

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

**WSOU INVESTMENTS, LLC d/b/a
BRAZOS LICENSING AND
DEVELOPMENT,**

Plaintiff,

v.

**HUAWEI TECHNOLOGIES CO., LTD.
AND HUAWEI TECHNOLOGIES USA
INC.,**

Defendants.

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CIVIL ACTION NO. 6:20-cv-00917

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff WSOU Investments, LLC d/b/a Brazos Licensing and Development (“Brazos” or “Plaintiff”), by and through its attorneys, files this Complaint for Patent Infringement against Defendants Huawei Technologies Co. Ltd. and Huawei Technologies USA Inc. (collectively “Huawei” or “Defendants”) and alleges:

NATURE OF THE ACTION

1. This is a civil action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 1, et seq., including §§ 271, 281, 284, and 285.

THE PARTIES

2. Brazos is a limited liability corporation organized and existing under the laws of Delaware, with its principal place of business at 606 Austin Avenue, Suite 6, Waco, Texas 76701.

3. On information and belief, Defendant Huawei Technologies Co., Ltd. is a Chinese corporation that does business in Texas, directly or through intermediaries, with a principal place of business at Bantian, Longgang District, Shenzhen 518129, People's Republic of China.

4. Upon information and belief, Defendant Huawei Technologies USA Inc. is a corporation organized and existing under the laws of Texas that maintains an established place of business at 2391 NE Interstate 410 Loop, San Antonio, Texas 78217. Huawei Technologies USA, Inc. is authorized to do business in Texas and may be served via its registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

5. Defendants operate under and identify with the trade name "Huawei." Each of the Defendants may be referred to individually as a "Huawei Defendant" and, collectively, Defendants may be referred to below as "Huawei" or as the "Huawei Defendants."

JURISDICTION AND VENUE

6. This is an action for patent infringement which arises under the Patent Laws of the United States, in particular, 35 U.S.C. §§271, 281, 284, and 285.

7. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has specific and general personal jurisdiction over each Huawei Defendant pursuant to due process and/or the Texas Long Arm Statute, because each Huawei Defendant has committed acts giving rise to this action within Texas and within this judicial district. The Court's exercise of jurisdiction over each Huawei Defendant would not offend

traditional notions of fair play and substantial justice because Huawei has established minimum contacts with the forum. For example, on information and belief, Huawei Defendants have committed acts of infringement in this judicial district, by among other things, selling and offering for sale products that infringe the asserted patent, directly or through intermediaries, as alleged herein.

9. Venue in the Western District of Texas is proper pursuant to 28 U.S.C. §§1391 and 1400(b) because Defendants have committed acts of infringement in this judicial district and have regular and established places of business in this judicial district and in Texas. As non-limiting examples, on information and belief, Defendants have sold or offered to sell the Accused Products in this judicial district and have employees or agents that operate Huawei equipment in this judicial district, including at 189 CR 265, Georgetown, TX 78626, 1150 S. Bell Blvd., Cedar Park, TX 78613, 1399 S A W Grimes Blvd., Round Rock, TX 78664, 12335 IH 35, Jarrell, TX 76537, 1050 Rabbit Hill Rd., Unit #E, Georgetown, TX 78626, 1602 A W Grimes Blvd., Round Rock, TX 78664, 4120 IH 35 N, Georgetown, TX 78626, 900 CR 272, Leander, TX 78641, 1950 Crystal Falls Pkwy., Leander, TX 78641, 1101 N. Industrial Blvd., Round Rock, TX 78681, 506 McNeil Rd., Round Rock, TX 78681, 3210 Chisholm Trail Rd., Round Rock, TX 78681, 112 Roundville Ln., Round Rock, TX 78664, 202 Central Dr. W, Georgetown, TX 78628, 3595 E. Hwy. 29, Georgetown, TX 78626, 1402 W Welch St., Taylor, TX 76574, 3801 Oak Ridge Dr., Round Rock, TX 78681, 1957 Red Bud Ln. #B, Round Rock, TX 78664, 6603 S Lakewood Dr., Georgetown, TX 78633, 500 W Front, Hutto, TX 78634.

COUNT ONE - INFRINGEMENT OF
U.S. PATENT NO. 7,423,962

10. Brazos re-alleges and incorporates by reference the preceding paragraphs of this Complaint.

11. On September 9, 2008, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 7,423,962 (“the ’962 Patent”), entitled “Redundancy and load balancing in a telecommunication unit and system.” A true and correct copy of the ’962 Patent is attached as Exhibit A to this Complaint.

12. Brazos is the owner of all rights, title, and interest in and to the ’962 Patent, including the right to assert all causes of action arising under the ’962 Patent and the right to any remedies for the infringement of the ’962 Patent.

13. Huawei makes, uses, sells, offers for sale, imports, and/or distributes in the United States, including within this judicial district, products such as, but not limited to, Huawei Devices with Hot Standby feature (collectively, the “Accused Products”).

14. The Accused Products include, but are not limited to, but not limited to USG6000 Series Firewall.

15. Huawei provides the USG6000 Series Next-Generation Firewall (NGFW) Module, which implements in-depth detection on applications and contents to enhance network security. NGFW uses Intelligent Awareness Engine (IAE) for all security functions to scan the packets once and extract all necessary data.

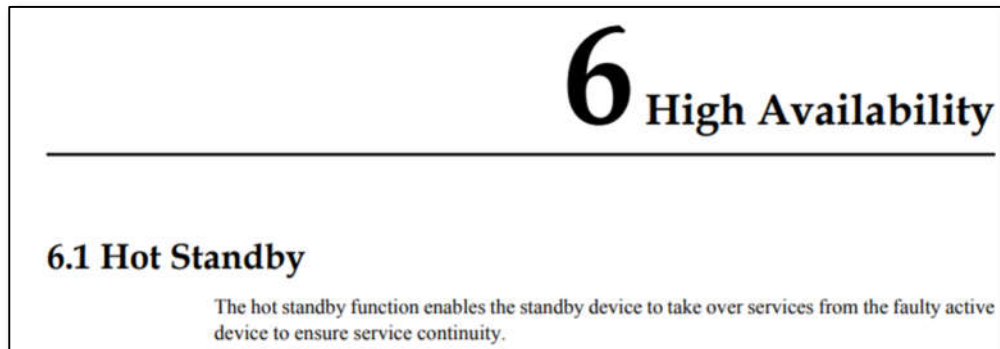
2.1.2 Next Generation Firewall

The next generation firewall implements in-depth detection on applications and contents to enhance network security.

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16. Huawei NGFW provides High Availability features like Hot Standby, which ensures service continuation even if a device fails. The Hot Standby function enables switchover to a redundant standby device in case of a fault to ensure service continuity. In this deployment, two NGFWs (a first and a second parallel physical cluster nodes) are deployed to enhance system availability. If one NGFW fails, the other NGFW takes over the service responsibilities, ensuring service continuity (first cluster node is configured to serve as a redundancy unit to the second cluster node and vice versa). The Host Standby has two working modes: Active/Standby mode and Load-Balancing mode.



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2.2.3 Scenario C: Hot Standby

The hot standby mechanism implements uninterrupted service transmission to ensure high availability.

In this deployment, two NGFWs working in hot backup mode are deployed to enhance system availability. If one NGFW fails, the other takes over service processing, ensuring service continuity.

The configuration of hot standby varies according to:

- Interface working mode: Layer 2 or Layer 3
- Devices connected to the NGFW: routers or switches
- Hot standby mode: active/standby mode or load-balancing mode

 **NOTE**

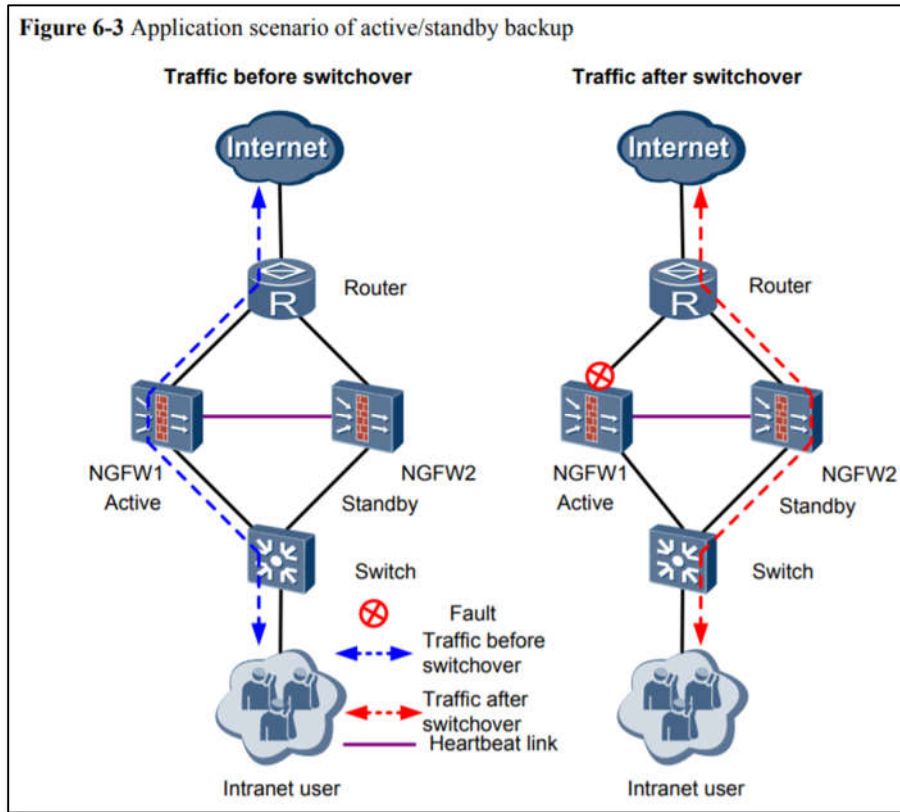
- Active/Standby mode: Only one NGFW works at a time. If the active NGFW fails, the standby NGFW becomes active and forwards all traffic.
- Load-balancing mode: Two NGFWs work at the same time. If one NGFW fails, the other forwards all traffic.

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17. In active/standby mode of Hot Standby, one of the NGFW is in an active state, and the other NGFW is in the Standby state. In regular operation, the active NGFW unit processes all the traffic (i.e. physical cluster nodes capable of transmitting data), and the redundant NGFW remains in Standby mode. If a fault occurs on active NGFW, the traffic is switched over to the redundant NGFW which was in the Standby mode.

6.1.2.1 Active/Standby Mode



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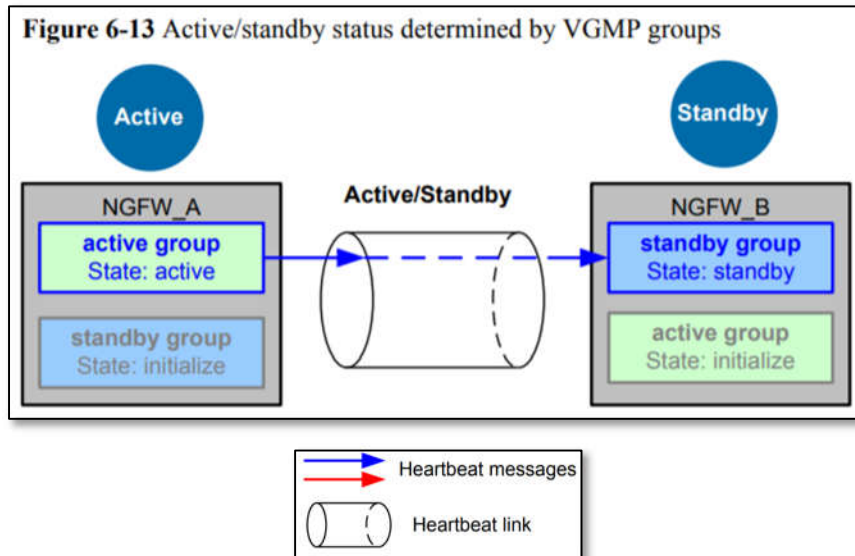
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18. Huawei NGFW can work in Active/Standby mode for High Availability. Each NGFW belongs to two VRRP Group Management Protocol (VGMP) Groups (logical nodes in the first and second cluster node), which are active group and standby group. When there is a fault in the active NGFW, the active NGFW and standby NGFW exchange their respective states. Likewise, the active group on the previously active NGFW switches to standby state and the standby group on the previously standby NGFW switches to the active state.

As shown in **Figure 6-13**, each NGFW belongs two VGMP groups: one active and one standby. The default priority of the active VGMP group is 65001, and that of the standby VGMP group is 65000.

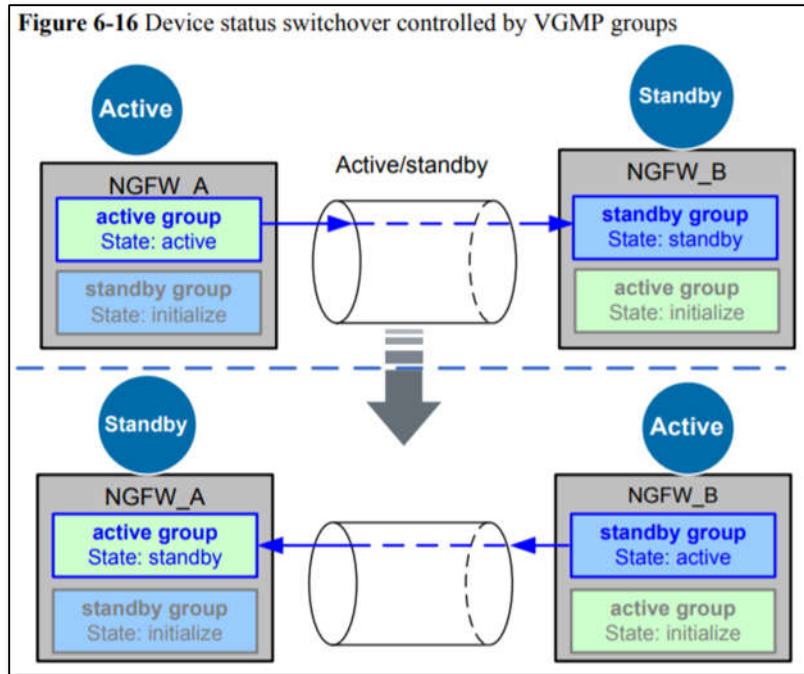
The status of a VGMP group determines the status of the NGFW.

- If the NGFWs work in active/standby mode, the NGFW in the active VGMP group is in active state, and the NGFW in the standby VGMP group is in standby state.



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19. Active/Standby mode, active and standby groups on active and standby NGFW respectively, becomes load allocation alternatives. The active group (a first logical node of the load allocation alternative which is active) resides in the active NGFW (first cluster node). The standby group (a second logical node of the load allocation alternative which is standby) is provided in the standby NGFW (second cluster node).

Device Status Switchover Controlled by VGMP Groups

- **In active/standby mode**

Normally, the priority of the active VGMP group on NGFW_A is 65001, and NGFW_A is the active device.

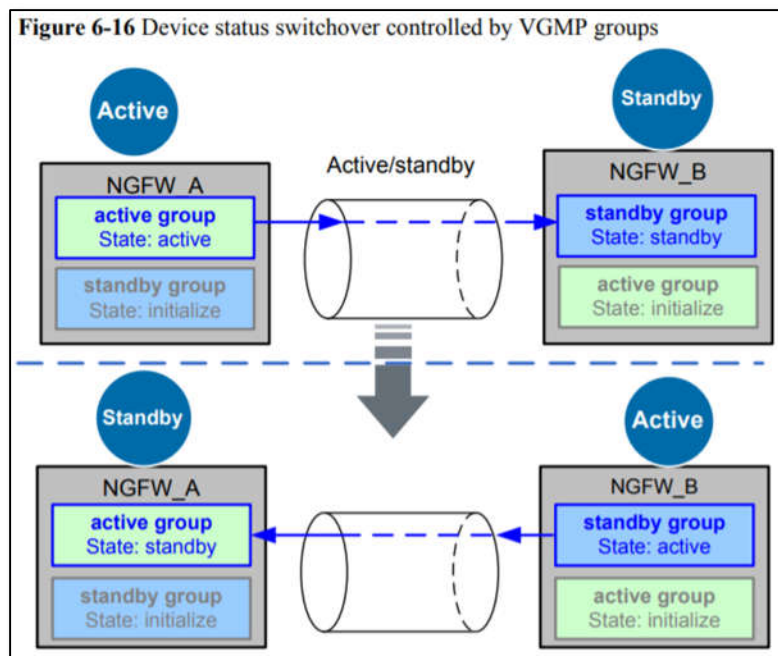
When a monitored interface of NGFW_A goes faulty, the priority of the active VGMP group on NGFW_A decreases to 64999, which is smaller than that of the standby VGMP group on NGFW_B. Therefore, the active VGMP group on NGFW_A becomes the standby VGMP group, and NGFW_A becomes the standby device. The standby VGMP group on NGFW_B becomes the active VGMP group, and NGFW_B becomes the active device.

If the preemption function is enabled and NGFW_A recovers, the priority of the standby VGMP group on NGFW_A changes back to 65001, which is higher than that (65000) of the active VGMP group on NGFW_B. Then NGFW_A preempts to be the active device.

If the preemption function is disabled and NGFW_A recovers, NGFW_A still acts as the standby device and does not process services.

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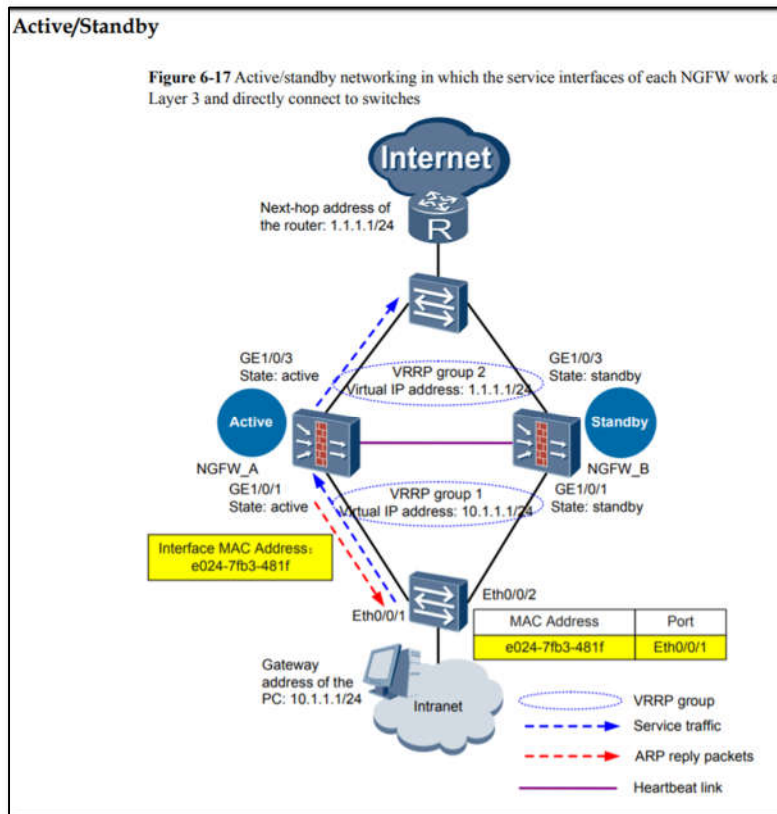
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20. The Huawei NGFW is able to work in Active mode or Standby mode. When active NGFW malfunctions and there is a fault in the active NGFW (cluster node), then a switchover of the active and standby groups (switchover of the load allocation alternatives) is performed to provide high availability.

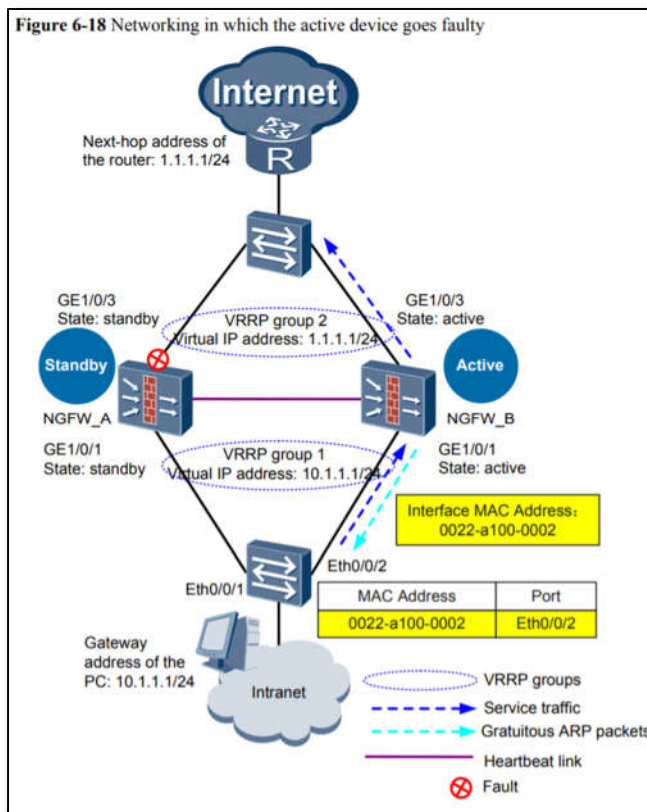
21. The active group (the active logical node) is provided in the active NGFW (the faulty cluster node). The active group on the active NGFW switches to standby state, and the corresponding standby group on the standby NGFW switches to the active state (changing the logical nodes from standby to active and the active logical nodes to standby).

6.1.4.1 Networking 1: Service Interfaces of Each NGFW Working at Layer 3 and Directly Connecting to Switches



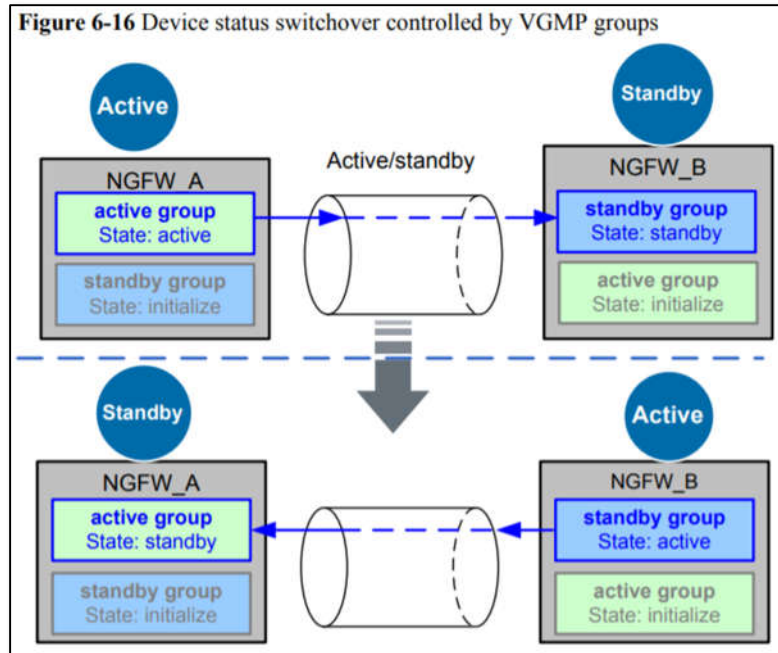
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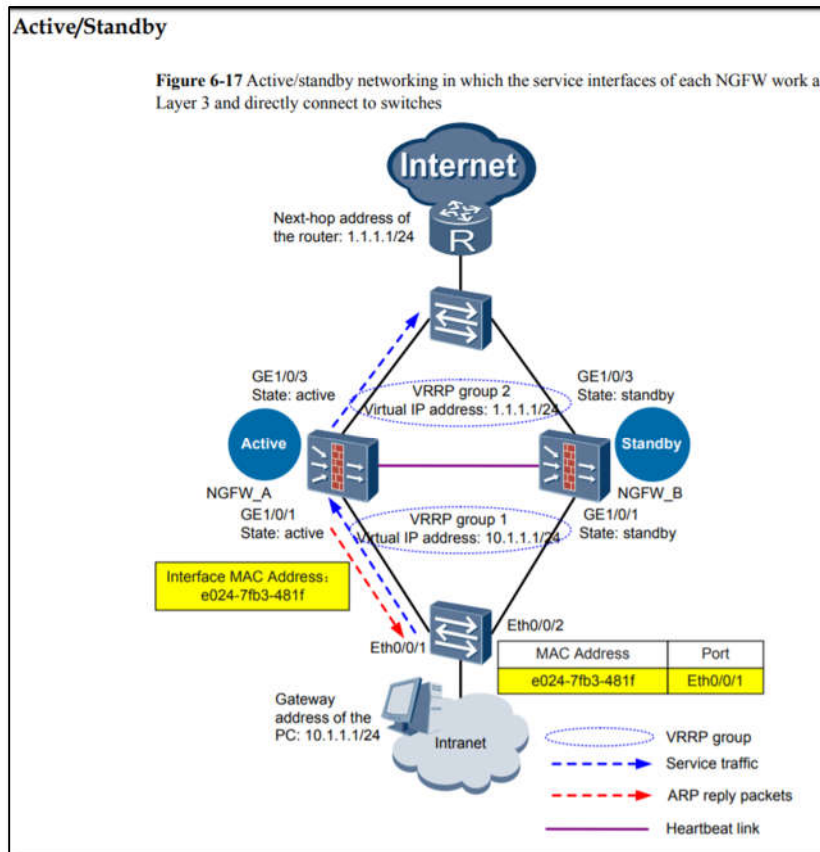
22. The fault and the corresponding switchover is not visible outside the network element, to maintain service continuity. Likewise, the active and standby group (load allocation alternative) on both sides of the two NGFW forms VRRP groups wherein each VRRP group have a specific virtual IP address. Network elements that are directly connected to each NGFW are configured with the corresponding virtual IP address such that the network elements continue to remain functional in case of a fault, and these network elements are unaware of the fault. Based on this virtual IP address, data is received and forwarded further in the network.

- Active/standby
 1. Configure a VRRP group on each service interface of the active device and add the VRRP groups to a active VGMP group.
As shown in **Figure 6-27**, VRRP group 2 configured on GE1/0/1 and VRRP group 1 configured on GE1/0/3 of NGFW_A are added to the active VGMP group.
 2. Configure a VRRP group on each service interface of the standby device and add the VRRP groups to the standby VGMP group.
As shown in **Figure 6-27**, VRRP group 2 configured on GE1/0/1 and VRRP group 1 configured on GE1/0/3 of NGFW_A are added to the standby VGMP group.
 3. On the hosts or devices that are directly connected to each NGFW, set the gateway address or next-hop address of the static route to the virtual IP address of the corresponding VRRP group.

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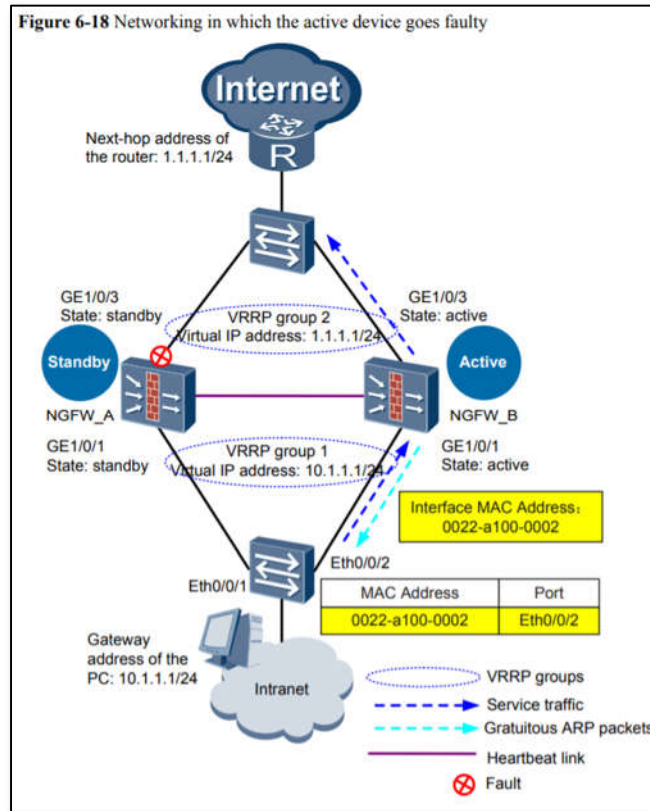
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6.1.4.1 Networking 1: Service Interfaces of Each NGFW Working at Layer 3 and Directly Connecting to Switches



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23. In view of preceding paragraphs, each and every element of at least claim 9 of the '962 Patent is found in the Accused Products.

24. Huawei has and continues to directly infringe at least one claim of the '962 Patent, literally or under the doctrine of equivalents, by making, using, selling, offering for sale, importing, and/or distributing the Accused Products in the United States, including within this judicial district, without the authority of Brazos.

25. Huawei has received notice and actual or constructive knowledge of the '962 Patent since at least the date of service of this Complaint.

26. Since at least the date of service of this Complaint, through its actions, Huawei has actively induced product makers, distributors, retailers, and/or end users of the Accused Products to infringe the '962 Patent throughout the United States, including within this judicial district, by, among other things, advertising and promoting the use of the Accused Products in various websites, including providing and disseminating product descriptions, operating manuals, and other instructions on how to implement and configure the Accused Products. Examples of such advertising, promoting, and/or instructing include the documents at:

- https://download.huawei.com/download/e/download.do?actionFlag=download&nid=EDOC1000047749&partNo=3001&mid=SUPE_DOC&t=1583214451000

27. Since at least the date of service of this Complaint, through its actions, Huawei has contributed to the infringement of the '962 Patent by having others sell, offer for sale, or use the Accused Products throughout the United States, including within this judicial district, with knowledge that the Accused Products infringe the '962 Patent. The Accused Products are especially made or adapted for infringing the '962 Patent and have no substantial non-infringing use. For example, in view of the preceding paragraphs, the Accused Products contain functionality which is material to at least one claim of the '962 Patent.

JURY DEMAND

Brazos hereby demands a jury on all issues so triable.

REQUEST FOR RELIEF

WHEREFORE, Brazos respectfully requests that the Court:

- (A) Enter judgment that Huawei infringes one or more claims of the '962 Patent literally and/or under the doctrine of equivalents;
- (B) Enter judgment that Huawei has induced infringement and continues to induce infringement of one or more claims of the '962 Patent;
- (C) Enter judgment that Huawei has contributed to and continues to contribute to the infringement of one or more claims of the '962 Patent;
- (D) Award Brazos damages, to be paid by Huawei in an amount adequate to compensate Brazos for such damages, together with pre-judgment and post-judgment interest for the infringement by Huawei of the '962 Patent through the date such judgment is entered in accordance with 35 U.S.C. §284, and increase such award by up to three times the amount found or assessed in accordance with 35 U.S.C. §284;
- (E) Declare this case exceptional pursuant to 35 U.S.C. §285; and
- (F) Award Brazos its costs, disbursements, attorneys' fees, and such further and additional relief as is deemed appropriate by this Court.

Dated: October 2, 2020

Respectfully submitted,

-
/s/ James L. Etheridge

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