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 12 PROVEN NETWORKS, LLC

14 **UNITED STATES DISTRICT COURT**
 15 **NORTHERN DISTRICT OF CALIFORNIA**

17 PROVEN NETWORKS, LLC,

18 *Plaintiff,*

19 v.

20 EXTREME NETWORKS, INC.,

22 *Defendant.*

**COMPLAINT FOR PATENT
 INFRINGEMENT**

DEMAND FOR JURY TRIAL

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1 This is an action for patent infringement arising under the Patent Laws of the United States
2 of America, 35 U.S.C. § 1 *et seq.*, in which Plaintiff Proven Networks, LLC (“Plaintiff” or “Proven
3 Networks”) makes the following allegations against Defendant Extreme Networks, Inc.
4 (“Defendant”):

5 **INTRODUCTION**

6 1. This complaint arises from Defendant’s unlawful infringement of the following
7 United States patents owned by Proven Networks, each of which generally relate to data
8 networking technology: United States Patent Nos. 8,018,852 (“852 Patent”); 8,165,024 (“024
9 Patent”); and 7,877,786 (“786 Patent”) (collectively, the “Asserted Patents”).

10
11 2. The management and optimization of data flow in networking systems is essential
12 in modern society. Not only do computers, smartphones, and home automation devices operating
13 via the Internet generate data traffic, but basic technology such as voice services and file transfers
14 do as well. The enormous increase in multimedia content, such as videos, has greatly increased
15 data traffic without proportional increases in data bandwidth. One problem caused by the large
16 consumption of high-bandwidth multimedia content is that more important data, including
17 relatively low-bandwidth services such as voice services and data transfers (e.g., financial data),
18 can suffer due to lack of bandwidth, resulting in dropped calls and incomplete file transfers.
19 Optimization of data traffic in data networks has become even more important in order to navigate
20 the bandwidth limitations. A related issue concerns protecting data networks from computer
21 viruses residing on unauthorized devices by limiting access to the data network and implementing
22 a security policy on the device.

23
24
25 3. Another modern trend is greater use of cloud based data services. One advantage is
26 that companies can reduce their capital expenses by migrating their enterprise data to these data
27 centers. However, data centers charge their enterprise customers by both the amount of data stored
28 and the amount of data accessed—where the costs vary among different data storage providers

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1 depending on bandwidth, storage demand, and even time of day. The ability to manage the storage
2 of data based on parameters such as data size and storage duration, is essential to manage the
3 associated cost.

4 4. The Asserted Patents originated from telecommunications and wireless networking
5 research from Alcatel-Lucent. The inventors were keenly aware of the increase of high-bandwidth
6 applications such as video, especially in wireless and mobile networks, and sought to develop
7 technology to maintain acceptable performance for as many users, for as long as possible, under
8 varying and adverse data traffic conditions. The inventors also sought to protect the data network
9 by isolating devices connecting to the network that were not in compliance with the network’s
10 security policy. Further, the inventors sought to managing the costs associated with the storage
11 and access of such data in cloud based data services.

12
13 5. For example, the ’852 Patent teaches methods to augment routing decisions in
14 networking equipment by using techniques based on “equal cost” paths to optimize data traffic.
15 The ’024 Patent teaches the use of a “deep packet inspection” device, especially in wireless
16 networks, to examine the characteristics of data packets passing through the network in order to
17 provide classification data to the data packets for downstream application-specific processing. The
18 ’786 Patent teaches isolating a client device to a sub-network if it is detected to not be in
19 compliance with the network’s security policies.
20

21 **PARTIES**

22 6. Plaintiff Proven Networks, LLC is a company organized under the laws of the State
23 of California. Proven Networks is the sole owner by assignment of all right, title, and interest in
24 each Asserted Patent.
25

26 7. On information and belief, Defendant Extreme Networks, Inc. is a corporation
27 organized under the laws of the State of Delaware, with its principal place of business at 6480 Via
28 Del Oro, San Jose, CA 95119.

JURISDICTION AND VENUE

1
2 8. This action arises under the patent laws of the United States, Title 35 of the United
3 States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
4 1338(a).

5 9. This Court has personal jurisdiction over Defendant in this action because
6 Defendant has committed acts within this District giving rise to this action, and has established
7 minimum contacts with this forum such that the exercise of jurisdiction over Defendant would not
8 offend traditional notions of fair play and substantial justice. Defendant, directly and through
9 subsidiaries or intermediaries, has committed and continues to commit acts of infringement in this
10 District by, among other things, making, using, importing, offering to sell, and selling products
11 that infringe the Asserted Patents.

12
13 10. Venue is proper in this District under 28 U.S.C. § 1400(b). Defendant is registered
14 to do business in California, and upon information and belief, Defendant has transacted business
15 in this District and has committed acts of direct and indirect infringement in this District by, among
16 other things, importing, offering to sell, and selling products that infringe the asserted patents.
17 Defendant has a regular and established place of business in the District, including corporate
18 offices at 6480 Via Del Oro, San Jose, CA 95119.¹

19
20 **COUNT I**

21 **INFRINGEMENT OF U.S. PATENT NO. 8,018,852**

22 11. Plaintiff realleges and incorporates by reference the foregoing paragraphs as if fully
23 set forth herein.

24
25 12. Plaintiff owns by assignment all rights, title, and interest in U.S. Patent No.
26 8,018,852, titled “Equal-Cost Source-Resolved Routing System and Method.” The ’852 Patent
27

28

¹ See, e.g., <https://www.extremenetworks.com/company/contact/>.

1 was duly and legally issued by the United States Patent and Trademark Office on September 13,
2 2011. A true and correct copy of the '852 Patent is attached as Exhibit 1.

3 13. On information and belief, Defendant makes, uses, offers for sale, sells, and/or
4 imports certain products ("Accused Products"), such as the Extreme XOS and network devices
5 including Extreme XOS Operating System such as VSP 4900, X465 Series, VSP 7400, VSP 8600,
6 VSP 8400 Series, VSP 8200 Series, VSP 7200 Series, VSP 4000 Series, X670-G2 Series, X590
7 Series, X870 Series, X770 Series, X690 Series, that directly infringe, literally and/or under the
8 doctrine of equivalents, claims 1–18 of the '852 Patent.
9

10 14. Defendant also knowingly and intentionally induces infringement of claims 1–18
11 of the '852 Patent in violation of 35 U.S.C. § 271(b). At least through the filing and service of this
12 Complaint, Defendant has knowledge of the '852 Patent and the infringing nature of the Accused
13 Products. Despite this knowledge of the '852 Patent, Defendant continues to actively encourage
14 and instruct its customers and end users (for example, through user manuals and online instruction
15 materials on their website) to use the Accused Products in ways that directly infringe the '852
16 Patent. Defendant does so knowing and intending that its customers and end users will commit
17 these infringing acts. Defendant also continues to make, use, offer for sale, sell, and/or import the
18 Accused Products, despite its knowledge of the '852 Patent, thereby specifically intending for and
19 inducing its customers to infringe the '852 Patent through the customers' normal and customary
20 use of the Accused Products.
21

22 15. The Accused Products satisfy all claim limitations of claims 1–18 of the '852
23 Patent. A claim chart comparing independent claim 1 of the '852 Patent to the representative
24 Accused Product, Extreme XOS, is attached as Exhibit 2.
25

26 16. By making, using, offering for sale, selling and/or importing into the United States
27 the Accused Products, Defendant has injured Plaintiff and is liable for infringement of the '852
28 Patent pursuant to 35 U.S.C. § 271.

1 17. As a result of Defendant’s infringement of the ’852 Patent, Plaintiff is entitled to
2 monetary damages in an amount adequate to compensate for Defendant’s infringement, but in no
3 event less than a reasonable royalty for the use made of the invention by Defendant, together with
4 interest and costs as fixed by the Court.

5 18. Defendant’s infringing activities have injured and will continue to injure Plaintiff
6 unless and until this Court enters an injunction prohibiting further infringement of the ’852 Patent,
7 and, specifically, enjoining further manufacture, use, sale, importation, and/or offers for sale that
8 come within the scope of the patent claims.
9

10 **COUNT II**

11 **INFRINGEMENT OF U.S. PATENT NO. 8,165,024**

12 19. Plaintiff realleges and incorporates by reference the foregoing paragraphs as if fully
13 set forth herein.

14 20. Plaintiff owns by assignment all rights, title, and interest in U.S. Patent No.
15 8,165,024, titled “Use of DPI to Extract and Forward Application Characteristics.” The ’024 Patent
16 was duly and legally issued by the United States Patent and Trademark Office on April 24, 2012.
17 A true and correct copy of the ’024 Patent is attached as Exhibit 3.

18 21. On information and belief, Defendant makes, uses, offers for sale, sells, and/or
19 imports certain products (“Accused Products”), such as Extreme Application Analytics, that
20 directly infringe, literally and/or under the doctrine of equivalents, claims 1–25 of the ’024 Patent.
21

22 22. Defendant also knowingly and intentionally induces infringement of claims 1–25
23 of the ’024 Patent in violation of 35 U.S.C. § 271(b). At least through the filing and service of this
24 Complaint, Defendant has knowledge of the ’024 Patent and the infringing nature of the Accused
25 Products. Despite this knowledge of the ’024 Patent, Defendant continues to actively encourage
26 and instruct its customers and end users (for example, through user manuals and online instruction
27 materials on its website) to use the Accused Products in ways that directly infringe the ’024 Patent.
28

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1 Defendant does so knowing and intending that its customers and end users will commit these
2 infringing acts. Defendant also continues to make, use, offer for sale, sell, and/or import the
3 Accused Products, despite its knowledge of the '024 Patent, thereby specifically intending for and
4 inducing its customers to infringe the '024 Patent through the customers' normal and customary
5 use of the Accused Products.

6 23. The Accused Products satisfy all claim limitations of claims 1–25 of the '024
7 Patent. A claim chart comparing independent claim 1 of the '024 Patent to the representative
8 Accused Product, Extreme Application Analytics, is attached as Exhibit 4.

9 24. By making, using, offering for sale, selling and/or importing into the United States
10 the Accused Products, Defendant has injured Plaintiff and is liable for infringement of the '024
11 Patent pursuant to 35 U.S.C. § 271.

12 25. As a result of Defendant's infringement of the '024 Patent, Plaintiff is entitled to
13 monetary damages in an amount adequate to compensate for Defendant's infringement, but in no
14 event less than a reasonable royalty for the use made of the invention by Defendant, together with
15 interest and costs as fixed by the Court.

16 26. Defendant's infringing activities have injured and will continue to injure Plaintiff
17 unless and until this Court enters an injunction prohibiting further infringement of the '024 Patent,
18 and, specifically, enjoining further manufacture, use, sale, importation, and/or offers for sale that
19 come within the scope of the patent claims.

20
21
22 **COUNT III**

23 **INFRINGEMENT OF U.S. PATENT NO. 7,877,786**

24 27. Plaintiff realleges and incorporates by reference the foregoing paragraphs as if fully
25 set forth herein.

26 28. Plaintiff owns by assignment all rights, title, and interest in U.S. Patent No.
27 7,877,786, titled "Method, Apparatus and Network Architecture for Enforcing Security Policies
28

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1 Using an Isolated Subnet.” The ’786 Patent was duly and legally issued by the United States Patent
2 and Trademark Office on January 25, 2011. A true and correct copy of the ’786 Patent is attached
3 as Exhibit 5.

4 29. On information and belief, Defendant makes, uses, offers for sale, sells, and/or
5 imports certain products (“Accused Products”), such as Extreme XOS and network devices
6 including Extreme XOS Operating System such as Black Diamond Series, Summit Series, S/K
7 Series, A/B/C/ Series, VSP 4900, X465 Series, VSP 7400, VSP 8600, VSP 8400 Series, VSP 8200
8 Series, VSP 7200 Series, VSP 4000 Series, X670-G2 Series, X590 Series, X870 Series, X770
9 Series, X690 Series executing Extreme XOS, that directly infringe, literally and/or under the
10 doctrine of equivalents, claims 1–18 of the ’786 Patent.

11
12 30. Defendant also knowingly and intentionally induces infringement of claims 1–18
13 of the ’786 Patent in violation of 35 U.S.C. § 271(b). At least through the filing and service of this
14 Complaint, Defendant has knowledge of the ’786 Patent and the infringing nature of the Accused
15 Products. Despite this knowledge of the ’786 Patent, Defendant continues to actively encourage
16 and instruct its customers and end users (for example, through user manuals and online instruction
17 materials on its website) to use the Accused Products in ways that directly infringe the ’786 Patent.
18 Defendant does so knowing and intending that its customers and end users will commit these
19 infringing acts. Defendant also continues to make, use, offer for sale, sell, and/or import the
20 Accused Products, despite its knowledge of the ’786 Patent, thereby specifically intending for and
21 inducing its customers to infringe the ’786 Patent through the customers’ normal and customary
22 use of the Accused Products.
23
24

25 31. The Accused Products satisfy all claim limitations of claims 1–18 of the ’786
26 Patent. A claim chart comparing independent claim 1 of the ’786 Patent to the representative
27 Accused Product, Extreme XOS, is attached as Exhibit 6.
28

1 f. Any and all other relief as the Court may deem appropriate and just under the
2 circumstances.

3 **DEMAND FOR JURY TRIAL**

4 Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of
5 any issues so triable by right.
6

7
8 Dated: March 24, 2020

Respectfully submitted,

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