

**IN THE UNITED STATES DISTRICT COURT  
THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

CDN INNOVATIONS, LLC

Plaintiff,

v.

ASUSTEK COMPUTER INC. and ASUS  
COMPUTER INTERNATIONAL

Defendant.

**Civil Action No. 4:24-cv-380**

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff CDN Innovations, LLC (“CDN” or “Plaintiff”), for its Complaint against Defendants ASUSTeK Computer Inc. and ASUSTeK Computer International (referred to herein as “ASUS” or “Defendant”), alleges the following:

**NATURE OF THE ACTION**

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

**THE PARTIES**

2. Plaintiff CDN is a limited liability company organized under the laws of the State Georgia with a place of business at 44 Milton Avenue, Suite 254, Alpharetta, GA 30009.

3. Upon information and belief, ASUSTeK Computer Inc. is a foreign corporation organized and existing under the laws of Taiwan with a principal place of business at No. Li-Te Rd., Beitou Dist., Taipei 112, Taiwan. Upon information and belief, ASUSTeK Computer Inc. sells, offers to sell, and/or uses products and services throughout Texas, including in this judicial

district, and introduces infringing products and services into the stream of commerce knowing that they would be sold and/or used in this judicial district.

4. Upon information and belief, ASUS Computer International is corporation organized under the laws of California, with a place of business located at 48720 Kato Rd. Fremont, CA, 94538-7312. Defendant's registered agent for service of process in Texas is, CT Corporation System, 1999 Bryan St., Ste. 900, Dallas, Texas 75201.

### **JURISDICTION AND VENUE**

5. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

6. 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 under 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over the Defendant under the laws of the State of Texas, due at least to their substantial business in Texas and in this judicial district, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; (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 the State of Texas; and (iii) this Court's personal jurisdiction consistent with the principles of due process and the Texas Long Arm Statute. Tex. Civ. Prac. & Rem. Code §§ 17.041, et seq.

8. Venue in the Eastern District of Texas is proper pursuant to 28 U.S.C. §§ 1391(c)(3) which provides that “a defendant not resident in the United States may be sued in any judicial district, and the joinder of such a defendant shall be disregarded in determining where the action may be brought with respect to other defendants.”

9. ASUS has previously not contested jurisdiction and venue in this District in at least one recent patent infringement action. For example, ASUS consented to personal jurisdiction in *Genghiscomm Holdings, LLC v. ASUSTeK Computer, Inc.*, No. 2:22-cv-00066 (E.D. Tex. 2022) (Dkt. 30 at ¶¶ 42, 44.)

## **BACKGROUND**

### **The Inventions**

#### *Detecting Port Inactivity*

10. Brian Gonsalves and Kenneth Roger Jones (hereinafter “the Inventors”) are the inventors of U.S. Patent Nos. 7,293,291 (“the ’291 patent”) and 7,565,699 (“the ’699 patent”). A true and correct copy of the ’291 patent is attached as Exhibit A. A true and correct copy of the ’699 patent is attached as Exhibit B.

11. The ’291 and ’699 patents resulted from the pioneering efforts of the Inventors in the area of computer network connections, particularly in the area of detecting computer port inactivity. These efforts resulted in the development of a method and system for detecting an idle or inactive data port connection on a personal computer in 2003.

### **COUNT 1 – INFRINGEMENT OF U.S. PATENT NO. 7,293,291**

12. The allegations set forth in the foregoing paragraphs are incorporated into this Count.

13. On November 6, 2007, the ’291 patent was duly and legally issued by the United States Patent and Trademark Office under the title “System and method for detecting computer port inactivity”

14. CDN is the assignee and owner of the right, title and interest in and to the ’291 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

15. Upon information and belief, Defendant has and continues to directly infringe one or more claims of the '291 patent by making, using (e.g., developing, testing, installing or otherwise using) offering to sell, selling, or importing into the United States products, specifically one or more of the products identified in Exhibit C hereto (the "*Accused Port Triggering Instrumentalities*"). For example, upon information and belief, Defendant at least uses, sells and offers to sell the *Accused Port Triggering Instrumentalities* in United States.

16. Exemplary infringement analysis showing infringement of at least claim 9 of the '291 patent is set forth in Exhibit C. This infringement analysis is necessarily preliminary, as it is provided in advance of any discovery provided by Defendant with respect to the '291 patent. CDN reserves all rights to amend, supplement and modify this preliminary infringement analysis. Nothing in the attached chart should be construed as any express or implied contention or admission regarding the construction of any term or phrase of the claims of the '291 patent.

17. Upon information and belief, users of devices containing Defendant's *Accused Port Triggering Instrumentalities* have and will continue to directly infringe at least claim 9 of the '291 patent.

18. Upon information and belief, Defendant had knowledge of the '291 patent at least as early as its receipt of the notice letters send by CDN on June 12, 2020.

19. Defendant's encouragement of others to use the *Accused Port Triggering Instrumentalities*—knowing that such use, as alleged herein, infringes at least claim 9 of the '291 patent—constitutes inducement of others under 35 U.S.C. § 271(b). Defendant's encouragement of infringement includes actively advertising, promoting and distributing technical information through its website (and other sources) that the *Accused Port Triggering Instrumentalities* are not

only configured to enable port triggering but specifically intended for use router products designed to utilize port triggering functionality.

20. For example, on its website, Defendant expressly states under Technical Specifications that its RT-AX5400 product is specifically designed to with “port triggering.” <https://shop.asus.com/us/90ig0860-ma1b0t-rt-ax5400.html> (last visited 04/24/2024). Such conduct demonstrates Defendant’s specific intent (or at least willful blindness) to actively aid and abet others to infringe, including but not limited to Defendant’s partners and downstream customers, whose use of the *Accused Port Triggering Instrumentalities* constitutes direct infringement of at least claim 9 of the ’291 patent.

21. Upon information and belief, Defendant is also liable as a contributory infringer of the ’291 patent under 35 U.S.C. § 271(c) by offering to sell, selling and/or importing into the United States especially configured to enable router port forwarding which, as shown in Exhibit C, constitutes an infringement of the ’291 patent. The *Accused Port Triggering Instrumentalities* are material components for use in practicing the ’291 patent and are specifically made and are not a staple article of commerce suitable for substantial non-infringing use.

22. The Accused Instrumentality infringed and continues to infringe at least claim 9 of the ’291 patent during the pendency of the ’291 patent.

23. CDN has been harmed by the Defendant’s infringing activities.

**COUNT 2 – INFRINGEMENT OF U.S. PATENT NO. 7,565,699**

24. The allegations set forth in the foregoing paragraphs are incorporated into this Count.

25. On July 21, 2009, the ’699 patent was duly and legally issued by the United States Patent and Trademark Office under the title “System and method for detecting computer port inactivity”

26. CDN is the assignee and owner of the right, title and interest in and to the '699 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

27. Upon information and belief, Defendant has and continues to directly infringe one or more claims of the '699 patent by making, using (e.g., developing, testing, installing or otherwise using) offering to sell, selling, or importing into the United States products, specifically one or more of the products identified in Exhibit D hereto (the "*Accused Port Triggering Instrumentalities*"). For example, upon information and belief, Defendant at least uses, sells and offers to sell the *Accused Port Triggering Instrumentalities* in United States.

28. Exemplary infringement analysis showing infringement of at least claim 9 of the '699 patent is set forth in Exhibit D. This infringement analysis is necessarily preliminary, as it is provided in advance of any discovery provided by Defendant with respect to the '699 patent. CDN reserves all rights to amend, supplement and modify this preliminary infringement analysis. Nothing in the attached chart should be construed as any express or implied contention or admission regarding the construction of any term or phrase of the claims of the '699 patent.

29. Upon information and belief, users of devices containing Defendant's *Accused Port Triggering Instrumentalities* have and will continue to directly infringe at least claim 9 of the '699 patent.

30. Upon information and belief, Defendant had knowledge of the '699 patent at least as early as its receipt of the notice letters send by CDN on June 12, 2020.

31. Defendant's encouragement of others to use the *Accused Port Triggering Instrumentalities*—knowing that such use, as alleged herein, infringes at least claim 9 of the '699 patent—constitutes inducement of others under 35 U.S.C. § 271(b). Defendant's encouragement

of infringement includes actively advertising, promoting and distributing technical information through its website (and other sources) that the *Accused Port Triggering Instrumentalities* are not only configured to enable port triggering but specifically intended for use router products designed to utilize port triggering functionality.

32. For example, on its website, Defendant expressly states under Technical Specifications that its RT-AX5400 product is specifically designed to with “port triggering.” <https://shop.asus.com/us/90ig0860-ma1b0t-rt-ax5400.html> (last visited 04/24/2024). Such conduct demonstrates Defendant’s specific intent (or at least willful blindness) to actively aid and abet others to infringe, including but not limited to Defendant’s partners and downstream customers, whose use of the *Accused Port Triggering Instrumentalities* constitutes direct infringement of at least claim 9 of the ’699 patent.

33. Upon information and belief, Defendant is also liable as a contributory infringer of the ’699 patent under 35 U.S.C. § 271(c) by offering to sell, selling and/or importing into the United States componentry especially configured to enable router port triggering which, as shown in Exhibit D, constitutes an infringement of the ’699 patent. The *Accused Port Triggering Instrumentalities* are material components for use in practicing the ’699 patent and are specifically made and are not a staple article of commerce suitable for substantial non-infringing use.

34. The Accused Instrumentality infringed and continues to infringe at least claim 9 of the ’699 patent during the pendency of the ’699 patent.

35. CDN has been harmed by the Defendant’s infringing activities.

### **JURY DEMAND**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, CDN demands a trial by jury on all issues triable as such.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff CDN demands judgment for itself and against Defendant as follows:

- A. An adjudication that the Defendant has infringed the patents asserted herein;
- B. An award of damages to be paid by Defendant adequate to compensate CDN for Defendant's past infringement of the patents asserted herein, and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of CDN's reasonable attorneys' fees; and
- D. An award to CDN of such further relief at law or in equity as the Court deems just and proper.

Dated: May 1, 2024

DEVLIN LAW FIRM LLC

*/s/ James M Lennon*

James M. Lennon

jlennon@devlinlawfirm.com

Timothy Devlin

tdevlin@devlinlawfirm.com

1526 Gilpin Ave.

Wilmington, Delaware 19806

Telephone: (302) 449-9010

Facsimile: (302) 353-4251

*Attorneys for Plaintiff CDN Innovations, LLC*