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21 **UNITED STATES DISTRICT COURT**
 22 **NORTHERN DISTRICT OF CALIFORNIA**

23 PACKET INTELLIGENCE LLC,

24 Plaintiff,

25 v.

26 JUNIPER NETWORKS, INC.,

27 Defendant.

Case No.

**PACKET INTELLIGENCE LLC'S
 COMPLAINT FOR PATENT
 INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 PACKET INTELLIGENCE LLC (“Packet Intelligence” and “Plaintiff” herein) by and
2 through its undersigned attorneys hereby demands a jury trial and alleges the following in support
3 of its Complaint for patent infringement against Defendant JUNIPER NETWORKS, INC.
4 (“Juniper” and “Defendant” herein).

5 **I. THE PARTIES**

6 1. Packet Intelligence LLC is a limited liability company existing under the laws of
7 Texas since June 2012. Plaintiff maintains its principal place of business at 705B Mulberry Ave,
8 Celebration, FL 34747.

9 2. Upon information and belief, Juniper Networks, Inc. is a Delaware Corporation, with
10 a principal place of business at 1133 Innovation Way, Sunnyvale, CA 94089. Defendant may be
11 served with process through its Registered Agent, CT Corporation System located at 818 Seventh
12 Street, Suite 930, Los Angeles, CA 90017.

13 **II. JURISDICTION AND VENUE**

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

16 4. Defendant has sufficient minimum contacts with the Northern District of California
17 such that this venue is fair and reasonable. Defendant has committed such purposeful acts and/or
18 transactions in this District that it reasonably should know and expect that it could be hailed into
19 this Court as a consequence of such activities. Defendant has transacted and, at the time of the filing
20 of this Complaint, continues to transact business within the Northern District of California.

21 5. Further, Defendant makes or sells products that are and have been used, offered for
22 sale, sold, and/or purchased in the Northern District of California. Defendant directly and/or through
23 its distribution network, places infringing products or systems within the stream of commerce, which
24 stream is directed at this District, with the knowledge and/or understanding that those products will
25 be sold and/or used in the Northern District of California.

26 6. For these reasons, personal jurisdiction exists and venue is proper in this Court under
27 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(b), respectively.

III. THE PATENTS-IN-SUIT

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

6 8. Mr. Russell S. Dietz, the first listed inventor on four of the five patents-in-suit, is a
7 recognized thought leader who publishes and lectures regularly on network data management, cloud
8 computing and virtualization security solutions. Mr. Dietz has more than 30 years of experience in
9 the technology and security space. He has a proven record of success as Chief Technology Officer
10 of multiple hardware, software and systems security companies, and is a recognized pioneer and
11 innovator in cloud computing and virtualization security solutions. He has more than 20 years of
12 leadership and expertise anticipating trends, and evaluating new technologies in data
13 communications, data management and Enterprise security. He is an active member of the Internet
14 and Engineering Task Force (IETF), Optical Internetworking Forum (OIF) and the Cloud
15 Computing Interoperability Forum (CCIF).

16 9. On November 18, 2003, the United States Patent and Trademark Office (USPTO)
17 duly and legally issued U.S. Patent No. 6,651,099 (“the ’099 Patent”) entitled “Method and
18 Apparatus for Monitoring Traffic in a Network.” Packet Intelligence owns all substantial rights to
19 the ’099 Patent, including the right to sue and recover damages for all infringement thereof.
20 Documents assigning the ’099 Patent to Packet Intelligence were recorded at the USPTO on
21 February 1, 2013 at Reel/Frame 29737-613. Attached hereto as Exhibit A is a true and correct copy
22 of the ’099 Patent. The ’099 patent has been cited as pertinent prior art by either an applicant, or a
23 USPTO examiner, during the prosecution of more than 275 issued patents and published patent
24 applications.

25 10. On December 16, 2003, the USPTO duly and legally issued U.S. Patent No.
26 6,665,725 (“the ’725 Patent”) entitled “Processing Protocol Specific Information in Packets
27 Specified by a Protocol Description Language.” Packet Intelligence owns all substantial rights to
28 the ’725 Patent, including the right to sue and recover damages for all infringement thereof.

1 Documents assigning the '725 Patent to Packet Intelligence were recorded at the USPTO on
2 February 1, 2013 at Reel/Frame 29737-613. A true and correct copy of the '725 Patent is attached
3 hereto as Exhibit B.

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

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

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

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

22 15. The '751 patent has been cited as pertinent prior art by either an applicant, or a
23 USPTO examiner, during the prosecution of more than 100 issued patents and published patent
24 applications.

25 16. On October 11, 2005, the USPTO duly and legally issued U.S. Patent No. 6,954,789
26 (“the '789 Patent”) entitled “Method and Apparatus for Monitoring Traffic in a Network.” Packet
27 Intelligence owns all substantial rights to the '789 Patent, including the right to sue and recover
28 damages for all infringement thereof. Documents assigning the '789 Patent to Packet Intelligence

1 were recorded at the USPTO on February 1, 2013 at Reel/Frame 29737-613. A true and correct
2 copy of the '789 Patent is attached hereto as Exhibit E.

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

6 18. Some or all of the '099, '725, '646, '751, and '789 Patents (referred to collectively
7 as the "Asserted Patents" or the "Patents-in-Suit") have been asserted in several patent infringement
8 litigations in the Eastern District of Texas and one pending action in this District (*See Palo Alto*
9 *Networks, Inc. v. Packet Intelligence LLC*, Civil Action No. 3:19-cv-02471-WHO). During the
10 course of these District court litigations, claims of the Asserted Patents have withstood multiple
11 validity challenges. The outcomes of those cases are indicative of the strength of the Asserted
12 Patents. The following cases have been litigated in the Eastern District of Texas:

- 13 • *Packet Intelligence LLC v. Huawei Devices USA Inc.*, Civil Action No. 2:13-cv-00206-
14 JRG (dismissed by stipulation of parties pursuant to settlement agreement);
- 15 • *Packet Intelligence LLC v. Cisco Systems, Inc.*, Civil Action No. 2:14-cv-00252-JRG
16 (dismissed by agreed motion and order following settlement);
- 17 • *Packet Intelligence LLC v. Cisco Systems, Inc.*, Civil Action No. 2:14-cv-01122-JRG
18 (consolidated with Civil Action No. 2:14-cv-00252-JRG);
- 19 • *Packet Intelligence LLC v. NetScout Systems, Inc. et al*, Civil Action No. 2:16-cv-
20 00230-JRG (resulting in a jury verdict finding infringement of the asserted claims of
21 the '725, '751, and '789 Patents and upholding validity of the same (Dkt. No. 237 at 3-
22 4); applying the constructions entered in the Court's Claim Construction Order (Dkt.
23 No. 66) and denying Defendant's Rule 52 motion challenging the validity of claims of
24 the '725, '751, and '789 Patents under 35 U.S.C. 101 (Dkt. No. 298)). The Court
25 resolved post trial motions with final appealable orders on May 31, 2019 and June 5,
26 2019 and the case is currently on appeal to the Court of Appeals for the Federal Circuit;
- 27 • *Packet Intelligence LLC v. Sandvine Corporation and Sandvine Incorporated ULC*,
28 Civil Action No. 2:16-cv-00147-JRG (resulting in a jury verdict of non-infringement of

1 the asserted claims of the '725, '751, and '789 Patents; validity did not make it to the
2 jury following denial of institution of Sandvine's Petitions for *inter partes* review of
3 the Asserted Patents and the Court's grant of Motion *in Limine* No. 4 (Dkt. No. 22));

- 4 • Two other actions involving the Asserted Patents are currently pending in the Eastern
5 District of Texas as *Packet Intelligence LLC v. Nokia of America Corporation*, Civil
6 Action No. 2:18-cv-00382-JRG and *Packet Intelligence LLC v. Ericsson Inc.*, Civil
7 Action No. 2:18-cv-00381-JRG.

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

14 20. Defendant has been aware of the status of these litigations and IPRs and of the
15 existence and subject matter of the Asserted Patents since at least January 18, 2019, at which time
16 Packet Intelligence sent a notice letter alleging Defendant infringes the Asserted Patents.

17 **IV. BACKGROUND AND FACTS**

18 21. The Asserted Patents are generally directed to systems and methods for classifying
19 and monitoring network traffic as well as the use of state operations and state-of-the-flow analysis
20 to accommodate classification and monitoring of network traffic. These innovative concepts enable
21 classification of data packets passing through a network to provide detailed insight and information
22 to network managers and operators. More specifically, the Asserted Patents disclose and claim
23 improved techniques for monitoring network traffic through, among other things, categorizing
24 network traffic into "conversational flows" – relating sequences of data packets exchanged in any
25 direction over a network comprising multiple connections among network devices, which may be
26 client or server devices, based on specific application activity. This was an improvement over
27 conventional systems and methods for classifying and monitoring network traffic based only on
28 "connection flows" – data packets transmitted over a single network connection.

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

7 23. Conventional network monitors categorized network transmissions into “connection
8 flows.” A connection flow refers to the packets involved in a single connection and relate to a
9 negotiated transmission between specific addresses on two devices. A connection flow correlates
10 to the source and destination IP address/port pairs used on both ends of the connection without
11 inspecting the packet’s payload deeper than the headers of the transport layer¹ containing port
12 information. The problem with only tracking connection flows is that certain applications and
13 protocols may generate multiple connections. In other words, a single application may spawn
14 multiple connections for a single activity. For example, if user A wants to have a Skype call with
15 user B, the Skype application may create multiple connections between computer A and B to
16 conduct the call. There might be one connection which supplies setup information, a second
17 connection for transmitting video information, and a third connection for transmitting audio
18 information. Conventional network monitors would consider these three separate connections even
19 though they originated from a single Skype call.

20 24. The Asserted Patents improved upon these conventional network monitoring systems
21 and methods by categorizing network transmissions into “conversational flows” rather than merely
22 in “connection flows.” Unlike connection flow, conversational flow is the sequence of packets that
23 are exchanged in any direction as a result of a particular activity—for instance, the running of an
24 application on a server as requested by a client—which may include multiple connections,
25 transmissions, or exchanges in either direction between the participants in the conversation. This

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27 ¹ The functionality underlying network communications is often viewed in terms of conceptual
28 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.

1 addressed the problem of disjointed flows in network communications through “virtually
2 concatenating,” or linking, all related conversational exchanges.

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

9 26. Network traffic is inspected for pattern recognition to determine protocol types and
10 headers for each protocol layer. Extracted packet information is compared to stored data
11 corresponding to prior network transmissions to determine whether a current transmission belongs
12 to a known flow comprising previously inspected transmissions. Extracted data may also be used
13 to determine the different states, state transitions, and/or state operations to be performed
14 corresponding to a conversational flow to aid in predicting and/or identifying subsequent
15 transmissions within a conversational flow and/or to determine the termination of a conversational
16 flow. One of the many advantages of the invention is properly analyzing the packets exchanged
17 between a client and a server and maintaining information relevant to the current state of each of
18 these conversational flows.

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

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V. THE ACCUSED PRODUCTS

28. The “Accused Products” include Defendant’s products, such as gateway and firewall products that include the Application Identification feature, and/or the Juniper Application Aware feature or other similar functionality. These products include, but are not limited to: SRX Series Gateway and/or Firewall products both physical and virtual/containerized platforms (including but not limited to SRX100, SRX110, SRX210, SRX220, SRX240, SRX300, SRX320, SRX340, SRX550, SRX650, SRX1500, SRX4100, SRX4200, SRX4600, SRX5400, SRX5600, SRX5800, vSRX, and cSRX), the Juniper MX Series routers including both physical and virtual platforms (including but not limited to virtual MX (vMX), MX5, MX10, MX40, MX80, MX104, MX150, MX204, MX240, MX480, MX960, MX2008, MX2010, MX2020, MX10003, MX 10008, and MX10016), and the NFX Series Network Services Platform products both physical and virtual platforms (including but not limited to NFX150 and NFX250) and any predecessor or successor models.

29. The Application Identification and Application Aware features of the Accused Products allow inspection of packets at layers 3-7 of the OSI model to allow identification of a protocol associated with the packet and to determine the particular application associated with the packet. Defendant’s documentation describes this capability as shown below:

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Junos OS Next-Generation Application Identification

Next-generation application identification builds on the legacy application identification functionality and provides more effective detection capabilities for evasive applications such as Skype, BitTorrent, and Tor.

Junos OS application identification recognizes Web-based and other applications and protocols at different network layers using characteristics other than port number. Applications are identified by using a protocol bundle containing application signatures and parsing information. The identification is based on protocol parsing and decoding and session management.

The detection mechanism has its own data feed and constructs to identify applications.

The following features are supported in application identification:

- Support for protocols and applications, including video streaming, peer-to-peer communication, social networking, and messaging
- Identification of services within applications
- Ability to distinguish actions launched within an application (such as login, browse, chat, and file transfer)
- Support for all versions of protocols and application decoders and dynamic updates of decoders
- Support for encrypted and compressed traffic and most complex tunneling protocols
- Ability to identify all protocols from Layer 3 to Layer 7 and above Layer 7

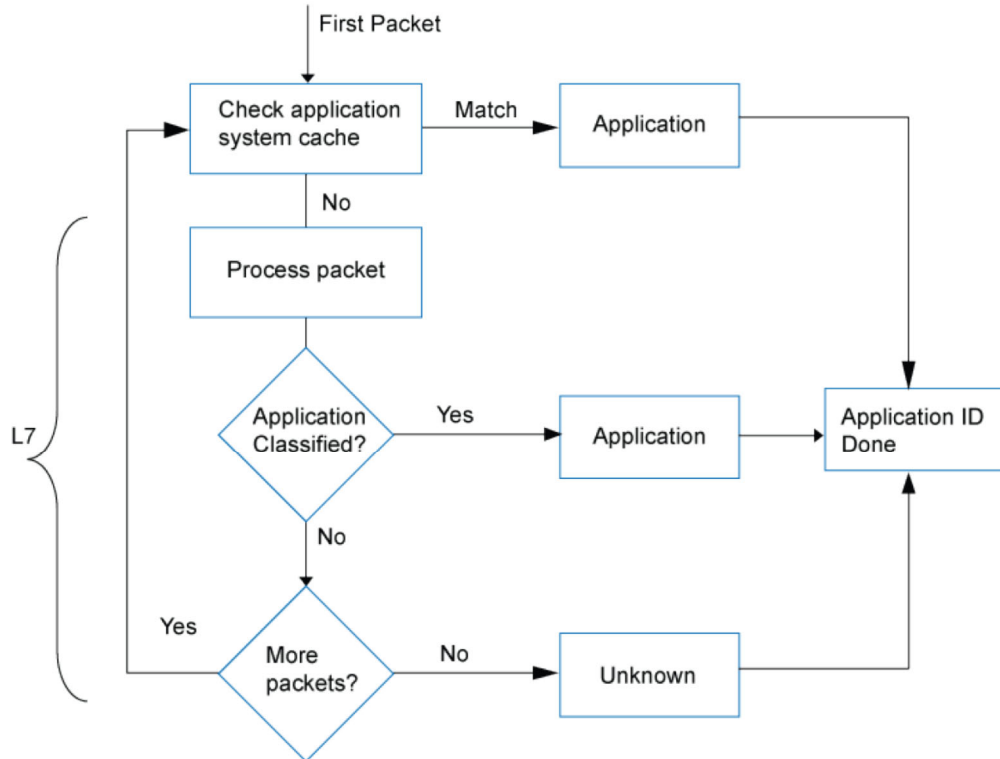
See “Junos OS – Application Security Feature Guide for Security Devices,” at p. 28.

30. A flow chart of the process by which the Accused Products identify the application that corresponds to a packet is shown below in the excerpt from Defendant’s documentation:

Application Identification Match Sequence

Figure 1 on page 29 shows the sequence in which mapping techniques are applied and how the application is determined.

Figure 1: Mapping Sequence



See “Junos OS – Application Security Feature Guide for Security Devices,” at p. 29.

31. The flow chart shows several decision points during the processing of a packet in the Application Identification feature. The Accused Products can be used to implement one or more of the AppSecure models, such as AppTrack, AppFW, AppQoS, AppDoS, and IPS. For instance, AppQoS can be used to implement Quality of Service (“QoS”) policies that are applied to packets based on the application that is identified. A network operator using the Accused Products can set QoS policies that can limit the bandwidth for certain applications during peak hours or prioritize packets associated with applications requiring more bandwidth, e.g., streaming video.

VI. PATENT INFRINGEMENT (U.S. Patent No. 6,651,099)

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

33. Defendant 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

1 for sale, and use of any one or more of the Accused Products. Defendant is therefore liable for
2 infringement of the '099 Patent pursuant to 35 U.S.C. § 271.

3 34. As of the time Defendant first had notice of Plaintiff's allegations of infringement of
4 one or more claims of the '099 Patent by Defendant, which is no later than the date of the notice
5 letter sent by Packet Intelligence on January 18, 2019, Defendant indirectly infringed and continues
6 to indirectly infringe at least claim 1 of the '099 Patent by active inducement under 35 U.S.C.
7 § 271(b). Defendant has induced, caused, urged, encouraged, aided and abetted its direct and
8 indirect customers to make, use, sell, offer for sale and/or import one or more of the Accused
9 Products, and thus indirectly infringes at least claim 1 of the '099 Patent. Defendant has done so by
10 acts including but not limited to (1) selling such products including features that—when used or
11 resold—infringe, either literally or under the doctrine of equivalents, the '099 Patent; (2) marketing
12 the infringing capabilities of such products; and (3) providing instructions, technical support, and
13 other support and encouragement for the use of such products, including at least the documents
14 referenced above. Such conduct by Defendant was intended to and actually did result in direct
15 infringement by Defendant's direct and indirect customers, including the making, using, selling,
16 offering for sale and/or importation of the Accused Products in the United States.

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

20 36. As of the time Defendant first had notice of the '099 Patent, at least as early as
21 January 18, 2019, Defendant has continued with its infringement despite the objectively high
22 likelihood that its actions constitute infringement and Defendant's subjective knowledge of this
23 obvious risk. As Defendant has no good faith belief that it does not infringe the '099 Patent, at least
24 Defendant's continued infringement of the '099 Patent is willful and deliberate, entitling Packet
25 Intelligence to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred
26 in prosecuting this action under 35 U.S.C. § 285.

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VII. PATENT INFRINGEMENT (U.S. Patent No. 6,665,725)

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

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

7 39. As of the time Defendant first had notice of Plaintiff's allegations of infringement of
8 one or more claims of the '725 Patent by Defendant, at least as early as January 18, 2019, Defendant
9 indirectly infringed and continues to indirectly infringe at least claim 17 of the '725 Patent by active
10 inducement under 35 U.S.C. § 271(b). Defendant has induced, caused, urged, encouraged, aided
11 and abetted its direct and indirect customers to make, use, sell, offer for sale and/or import one or
12 more of the Accused Products, and thus indirectly infringes at least claim 17 of the '725 Patent.
13 Defendant has done so by acts including but not limited to (1) selling such products including
14 features that—when used or resold—infringe, either literally or under the doctrine of equivalents,
15 the '725 Patent; (2) marketing the infringing capabilities of such products; and (3) providing
16 instructions, technical support, and other support and encouragement for the use of such products,
17 including at least the documents referenced above. Such conduct by Defendant was intended to and
18 actually did result in direct infringement by Defendant's direct and indirect customers, including the
19 making, using, selling, offering for sale and/or importation of the Accused Products in the United
20 States.

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

24 41. As of the time Defendant first had notice of the '725 Patent, at least as early as
25 January 18, 2019, Defendant has continued with its infringement despite the objectively high
26 likelihood that its actions constitute infringement Defendant's subjective knowledge of this obvious
27 risk. As Defendant has no good faith belief that it does not infringe the '725 Patent, at least
28 Defendant's continued infringement of the '725 Patent is willful and deliberate, entitling Packet

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

3 **VIII. PATENT INFRINGEMENT (U.S. Patent No. 6,771,646)**

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

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

10 44. As of the time Defendant first had notice of Plaintiff's allegations of infringement of
11 one or more claims of the '646 Patent by Defendant, which is no later than the January 18, 2019,
12 Defendant indirectly infringed and continues to indirectly infringe at least claim 7 of the '646 Patent
13 by active inducement under 35 U.S.C. § 271(b). Defendant has induced, caused, urged, encouraged,
14 aided and abetted its direct and indirect customers to make, use, sell, offer for sale and/or import
15 one or more of the Accused Products, and thus indirectly infringes at least claim 7 of the '646 Patent.
16 Defendant has done so by acts including but not limited to (1) selling such products including
17 features that—when used or resold—infringe, either literally or under the doctrine of equivalents,
18 the '646 Patent; (2) marketing the infringing capabilities of such products; and (3) providing
19 instructions, technical support, and other support and encouragement for the use of such products,
20 including at least the documents referenced above. Such conduct by Defendant was intended to and
21 actually did result in direct infringement by Defendant's direct and indirect customers, including the
22 making, using, selling, offering for sale and/or importation of the Accused Products in the United
23 States.

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

27 46. As of the time Defendant first had notice of the '646 Patent, at least as early as
28 January 18, 2019 2017, Defendant has continued with its infringement despite the objectively high

1 likelihood that its actions constitute infringement and Defendant's subjective knowledge of this
2 obvious risk. As Defendant has no good faith belief that it does not infringe the '646 Patent, at least
3 Defendant's continued infringement of the '646 Patent is willful and deliberate, entitling Packet
4 Intelligence to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred
5 in prosecuting this action under 35 U.S.C. § 285.

6 **IX. PATENT INFRINGEMENT (U.S. Patent No. 6,839,751)**

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

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

12 49. As of the time Defendant first had notice of Plaintiff's allegations of infringement of
13 one or more claims of the '751 Patent by Defendant, which is no later than the January 18, 2109,
14 Defendant indirectly infringed and continues to indirectly infringe at least claim 17 of the '751
15 Patent by active inducement under 35 U.S.C. § 271(b). Defendant has induced, caused, urged,
16 encouraged, aided and abetted its direct and indirect customers to make, use, sell, offer for sale
17 and/or import one or more of the Accused Products, and thus indirectly infringes at least claim 17
18 of the '751 Patent. Defendant has done so by acts including but not limited to (1) selling such
19 products including features that—when used or resold—infringe, either literally or under the
20 doctrine of equivalents, the '751 Patent; (2) marketing the infringing capabilities of such products;
21 and (3) providing instructions, technical support, and other support and encouragement for the use
22 of such products, including at least the documents referenced above. Such conduct by Defendant
23 was intended to and actually did result in direct infringement by Defendant's direct and indirect
24 customers, including the making, using, selling, offering for sale and/or importation of the Accused
25 Products in the United States.

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

1 51. As of the time Defendant first had notice of the '751 Patent, at least as early as
2 January 18, 2019, Defendant has continued with its infringement despite the objectively high
3 likelihood that its actions constitute infringement and Defendant's subjective knowledge of this
4 obvious risk. As Defendant has no good faith belief that it does not infringe the '751 Patent, at least
5 Defendant's continued infringement of the '751 Patent is willful and deliberate, entitling Packet
6 Intelligence to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred
7 in prosecuting this action under 35 U.S.C. § 285.

8 **X. PATENT INFRINGEMENT (U.S. Patent No. 6,954,789)**

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

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

15 54. As of the time Defendant first had notice of Plaintiff's allegations of infringement of
16 one or more claims of the '789 Patent by Defendant, which is no later than the filing date of this
17 complaint, Defendant, indirectly infringed and continues to indirectly infringe at least claim 19 of
18 the '789 Patent by active inducement under 35 U.S.C. § 271(b). Defendant has induced, caused,
19 urged, encouraged, aided and abetted its direct and indirect customers to make, use, sell, offer for
20 sale and/or import one or more of the Accused Products, and thus indirectly infringes at least claim
21 19 of the '789 Patent. Defendant has done so by acts including but not limited to (1) selling such
22 products including features that—when used or resold—infringe, either literally or under the
23 doctrine of equivalents, the '789 Patent; (2) marketing the infringing capabilities of such products;
24 and (3) providing instructions, technical support, and other support and encouragement for the use
25 of such products, including at least the documents referenced above. Such conduct by Defendant
26 was intended to and actually did result in direct infringement by Defendant's direct and indirect
27 customers, including the making, using, selling, offering for sale and/or importation of the Accused
28 Products in the United States.

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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: August 13, 2019

BARTKO ZANKEL BUNZEL & MILLER
A Professional Law Corporation

By: /s/ Brian A.E. Smith
Brian A. E. Smith
Counsel for Plaintiff
Packet Intelligence LLC