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and CISCO TECHNOLOGY, INC.

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12
13 CISCO SYSTEMS, INC. and CISCO
TECHNOLOGY, INC.,

14 Plaintiffs,

15 v.

16 WUHAN WOLON COMMUNICATION
17 TECHNOLOGY CO., LTD. and WUHAN
WOLON CLOUD NETWORK
18 COMMUNICATION TECHNOLOGY CO.,
LTD.,

19 Defendants.
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-C 21 04272

Case No.

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF FOR:**

RS

- 1 FEDERAL TRADEMARK INFRINGEMENT AND COUNTERFEITING, 15 U.S.C. § 1114;
- 2 FEDERAL UNFAIR COMPETITION, 15 U.S.C. § 1125;
- 3 FEDERAL DILUTION OF MARK, 15 U.S.C. § 1125(c);
- 4 CALIFORNIA FALSE ADVERTISING, CAL. BUS. & PROF. CODE § 17500;
- 5 CALIFORNIA UNFAIR COMPETITION, CAL. BUS. & PROF. CODE § 17200.

[JURY TRIAL DEMANDED]

**REDACTED VERSION OF
DOCUMENT SOUGHT TO BE SEALED**

1 Plaintiffs Cisco Systems, Inc. and Cisco Technology, Inc. (together, “Cisco” or
2 “Plaintiffs”), by and through their attorneys, Bartko Zankel Bunzel & Miller, PC, bring this action
3 for damages and injunctive relief against Defendants Wuhan Wolon Communication Technology
4 Co., Ltd. and Wuhan Wolon Cloud Network Communication Technology Co., Ltd. (together,
5 “Wolon” or “Defendants”), allege as follows:

6 **I. INTRODUCTION**

7 1. Counterfeiters are increasingly exploiting consumers’ needs for certain products
8 during a time when there are significant halts and delays in production of authentic products,
9 resulting in severe shortages in the marketplace. The substitution of inauthentic products using
10 counterfeit marks in place of genuine products can be catastrophic, and not just to the interests of
11 businesses that manufacture and sell genuine products using the trademarks they have spent years
12 developing. Counterfeit products have the potential to be very dangerous. Specifically, at issue in
13 this case are inauthentic products that could be mistaken as real by Plaintiffs’ hospital, military,
14 government, telecommunications, utility, or other critical infrastructure customers. Not only does
15 this result in innocent customers receiving something fake that they believe to be genuine, but it
16 also exposes sensitive patient, military, and government information to potential breaches,
17 jeopardizes the reliability and performance of critical networks, or worse, puts people in physical
18 danger. Now more than ever, consumers, companies, and governments need the Courts to
19 intervene to cease this destructive and dangerous behavior.

20 2. Plaintiffs bring this urgent action not only to protect their brands, but more
21 importantly to protect their customers, the customers’ employees, and the general public from the
22 imminent risk of danger posed by the sale of certain counterfeit products.

23 3. Plaintiffs have robust brand protection programs that take multilayered approaches
24 to the problem of counterfeiting, which is global in scope and affects the entirety of the network
25 industry. Plaintiffs’ strategies include collaborating with law enforcement in various countries
26 where counterfeits are made or sold, including both the U.S. and China, to try to shut down larger
27 manufacturers and sellers. Plaintiffs also employ third-party private investigators or consultants to
28

1 identify and purchase suspected inauthentic Cisco products, online. And Plaintiffs sometimes
2 resort to litigation like the present case in order to protect their rights.

3 4. This is an action against Defendants for willful and significant infringement of
4 Plaintiffs' trademark rights related to CISCO® branded pluggable transceivers ("Cisco
5 Transceivers"). Put simply, Defendants are marketing and advertising transceivers not
6 manufactured by or associated with Plaintiffs and using Plaintiffs' branding to pass them off
7 and/or to enable Defendants' buyers to pass them off to unsuspecting consumers as Cisco
8 products.

9 5. Transceivers are electronic devices that transmit and receive communications and
10 data by using fiber optic technology. Transceivers encode and decode data by converting
11 electrical signals to light pulses and sending data through a fiber optic cable. The transmitted data
12 is then obtained by the receiving end and converted back into an electrical signal. Various public
13 and private entities use Cisco Transceivers for their computer network systems, such as healthcare
14 systems and hospitals, the U.S. government and military and other government entities, public
15 transit systems and utilities, Internet Service Providers, wireless phone carriers,
16 telecommunications companies, research and education institutions like universities and colleges,
17 and other large corporations. The sale of counterfeit transceivers in the marketplace puts
18 Plaintiffs' customers, the customers' employees, and the people they serve, at risk of significant
19 business disruption, privacy and security breaches, data loss, and unpredictable and unsafe
20 technological malfunctions.

21 6. Defendants are advertising and offering for sale, using, and/or labeling or otherwise
22 marking and/or enabling their buyers to label transceivers (by providing counterfeit labels bearing
23 Plaintiffs' trademarks on separate sheets) with unauthorized representations of Plaintiffs' well-
24 known and federally registered trademarks, and then selling and distributing, or aiding and
25 abetting others in the sale and distribution of, these counterfeit products for ultimate sale to
26 consumers who are unaware that the products are not genuine and may be dangerous. The
27 customers purchasing these products for end use are duped into believing that the transceivers they
28 receive or that are installed into their networks are genuine Plaintiffs' products when, in fact, they

1 are not. A thorough inspection reveals that these products are not made with genuine approved
2 parts, and their functionality is unknown and unpredictable; thus, dangerous.

3 7. Plaintiffs are seeking injunctive and monetary relief to protect their customers, their
4 customers' employees, various governments and their employees, and the general public, from the
5 sale of these inauthentic and potentially dangerous goods, to enjoin Defendants from further
6 unlawful and infringing conduct, and to recover full damages for Defendants' harmful behavior.

7 **II. THE PARTIES**

8 8. Plaintiff Cisco Systems, Inc. ("CSI") is a Delaware corporation with its principal
9 place of business at 170 West Tasman Drive, San Jose, California 95134. Plaintiff Cisco
10 Technology, Inc. ("CTI") is a California corporation with its principal place of business at 170 W.
11 Tasman Drive, San Jose, California 95134. CTI owns the trademarks used by CSI in marketing
12 Cisco-branded products.

13 9. On information and belief, Defendants Wuhan Wolon Communication Technology
14 Co., Ltd. and Wuhan Wolon Cloud Network Communication Technology Co., Ltd. are Chinese
15 limited companies with the same principal place of business at 19F, Chuangxing Hui Free Trade
16 Finance Building, No. 777 GuangGu 3rd Road, Donghu New & High Technology Development
17 Zone, Wuhan City, Hubei Province, China. Wolon conducts business in the United States,
18 including within the State of California, by offering, selling, and exporting goods to customers in
19 the Northern District of California and elsewhere in the United States.

20 **III. JURISDICTION AND VENUE**

21 10. This is an Action for violations of the Trademark Act of 1946, 15 U.S.C. §§ 1051
22 *et seq.* (the "Lanham Act"), and related causes of action. This Court has subject matter
23 jurisdiction over this action pursuant to 15 U.S.C. § 1121(a), and 28 U.S.C. §§ 1331 and 1338(a)
24 and (b).

25 11. This Court has supplemental subject matter jurisdiction over the pendent state law
26 claims under 28 U.S.C. § 1367, because these claims are so related to Plaintiffs' claims under
27 federal law that they form part of the same case or controversy and derive from a common nucleus
28 of operative facts.

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