IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

PACKET INTELLIGENCE LLC, Plaintiff, vs. ERICSSON INC., TELEFONAKTIEBOLAGET LM ERICSSON, Defendants.	CASE NO.: 2:18-cv-381 **JURY TRIAL DEMANDED**

PACKET INTELLIGENCE LLC'S AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Packet Intelligence LLC, by and through its undersigned attorneys hereby demands a jury trial and alleges the following in support of its Complaint for patent infringement against Defendants:

I. THE PARTIES

1. Plaintiff Packet Intelligence LLC ("Packet Intelligence" or "Plaintiff") is a limited liability company existing under the laws of Texas since June 2012. Plaintiff maintains its principal place of business at 505 East Travis Street Suite 209, Marshall, TX 75670.

2. Defendant Ericsson Inc. ("Ericsson Inc.") is a corporation organized and existing under the laws of Delaware, with a principal place of business at 6300 Legacy Drive, Plano, Texas 75024, within the Eastern District of Texas. Ericsson may be served with process by serving Capital Corporate Services, Inc. at 206 E. 9th Street, Suite 1300, Austin, Texas 78701.

3. Defendant Telefonaktiebolaget LM Ericsson ("LM Ericsson"), the parent corporation of Ericsson, is a company organized under the laws of Sweden with its principal place of business at Torshamsgatan 23, Kista, 164 83 Stockholm, Sweden. Ericsson Inc. and LM Ericsson will be referred to collectively as "Ericsson."

II. JURISDICTION AND VENUE

3. This is an action for infringement of several United States patents. Federal question jurisdiction is conferred to this Court over such action under 28 U.S.C. §§ 1331 and 1338(a).

4. Ericsson maintains a regular and established place of business within the Eastern District of Texas at 6300 Legacy Drive, Plano, Texas 75024. Ericsson develops and/or sells the Accused Products, identified below, from this location.

5. Ericsson has sufficient minimum contacts with the Eastern District of Texas such that this venue is fair and reasonable. Ericsson has committed such purposeful acts and/or transactions in this District that it reasonably should know and expect that they could be hailed into this Court as a consequence of such activities. Ericsson has transacted and, at the time of the filing of this Complaint, continues to transact business within the Eastern District of Texas.

6. Further, Ericsson makes or sells products that are and have been used, offered for sale, sold, and/or purchased in the Eastern District of Texas. Ericsson directly and/or through its distribution network, places infringing products or systems within the stream of commerce, which stream is directed at this district, with the knowledge and/or understanding that those products will be sold and/or used in the Eastern District of Texas.

7. For these reasons, personal jurisdiction exists and venue is proper in this Court under 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(b), respectively.

III. THE PATENTS-IN-SUIT

8. The patents-in-suit are early pioneer patents in the field of network traffic processing and monitoring. Each of the asserted patents claim priority to provisional U.S. Patent Application No. 60/141,903 entitled "Method and Apparatus for Monitoring Traffic in a Network," filed in the United States Patent and Trademark Office on June 30, 1999.

9. Mr. Russell S. Dietz, the first listed inventor on four of the five patents-in-suit, is a recognized thought leader who publishes and lectures regularly on network data management, cloud computing and virtualization security solutions. Bloomberg's Executive Profile for Mr. Dietz notes that he "has more than 30 years of experience in the technology and security space. He has a proven record of success as Chief Technology Officer of multiple hardware, software and systems security companies, and is a recognized pioneer and innovator in cloud computing and virtualization security solutions. . . . He has more than 20 years of leadership and expertise anticipating trends, and evaluating new technologies in data communications, data management and Enterprise security. . . . He is an active member of the Internet and Engineering Task Force (IETF), Optical Internetworking Forum (OIF) and the Cloud Computing Interoperability Forum (CCIF)." Russel S. Dietz: Executive Profile & Biography – Bloomberg, https://www.bloomberg.com/research/stocks/private/person.asp?personId=510317&privcapId=1354032 (visited July 27, 2018).

10. On November 18, 2003, the United States Patent and Trademark Office (USPTO) duly and legally issued U.S. Patent No. 6,651,099 ("the '099 Patent") entitled "Method and Apparatus for Monitoring Traffic in a Network." Packet Intelligence owns all substantial rights to the '099 Patent, including the right to sue and recover damages for all infringement thereof. Documents assigning the '099 Patent to Packet Intelligence were recorded at the USPTO on

February 1, 2013 at Reel/Frame 29737-613. Attached hereto as Exhibit A is a true and correct copy of the ’099 Patent.

11. The ’099 patent has been cited as pertinent prior art by either an applicant, or a USPTO examiner, during the prosecution of more than 275 issued patents and published patent applications, including during the prosecution of two patents of LM Ericsson.

12. On December 16, 2003, the USPTO duly and legally issued U.S. Patent No. 6,665,725 (“the ’725 Patent”) entitled “Processing Protocol Specific Information in Packets Specified by a Protocol Description Language.” Packet Intelligence owns all substantial rights to the ’725 Patent, including the right to sue and recover damages for all infringement thereof. Documents assigning the ’725 Patent to Packet Intelligence were recorded at the USPTO on February 1, 2013 at Reel/Frame 29737-613. A true and correct copy of the ’725 Patent is attached hereto as Exhibit B.

13. The ’725 patent has been cited as pertinent prior art by either an applicant, or a USPTO examiner, during the prosecution of more than 260 issued patents and published patent applications.

14. On August 3, 2004, the USPTO duly and legally issued U.S. Patent No. 6,771,646 (“the ’646 Patent”) entitled “Associative Cache Structure for Lookups and Updates of Flow Records in a Network Monitor.” Packet Intelligence owns all substantial rights to the ’646 Patent, including the right to sue and recover damages for all infringement thereof. Documents assigning the ’646 Patent to Packet Intelligence were recorded at the USPTO on February 1, 2013 at Reel/Frame 29737-613. A true and correct copy of the ’646 Patent is attached hereto as Exhibit C.

15. The ’646 patent has been cited as pertinent prior art by either an applicant, or a USPTO examiner, during the prosecution of more than 170 issued patents and published patent applications.

16. On January 4, 2005, the USPTO duly and legally issued U.S. Patent No. 6,839,751 (“the ’751 Patent”) entitled “Re-Using Information from Data Transactions for Maintaining Statistics in Network Monitoring.” Packet Intelligence owns all substantial rights to the ’751 Patent, including the right to sue and recover damages for all infringement thereof. Documents assigning the ’751 Patent to Packet Intelligence were recorded at the USPTO on February 1, 2013 at Reel/Frame 29737-613. A true and correct copy of the ’751 Patent is attached hereto as Exhibit D.

17. The ’751 patent has been cited as pertinent prior art by either an applicant, or a USPTO examiner, during the prosecution of more than 100 issued patents and published patent applications, including during the prosecution of one patent of LM Ericsson.

18. On October 11, 2005, the USPTO duly and legally issued U.S. Patent No. 6,954,789 (“the ’789 Patent”) entitled “Method and Apparatus for Monitoring Traffic in a Network.” Packet Intelligence owns all substantial rights to the ’789 Patent, including the right to sue and recover damages for all infringement thereof. Documents assigning the ’789 Patent to Packet Intelligence were recorded at the USPTO on February 1, 2013 at Reel/Frame 29737-613. A true and correct copy of the ’789 Patent is attached hereto as Exhibit E.

19. The ’789 patent has been cited as pertinent prior art by either an applicant, or a USPTO examiner, during the prosecution of more than 90 issued patents and published patent applications.

20. Some or all of the ‘099, ‘725, ‘646, ‘751, and ‘789 Patents (referred to collectively as the “Asserted Patents” or the “Patents-in-Suit”) have been asserted in several patent infringement litigations in this District. During the course of these District court litigations, claims of the Asserted Patents have withstood multiple validity challenges. The outcomes of those cases are indicative of the strength of the Asserted Patents. The following cases have been litigated in this District:

- *Packet Intelligence LLC v. Huawei Devices USA Inc.*, Civil Action No. 2:13-cv-00206-JRG (dismissed by stipulation of parties pursuant to settlement agreement);
- *Packet Intelligence LLC v. Cisco Systems, Inc.*, Civil Action No. 2:14-cv-00252-JRG (dismissed by agreed motion and order following settlement);
- *Packet Intelligence LLC v. Cisco Systems, Inc.*, Civil Action No. 2:14-cv-01122-JRG (consolidated with Civil Action No. 2:14-cv-00252-JRG);
- *Packet Intelligence LLC v. NetScout Systems, Inc. et al*, Civil Action No. 2:16-cv-00230-JRG (resulting in a jury verdict finding infringement of the asserted claims of the ‘725, ‘751, and ‘789 Patents and upholding validity of the same (Dkt. No. 237 at 3-4); applying the constructions entered in the Court’s Claim Construction Order (Dkt. No. 66) and denying defendant’s Rule 52 motion challenging the validity of claims of the ‘725, ‘751, and ‘789 Patents under 35 U.S.C. 101 (Dkt. No. 298)); and,
- *Packet Intelligence LLC v. Sandvine Corporation and Sandvine Incorporated ULC*, Civil Action No. 2:16-cv-00147-JRG (resulting in a jury verdict of non-infringement of the asserted claims of the ‘725, ‘751, and ‘789 Patents; validity did not make it to the jury following denial of institution of Sandvine’s Petitions for *inter partes* review

of the Asserted Patents and the Court's grant of Motion *in Limine* No. 4 (Dkt. No. 22)).

21. The validity of the asserted claims has been repeatedly upheld by the Patent Trial and Appeal Board ("the Board") through its denial of institution of six Petitions for *inter partes* review filed by defendants in the prior litigations. Institution was denied in each of these IPRs because the Board found that the respective Petitions did not establish a reasonable likelihood of success in invalidating the challenged claims, comprising several which are now asserted in the present litigation. Requests for rehearing were similarly rejected by the Board.

22. Ericsson has been aware of the subject matter of the Asserted Patents since at least 2014, at which time Ericsson was involved in discussions to acquire a portfolio including one or more of the Asserted Patents. Additionally, Ericsson has been aware of the subject matter of the Asserted Patents since, status of these litigations and IPRs since at least December 15, 2017, at which time Packet Intelligence sent electronic correspondence to Ericsson's Vice President of Global Patent Licensing discussing the same. Following Ericsson's response to the first communication, on February 22, 2018, Packet Intelligence again sent correspondence to Ericsson affirming the validity of the Packet Intelligence Patents in light of the District Court rulings in the NetScout and Sandvine litigations.

IV. BACKGROUND AND FACTS

23. The Asserted Patents are generally directed to systems and methods for classifying and monitoring network traffic as well as the use of state operations and state-of-the-flow analysis to accommodate classification and monitoring of network traffic. These innovative concepts enable classification of data packets passing through a network to provide detailed insight and information to network managers and operators. More specifically, the Asserted

Patents disclose and claim improved techniques for monitoring network traffic through, among other things, categorizing network traffic into "conversational flows" – relating sequences of data packets exchanged in any direction over a network comprising multiple connections among network devices, which may be client or server devices, based on specific application activity. This was an improvement over conventional systems and methods for classifying and monitoring network traffic based only on "connection flows" – data packets transmitted over a single network connection.

24. Traffic classification involves detecting the underlying protocols used within a data packet, as well as the applications or user activity responsible for generating network traffic. It also involves identifying the underlying protocols/applications of a flow along with recording traffic statistics. Such classification and monitoring provide network administrators with detailed information about their networks, which can be used to diagnose network problems, control bandwidth allocation, and ensure an appropriate quality of service for users.

25. Conventional network monitors categorized network transmissions into "connection flows." A connection flow refers to the packets involved in a single connection and relate to a negotiated transmission between specific addresses on two devices. A connection flow correlates to the source and destination IP address/port pairs used on both ends of the connection without inspecting the packet's payload deeper than the headers of the transport layer[1] containing port information. The problem with only tracking connection flows is that certain applications and protocols may generate multiple connections. In other words, a single application may spawn multiple connections for a single activity. For example, if user A wants to have a Skype

[1] The functionality underlying network communications is often viewed in terms of conceptual layers, such as those defined in the 7 Layer OSI Model. *See* OSI Model, https://en.wikipedia.org/wiki/OSI_model (visited July 27, 2018). Several different protocol options may be available at each layer to accomplish specific tasks needed by the layer above it.

call with user B, the Skype application may create multiple connections between computer A and B to conduct the call. There might be one connection which supplies setup information, a second connection for transmitting video information, and a third connection for transmitting audio information. Conventional network monitors would consider these three separate connections even though they originated from a single Skype call.

26. The Asserted Patents improved upon these conventional network monitoring systems and methods by categorizing network transmissions into "conversational flows" rather than merely in "connection flows." Unlike connection flow, conversational flow is the sequence of packets that are exchanged in any direction as a result of a particular activity—for instance, the running of an application on a server as requested by a client—which may include multiple connections, transmissions, or exchanges in either direction between the participants in the conversation. This addressed the problem of disjointed flows in network communications through "virtually concatenating," or linking, all related conversational exchanges.

27. "Conversational flows" are identified through parsing and analyzing data packets at deeper layers to extract information used to classify each data packet, determining whether it belongs to an existing conversational flow or is part of a new conversational flow. This is accomplished, in part, by populating a parsing/extraction operations memory and a state patterns/operations and database with machine operations that implement programmable rules and instructions for inspecting packets to identify patterns forming conversational flows.

28. Network traffic is inspected for pattern recognition to determine protocol types and headers for each protocol layer. Extracted packet information is compared to stored data corresponding to prior network transmissions to determine whether a current transmission belongs to a known flow comprising previously inspected transmissions. Extracted data may

also be used to determine the different states, state transitions, and/or state operations to be performed corresponding to a conversational flow to aid in predicting and/or identifying subsequent transmissions within a conversational flow and/or to determine the termination of a conversational flow. One of the many advantages of the invention is properly analyzing the packets exchanged between a client and a server and maintaining information relevant to the current state of each of these conversational flows.

29. Classifying transmissions in the context of conversational flows provides several benefits over conventional network monitoring systems and methods, including accommodation of: more flexible and effective stateful firewall operations to permit network operators greater flexibility in configuring network security policies; more robust understanding of the quality of service ("QoS") and bandwidth usage of a multiple connection flow application whereby certain network traffic could be excluded from data usage limits, bandwidth throttling may be applied to specific applications or services, and access to certain web browser applications may be restricted at specified times; and, eavesdropping or lawful interception, by cloning all of the traffic of a conversational flow, which allows another user on the network, or elsewhere, to read the content exchanged over the network without the knowledge of the original recipient.

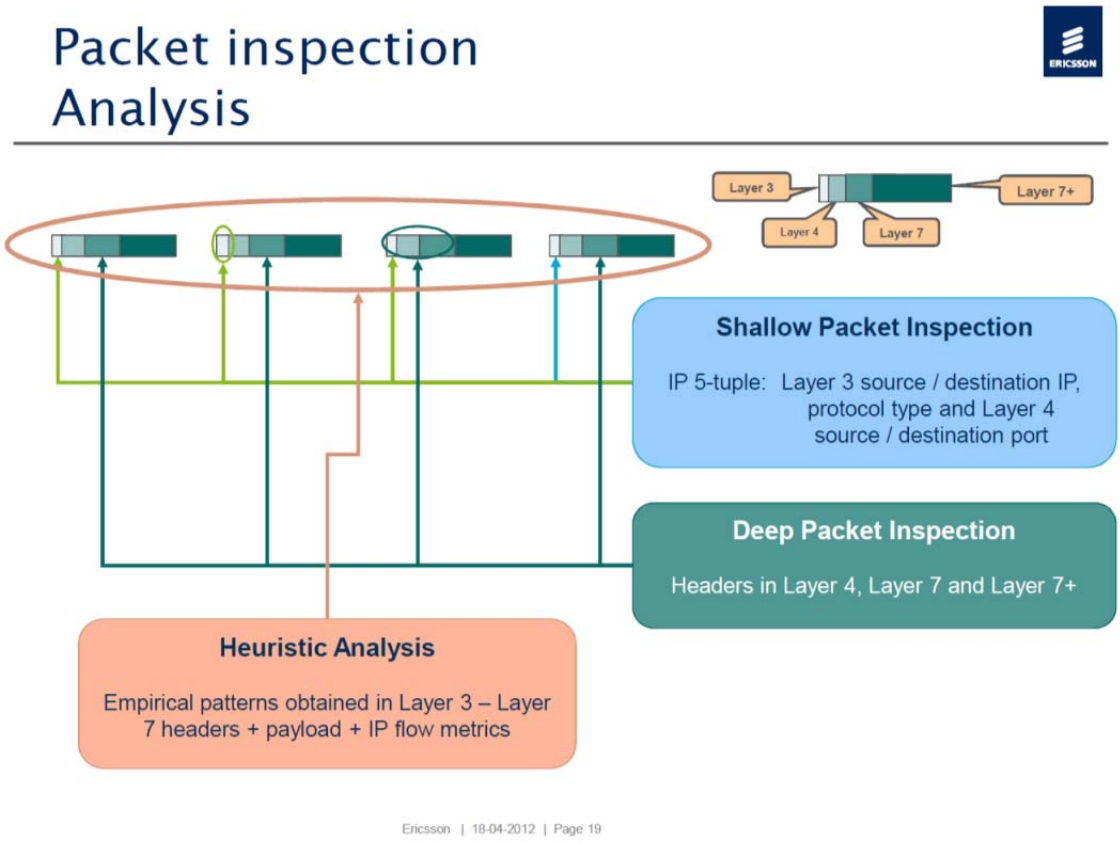
V. THE ACCUSED PRODUCTS

30. The 'Accused Products' are products that enable and/or implement DPI or any similar mechanism. For example, the 'Accused Products' include Ericsson products enabling the use of DPI. For example, the use of DPI in conjunction with a Policy Charging and Rules Function ("PCRF") and/or a Policy and Charging Enforcement Function ("PCEF"). For example and not by way of limitation, the 'Accused Products' include Ericsson's products that are designed to function with Ericsson's Service Aware Policy Controller ("SAPC"), Evolved

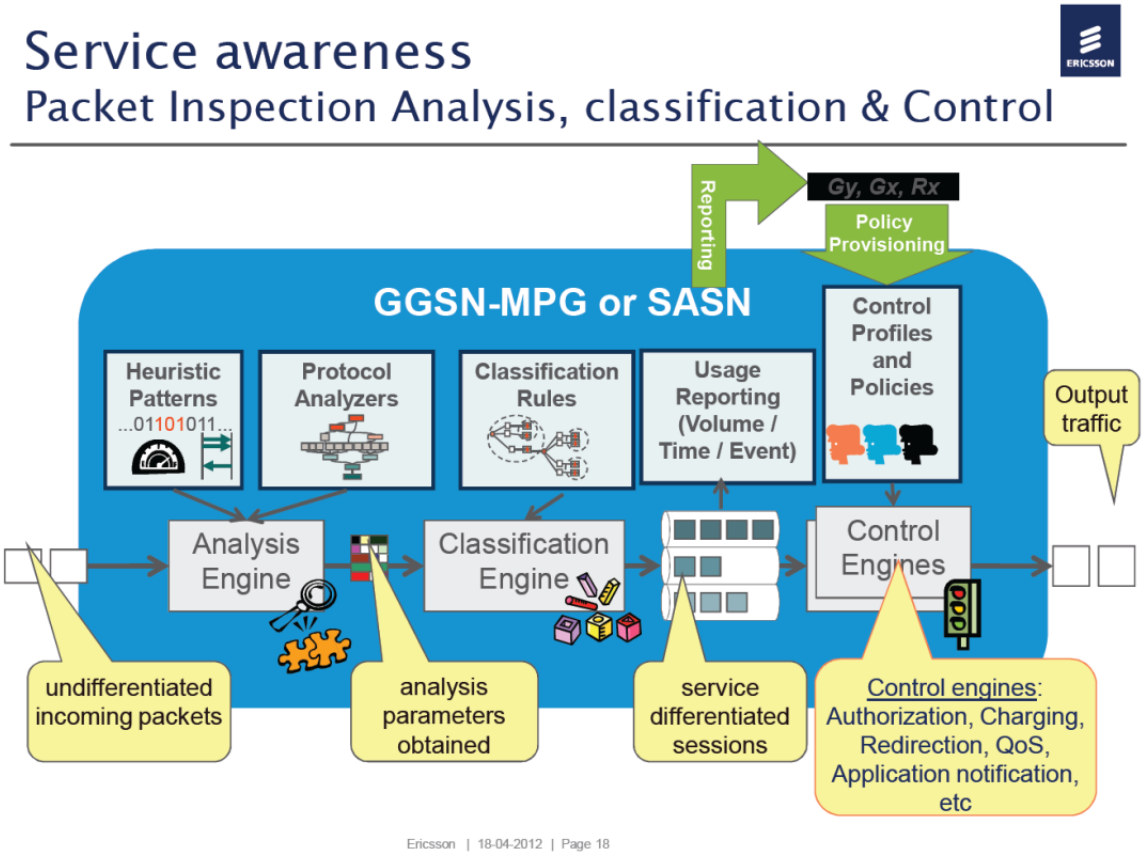
Packet Gateway ("EPG"), Evolved Packet Core ("EPC") with DPI, Service Aware Support Node ("SASN"), and/or other products enabling Service Aware capabilities and/or DPI functionality. Further, the 'Accused Products' include any products sold, imported, used, and/or offered for sale by Ericsson, regardless of the brand name associated with those products For purposes of clarity, the "Accused Products" include but are not limited to Ericsson router products that implement Evolved Packet Gateway ("EPG") functionality with Service Aware capabilities and/or DPI functionality. These products include, but are not limited to, (i) the SSR 8000 family of Smart Server Routers (e.g., SSR 8020, SSR 8010, and SSR 8804); (ii) 8801 Routers; (iii) the Ericsson Router 6000 family (e.g., 6675, 6672, 6471, 6371, 6274 Routers); and (iv) virtual routers that implement Ericsson's "Service Aware" DPI functionality. . *See* Mobile Network Security: A Key Component of Ericsson's Evolved IP Network Solution, at pages 10-11 available at https://archive.ericsson.net/service/internet/picov/get?DocNo=6/28701-FGB101686&Lang=EN&HighestFree=Y; https://www.ericsson.com/ourportfolio/core-network/evolved-packet-gateway. *See also* https://www.ericsson.com/ourportfolio/core-network/ssr-8000-family; https://www.ericsson.com/ourportfolio/router; https://www.ericsson.com/ourportfolio/core-network/service-aware-policy-controller; https://www.ericsson.com/ourportfolio/core-network/virtual-evolved-packet-core. However, for the purposes of clarity, the "Accused Products" are not limited to the exemplary products enumerated above.

31. On information and belief, the Accused Products perform both shallow packet inspection to determine an IP 5-tuple of Layer 3 source and destination IP address, Layer 4 source and destination port information, and protocol type; deep packet inspection of the

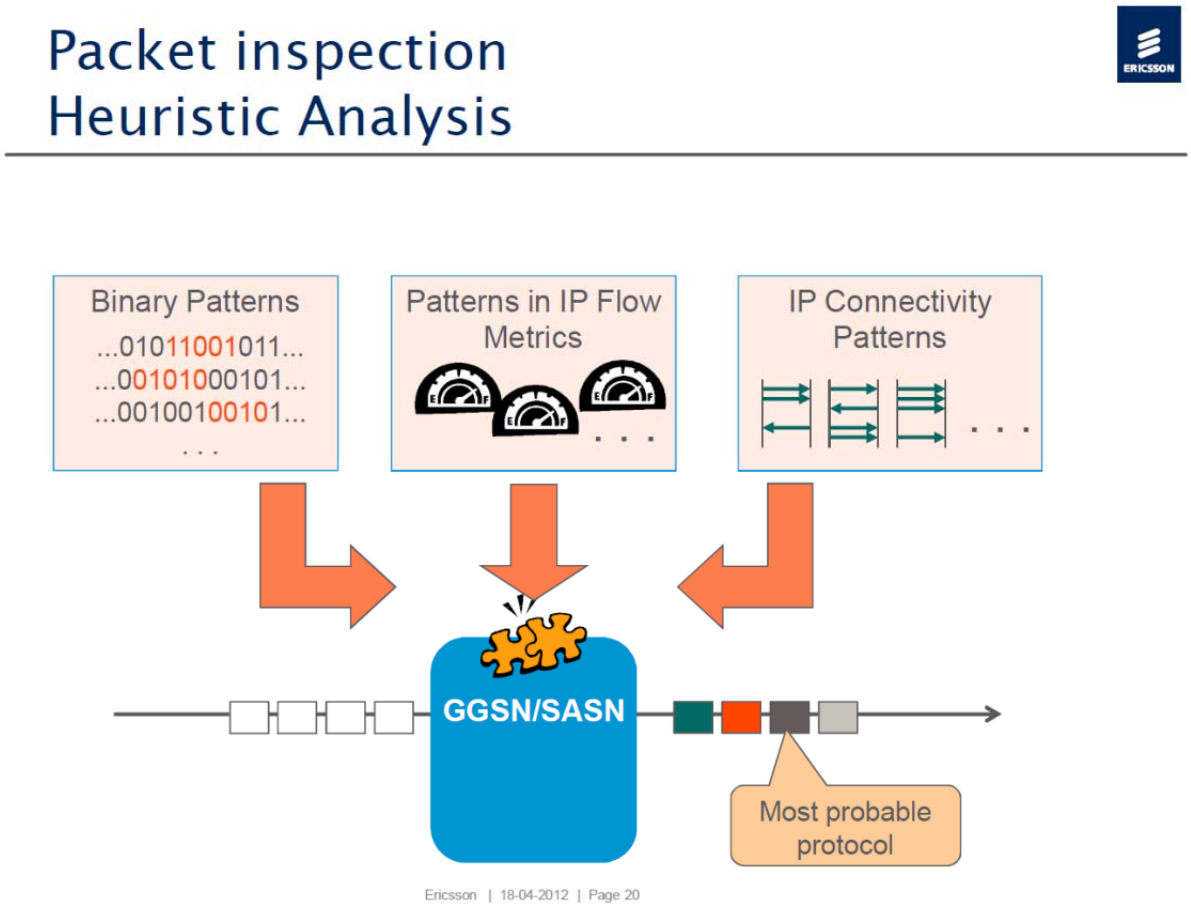
headers in Layer 4, Layer 7 and Layer 7+; and additional heuristic analysis of packet flows regarding patterns in Layer 3 through Layer 7 headers, payloads, and IP flow metrics, as indicated in its technical documentation:



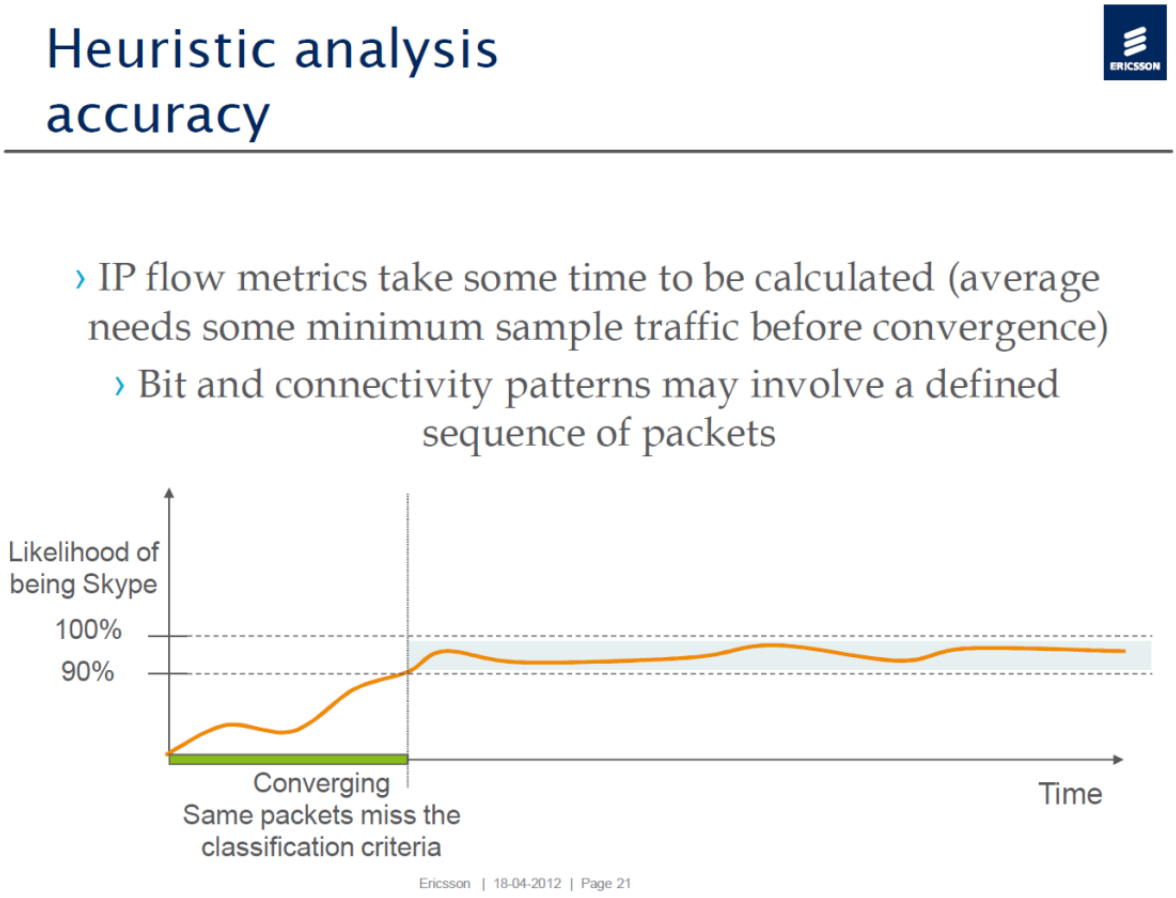
Integrated Policy Control & Charging Architecture for Mobile Broadband," at page 19. This packet inspection analysis is implemented to provide "Service awareness" to allow the operator to classify and control packet flows in the network:



Integrated Policy Control & Charging Architecture for Mobile Broadband, at 18. *See also* "Policies Protect Profit," at 7-8. The Heuristic Patterns and Protocol Analyzers are used in an Analysis Engine to obtain analysis parameters from undifferentiated incoming packets. A Classification Engine uses Classification Rules to identify service differentiated sessions. The analysis of patterns in (1) packet headers and payloads at different layers; (2) IP flow metrics; and (3) connectivity allows the EPG to determine the most probable protocols implemented in the packet flows:



Integrated Policy Control & Charging Architecture for Mobile Broadband, at 20. Based upon the recognition of these patterns, the EPG is able to classify with a high degree of accuracy the application involved in the conversation flow:



Integrated Policy Control & Charging Architecture for Mobile Broadband, at 21. *See also* "Policies Protect Profit," at 7-8. After classifying the traffic flows, the EPG is able to implement access control, flow bandwidth management, and a charging system for the particular conversational IP flows. Integrated Policy Control & Charging Architecture for Mobile Broadband, at 25, 27 and 34; Policies Protect Profit, at 7-8.

COUNT I
PATENT INFRINGEMENT
U.S. Patent No. 6,651,099

32. Packet Intelligence realleges paragraphs 1 through 31 as though fully set forth herein.

33. Ericsson has infringed directly and continues to infringe directly, either literally or under the doctrine of equivalents, at least claim 1 of the ’099 Patent by its manufacture, sale, offer for sale, and use of any one or more of the Accused Products. Ericsson is therefore liable for infringement of the ’099 Patent pursuant to 35 U.S.C. § 271.

34. As of the time Ericsson first had notice of Plaintiff’s allegations of infringement of one or more claims of the ’099 Patent by Ericsson, which is no later than the filing date of this complaint, Ericsson indirectly infringed and continues to indirectly infringe at least claim 1 of the ’099 Patent by active inducement under 35 U.S.C. § 271(b). Ericsson has induced, caused, urged, encouraged, aided and abetted its direct and indirect customers to make, use, sell, offer for sale and/or import one or more of the Accused Products, and thus indirectly infringes at least claim 1 of the ’099 Patent. Ericsson has done so by acts including but not limited to: (1) selling such products including features that—when used or resold—infringe, either literally or under the doctrine of equivalents, the ’099 Patent; (2) marketing the infringing capabilities of such products; and (3) providing instructions, technical support, and other support and encouragement for the use of such products, including at least the documents referenced above. Such conduct by Ericsson was intended to and actually did result in direct infringement by Ericsson’s direct and indirect customers, including the making, using, selling, offering for sale and/or importation of the Accused Products in the United States.

35. Ericsson’s infringement of the ’099 Patent has damaged Packet Intelligence, and Ericsson is liable to Packet Intelligence in an amount to be determined at trial that compensates Packet Intelligence for the infringement, which by law can be no less than a reasonable royalty.

36. As of the time Ericsson first had notice of the ’099 Patent, as early as 2014, Ericsson has continued with its infringement despite the objectively high likelihood that its

actions constitute infringement and Ericsson's subjective knowledge of this obvious risk. As Ericsson has no good faith belief that it does not infringe the '099 Patent, at least Ericsson's continued infringement of the '099 Patent is willful and deliberate, entitling Packet Intelligence to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

COUNT II
PATENT INFRINGEMENT
U.S. Patent No. 6,665,725

37. Packet Intelligence realleges paragraphs 1 through 31 as though fully set forth herein.

38. Ericsson has infringed directly and continues to infringe directly, either literally or under the doctrine of equivalents, at least claim 17 of the '725 Patent by its manufacture, sale, offer for sale, and use of any one or more of the Accused Products. Ericsson is therefore liable for infringement of the '725 Patent pursuant to 35 U.S.C. § 271.

39. As of the time Ericsson first had notice of Plaintiff's allegations of infringement of one or more claims of the '725 Patent by Ericsson, which is no later than the filing date of this complaint, Ericsson indirectly infringed and continues to indirectly infringe at least claim 17 of the '725 Patent by active inducement under 35 U.S.C. § 271(b). Ericsson has induced, caused, urged, encouraged, aided and abetted its direct and indirect customers to make, use, sell, offer for sale and/or import one or more of the Accused Products, and thus indirectly infringes at least claim 17 of the '725 Patent. Ericsson has done so by acts including but not limited to: (1) selling such products including features that—when used or resold—infringe, either literally or under the doctrine of equivalents, the '725 Patent; (2) marketing the infringing capabilities of such products; and (3) providing instructions, technical support, and other support and encouragement

for the use of such products, including at least the documents referenced above. Such conduct by Ericsson was intended to and actually did result in direct infringement by Ericsson's direct and indirect customers, including the making, using, selling, offering for sale and/or importation of the Accused Products in the United States.

40. Ericsson's infringement of the '725 Patent has damaged Packet Intelligence, and Ericsson is liable to Packet Intelligence in an amount to be determined at trial that compensates Packet Intelligence for the infringement, which by law can be no less than a reasonable royalty.

41. As of the time Ericsson first had notice of the '725 Patent, as early as 2014, Ericsson has continued with its infringement despite the objectively high likelihood that its actions constitute infringement and Ericsson's subjective knowledge of this obvious risk. As Ericsson has no good faith belief that it does not infringe the '725 Patent, at least Ericsson's continued infringement of the '725 Patent is willful and deliberate, entitling Packet Intelligence to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

COUNT III
PATENT INFRINGEMENT
U.S. Patent No. 6,771,646

42. Packet Intelligence realleges paragraphs 1 through 31 as though fully set forth herein.

43. Ericsson has infringed directly and continues to infringe directly, either literally or under the doctrine of equivalents, at least claim 7 of the '646 Patent by its manufacture, sale, offer for sale, and use of any one or more of the Accused Products. Ericsson is therefore liable for infringement of the '646 Patent pursuant to 35 U.S.C. § 271.

44. As of the time Ericsson first had notice of Plaintiff's allegations of infringement of one or more claims of the '646 Patent by Ericsson, which is no later than the filing date of this complaint, Ericsson indirectly infringed and continues to indirectly infringe at least claim 7 of the '646 Patent by active inducement under 35 U.S.C. § 271(b). Ericsson has induced, caused, urged, encouraged, aided and abetted its direct and indirect customers to make, use, sell, offer for sale and/or import one or more of the Accused Products, and thus indirectly infringes at least claim 7 of the '646 Patent. Ericsson has done so by acts including but not limited to: (1) selling such products including features that—when used or resold—infringe, either literally or under the doctrine of equivalents, the '646 Patent; (2) marketing the infringing capabilities of such products; and (3) providing instructions, technical support, and other support and encouragement for the use of such products, including at least the documents referenced above. Such conduct by Ericsson was intended to and actually did result in direct infringement by Ericsson's direct and indirect customers, including the making, using, selling, offering for sale and/or importation of the Accused Products in the United States.

45. Ericsson's infringement of the '646 Patent has damaged Packet Intelligence, and Ericsson is liable to Packet Intelligence in an amount to be determined at trial that compensates Packet Intelligence for the infringement, which by law can be no less than a reasonable royalty.

46. As of the time Ericsson first had notice of the '646 Patent, as early as 2014, Ericsson has continued with its infringement despite the objectively high likelihood that its actions constitute infringement and Ericsson's subjective knowledge of this obvious risk. As Ericsson has no good faith belief that it does not infringe the '646 Patent, at least Ericsson's continued infringement of the '646 Patent is willful and deliberate, entitling Packet Intelligence

to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

COUNT IV
PATENT INFRINGEMENT
U.S. Patent No. 6,839,751

47. Packet Intelligence realleges paragraphs 1 through 31 as though fully set forth herein.

48. Ericsson has infringed directly and continues to infringe directly, either literally or under the doctrine of equivalents, at least claim 17 of the '751 Patent by its manufacture, sale, offer for sale, and use of any one or more of the Accused Products. Ericsson is therefore liable for infringement of the '751 Patent pursuant to 35 U.S.C. § 271.

49. As of the time Ericsson first had notice of Plaintiff's allegations of infringement of one or more claims of the '751 Patent by Ericsson, which is no later than the filing date of this complaint, Ericsson indirectly infringed and continues to indirectly infringe at least claim 17 of the '751 Patent by active inducement under 35 U.S.C. § 271(b). Ericsson has induced, caused, urged, encouraged, aided and abetted its direct and indirect customers to make, use, sell, offer for sale and/or import one or more of the Accused Products, and thus indirectly infringes at least claim 17 of the '751 Patent. Ericsson has done so by acts including but not limited to: (1) selling such products including features that—when used or resold—infringe, either literally or under the doctrine of equivalents, the '751 Patent; (2) marketing the infringing capabilities of such products; and (3) providing instructions, technical support, and other support and encouragement for the use of such products, including at least the documents referenced above. Such conduct by Ericsson was intended to and actually did result in direct infringement by Ericsson's direct and

indirect customers, including the making, using, selling, offering for sale and/or importation of the Accused Products in the United States.

50. Ericsson's infringement of the '751 Patent has damaged Packet Intelligence, and Ericsson is liable to Packet Intelligence in an amount to be determined at trial that compensates Packet Intelligence for the infringement, which by law can be no less than a reasonable royalty.

51. As of the time Ericsson first had notice of the '751 Patent, as early as 2014, Ericsson has continued with its infringement despite the objectively high likelihood that its actions constitute infringement and Ericsson's subjective knowledge of this obvious risk. As Ericsson has no good faith belief that it does not infringe the '751 Patent, at least Ericsson's continued infringement of the '751 Patent is willful and deliberate, entitling Packet Intelligence to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

COUNT V
PATENT INFRINGEMENT
U.S. Patent No. 6,954,789

52. Packet Intelligence realleges paragraphs 1 through 31 as though fully set forth herein.

53. Ericsson has infringed directly and continues to infringe directly, either literally or under the doctrine of equivalents, at least claim 19 of the '789 Patent by its manufacture, sale, offer for sale, and use of any one or more of the Accused Products. Ericsson is therefore liable for infringement of the '789 Patent pursuant to 35 U.S.C. § 271.

54. As of the time Ericsson first had notice of Plaintiff's allegations of infringement of one or more claims of the '789 Patent by Ericsson, which is no later than the filing date of this complaint, Ericsson indirectly infringed and continues to indirectly infringe at least claim 19 of

the ’789 Patent by active inducement under 35 U.S.C. § 271(b). Ericsson has induced, caused, urged, encouraged, aided and abetted its direct and indirect customers to make, use, sell, offer for sale and/or import one or more of the Accused Products, and thus indirectly infringes at least claim 19 of the ’789 Patent. Ericsson has done so by acts including but not limited to: (1) selling such products including features that—when used or resold—infringe, either literally or under the doctrine of equivalents, the ’789 Patent; (2) marketing the infringing capabilities of such products; and (3) providing instructions, technical support, and other support and encouragement for the use of such products, including at least the documents referenced above. Such conduct by Ericsson was intended to and actually did result in direct infringement by Ericsson’s direct and indirect customers, including the making, using, selling, offering for sale and/or importation of the Accused Products in the United States.

55. Ericsson’s infringement of the ’789 Patent has damaged Packet Intelligence, and Ericsson is liable to Packet Intelligence in an amount to be determined at trial that compensates Packet Intelligence for the infringement, which by law can be no less than a reasonable royalty.

56. As of the time Ericsson first had notice of the ’789 Patent, as early as 2014, Ericsson has continued with its infringement despite the objectively high likelihood that its actions constitute infringement and Ericsson’s subjective knowledge of this obvious risk. As Ericsson has no good faith belief that it does not infringe the ’789 Patent, at least Ericsson’s continued infringement of the ’789 Patent is willful and deliberate, entitling Packet Intelligence to increased damages under 35 U.S.C. § 284 and to attorneys’ fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

DEMAND FOR JURY TRIAL

57. Plaintiff Packet Intelligence demands a trial by jury on all issues so triable, pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Packet Intelligence prays for the following relief:

A. A judgment in favor of Packet Intelligence that Ericsson has, either literally or under the doctrine of equivalents, directly infringed and is directly infringing one or more of the claims of the Asserted Patents, and/or judgment in favor of Packet Intelligence that one or more of the claims of the Asserted Patents have been directly infringed by others and indirectly infringed by Ericsson, to the extent Ericsson induced such direct infringement by others;

B. An order permanently enjoining the Ericsson, its respective officers, agents, employees, and those acting in privity with it, from further direct and/or indirect infringement of one or more claims of the Asserted Patents, or, alternatively, an award of an ongoing royalty for Ericsson's post-judgment infringement of the asserted claims of the Asserted Patents in an amount to be determined at trial;

C. An award of damages to Packet Intelligence arising out of Ericsson's infringement of one or more claims of the Asserted Patents, including enhanced damages pursuant to 35 U.S.C. § 284, together with prejudgment and post-judgment interest, in an amount to be determined at trial;

D. A judgment declaring this case exceptional under 35 U.S.C. § 285 and awarding Packet Intelligence its attorneys' fees;

E. An award of prejudgment and post-judgment interest to the full extent permitted by controlling law; and,

F. An award of costs and any further relief as the Court may deem just and proper to Packet Intelligence.

Dated: June 14, 2019

Respectfully submitted,

/s/ *Christopher M. First*
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