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Phone: +1 212 537 6331 | Fax: +1 212 537 6371 | customerservice@portfoliomedia.com

Enterasys, Extreme Settle Fenner Ethernet IP Suit

By Ryan Davis

Law360, New York (September 25, 2009) -- Enterasys Networks Inc. and Extreme Networks Inc., the final two defendants in Fenner Investments Ltd.'s patent suit over Ethernet switches, have reached a settlement with the plaintiff, drawing the case to a close.

In a notice filed Sept. 24 in the U.S. District Court for the Eastern District of Texas, Magistrate Judge John D. Love noted that the mediator in the case has reported that both Enterasys and Extreme had reached settlements in the past week.

Mediator James Knowles informed the court Sept. 17 that Extreme reached a settlement and on Sept. 23 that Enterasys had done the same.

The suit, filed in February 2008, alleged the Enterasys I Series Ethernet switch and the Extreme Ethernet Switches (250E Series) of infringed Fenner's patents.

The other defendants in the case — 3Com Corp., Netgear Inc., ZyCel Communications Inc., D-Link Systems Inc., SMC Networks Inc., Tellabs Inc., and Foundry Networks Inc. — settled with Fenner earlier this year.

Judge Love ordered counsel for Extreme and Enterasys to submit all necessary papers to close the case by Oct. 30.

Peter Fenner is the sole inventor for both patents, issued in December 2006 and November 1998, respectively, according to the complaint. He allegedly developed the ideas while doing work for the U.S. Navy.

Based in Richardson, Texas, Fenner Investments is a partnership set up to own and enforce Peter Fenner's patents.

"Each of defendants' acts of infringement has caused damage to Fenner, and Fenner is entitled to recover from each defendant the damages sustained by Fenner as a result of their individual

wrongful acts in an amount subject to proof at trial," the complaint said.

The patents-in-suit are U.S. Patent Number 5,842,224, issued in 1998 and titled "Method and apparatus for source filtering data packets between networks of differing media" and U.S. Patent Number 7,145,906, issued in 2006 and titled "Packet switching node."

In a separate case Fenner accused Hewlett-Packard Co. and Dell Inc. of infringing the same two patents through the sale of Ethernet switches.

Fenner also has pursued litigation against Microsoft Corp., Nintendo Co. Ltd. and Sony Corp. over video game consoles, claiming that Microsoft's Xbox 360, Sony's Playstation 2 and Nintendo's GameCube infringed a different Fenner patent for a low-voltage joystick port.

Fulbright & Jaworski LLP, Ireland Carroll & Kelley PC and the Law Office of T. John Ward Jr. PC represent Fenner in this matter.

Finnegan Henderson Farabow Garrett & Dunner LLP and Yarbrough & Wilcox PLLC are representing Extreme Networks in this matter.

Wilson Robertson & Cornelius PC and Vasquez Benisek & Lindgren LLP are representing Enterasys.

The case is Fenner Investments Ltd. v. 3Com Corp. et al., case number 08-cv-00061, in the U.S. District Court for the Eastern District of Texas.

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