark Office on April 17, 2012, after full and fair examination. Plaintiff is the assignee of the '581 Patent, and possesses all rights of recovery under the '581 Patent with respect to the Defendant, including the right to sue for infringement and recover past damages.

9. Upon information and belief, Defendant NETGEAR has infringed and continues to infringe one or more claims of the '581 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by making, using, providing, offering to sell, and selling (directly or through intermediaries), its products, including, without limitation, Powerline Models XAVB1501, XAVB1601, XAV2001, XAVN2001, XAVB2001, XAVNB2001, XAV2101, XAVB2101, XAUB2511, XWN5001, XAVB5001, XAVB5101, XWNB5201, XAVB5601, XAVB5602 products, which are plug in power line module apparatuses covered by one or more claims of the '581 Patent to the injury of Plaintiff.

10. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

11. Plaintiff is entitled to recover from the Defendant the damages sustained by Plaintiff as a result of the Defendant's wrongful acts in an amount subject to proof at trial, 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

12. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

Plaintiff respectfully requests that the Court find in its favor and against Defendant, and that the Court grant Plaintiff the following relief:

A. An adjudication that one or more claims of the '581 Patent has been infringed, either literally and/or under the doctrine of equivalents, by Defendant and/or by others to whose infringement Defendant has contributed and/or by others whose infringement has been induced by Defendant;

B. An award to Plaintiff of damages adequate to compensate Plaintiff for the Defendant's acts of infringement together with pre-judgment and post-judgment interest;

C. That the Defendant's acts of infringement be found to be willful from the time that Defendant became aware of the infringing nature of its actions, which is the time of filing of Plaintiff's Original Complaint, at the latest, and that the Court award treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284;

D. That this Court declare this to be an exceptional case and award Plaintiff its reasonable attorneys' fees and costs in accordance with 35 U.S.C. §285; and

E. Any further relief that this Court deems just and proper.

Respectfully submitted,

Dated: October 10, 2012

By: /s/ Hao Ni

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