**IN THE UNITED STATES DISTRICT COURT**
**FOR THE WESTERN DISTRICT OF TEXAS**
**WACO DIVISION**

| | |
|---|---|
| Corrigent Corporation<br><br>Plaintiff,<br><br>v.<br><br>Cisco Systems, Inc.<br><br>Defendant. | Civil Action No. 6:22-cv-00396-ADA<br><br>**JURY TRIAL DEMANDED** |

**PLAINTIFF CORRIGENT CORPORATION'S**
**PRELIMINARY INFRINGEMENT CONTENTIONS**

Plaintiff Corrigent Corporation ("Corrigent" or "Plaintiff") hereby serves its Preliminary Infringement Contentions on Defendant Cisco Systems, Inc. ("Cisco" or "Defendant") pursuant to paragraph 2 of the Standing Order Governing Proceedings (OGP) 4.1–Patent Cases entered on April 14, 2022. These Preliminary Infringement Contentions include "preliminary infringement contentions chart[s] setting forth where the accused product(s) each element of the asserted claim(s) are found." *Id*.

| Asserted Patents | Claim Charts |
|---|---|
| U.S. Patent No. 6,957,369 ("'369 patent") | Exhibit 1 |
| U.S. Patent No. 7,113,485 ("'485 patent") | Exhibit 2 |
| U.S. Patent No. 7,330,431 ("'431 patent") | Exhibit 3 |
| U.S. Patent No. 7,593,400 ("'400 patent") | Exhibit 4 |
| U.S. Patent No. 9,118,602 ("'602 patent") | Exhibit 5 |

These Preliminary Infringement Contentions also "identify the priority date (*i.e.*, the earliest date of invention) for each asserted claim." *Id*. Corrigent has also served, contemporaneously with its Preliminary Infringement Contentions: "a copy of the file history for each patent in suit." *Id.*; *see* COR-CSC00000001 - COR-CSC00002323. Corrigent also performed a reasonable search for "all



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documents evidencing conception and reduction to practice for each claimed invention" within Corrigent's possession, custody, and control, and states that no such documents exist. *Id*.

Corrigent bases its Preliminary Infringement Contentions on its current knowledge, understanding, and belief as to the facts and information available as of the date of this disclosure, without the benefit of substantial discovery or *Markman* Order. As with the rest of Corrigent's Preliminary Infringement Contentions, Corrigent's claim charts are preliminary and exemplary in nature, and may not necessarily capture the precise nature or entire scope of Defendant's infringement. Corrigent reserves the right to supplement these Preliminary Infringement Contentions to allege other theories of infringement based on Corrigent's continuing investigation during the course of discovery (including any relevant discovery responses served and documents produced, as well as those that are served and produced in the future), or in response to positions taken by Defendant as the case proceeds. Corrigent further reserves the right to modify, supplement, amend, or otherwise alter these Preliminary Infringement Contentions as discovery progresses, as permitted by the Federal Rules of Civil Procedure, the Standing Order Governing Proceedings (OGP) 4.1–Patent Cases entered on April 14, 2022, or by order of the Court. In particular, Corrigent reserves the right to modify, supplement, amend, or otherwise alter these Preliminary Infringement Contentions following the Court's *Markman* Order and the opportunity for expert discovery. In addition to the documents cited in Exhibits 1–5 of these Preliminary Infringement Contentions, expert discovery is likely to show that the Accused Products practice the limitations of the Asserted Claims. Corrigent will provide its expert disclosures as required and pursuant to the deadlines set forth in the Scheduling Order.

These disclosures contend that Defendant's network routing and switching products infringe U.S. Patent Nos. 6,957,369 ("'369 patent"), 7,113,485 ("'485 patent"), 7,330,431 ("'431

patent"), and 7,593,400 ("'400 patent"), and 9,118,602 ("'602 patent") (collectively, "Asserted Patents"). Specifically, these disclosures contend the Defendant infringes (1) at least claims 1–26 of the '369 patent; (2) at least claims 1–20 of the '485 patent; (3) at least claims 1–30 of the '431 patent; (4) at least claims 1–20 of the '400 patent; and (5) at least claims 1–26 of the '602 patent (collectively, "Asserted Claims").

Corrigent identifies through these Preliminary Infringement Contentions, including the claim charts of Exhibits 1–5, the following products that infringe the Asserted Claims of the Asserted Patents (collectively, "Accused Products"). The Accused Products specifically identified in the claim charts of Exhibits 1–5 are representative of the other Accused Products identified herein, and each Accused Product has the same or substantially similar structure, function, configuration, and operation.

| Asserted Patents | Asserted Claims | Accused Products |
|---|---|---|
| '369 patent | 1–26 | Cisco's Nexus 7000 Series Switches,[1] Nexus 9000 Series Switches,[2] and Catalyst 9500 Series Switches[3] |

[1] Including, on information and belief, e.g., N7K-C7004 - Cisco Nexus 7000 4-Slot Switch, N7K-C7009 - Cisco Nexus 7000 9-Slot Switch, N7K-C7010 - Cisco Nexus 7000 10-Slot Switch, N7K-C7018 - Cisco Nexus 7000 18-Slot Switch.

[2] Including, on information and belief, e.g., Cisco Nexus 9800 Modular Switches, Cisco Nexus 9500 Modular Switches, Cisco Nexus 9400 Centralized Modular Switches, Cisco Nexus 9000 Fixed Switches, further including, on information and belief, e.g., N9K-C9808- Cisco Nexus 9800 8-slot chassis, N9K-C9504: 4-Slot Chassis, N9K-C9508: 8-Slot Chassis, N9K-C9516: 16-Slot Chassis, N9K-C9408 - Nexus 9400 Chassis with 8 linecard slots, • N9K-C9364D-GX2A, N9K-C9348D-GX2A, N9K-C9332D-GX2B, N9K-C9316D-GX, N9K-C93600CD-GX, N9K-C9364C-GX, N9K-C9336PQ, N9K-C9364C, N9K-C9332C, N9K-C93180YC-FX3, N9K-C93180YC-FX3S, N9K-C93108TC-FX3P, N9K-C93180YC-FX, N9K-C93108TC-FX, N9K-C9348GC-FX, N9K-C9336C-FX2, N9K-C9336C-FX2-E, N9K-C93240YC-FX2, N9K-C93360YC-FX2, N9K-C93216TC-FX2, N9K-C93180YC-EX, N9K-C93108TC-EX, N9K-C93180LC-EX, N9K-C93180YC-FX-24, N9K-C93108TC-FX-24, N9K-C93180YC-EX-24, N9K-C93108TC-EX-24, N9K- C92348GC-X, N9K-C92160YC-X, N9K-C9272Q, N9K-C92304QC, N9K-C9236C, N9K-C92300YC, N9K-C9396PX, N9K-C9396TX, N9K-C93128TX, N9K-C93120TX, N9K-C9332PQ, N9K-C9372PX-E, N9K-C9372TX-E, N9K-C9372PX, N9K-C9372TX.

[3] Including, on information and belief, e.g., C9500X-28C8D-A, C9500X-28C8D-E, C9500-32C-E, C9500-32C-A, C9500-32QC-E, C9500-32QC-A, C9500-48Y4C-E, C9500-48Y4C-A, C9500-

| Asserted Patents | Asserted Claims | Accused Products |
|---|---|---|
| ’485 patent | 1–20 | Cisco ASR 9000 Series Routers,[4] Cisco Catalyst 8000 EDGE Platforms,[5] Cisco NCS 540/560 Series Routers[6] |
| ’431 patent | 1–30 | Cisco’s “Collaboration Platform” Compatible Products[7] |
| ’400 patent | 1–20 | Cisco ASR 9000 Series Routers[8] |

24Y4C-E, C9500-24Y4C-A, C9500-24Q-E, C9500-24Q-A, C9500-12Q-E, C9500-12Q-A, C9500-40X-E, C9500-40X-A, C9500-16X-E, C9500-16X-A.

[4] Including, on information and belief, e.g., ASR 9922, ASR 9912, ASR 9910, ASR 9906, ASR 9904, ASR 9903, ASR 9902, ASR 9901, ASR 9010, ASR 9006, ASR 9001, ASR 9000v-2.

[5] Including, on information and belief, e.g., C8200-1N-4T, C8200L-1N-4T, C8200-UCPE-1N8, Catalyst 8300-1N1S-6T, Catalyst 8300-1N1S-4T2X, Catalyst 8300-2N2S-6T, Catalyst 8300-2N2S-4T2X, Catalyst 8500L (PID: C8500L-8S4X), Catalyst 8500 (PID: C8500-12X), Catalyst 8500-4QC (PID: C8500-12X4QC).

[6] Including, on information and belief, e.g., N540-FH-CSR-SYS , N540-FH-AGG-SYS, N540-24Q8L2DD-SYS, N540-24Z8Q2C-SYS, N540-ACC-SYS, N540X-ACC-SYS, N540X-16Z4G8Q2C-A, N540X-16Z4G8Q2C-D, N540X-12Z16G-SYS-A, N540X-12Z16G-SYS-D, N540-28Z4C-SYS-A, N540-28Z4C-SYS-D, N540-12Z20G-SYS-A, N540-12Z20G-SYS-D, N540X-16Z8Q2C-D, N540X-6Z18G-SYS-A, N540X-6Z18G-SYS-D, N540X-8Z16G-SYS-A, N540X-8Z16G-SYS-D, N540X-4Z14G2Q-A, N540X-4Z14G2Q-D, N540-6Z14S-SYS-D, NCS 560-4, NCS 560-7.

[7] Including, on information and belief, e.g., Cisco BE7000.

[8] Including, on information and belief, e.g., ASR 9922, ASR 9912, ASR 9910, ASR 9906, ASR 9904, ASR 9903, ASR 9902, ASR 9901, ASR 9010, ASR 9006, ASR 9001, ASR 9000v-2.

| Asserted Patents | Asserted Claims | Accused Products |
|---|---|---|
| ’602 patent | 1–26 | Cisco’s Nexus 7000 Series Switches,[9] Nexus 9000 Series Switches,[10] Cisco ASR 9000 Series Routers,[11] |

More specifically, Corrigent contends that Defendant directly infringes under 35 U.S.C. § 271(a), either literally or by the doctrine of equivalents, and/or indirectly infringes, by both inducing direct infringement and contributing to direct infringement under 35 U.S.C. §§ 271(b) and (c) at least claims 1–26 of the ’369 patent; at least claims 1–20 of the ’485 patent; at least claims 1–30 of the ’431 patent; at least claims 1–20 of the ’400 patent; and at least claims 1–26 of the ’602 patent by Defendant’s making, using, selling, offering for sale, and/or importing the Accused Products.

Presently, and during all relevant times, Corrigent has been and is the sole owner of all right, title, and interest in the Asserted Patents, including the right to recover for past infringement.

Corrigent contends through these Preliminary Infringement Contentions that the priority date for each Asserted Claim of the ’369 patent is no later than May 30, 2002, the filing date of U.S. Application No. 10/156,851, to which the ’369 patent claims priority. *See* ’369 patent at (22)

[9] Including, on information and belief, e.g., N7K-C7004 - Cisco Nexus 7000 4-Slot Switch, N7K-C7009 - Cisco Nexus 7000 9-Slot Switch, N7K-C7010 - Cisco Nexus 7000 10-Slot Switch, N7K-C7018 - Cisco Nexus 7000 18-Slot Switch.

[10] Including, on information and belief, e.g., Cisco Nexus 9800 Modular Switches, Cisco Nexus 9500 Modular Switches, Cisco Nexus 9400 Centralized Modular Switches, Cisco Nexus 9000 Fixed Switches, further including, on information and belief, e.g., N9K-C9808- Cisco Nexus 9800 8-slot chassis, N9K-C9504: 4-Slot Chassis, N9K-C9508: 8-Slot Chassis, N9K-C9516: 16-Slot Chassis, N9K-C9408 - Nexus 9400 Chassis with 8 linecard slots, • N9K-C9364D-GX2A, N9K-C9348D-GX2A, N9K-C9332D-GX2B, N9K-C9316D-GX, N9K-C93600CD-GX, N9K-C9364C-GX, N9K-C9336PQ, N9K-C9364C, N9K-C9332C, N9K-C93180YC-FX3, N9K-C93180YC-FX3S, N9K-C93108TC-FX3P, N9K-C93180YC-FX, N9K-C93108TC-FX, N9K-C9348GC-FX, N9K-C9336C-FX2, N9K-C9336C-FX2-E, N9K-C93240YC-FX2, N9K-C93360YC-FX2, N9K-C93216TC-FX2, N9K-C93180YC-EX, N9K-C93108TC-EX, N9K-C93180LC-EX, N9K-C93180YC-FX-24, N9K-C93108TC-FX-24, N9K-C93180YC-EX-24, N9K-C93108TC-EX-24, N9K- C92348GC-X, N9K-C92160YC-X, N9K-C9272Q, N9K-C92304QC, N9K-C9236C, N9K-C92300YC, N9K-C9396PX, N9K-C9396TX, N9K-C93128TX, N9K-C93120TX, N9K-C9332PQ, N9K-C9372PX-E, N9K-C9372TX-E, N9K-C9372PX, N9K-C9372TX.

[11] Including, on information and belief, e.g., ASR 9922, ASR 9912, ASR 9910, ASR 9906, ASR 9904, ASR 9903, ASR 9902, ASR 9901, ASR 9010, ASR 9006, ASR 9001, ASR 9000v-2.

(Filed: May 30, 2002).

Corrigent contends through these Preliminary Infringement Contentions that the priority date for each Asserted Claim of the ’485 patent is no later than September 4, 2001, the filing date of U.S. Application No. 09/947,183, to which the ’485 patent claims priority. *See* ’485 patent at (22) (Filed: September 4, 2001).

Corrigent contends through these Preliminary Infringement Contentions that the priority date for each Asserted Claim of the ’431 patent is no later than September 3, 2004, the filing date of U.S. Application No. 10/933,572, to which the ’431 patent claims priority. *See* ’431 patent at (22) (Filed: September 3, 2004).

Corrigent contends through these Preliminary Infringement Contentions that the priority date for each Asserted Claim of the ’400 patent is no later than May 19, 2006, the filing date of U.S. Application No. 11/419,444, to which the ’400 patent claims priority. *See* ’400 patent at (22) (Filed: May 19, 2006).

Corrigent contends through these Preliminary Infringement Contentions that the priority date for each Asserted Claim of the ’602 patent is no later than May 6, 2005, the filing date of U.S. Application No. 11/123,801, to which the ’602 patent claims priority. *See* ’602 patent at (63) (Related U.S. Application Data).

Documents and discovery may support Corrigent’s claim to an earlier priority date for each Asserted Claim. Corrigent reserves the reserves the right to identify and rely on an earlier priority date for each Asserted Claim following discovery and completion of Corrigent’s continuing investigation during the course of discovery or in response to positions taken by Defendant as the case proceeds including, for example, Defendant’s identification of and reliance on prior art to the Asserted Patents.

Corrigent identifies the above Accused Products in these disclosures, but further discovery may be necessary to reveal additional Accused Products. Corrigent reserves the right to modify, supplement, amend, or otherwise alter these disclosures based on forthcoming discovery. The identification of Accused Products is exemplary. Defendant may readily ascertain, based on these disclosures, other products that practice one or more claims of the Asserted Patents.

Corrigent provides these disclosures without the benefit of a *Markman* Order. Corrigent reserves the right to modify, supplement, amend, or otherwise alter these disclosures after receiving the Court's *Markman* Order.

Corrigent provides these Preliminary Infringement Contentions without the benefit of fact discovery, including document production of Defendant's technical documents related to the Accused Products. Corrigent reserves the right to modify, supplement, amend, or otherwise alter these Preliminary Infringement Contentions following discovery including production of Defendant's technical documents related to the Accused Products.

Corrigent provides these disclosures without the benefit of receiving and reviewing the source code for the Accused Products, which is likely to show that the Accused Products practice the limitations of the Asserted Claims and/or one or more additional claims of the Asserted Patents. Corrigent reserves the right to modify, supplement, amend, or otherwise alter these disclosures after receiving and reviewing the source code for the Accused Products.

Further fact and expert discovery may also reveal that Defendant infringes additional claims and Corrigent reserves the right to modify, supplement, amend, or otherwise alter these disclosures on that basis.

Nothing in these disclosures, including Exhibits 1–5, is, or should be construed as, an admission regarding Corrigent's understanding of the proper scope of the Asserted Claims,



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Corrigent's preliminary construction of any asserted claim or claim term(s), or Corrigent's position on whether any claim term(s) should be construed by the Court.

With regard to the claim charts attached as Exhibits 1–5, the citation of a particular document or documents with respect to a particular claim or claim element is not an admission and should not be construed as an admission that only the cited portion of the document or only the cited document(s) are relevant to that particular claim or claim element. The citations included in Exhibits 1–5 are only exemplary in nature, and the cited documents may contain additional support for a particular claim element (including references to additional documents) and/or additional documents may contain additional support for a particular claim element. Corrigent reserves the right to rely on uncited portions of documents and other uncited documents with regard to its allegations of infringement. In addition, each dependent claim in Exhibits 1–5 should be read to include the citations provided for each independent claim from which it depends.

The Accused Products literally infringe the Asserted Claims of the Asserted Patents as set forth in Exhibits 1–5, for example. Corrigent reserves the right to assert infringement under the doctrine of equivalents after receiving discovery regarding the design and operation of the Accused Products, including the source code for the Accused Products; after receiving Defendant's non-infringement, invalidity, and claim construction positions; and after receiving the Court's *Markman* Order.

Defendant has been on actual notice of '485 patent and Defendant's infringement of the '485 patent since at least no later than around March 20, 2017, and at least no later than April 19, 2022, the date Corrigent filed its Complaint. *See* Dkt. 1 ¶¶ 49–55; Dkt. 15, 16. Defendant has been on actual notice of other Asserted Patents, the '369, '431, '400, and '600 patents, since at least no later than April 19, 2022, the date Corrigent filed its Complaint. *Id.*; Dkt. 15, 16



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(stipulating to dismiss only Corrigent's allegations of pre-suit willful and indirect infringement of the '369, '431, '400, and '602 patents).

Since at least the date Defendant had actual notice of the Asserted Patents (e.g., least no later than around March 20, 2017, for the '485 patent, and at least no later than April 19, 2022, the date Corrigent filed its Complaint, for the '369, '431, '400, and '602 patents) and as also set forth in Exhibits 1–5, for example, Defendant has induced infringement of the Asserted Patents by their customers and/or end users in violation of 35 U.S.C. § 271(b) by, among other things, selling, providing support for, providing instructions for use of, and/or otherwise encouraging its customers and/or end-users to directly infringe the Asserted Claims with the intent to encourage those customers and/or end-users to infringe the Asserted Claims. *See* Dkt. 1 ¶ 48.

By way of example, Defendant actively induces infringement of the Asserted Claims by encouraging, instructing, and aiding one or more persons in the United States, including but not limited to customers and end users who purchase, test, operate, and use Defendant's products, including at least the Accused Products, to make, use, sell, and/or offer to sell Defendant's products, including at least the Accused Products, in a manner that infringes the Asserted Claims. For example, Defendant actively markets, advertises, offers for sale, and/or otherwise promotes the Accused Products on its website. *See id*. Defendant further actively markets, advertises, offers for sale, and/or otherwise promotes its Accused Products by publishing and distributing data sheets, manuals, and guides for the Accused Products. These documents and materials are described and set forth in Corrigent's Complaint and Exhibits 1–5. *See id*.; *see also* Exhibits 1–5. Therein, Defendant describes and touts the use of the subject matter claimed in the Asserted Patents.

Since at least the date Defendant had actual notice of the Asserted Patents (e.g., least no

later than around March 20, 2017, for the ’485 patent, and at least no later than April 19, 2022, the date Corrigent filed its Complaint, for the ’369, ’431, ’400, and ’602 patents), and as also set forth in Exhibits 1–5, for example, Defendant has contributed to infringement of those patents in violation of 35 U.S.C. § 271(c) by offering to sell, selling, and importing into the United States the Accused Products, which are a material part of the invention of the Asserted Claims, especially made or adapted for use in an infringement of the Asserted Claims, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

Since at least the date Defendant had actual notice of the Asserted Patents (e.g., least no later than around March 20, 2017, for the ’485 patent, and at least no later than April 19, 2022, the date Corrigent filed its Complaint, for the ’369, ’431, ’400, and ’602 patents), Defendant’s infringement and continued infringement, direct and indirect, of the Asserted Patents has been willful, deliberate, and intentional. Since at least the time Defendant had actual notice of the Asserted Patents, Defendant had actual knowledge or awareness of the Asserted Patents. After acquiring that knowledge or awareness, Defendant infringed at least the Asserted Claims of the Asserted Patents as also set forth in Exhibits 1–5 and described herein, for example. And in doing so, Defendant knew, or should have known, that its conduct amounted to infringement of the Asserted Patents at least because Defendant had actual notice of the Asserted Patents and its infringement as described herein.



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Dated: August 3, 2022

Respectfully submitted,

By: */s/ James R. Nuttall*

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## CERTIFICATE OF SERVICE

I, James R. Nuttall, hereby certify that on August 3, 2022, I caused a copy of **PLAINTIFF CORRIGENT CORPORATION'S PRELIMINARY INFRINGEMENT CONTENTIONS** to be served on the following counsel of record in the manner indicated below:

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