

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

PROVEN NETWORKS, LLC,

Plaintiff,

v.

HEWLETT PACKARD ENTERPRISE
COMPANY; ARUBA NETWORKS, INC.,

Defendants.

Case No. 6:20-cv-00632-ADA

JURY TRIAL DEMANDED

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT AGAINST
HEWLETT PACKARD ENTERPRISE COMPANY AND ARUBA NETWORKS, INC.**

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.*, in which Plaintiff Proven Networks, LLC (“Plaintiff” or “Proven Networks”) makes the following allegations against Defendants Hewlett Packard Enterprise Company (“HPE”) and Aruba Networks, Inc. (“Aruba”) (collectively, “Defendants”):

INTRODUCTION

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

2. The management and optimization of data flow in networking systems is essential in modern society. Not only do computers, smartphones, and home automation devices operating via the Internet generate data traffic, but basic technology such as voice services and file transfers do as well. The enormous increase in multimedia content, such as videos, has greatly increased

data traffic without proportional increases in data bandwidth. One problem caused by the large consumption of high-bandwidth multimedia content is that more important data, including relatively low-bandwidth services such as voice services and data transfers (e.g., financial data), can suffer due to lack of bandwidth, resulting in dropped calls and incomplete file transfers. Optimization of data traffic in data networks has become even more important in order to navigate the bandwidth limitations.

3. The Asserted Patents originated from telecommunications and wireless networking research from Alcatel-Lucent. The inventors were keenly aware of the increase of high-bandwidth applications such as video, especially in wireless and mobile networks, and sought to develop technology to maintain acceptable performance for as many users, for as long as possible, under varying and adverse data traffic conditions. Further, the inventors sought to managing the costs associated with the storage and access of such data in cloud-based data services.

4. For example, the '852 Patent teaches methods to augment routing decisions in networking equipment by using techniques based on “equal cost” paths to optimize data traffic. The '024 Patent teaches the use of a “deep packet inspection” device, especially in wireless networks, to examine the characteristics of data packets passing through the network in order to provide classification data to the data packets for downstream application-specific processing.

PARTIES

5. Plaintiff Proven Networks, LLC is a company organized under the laws of the State of California. Proven Networks is the sole owner by assignment of all right, title, and interest in the Asserted Patents.

6. On information and belief, Defendant Hewlett Packard Enterprise Company is a corporation organized under the laws of the State of Delaware, with its principal place of business at 3000 Hanover Street, Palo Alto, CA 94304.

7. On information and belief, Defendant Aruba Networks, Inc., a subsidiary of Hewlett Packard Enterprise Company, is a corporation organized under the laws of the State of Delaware, with its principal place of business at 333 Scott Blvd., Santa Clara, CA 95054.

JURISDICTION AND VENUE

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

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

10. Venue is proper in this District under 28 U.S.C. § 1400(b). Defendants are registered to do business in Texas, and upon information and belief, Defendants have transacted business in this District and have committed acts of direct and indirect infringement in this District by, among other things, importing, offering to sell, and selling products that infringe the Asserted Patents. On information and belief, Defendants have a regular and established places of business in the District. For example, HPE has an office at 14231 Tandem Blvd., Austin, Texas 78728. *See*

Exhibit 6. As a further example, Proven is informed and believes that Aruba has an office at 16601 Blanco Rd., #120, San Antonio, Texas. *See* Exhibit 7.

COUNT I

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

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

12. Plaintiff owns by assignment all rights, title, and interest in U.S. Patent No. 8,018,852, titled “Equal-Cost Source-Resolved Routing System and Method.” The ’852 Patent was duly and legally issued by the United States Patent and Trademark Office on September 13, 2011. A true and correct copy of the ’852 Patent is attached as Exhibit 1.

13. On information and belief, Defendants make, use, offer for sale, sell, and/or import certain products (“Accused Products”), such as the Aruba OS Mobility Access Switch (versions 7.0, 7.1, 7.1.1, 7.1.2, 7.1.3, 7.2.0, 7.3.0, 7.4.0, 7.4.x) and network switches running Aruba OS including the S3500-24P, S3500-24PF, S3500-24T, S3500-48P, S3500-48PF, S3500-24F, S2500-24P, S2500-48P, S1500-24P, S1500-48P, S1500-12P, S3500-4x10G, PSU-600-AC, PSU-1050-AC, SPR-RK2-MNT, SPR-FAN-14, SPR-ULBLNK, and SPR-MAG-MNT, that directly infringe, literally and/or under the doctrine of equivalents, claims 1–18 of the ’852 Patent.

14. Defendants also knowingly and intentionally induce infringement of claims 1–18 of the ’852 Patent in violation of 35 U.S.C. § 271(b). At least through the filing and service of this Complaint, Defendants have knowledge of the ’852 Patent and the infringing nature of the Accused Products. Despite this knowledge of the ’852 Patent, Defendants continue to actively encourage and instruct their customers and end users (for example, through user manuals and online instruction materials on their website) to use the Accused Products in ways that directly infringe

the '852 Patent. Defendants do so knowing and intending that their customers and end users will commit these infringing acts. Defendants also continue to make, use, offer for sale, sell, and/or import the Accused Products, despite their knowledge of the '852 Patent, thereby specifically intending for and inducing their customers to infringe the '852 Patent through the customers' normal and customary use of the Accused Products.

15. The Accused Products satisfy all claim limitations of claims 1–18 of the '852 Patent. A claim chart comparing independent claim 1 of the '852 Patent to the representative Accused Product, Aruba OS Mobility Access Switch 7.4.0, is attached as Exhibit 2.

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

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

COUNT II

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

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

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

20. On information and belief, Defendants make, use, offer for sale, sell, and/or import certain products (“Accused Products”), such as Aruba OS and Instant OS running the Policy Enforcement Firewall (PEF) solution and Aruba Mobility Masters, Mobility Controllers, controller-managed campus access points (APs), and Instant Access Points (APs) configured to run Aruba OS or Instant OS operating system with the PEF solution, and the HPE FlexNetwork HSR6800 Routers that directly infringe, literally and/or under the doctrine of equivalents, claims 1–25 of the ’024 Patent. Further, HPE touts the fact that its HP S Intrusion Prevention System (IPS) N Series “adds significant capacity for deep packet traffic inspections.” See https://support.hpe.com/hpesc/public/docDisplay?docId=c03486423&docLocale=en_US. To the extend discovery shows that the IPS is sold or marketed in conjunction with the Aruba products identified that above that is an additional example of the parties infringement, literally and/or under the doctrine of equivalents, of the claims of the ’024 patent. Moreover, Proven is informed and believes that HPE uses the Aruba APs accused of infringement at its offices and workplaces, including those in this district. See <https://www.arubanetworks.com/resources/hewlett-packard-enterprise/>.

21. Defendants also knowingly and intentionally induce infringement of claims 1–25 of the ’024 Patent in violation of 35 U.S.C. § 271(b). At least through the filing and service of this Complaint, Defendants have knowledge of the ’024 Patent and the infringing nature of the Accused Products. Despite this knowledge of the ’024 Patent, Defendants continue to actively encourage and instruct their customers and end users (for example, through user manuals and online instruction materials on its website) to use the Accused Products in ways that directly infringe the ’024 Patent. Defendants do so knowing and intending that their customers and end users will commit these infringing acts. Defendants also continue to make, use, offer for sale, sell, and/or

import the Accused Products, despite their knowledge of the '024 Patent, thereby specifically intending for and inducing their customers to infringe the '024 Patent through the customers' normal and customary use of the Accused Products.

22. The Accused Products satisfy all claim limitations of claims 1–25 of the '024 Patent. A claim chart comparing independent claim 1 of the '024 Patent to representative Accused Product, Aruba OS and Instant OS running the Policy Enforcement Firewall (PEF) solution, is attached as Exhibit 4. A claim chart comparing independent claim 1 of the '024 Patent to representative HPE FlexNetwork HSR6800 router is attached as Exhibit 5.

23. By making, using, offering for sale, selling and/or importing into the United States the Accused Products, Defendants have injured Plaintiff and are liable for infringement of the '024 Patent pursuant to 35 U.S.C. § 271.

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter:

- a. A judgment in favor of Plaintiff that Defendants has infringed, either literally and/or under the doctrine of equivalents the '852 Patent and '024 Patent;
- b. A judgment and order requiring Defendants to pay Plaintiff its damages, costs, expenses, and pre-judgment and post-judgment interest for Defendants' infringement of the '852 Patent and '024 Patent; and
- c. A judgment and order requiring Defendants to provide an accounting and to pay

supplemental damages to Plaintiff, including without limitation, pre-judgment and post-judgment interest;

d. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees against Defendants; and

e. Any and all other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

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

Dated: September 14, 2020

Respectfully submitted,

/s/ Reza Mirzaie

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Attorneys for Plaintiff Proven Networks, LLC

CERTIFICATE OF SERVICE

I certify that on September 14, 2020, a true and correct copy of foregoing document was electronically filed with the Court and served on all parties of record via the Court's CM/ECF system.

/s/ Reza Mirzaie
Reza Mirzaie