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Internap Corporation
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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11)
12) **INTERNAP CORPORATION**

13) **Plaintiff,**

14) **v.**

15) **NOCTION, INC.**

16) **Defendant.**
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No. 15-cv-03014-JD

**FIRST AMENDED COMPLAINT AND
DEMAND FOR JURY TRIAL**

1 Plaintiff INTERNAP CORPORATION complains by way of its First Amended
2 Complaint against Defendant NOCTION, INC. as follows:

3 1. Plaintiff is a Delaware corporation having its principal place of business in
4 Atlanta, Georgia.

5 2. Defendant is a Delaware corporation having its principal place of business in
6 Sunnyvale, California.

7 **JURISDICTION**

8 3. This is an action for patent infringement under Title 35 of the United States
9 Code, as to which this Court has subject-matter jurisdiction pursuant to 28 U.S.C. § 1338.

10 4. This Court has personal jurisdiction over defendant, as defendant is based in
11 and has committed acts of patent infringement in this judicial district.

12 5. Venue in this Court is proper under 28 U.S.C. § 1400, as defendant has
13 committed acts of infringement in this judicial district.

14 **INTRADISTRICT ASSIGNMENT**

15 6. There is no basis for assignment pursuant to Civil L. R. 3-2(c).

16 **GENERAL ALLEGATIONS**

17 7. United States Patent No. 7,222,190 (the “’190 patent,” copy attached as
18 Exhibit A) was duly issued on May 22, 2007.

19 8. Plaintiff, formerly known as Internap Network Services Corporation, is and
20 has been the owner by assignment of the ’190 patent at all times relevant to this action.

21 9. United States Patent No. 7,668,966 (the “’966 patent,” copy attached as
22 Exhibit B) was duly issued on February 23, 2010.

23 10. Plaintiff is and has been the owner by assignment of the ’966 patent at all
24 times relevant to this action.

1 11. Plaintiff and defendant are direct competitors in the United States for sales
2 of the systems and technology claimed in the '190 patent and the '966 patent.

3 **COUNT I**

4 12. Plaintiff incorporates the allegations in paragraphs 1-11 above.

5 13. Defendant has infringed and is still infringing the '190 patent by making,
6 selling, using or offering to sell products that embody the patented invention, including its "IRP"
7 product, and defendant will continue to do so unless enjoined by this Court.

8 14. Plaintiff has previously submitted infringement contentions to defendant
9 pursuant to the Local Rules of Practice for Patent Cases which set forth how the IRP infringes
10 claims 1-14 and 16-19 of the '190 patent.

12 **COUNT II**

13 15. Plaintiff incorporates the allegations in paragraphs 1-14 above.

14 14. Defendant has infringed and is still infringing the '966 patent by making,
15 selling, using or offering to sell products that embody the patented invention, including its "IRP"
16 product, and defendant will continue to do so unless enjoined by this Court.

17 15. Attached as Exhibit C is a preliminary chart setting forth how the IRP
18 infringes claims 2, 5 and 8-12 of the '966 patent, with citations to defendant's documentation
19 identified as "NCT." For the claim limitations that contain a citation without accompanying
20 written description, defendant has claimed highly confidential status for the documentation,
21 making an accompanying written description inappropriate in a public pleading such as this First
22 Amended Complaint.

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25 WHEREFORE, Plaintiff requests that the Court award plaintiff damages, an
26 injunction, interest, costs and attorney fees, and all additional relief to which plaintiff is entitled.


JURY DEMAND

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Plaintiff demands a trial by jury.

Dated: December 30, 2015

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