**UNITED STATES INTERNATIONAL TRADE COMMISSION**
**WASHINGTON, D.C.**

| **In the Matter of** | |
|---|---|
| **CERTAIN NETWORK DEVICES, RELATED SOFTWARE AND COMPONENTS THEREOF (I)** | **Investigation No. _____** |

# COMPLAINT OF CISCO SYSTEMS, INC. UNDER SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED

## COMPLAINANT

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## PROPOSED RESPONDENT

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## EXHIBITS

| Exhibit No. | Description |
|---|---|
| 1. | Certified copy of U.S. Patent No. 7,162,537. |
| 2. | Certified copy of U.S. Patent No. 8,356,296. |
| 3. | Certified copy of U.S. Patent No. 7,290,164. |
| 4. | Certified copy of U.S. Patent No. 7,340,597. |
| 5. | Certified copy of U.S. Patent No. 6,741,592. |
| 6. | Certified copy of U.S. Patent No. 7,200,145. |
| 7. | Certified copy of assignment records for U.S. Patent No. 7,162,537. |
| 8. | Certified copy of assignment records for U.S. Patent No. 8,356,296. |
| 9. | Certified copy of assignment records for U.S. Patent No. 7,290,164. |
| 10. | Certified copy of assignment records for U.S. Patent No. 7,340,597. |
| 11. | Certified copy of assignment records for U.S. Patent No. 6,741,592. |
| 12. | Certified copy of assignment records for U.S. Patent No. 7,200,145. |
| 13. | Confirmation of patent assignment. |
| 14. | Receipt from USPTO of recordation of patent assignment. |
| 15. | Cisco Systems, Inc. 2014 Annual Report. |
| 16. | Chart Depicting How Cisco's Asserted Patents Are Practiced by Cisco's Products |
| 17. | List of licensees and parties in receipt of a covenant not to assert for Cisco's Asserted Patents **(CONFIDENTIAL)**. |
| 18. | U.S. Patent No. 7,162,537 Infringement Claim Chart. |
| 19. | U.S. Patent No. 8,356,296 Infringement Claim Chart. |
| 20. | U.S. Patent No. 7,290,164 Infringement Claim Chart. |
| 21. | U.S. Patent No. 7,340,597 Infringement Claim Chart. |

22. U.S. Patent No. 6,741,592 Infringement Claim Chart.

23. U.S. Patent No. 7,200,145 Infringement Claim Chart.

24. Arista Networks, Inc. Form 10-Q for the quarterly period ended June 30, 2014.

25. Arista Networks, Inc. Form S-1 Amendment No. 3, May 27, 2014.

26. Arista Press Release stating Studio Network Solutions uses Arista 7048T series switches, July 18, 2013.

27. Studio Test Solutions website showing it is a St. Louis Missouri company, captured September 15, 2014.

28. Arista Press Release stating Cloudera Enterprise uses Arista 7050X series switch, October 2, 2013.

29. Cloudera website showing it is a California company, captured September 15, 2014.

30. Arista Customer Case Study on America Internet Services' use of Arista 7048T and 7050S switches, 2012.

31. Arista Customer Case Study on Medical Mutual of Ohio's use of Arista 7048, 7050, 7150 series switches, 2012.

32. Arista Press Release and Customer Testimonials that Headlands Technologies uses Arista 7150 series switches, September 19, 2012.

33. Headlands Technologies website showing it is a California and Illinois company, captured September 15, 2014.

34. Arista Press Release that eBay uses Arista 7280E series switches, July 15, 2014.

35. Arista Press Release that Tri-State Generation and Transmission Association, Inc. and IDT Corporation use Arista 7300/7300X series switches and Equinix uses Arista 7500E series switches, March 26, 2014.

36. CDW website advertisement for Arista switches, captured September 15, 2014.

37. Import record for switches from Jabil Circuit in Malaysia to Arista in California.

38. Receipts of purchase of Arista Products.

39. Photos of purchased product of Arista Products.

40. Harmonized Tariff Schedule ("HTS") Code for Accused Products.

41. Complaint, *Cisco Systems, Inc. v. Arista Networks, Inc.*, Case No. 14-cv-5344.

42. Screenshots from video of Arista Chairman and CDO Andy Bechtolsheim showing Arista 7500E series product at Interop 2013 in Las Vegas, Nevada, United States (available at https://www.youtube.com/watch?v=xwRPA2PJsiI)

43. Screenshots from video of Arista Chairman and CDO Andy Bechtolsheim showing Arista 7500E series product at Interop 2013 in Las Vegas, Nevada, United States (available at https://www.youtube.com/watch?v=hBYvzNdT22k)

44. Screenshots from video showing Arista 7500E series product at Interop 2013 in Las Vegas, Nevada, United States (https://www.youtube.com/watch?v=9KkMiIzrXvg)

45. Ingram Micro to Distribute Arista Products in United States

46. Arista Redefines Cloud Networking with 7000 X Series

47. Tri-State website showing it is a United States utilities company

48. Declaration of Collin Sacks **(CONFIDENTIAL)**.

49. U.S. Patent No. 7,162,537 Domestic Industry Chart **(CONFIDENTIAL)**.

50. U.S. Patent No. 8,356,296 Domestic Industry Chart.

51. U.S. Patent No. 7,290,164 Domestic Industry Chart.

52. U.S. Patent No. 7,340,597 Domestic Industry Chart **(CONFIDENTIAL)**.

53. U.S. Patent No. 6,741,592 Domestic Industry Chart.

54. U.S. Patent No. 7,200,145 Domestic Industry Chart.

55. Fortune Magazine's Best Companies 2014.

56. Tight battle for 2nd place after Cisco in Infonetics' enterprise networking infrastructure scorecard, INFONETICS RESEARCH, July 24, 2014.

57. Cisco Catalyst 4500 Series Switch Data Sheet.

58. Cisco Catalyst 6500-E Series Chassis Data Sheet.

59. Cisco Catalyst 6880-X Series Extensible Fixed Aggregation Switch Data Sheet.

60. Cisco Catalyst Switch Module 3110 for IBM BladeCenter Data Sheet.

61. Cisco Nexus 3548 and 3524 Switches Data Sheet.

62. Cisco Nexus 5600 Platform Switches Data Sheet.

63. Cisco Nexus 6001 Switch Data Sheet.

64. Cisco Nexus 7000 Series Switches Data Sheet.

65. Cisco Nexus 9500 Platform Switches Data Sheet.

66. Cisco ASR 901 Series Aggregation Services Routers Data Sheet.

67. Cisco ASR 1000 Series Aggregation Services Routers Data Sheet.

68. Cisco ASR 9000 Series Aggregation Services Routers Data Sheet.

69. Cisco CRS 16-Slot Single-Shelf System Data Sheet.

70. Cisco Industrial Ethernet 3000 Layer 2/Layer 3 Series Switches Data Sheet.

71. Cisco 2520 Connected Grid Switch Data Sheet.

72. Cisco XR 12000 Series and Cisco 12000 Series Routers.

## APPENDICES

| Appendix Item | Description |
|---|---|
| A. | Certified copy of file wrapper for U.S. Patent No. 7,162,537. |
| B. | Certified copy of file wrapper for U.S. Patent No. 8,356,296. |
| C. | Certified copy of file wrapper for U.S. Patent No. 7,290,164. |
| D. | Certified copy of file wrapper for U.S. Patent No. 7,340,597. |
| E. | Certified copy of file wrapper for U.S. Patent No. 6,741,592. |
| F. | Certified copy of file wrapper for U.S. Patent No. 7,200,145, |
| G. | Technical references cited in file wrapper for U.S. Patent No. 7,162,537. |
| H. | Technical references cited in file wrapper for U.S. Patent No. 8,356,296. |
| I. | Technical references cited in file wrapper for U.S. Patent No. 7,290,164. |
| J. | Technical references cited in file wrapper for U.S. Patent No. 7,340,597. |
| K. | Technical references cited in file wrapper for U.S. Patent No. 6,741,592. |
| L. | Technical references cited in file wrapper for U.S. Patent No. 7,200,145. |
| M. | Exhibits for charted Arista Products. |
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## I. INTRODUCTION

1. This Complaint is filed by Cisco Systems, Inc. ("Cisco" or "Complainant") under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, based on the unlawful importation into the United States, the sale for importation into the United States, the sale within the United States after importation, and/or the use within the United States after importation by the proposed Respondent of certain networking equipment and components and software thereof that infringe certain claims of United States Patent Nos. 7,162,537 ("the '537 patent"), 8,356,296 ("the '296 patent"), 7,290,164 ("the '164 patent"), 7,340,597 ("the '597 patent"), 6,741,592 ("the '592 patent"), and 7,200,145 ("the '145 patent") (collectively, "Cisco's Asserted Patents") either literally or under the doctrine of equivalents.

2. Cisco is an information technology (IT) company and is the worldwide leader in developing and implementing the networking technologies that enable our interconnected world and the Internet of Everything. Cisco employs thousands of the world's brightest networking engineers at its headquarters in San Jose, California, and elsewhere, and invests billions of dollars annually in research and development focused on creating the future of networking technologies. These investments make possible a broad range of products that enable seamless, secure communication among businesses of all sizes, institutions, telecommunications companies and other service providers, and individuals. As part of its IT business, Cisco sells innovative networking products that transport data, voice, and video within buildings, across campuses, and around the world.

3. The proposed Respondent Arista Networks, Inc. ("Arista" or "Respondent") develops, manufactures, imports, sells for importation into the United States, sells after importation into the United States, and uses after importation into the United States networking

equipment and components and software therein, such as switches and their components, operating systems, and/or other software (collectively, the "Accused Products"). As set forth in Section VII below, the Accused Products are manufactured abroad in locations such as China and Malaysia, and are imported for sale into the United States. The Accused Products incorporate, without any license from Cisco, many technologies developed by Cisco and protected by patents owned by Cisco. The patents-in-suit and their asserted claims (independent claims in **bold**) are listed below:

| Patent Number | Asserted Claims (Independent Claims In Bold) |
|---|---|
| '537 Patent | **1**-2, 8-9, **10**-11, and 17-**19** |
| '296 Patent | **1**, 6, **12** |
| '164 Patent | **1**, 5-6, 9, **18** |
| '597 Patent | **1**, 14-15, 29, **39**-42, 63-64, **71**-73, **84**-86 |
| '592 Patent | **6**-10, **17-18**, **20-21**, **23-24** |
| '145 Patent | **1, 3, 5,** 7, 8-10, **11**, **13**, **15**, 16-17, **18**, 19-21, **22-24**, 25, **26**, 27-28, **29**, **33-35**, 36-37, **39-46** |

4. Certified copies of Cisco's Asserted Patents are included at Exhibits 1-6. Cisco owns all rights, title, and interest in each of Cisco's Asserted Patents, including the right to sue for infringement. Certified copies of the assignment records for each of Cisco's Asserted Patents are included at Exhibits 7-12. As shown in Exhibits 13 and 14, additional assignments and recordation of the assignments were completed recently, and certified copies of the updated assignment records are not yet available from the United States Patent and Trademark Office. The updated certified copies of the assignment records will be supplied when available from the United States Patent and Trademark Office. *See* Exhibits 13 and 14.

5. A domestic industry as required by 19 U.S.C. §§ 1337(a)(2) and (3) exists in the United States relating to articles protected by Cisco's Asserted Patents, including significant

investment in plant and equipment, significant employment of labor and capital, and substantial investment in the exploitation of the inventions claimed in Cisco's Asserted Patents, including through engineering, research, and development.

6. Cisco seeks as relief a permanent limited exclusion order under 19 U.S.C. § 1337(d) barring from entry into the United States directly-infringing and/or indirectly-infringing networking equipment and components and software manufactured, sold, or used by or on behalf of Respondent. Cisco further seeks as relief a permanent cease and desist order under 19 U.S.C. § 1337(f) prohibiting Respondent from marketing, distributing, selling, offering for sale, warehousing inventory for distribution, or otherwise transferring or bringing into the United States infringing networking equipment and/or their components and software.

## II. COMPLAINANT

7. Cisco is a corporation organized and existing under the laws of California, having its principal place of business at 170 West Tasman Drive, San Jose, California, 95134. Cisco is the assignee of Cisco's Asserted Patents, with the right to sue for all infringement thereof.

8. Founded in 1984, Cisco is an IT company that has become the worldwide leading supplier of, among other things, networking products. Cisco has significant operations in the United States, including with respect to Cisco's Asserted Patents. Cisco has research, development, testing, engineering, manufacturing, assembly, packaging, installation, customer service, repair, product support, sales and marketing, and business offices in more than 100 United States locations, and has its headquarters in San Jose, California. Cisco employs about 35,000 employees in the United States – nearly as many as in the rest of the world combined. Cisco also works with tens-of-thousands of contractors, vendors, and interns in the United States.

Additional information concerning Cisco can be obtained from its 2014 Annual Report at Exhibit 15.

9. Cisco's networking products, specifically Cisco's routing and switching products, use the inventions claimed in Cisco's Asserted Patents. As explained in more detail in the chart included as Exhibit 16, one or more of Cisco's Asserted Patents is implemented in the Cisco Nexus switches (including at least the Nexus 3000, 5000, 6000, 7000, and 9000 series), the Cisco Catalyst switches (including at least the Catalyst 4500, 6500, and 6800 series), the XR 12000 Series Router, the Cisco Carrier Routing Systems (CRS), the Cisco Aggregation Services Routers (ASR) (including at least the ASR 901, 1000, and 9000), the Cisco Catalyst Blade Switches (CBS) (including at least the CBS 3110-40), the Cisco Metro Ethernet (ME) switches (including at least the Cisco ME 4900 series), the Cisco Connected Grid Switches (CGS) (including at least the CGS 2520 series), and the Cisco Industrial Internet switches (including at least the 3000 series).

10. Cisco researched and developed the technologies that are protected by Cisco's Asserted Patents. Cisco is the full owner of all rights and title to all of Cisco's Asserted Patents. Certified copies of the relevant assignment records are attached at Exhibits 7-12. As shown in Exhibits 13 and 14, additional assignments and recordation of the assignments were completed recently, and certified copies of the updated assignment records are not yet available from the United States Patent and Trademark Office. The updated certified copies of the assignment records will be supplied when available from the United States Patent and Trademark Office. *See* Exhibits 13 and 14.

11. Cisco has made and continues to make significant investments in the design and development of products protected by Cisco's Asserted Patents. In the United States, Cisco

exploits the technologies covered by Cisco's Asserted Patents through various activities, including substantial research and development, engineering, manufacturing, assembly, installation, and product and warranty support among others, as discussed more fully in Section X below. In connection with the exploitation of these technologies, Cisco has made significant investments in the United States in facilities, equipment, labor, and capital, also as described in Section X below.

## III. THE PROPOSED RESPONDENT

12. On information and belief, Arista Networks, Inc. is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 5453 Great America Parkway, Santa Clara, California 95054.

13. On information and belief, Arista develops, manufactures, imports, sells for importation into the United States, sells after importation into the United States, and/or uses after importation into the United States networking equipment and components and software therein, including switches, operating systems, and other software, as further described in Section VI below.

## IV. THE TECHNOLOGY AND PRODUCTS AT ISSUE

14. The technologies at issue relate to networking equipment and certain components and software therein.

15. Specifically, the Accused Products include network devices, such as switches, and their components, and software, such as operating systems and other software. These switches, components, operating systems, and other software are imported into the United States and in turn used by businesses, institutions, service providers, and other entities in the United States to supply networks and transport data, voice, and video. By way of example, the Accused Products

may be deployed in data centers or dedicated computing center environments in connection with an organization's servers, associated data, and/or IT applications and between such items and other networks such as the Internet. The Accused Products are sold for importation into, imported into, sold after importation into, and used within the United States by or on behalf of Respondent.

## V. THE PATENTS IN SUIT AND NONTECHNICAL DESCRIPTIONS OF THE INVENTIONS

16. As set forth below, Cisco owns by assignment the entire right, title, and interest in and to each of Cisco's Asserted Patents. *See* Exhibits 7-12.

17. Pursuant to Commission Rule 210.12(c), copies of the certified prosecution histories of each of Cisco's Asserted Patents have been submitted with this Complaint as Appendices A-F. Pursuant to Commission Rule 210.12(c), the cited references for each of Cisco's Asserted Patents also have been submitted with this Complaint as Appendices G-L.

### A. Nontechnical Description of the '537 Patent[1]

18. United States Patent No. 7,162,537, entitled "Method and System for Externally Managing Router Configuration Data in Conjunction With a Centralized Database," issued on January 9, 2007 and lists Pradeep Kathail as its inventor. The '537 patent expires on January 6, 2020. The '537 patent issued from U.S. Patent App. Ser. No. 09/479,607.

19. The '537 patent contains 22 claims, including 3 independent claims and 19 dependent claims. Cisco asserts that Respondent's networking equipment and components and software therein, and activities relating thereto, infringe at least apparatus claims 10-11 and 17-

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[1] These descriptions and any other descriptions within this Complaint are for illustrative purposes only. Nothing contained within this Complaint is intended to, either implicitly or explicitly, express any position regarding the proper construction of any claim of Cisco's Asserted Patents.

19, and method claims 1-2 and 8-9 of the '537 patent, directly or indirectly, either literally or under the doctrine of equivalents.

20. The '537 patent generally relates to a system and method for managing data in networking devices and networking operating systems. The '537 patent can, among other things, improve the performance and/or increase the resiliency of switching devices. In an aspect of the invention, the '537 patent provides an apparatus and method for externally managing networking data in conjunction with a database system called "sysDB." The sysDB can provide a centralized storage and retrieval facility for configuration data that is used by subsystems of a networking operating system. In one aspect of the invention, certain configuration data can be managed externally from the sysDB by one of the client subsystems. Among other things, the invention of the '537 may enhance a networking device's ability to store and retrieve networking device configuration data while allowing the various subsystems of that device to remain modular and independent.

**B. Nontechnical Description of the '296 Patent**

21. United States Patent No. 8,356,296, entitled "Method and System for Minimal Disruption During Software Upgrade or Reload of a Network Device," issued on January 15, 2013 and lists John Thomas Welder, Ratheesh Krishna Vadhyar, Sudhir Rao, and Thomas W. Uban as its inventors. The '296 patent expires on January 26, 2024. The '296 patent issued from U.S. Patent App. Ser. No. 12/852,265, filed on August 6, 2010. The '296 patent claims priority to U.S. Patent App. Ser. No. 10/646,453, filed on August 21, 2003.

22. The '296 patent contains 18 claims, including 3 independent claims and 15 dependent claims. Cisco asserts that Respondent's networking equipment and components and software therein, and activities relating thereto, infringe at least apparatus claim 12 and method

claims 1 and 6 of the '296 patent, directly or indirectly, either literally or under the doctrine of equivalents.

23. The '296 patent relates generally to network devices, and more particularly to a system and method for reloading and/or upgrading software in network devices with minimal disruption. The '296 patent can, among other things, improve the availability and reduce the downtime of a network device during a software upgrade. In an aspect of the invention, the '296 patent provides novel methods and apparatuses that copy certain data to a predetermined region of memory, temporarily suspend software operations associated with one or more data plane components of a network device during a software reset, and then, before the communication session is terminated, recover execution of the software operations. Among other things, the invention of the '296 Patent can allow network devices to maintain the continuity of communication sessions and be upgraded with minimal delays or network effects.

**C. Nontechnical Description of the '164 Patent**

24. United States Patent No. 7,290,164, entitled "Method of Reverting to a Recovery Configuration in Response to Device Faults," issued on October 30, 2007 and lists Andrew G. Harvey, John Ng, and Gilbert R. Woodman, III as its inventors. The '164 patent expires on June 7, 2025. The '164 patent issued from U.S. Patent App. Ser. No. 10/792,946, filed on March 3, 2004.

25. The '164 patent contains 38 claims, including 5 independent claims and 33 dependent claims. Cisco asserts that Respondent's networking equipment and components and software therein, and activities relating thereto, infringe at least apparatus claim 18 and method claims 1, 5, 6, 9 of the '164 patent, directly or indirectly, either literally or under the doctrine of equivalents.

26. The '164 patent relates generally to a system and method for provisioning network devices and to improved capabilities for changing the configuration of network devices. The '164 patent can, among other things, improve performance while reducing the time it takes to configure a device. In an aspect of the invention, the '164 patent provides novel methods and apparatuses for changing the configuration of network devices that include a recovery configuration for a network device to revert to in the event the network device has a loss of connectivity resulting from the configuration change. Among other things, the invention supports the recovery of connectivity by a networking device where its configuration file is lost or modified.

**D. Nontechnical Description of the '597 Patent**

27. United States Patent No. 7,340,597, entitled "Method and Apparatus for Securing a Communications Device Using a Logging Module," issued on March 4, 2008 and lists David R. Cheriton as its inventor. The '597 patent expires on January 26, 2026. The '597 patent issued from U.S. Patent App. Ser. No. 10/664,551, filed on September 19, 2003.

28. The '597 patent contains 110 claims, including 5 independent claims and 105 dependent claims. Cisco asserts that Respondent's networking equipment and components and software therein, and activities relating thereto, infringe at least apparatus claims 1, 14, 15, 29, 71-73, 84-86 and method claims 39-42, 63, 64, and 84-86 of the '597 patent, directly or indirectly, either literally or under the doctrine of equivalents.

29. The '597 patent relates generally to the field of information networks and communication devices, and more particularly, to a system and method for securing a communications device using a logging module. The '597 patent can, among other things, improve the security of a networking device. In an aspect of the invention, the '597 patent provides a logging module coupled to a subsystem of the device which detects and

communicates configuration changes of the subsystem. Among other things, the invention can improve the security of a networking device without placing unrealistic demands on the system, either in terms of complexity or restricted configurability.

### E. Nontechnical Description of the '592 Patent

30. United States Patent No. 6,741,592, entitled "Private VLANs," issued on May 25, 2004 and lists Thomas J. Edsall, Marco Foschiano, Michael Fine, and Thomas Nosella as its inventors. The '592 patent expires on May 22, 2020. The '592 patent issued from U.S. Patent App. Ser. No. 09/575,774, filed on May 22, 2000.

31. The '592 patent contains 26 claims, including 13 independent claims and 13 dependent claims. Cisco asserts that Respondent's networking equipment and components and software therein, and activities relating thereto, infringe at least apparatus claims 6-10, 20-21, and 23-24 and method claims 17-18 of the '592 patent, directly or indirectly, either literally or under the doctrine of equivalents.

32. The '592 patent relates generally to networking devices and Virtual Local Area Networks (VLANs), and more particularly to secondary VLANs. The '592 patent can, among other things, allow for improved protection and privacy of traffic through the network device. In an aspect of the invention, the '592 patent provides novel methods and apparatuses for separating packet traffic using a switch by defining three new types of ports, "promiscuous" ports, "isolated" ports, and "community" ports, and three new types of VLANs internal to the switch, "primary" VLANs, "isolated" VLANs, and "community" VLANs. Among other things, the '592 patent can keep the packet traffic of different ports separate and may assist scalability to a larger number of ports in the network.

### F. Nontechnical Description of the '145 Patent

33. United States Patent No. 7,200,145, entitled "Private VLANs," issued on April 3, 2007 and lists Thomas J. Edsall, Marco Foschiano, Michael Fine, and Thomas Nosella as its inventors. The '145 patent expires on May 22, 2020. The '145 patent issued from U.S. Patent App. Ser. No. 10/840,212, filed on May 5, 2004.

34. The '145 patent contains 46 claims, including 25 independent claims and 21 dependent claims. Cisco asserts that Respondent's networking equipment and components and software therein, and activities relating thereto, infringe at least apparatus claims 3, 5, 7-11, 13, 15-17, 29, 33-37, 39, 41-42, and 44-46 and method claims 1, 18-28, 40, and 43 of the '145 patent, directly or indirectly, either literally or under the doctrine of equivalents.

35. The '145 patent relates generally to networking devices and Virtual Local Area Networks (VLANs), and more particularly to secondary VLANs. The '145 patent can, among other things, allow for improved protection and privacy of traffic through the network device. In an aspect of the invention, the '145 patent provides novel methods and apparatuses for separating packet traffic using a router by defining three new types of ports, "promiscuous" ports, "isolated" ports, and "community" ports, and three new types of VLANs internal to the router, "primary" VLANs, "isolated" VLANs, and "community" VLANs. Among other things, the '145 patent can keep the packet traffic of different ports separate and may assist scalability to a larger number of ports in the network.

### G. Foreign Counterparts

36. Cisco is aware of no foreign counterparts or foreign counterpart applications corresponding to Cisco's Asserted Patents.

### H. Licensees

37. Confidential Exhibit 17 includes a list of entities that are either licensed under Cisco's Asserted Patents or have received a covenant not to assert from Cisco with respect to Cisco's Asserted Patents.

## VI. UNLAWFUL AND UNFAIR ACTS OF RESPONDENT—PATENT INFRINGEMENT

38. Respondents have engaged in unlawful and unfair acts including the sale for importation into the United States, importation into the United States, sale within the United States after importation, and/or use within the United States after importation of the Accused Products that infringe one or more of the following claims (independent claims in **bold**):

| Patent Number | Asserted Claims (Independent Claims In Bold) |
|---|---|
| '537 Patent | **1**-2, 8-9, **10**-11, and 17-**19** |
| '296 Patent | **1**, 6, **12** |
| '164 Patent | **1**, 5-6, 9, **18** |
| '597 Patent | **1**, 14-15, 29, **39**-42, 63-64, **71**-73, **84**-86 |
| '592 Patent | **6**-10, **17-18**, **20-21**, **23-24** |
| '145 Patent | **1, 3, 5,** 7, 8-10, **11**, **13**, **15**, 16-17, **18**, 19-21, **22-24**, 25, **26**, 27-28, **29**, **33-35**, 36-37, **39-46** |

### A. Infringement of the '537 Patent

39. On information and belief, Respondent imports, sells for importation, sells after importation into the United States, and/or uses after importation into the United States Accused Products that infringe the '537 patent.

40. The Accused Products infringe, directly and indirectly, at least apparatus claims 10-11 and 17-19, and method claims 1, 2, 8, and 9 of the '537 patent. Respondent directly and indirectly infringes at least claims 1, 2, 8-11, and 17-19 of the '537 patent by importing, selling

for importation, selling after importation, and/or using after importation into the United States the Accused Products. *See* Exhibit 18 (infringement claim charts for U.S. Patent No. 7,162,537). The Accused Products satisfy all claim limitations of apparatus claims 10, 11, and 17-19 at the time of importation, and Respondent directly infringes these apparatus claims by importing, selling for importation, selling after importation, and/or using after importation into the United States the Accused Products. The Accused Products, at the time of importation, are programmed to dictate the performance of and automatically perform all steps of method claims 1, 2, 8, and 9, and Respondent directly infringes these claims by importing, selling for importation, selling after importation, and/or using after importation into the United States the Accused Products. In addition, as further alleged below, Respondent indirectly infringes each of these method claims by importing, selling for importation, selling after importation, and/or using after importation into the United States the Accused Products. Exemplary Accused Products include the 7010, 7048, 7050, 7050X, 7150, 7250X, 7280E, 7300, 7300X, and 7500E series switches. *See* Appendix O (Accused Products data sheets).

41. Respondent actively induces others, including purchasers who deploy the Accused Products in their networks, to directly infringe at least claims 1, 2, 8-11, and 17-19 of the '537 patent. On information and belief, purchasers who deploy the Accused Products in their networks and make routine use of the Accused Products, also directly infringe at least claims 1, 2, 8-11, and 17-19 of the '537 patent. Respondent has actual knowledge of the '537 patent at least as of December 5, 2014, when Cisco filed a Complaint asserting the '537 patent against Respondent in the Northern District of California, as discussed in Section IX, below. Further, having been founded by former Cisco personnel and having extensively hired former Cisco personnel, Respondent is aware of the '537 patent. Further, on information and belief, in light of

the above, Respondent knowingly induces infringement of the '537 patent with specific intent to do so including by providing at least manuals, white papers, training, and/or other support, to perform acts intended by Respondent to cause direct infringement of at least claims 1, 2, 8-11, and 17-19 of the '537 patent. *See* Appendix P (compilation of Accused Products manuals, white papers, and training advertisements).

42. Respondent contributes to infringement of at least claims 1, 2, 8-11, and 17-19 of the '537 patent of others, including purchasers who deploy the Accused Products in their networks, by providing the Accused Products thereof, which are specially made or adapted for use in an infringement of these claims and are not staple articles of commerce suitable for substantial noninfringing use. Respondent has actual knowledge of the '537 patent at least as of December 5, 2014, when Cisco filed a Complaint asserting the '537 patent against Respondent in the Northern District of California, as discussed in Section IX, below. Further, having been founded by former Cisco personnel and having extensively hired former Cisco personnel, Respondent is aware of the '537 patent. In light of these allegations, Respondent had knowledge that the Accused Products were specially made or adapted for use in an infringement of the '537 patent and not a staple article of commerce suitable for substantial noninfringing use.

43. Claim charts comparing the '537 patent's asserted independent claims 1, 10, and 19 to Respondent's Accused Products are attached as Exhibit 18. Representative Product 7150S-52, charted at Exhibit 18, was purchased in the United States. Purchase receipts are attached at Exhibit 38; photos showing a manufacturing location outside the United States are attached at Exhibit 39. Additional evidence of importation is set forth in Section VII, below.

### B. Infringement of the '296 Patent

44. On information and belief, Respondent imports, sells for importation, sells after importation into the United States, and/or uses after importation into the United States Accused Products that infringe the '296 patent.

45. The Accused Products infringe, directly and indirectly, at least apparatus claim 12 and method claims 1 and 6 of the '296 patent. Respondent directly and indirectly infringes at least claims 1, 6, and 12 of the '296 patent by importing, selling for importation, selling after importation, and/or using after importation into the United States the Accused Products. *See* Exhibit 19 (infringement claim charts for U.S. Patent No. 8,356,296). The Accused Products satisfy all claim limitations of apparatus claims 12 at the time of importation, and Respondent directly infringes this apparatus claim by importing, selling for importation, selling after importation, and/or using after importation into the United States the Accused Products. The Accused Products, at the time of importation, are programmed to dictate the performance of and automatically perform all steps of method claims 1 and 6, and Respondent directly infringes these claims by importing, selling for importation, selling after importation, and/or using after importation into the United States the Accused Products. In addition, as further alleged below, Respondent indirectly infringes each of these method claims by importing, selling for importation, selling after importation, and/or using after importation into the United States the Accused Products. Exemplary Accused Products include the 7300, 7300X, and 7500E series switches. *See* Appendix O (Accused Products data sheets).

46. Respondent actively induces others, including purchasers who deploy the Accused Products in their networks, to directly infringe at least claims 1, 6, and 12 of the '296 patent. On information and belief, purchasers who deploy the Accused Products in their networks and make routine use of the Accused Products, also directly infringe at least claims 1,

6, and 12 of the '296 patent. Respondent has actual knowledge of the '296 patent at least as of December 5, 2014, when Cisco filed a Complaint asserting the '296 patent against Respondent in the Northern District of California, as discussed in Section IX, below. Further, having been founded by former Cisco personnel and having extensively hired former Cisco personnel, Respondent is aware of the '296 patent. Further, on information and belief, in light of the above, Respondent knowingly induces infringement of the '296 patent with specific intent to do so including by providing at least manuals, white papers, training, and/or other support, to perform acts intended by Respondent to cause direct infringement of at least claims 1, 6, and 12 of the '296 patent. *See* Appendix P (compilation of Accused Products manuals, white papers, and training advertisements).

47. Respondent contributes to infringement of at least claims 1, 6, and 12 of the '296 patent of others, including purchasers who deploy the Accused Products in their networks, by providing the Accused Products thereof, which are specially made or adapted for use in an infringement of these claims and are not staple articles of commerce suitable for substantial noninfringing use. Respondent has actual knowledge of the '296 patent at least as of December 5, 2014, when Cisco filed a Complaint asserting the '296 patent against Respondent in the Northern District of California, as discussed in Section IX, below. Further, having been founded by former Cisco personnel and having extensively hired former Cisco personnel, Respondent is aware of the '296 patent. In light of these allegations, Respondent had knowledge that the Accused Products were specially made or adapted for use in an infringement of the '296 patent and not a staple article of commerce suitable for substantial noninfringing use.

48. Claim charts comparing the '296 patent's asserted independent claims 1 and 12 to Respondent's Accused Products are attached as Exhibit 19. Arista SEC disclosures state that

Arista products are manufactured abroad and imported into the United States for sale by Arista or its distribution partners. *See* Exhibits 24-25. For example, Arista's Founder, Chairman, and CDO Andy Bechtolsheim exhibited a 7500E product in Las Vegas, Nevada, United States. Exhibits 42-43. Additional evidence of importation is set forth in Section VII, below.

### C. Infringement of the '164 Patent

49. On information and belief, Respondent imports, sells for importation, sells after importation into the United States, and/or uses after importation into the United States Accused Products that infringe the '164 patent.

50. The Accused Products infringe, directly and indirectly, at least claims apparatus claim 18 and method claims 1, 5, 6, and 9 of the '164 patent. Respondent directly and indirectly infringes at least claims 1, 5, 6, 9, and 18 of the '164 patent by importing, selling for importation, selling after importation, and/or using after importation into the United States the Accused Products. *See* Exhibit 20 (infringement claim charts for U.S. Patent No. 7,290,164). The Accused Products satisfy all claim limitations of apparatus claim 18 at the time of importation, and Respondent directly infringes this apparatus claim by importing, selling for importation, selling after importation, and/or using after importation into the United States the Accused Products. The Accused Products, at the time of importation, are programmed to dictate the performance of and automatically perform all steps of method claims 1, 5, 6, and 9, and Respondent directly infringes these claims by importing, selling for importation, selling after importation, and/or using after importation into the United States the Accused Products. In addition, as further alleged below, Respondent indirectly infringes each of these method claims by importing, selling for importation, selling after importation, and/or using after importation into the United States the Accused Products. Exemplary Accused Products include the Arista