

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

ESN, LLC,

Plaintiff,

v.

CISCO SYSTEMS, INC., and

CISCO-LINKSYS, LLC,

Defendants.

)
)
)
)
)
)
)
)

Civil Action No. 5:07-cv-156-DF-CMC

JURY DEMANDED

EXHIBIT C



500 WEST MADISON STREET 34TH FLOOR CHICAGO ILLINOIS 60661
(T) 312 775 8000 (F) 312 775 8100 www.mcandrews-ip.com

PETER J. MCANDREWS
(T) 312 775 -8000
pmcandrews@mcandrews-ip.com

June 8, 2007

VIA EMAIL

Kurt M. Pankratz
Baker Botts L.L.P.
2001 Ross Avenue
Dallas, TX 75201-2980

Re: U.S. Patent Application Publication No. 2002/0176404

Dear Kurt,

We are somewhat disappointed that Cisco is refusing to hold open and honest discussions pursuant to Rule 408 in an effort to avoid litigation. Nevertheless, we believe that both parties can benefit from moving forward with discussions that may lead to Cisco taking a license to, or purchasing, ESN, LLC's pending U.S. Patent Application Publication No. 2002/0176404 ("the '404 Application") and the related U.S. Patent Application Publication No. 2007/0110043 ("the '043 Application"). We base this primarily on a firm belief that Cisco is, and has been, making, using, selling, and offering for sale products that embody the subject matter of one or more claims of the '404 Application.¹

A preliminary analysis of an example Cisco product in view of example pending claims of the '408 Application is provided in the attached claim chart (Exhibit A). Our analysis is obviously preliminary in view of the fact that it is based upon the limited technical information that is publicly available for these products. Only the Cisco ISR 2851 is analyzed in the attached claim chart as an example, however, we believe that the following products embody the subject matter of one or more claims of the '404 Application:

- the Linksys SPA-9000 product (at least as configured with the components described in Exhibit B attached hereto)
- the Linksys One SVR-3000 product (at least as configured with the components described in Exhibit C attached hereto)

¹ Cisco's products and related conduct also contribute to and/or induce the practice of methods covered by one or more claims of the '404 application.



Kurt M. Pankratz
June 8, 2007
Page 2

- Cisco ISR models, for example, the 2800 and 3800 series models, which include Cisco's CallManager Express or Communication Manager Express.

Your letter states that you have "reviewed the '404 Application and do not believe that it has relevance to any current or planned Cisco products." While we doubt the sincerity of that statement, we request that you explain the facts and analyses upon which you based this statement. Additionally, after you have had a chance to review our preliminary analysis, if you disagree with our analysis in any way, we invite you to point out and explain any disagreement with our analysis and provide any information that you believe may support your explanation. We ask for a complete analysis since on present information we would be seeking enhanced damages, if litigation ensues, for any continued infringement beyond the issue date of the '404 application.

Your paragraph attributing statements to us regarding the relationship between the '404 Application and Cisco's pending U.S. Patent Application Serial No. 10/973,146 ("the '146 Application) mischaracterizes the parties' communications on this topic. We further note that you fail to point out what references, if any, are relevant or material to the prosecution of the '404 Application due to a relationship to the '146 Application. Undoubtedly, this is due in part to the fact that Cisco, through your firm, has made arguments to the U.S. Patent Office that are contrary to such a position. Whatever the intent of your discussion of references cited against the '146 Application, the issue is moot since we have disclosed all such references to the U.S. Patent Office in the prosecution of the '404 Application.

More to the point, we do not believe that any of the references cited against the '146 Application are material to the examination of the '404 Application. Indeed, many do not even qualify as prior art given that the priority date for the '404 Application is two and one half years prior to that of Cisco's '146 Application. Thus, we are confident that the pending claims will be allowed in their present form.

Since we fully expect the current claims to issue in their present form, upon issuance of the '404 Application as a patent, potential damages in a patent infringement action will include all infringing activity occurring since Cisco had actual knowledge of the published '404 Application. Cisco has had actual knowledge since at least as early as August 11, 2006.

While we had hoped that the parties exchange would not devolve to the discussion of litigation, your asserted ignorance of the relevance of the '404 Patent to Cisco's product



Kurt M. Pankratz
June 8, 2007
Page 3

10 months after ESN brought it to Cisco's attention (with numerous written and verbal communications between Mr. Lang and Mr. Hollander in the interim) and the obvious attempt in your letter to fabricate an inequitable conduct defense, suggests that ESN may have to pursue other means to resolve this dispute. Nevertheless, ESN is willing to delay completing certain alternative business arrangements for a short time to provide an opportunity to discuss a reasonable business arrangement if Cisco has a serious interest in having such a discussion.

We look forward to receiving your response.

Very truly yours,

Peter J. McAndrews

Enclosures

Exhibit A
Preliminary Comparison of '404 Application Claims to Cisco's ISR 2851

Claim 1	ISR 2851
1. A network device comprising:	The ISR 2851 is a network device.
a plurality of communication interfaces, including a telephone line interface, a computer data interface, and a broadband network interface;	<p>The ISR 2851 includes a telephone line interface for connecting, for example, analog telephones or fax machines. For example, the ISR 2851 is configured to include one or more Extension Voice Modules ("EVM"). The type of EVM depends on the nature and number of the analog connections.</p> <p>The ISR 2851 includes a computer data interface for connecting, for example, computers to allow the computers to communicate data over the Internet via the broadband access network. For example, the ISR 2851 is configured to include one or more Ethernet interfaces.</p> <p>The ISR 2851 includes a broadband network interface for connecting the 2851 to a broadband access network. For example, the ISR 2851 is configured to include one or more High-Speed Wan Interface Cards ("HWIC"). The type of HWIC depends on the broadband access network carrier.</p>
a processor;	The ISR 2851 includes one or more processors.
a machine-readable storage medium which during use stores a call processing application and service profiles, and which stores executable instructions to mediate communications between the plurality of communication interfaces,	<p>The ISR 2851 includes a machine-readable storage medium that stores, among other system software components and databases, Cisco's "Communication Manager Express" (formerly "CallManager Express") software instructions ("CME").</p> <p>CME software instructions that mediate communications between ISR 2851 interfaces includes one or more call processing applications (i.e. Session Applications) operating in concert with, e.g., a Virtual Telephony Service Provider Interface, a Packet Network Service Provider, and a Call Control API.</p> <p>Service profiles stored on the ISR 2851 contain, for example, call routing tables (dial peers), call routing policies, user-specific capabilities/settings, administrative information, and user authentication data.</p>
the instructions causing the network device to detect	Virtual Telephony Service Provider (VTSP) interface and Packet Network Service Provider (PNSP) detect network

network signaling events or trigger points in a telephone call and invoke the call processing application in response to the detected network signaling events or trigger points,	<p>signaling events and device-level states from analog telephones and IP telephones, respectively, that are participating in a telephone call. The telephone may be interfaced directly to the ISR 2851 or accessible to the ISR 2851 by communicating through the broadband access network.</p> <p>The VTSP and PNSP make these events and states available to the Call Control API (CCAPI). The CCAPI then makes them available to a Session Application. According to its service logic, the Session Application may respond by invoking a particular CCAPI operation that controls: the delivery of a particular calling service; the overall progression of the telephone call; the number of call participants; and/or the activation of telephone feature defined for a calling service.</p>
the call processing application operating according to parameters defined in the service profiles.	A Session Application relies upon, inter alia, call routing tables (dial peers), call routing policies, user-specific capabilities/settings, administrative information, and user authentication data when executing its service logic.
Claim 22	ISR 2851
22. A network device comprising:	The ISR 2851 is a network device.
a broadband network interface;	The ISR 2851 includes a broadband network interface for connecting the 2851 to a broadband access network. For example, the ISR 2851 is configured to include one or more High-Speed Wan Interface Cards ("HWIC"). The type of HWIC depends on the broadband access network carrier.
a plurality of interfaces, including a telephone line interface and a computer data interface;	<p>The ISR 2851 includes a telephone line interface for connecting, for example, analog telephones or fax machines. For example, the ISR 2851 is configured to include one or more Extension Voice Modules ("EVM"). The type of EVM depends on the nature and number of the analog connections.</p> <p>The ISR 2851 includes a computer data interface for connecting, for example, computers to allow the computers to communicate data over the Internet via the broadband access network. For example, the ISR 2851 is configured to include one or more Ethernet interfaces.</p>
a processor; and	The ISR 2851 includes one or more processors.

<p>a machine-readable storage medium that stores processor-executable instructions to provide SIP agents,</p> <p>the instructions causing the network device to provide a SIP user agent to represent a non-SIP telephone that uses the telephone line interface, and</p>	<p>The ISR 2851 includes a machine-readable storage medium comprising storage devices located within the ISR 2851. Instructions stored on the storage devices collectively provide, for example, one or more SIP agents: a SIP user agent, a SIP proxy, SIP redirect service, and a back-to-back SIP user agent.</p> <p>A SIP user agent is used to represent each analog (non-SIP) telephone interfaced to a telephone line interface provided by an ISR 2851 Extension Voice Module ("EVM).</p> <p>An analog telephone interfaced to the EVM is monitored and controlled by the CME Virtual Telephony Service Provider (VTSP) interface software element. The VTSP operates in concert with the CME Call Control API and one or more Session Applications to enable the telephone to be represented by a SIP user agent that performs SIP communications on behalf of the telephone. This SIP user agent enables the telephone to be managed as a SIP endpoint device by the back-to-back user agent, an element of the SIP proxy executing within the ISR 2851.</p>
<p>the instructions further causing the network device to implement a SIP proxy server that mediates all SIP communications over the broadband network interface involving the non-SIP telephone.</p>	<p>The CME also causes the ISR 2851 to implement a SIP proxy server that mediates all SIP communications over the broadband network interface involving the non-SIP (analog) telephone. In particular, the ISR 2851 provides a "stateful" SIP proxy that includes a back-to-back user agent.</p>
<p>Claim 26</p>	<p>ISR 2851</p>
<p>26. A method for establishing a voice-over-packet network architecture, the method comprising:</p>	<p>Cisco provides the ISR 2851 and related equipment which establishes a voice-over-packet network.</p>
<p>locating a system management platform in a shared packet network, the system management platform collecting call log data from a plurality of network devices; and</p>	<p>Cisco provides a range of a system management platforms to be deployed in a shared packet network. For example, Cisco provides the MIND-M.E.IP.S. that may collect call records directly from two or more ISRs.</p>
<p>distributing the plurality of network devices that each</p>	<p>Cisco provides ISRs, e.g., ISR 2851s or other ISRs.</p>

<p>include a telephone line interface, a computer data interface, a broadband network interface terminating a link from the shared packet network,</p>	<p>The ISR 2851 includes a telephone line interface for connecting, for example, analog telephones or fax machines. For example, the ISR 2851 is configured to include one or more Extension Voice Modules (“EVM”). The type of EVM depends on the nature and number of the analog connections.</p> <p>The ISR 2851 includes a computer data interface for connecting, for example, computers or SIP phones to allow the computers or SIP phones to communicate data (including voice data) over the Internet. For example, the ISR 2851 is configured to include one or more Ethernet interfaces.</p> <p>The ISR 2851 includes a broadband network interface for connecting the 2851 to a broadband access network. For example, the ISR 2851 is configured to include one or more High-Speed Wan Interface Cards (“HWIC”). The type of HWIC depends on the broadband access network carrier.</p>
<p>a processor, and</p>	<p>The ISR 2851 includes one or more processors.</p>
<p>a machine-readable storage medium storing processor-executable instructions to control telephone calls, the instructions causing each network device to</p>	<p>The ISR 2851 includes a machine-readable storage medium that stores Cisco’s “Communication Manager Express” (formerly “CallManager Express) software instructions (“CME”).</p> <p>The CME controls telephone calls made through the ISR 2851.</p>
<p>route telephone calls in a peer-to-peer fashion over the shared packet network and</p>	<p>The CME routes telephone calls in a peer-to-peer fashion over the shared packet network between CME/ISRs.</p>
<p>to send call log data to the system management platform.</p>	<p>The CME sends call log data to the data collection subsystem of the currently deployed system management platform, e.g. the MIND – M.E.IP.S.</p>

Exhibit B
Linksys

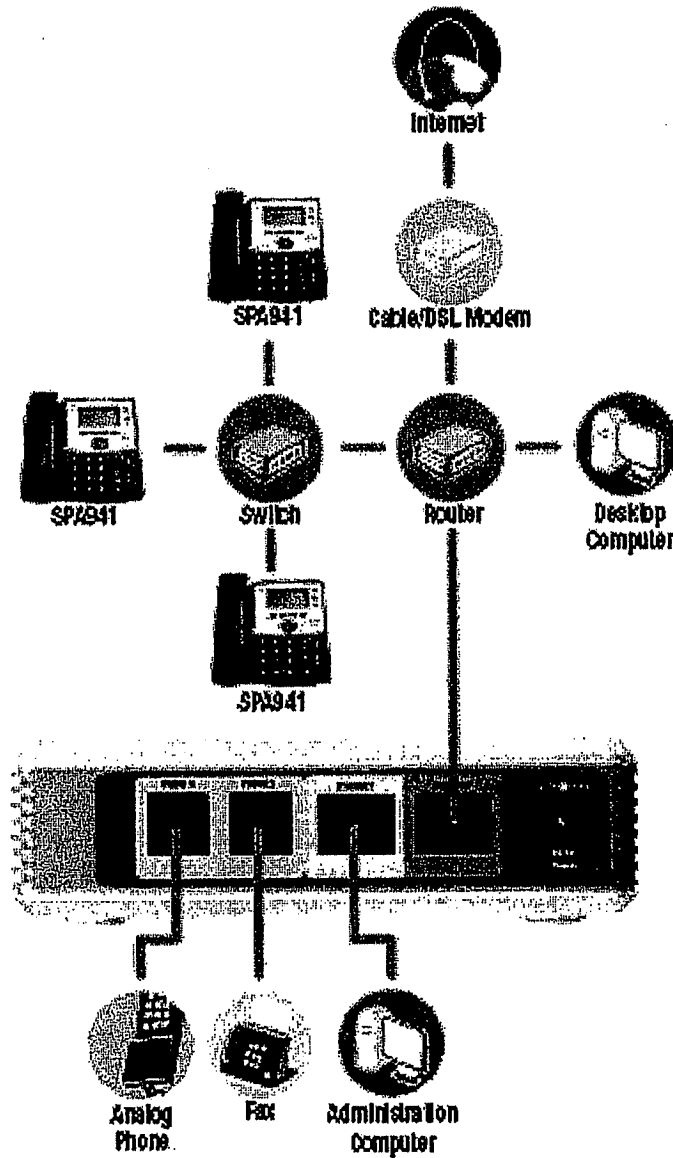


Figure 4-1: A Typical Scenario for the IP Telephony System

Exhibit C
Linksys One

