

1 Susan S.Q. Kalra (CA State Bar No. 16740)  
RAMEY LLP  
2 5020 Montrose Blvd., Suite 800  
Houston, Texas 77006  
3 Telephone: (800) 993-7499  
Fax: (832) 900-4941  
4

*Northern California Office:*  
5 303 Twin Dolphin Drive, Suite 600  
Redwood City, CA, US 94065  
6 Telephone: (800) 993-7499  
7 Fax: (832) 900-4941

8 *Attorneys for Plaintiff*  
PACSEC3, LLC

9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11 **SAN JOSE DIVISION**

12 PACSEC3, LLC,  
Plaintiff,  
13 v.  
14 RADWARE INC.,  
Defendant.

Case No.: 5:24-cv-02146

**PLAINTIFF’S ORIGINAL COMPLAINT  
FOR PATENT INFRINGEMENT**

**(35 U.S.C. § 271)**

**JURY TRIAL DEMANDED**

17 **PLAINTIFF’S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT**

18 Plaintiff, PacSec3, LLC, (“PacSec3”) files this Original Complaint and demand for jury trial  
19 seeking relief from patent infringement of the claims of US Patent No. 7,523,497 (“the ‘497 Patent”  
20 or the “Patent-in-Suit”) by Radware Inc. (“Radware” or “Defendant”).

22 **I. THE PARTIES**

23 1. Plaintiff PacSec3, LLC is a Texas Limited Liability Company with its principal place  
24 of business located at 5900 Balcones Dr. Ste. 100, Austin, Texas 78731-4298.

25 2. On information and belief, Defendant is a corporation organized and existing under  
26 the laws of California. Defendant has a place of business at 100 Mathilda Place, Ste. 170, Sunnyvale,  
27 CA 94086. On information and belief, Defendant sells and offers to sell products and services  
28

1 throughout the United States, including in this judicial district, and introduces products and services  
2 that perform infringing methods or processes into the stream of commerce knowing that they would  
3 be sold in this judicial district. Defendant can be served through its registered agent, 1505  
4 Corporation, 2710 Gateway Oaks Drive, Sacramento, California 95833, at its place of business, or  
5 anywhere else it may be found.  
6

## 7 **II. JURISDICTION AND VENUE**

8 3. This civil action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et*  
9 *seq.*, including without limitation 35 U.S.C. §§ 271, 281, 283, 284, and 285 based on Defendant's  
10 unauthorized commercial manufacture, use, importation, offer for sale, and sale of the Accused  
11 Products in the United States. This is a patent infringement lawsuit over which this Court has subject  
12 matter jurisdiction under, *inter alia*, 28 U.S.C. §§ 1331, 1332, and 1338(a).  
13

14 4. This United States District Court for the Northern District of California has general  
15 and specific personal jurisdiction over Defendant because, directly or through intermediaries,  
16 Defendant has committed acts within the District giving rise to this action and are present in and  
17 transact and conduct business in and with residents of this District and other Districts throughout  
18 the United States.  
19

20 5. Plaintiff's causes of action arise, at least in part, from Defendant's contacts with, and  
21 activities in this District.

22 6. Defendant has committed acts of infringing the patents-in-suit within this District by  
23 making, using, selling, offering for sale, and/or importing in or into this District and elsewhere,  
24 products claimed by the patents-in-suit, including without limitation products made by practicing  
25 the claimed methods of the patents-in-suit. Defendant, directly and through intermediaries, makes,  
26 uses, sells, offers for sale, imports, ships, distributes, advertises, promotes, and/or otherwise  
27 commercializes such infringing products into this District others. Defendant regularly conducts and  
28

1 solicits business in, engages in other persistent courses of conduct in, and/or derives substantial  
2 revenue from goods and services provided to residents of this District and others.

3           7. This Court has personal jurisdiction over Defendant, in part, because Defendant does  
4 continuous and systematic business in this District, as well as having a place of business in this  
5 District, by providing infringing products and services to the residents of this District that Defendant  
6 knew would be used within this District, and by soliciting business from the residents of this District.  
7 For example, Defendant is subject to personal jurisdiction in this Court because, *inter alia*,  
8 Defendant maintains an office at 100 Mathilda Place, Ste. 170, Sunnyvale, CA 94086, and directly  
9 and through agents regularly does, solicits, and transacts business in this District. Also, Defendant  
10 has hired and is hiring within this District for positions that, on information and belief, relate to  
11 infringement of the patents-in-suit. Accordingly, this Court's jurisdiction over the Defendant  
12 comports with the constitutional standards of fair play and substantial justice and arises directly  
13 from the Defendant's purposeful minimum contacts with the State of California.  
14

15  
16           8. Furthermore, this Court has personal jurisdiction over Defendant, because in addition  
17 to Defendant's online website and advertising within this District, Defendant has also made its  
18 products available within this judicial district and advertised to residents within the District to hire  
19 employees to be located in this District.  
20

21           9. The amount in controversy exceeds \$75,000 exclusive of interests and costs.

22           10. Venue is proper in this Court under 28 U.S.C. § 1400(b) based on information set  
23 forth herein, which is hereby repeated and incorporated by reference. Further, upon information  
24 and belief, Defendant has committed or induced acts of infringement, and/or advertise, market, sell,  
25 and/or offer to sell products, including infringing products, in this District. In addition, and without  
26 limitation, Defendant has regular and established places of business throughout this District,  
27 including at least at 100 Mathilda Place, Ste. 170, Sunnyvale, CA 94086.  
28

1           **III. Infringement of the '497 Patent**

2           11. Plaintiff incorporates by reference paragraphs 1-10 as if fully presented herein.

3           12. On 2009, U.S. Patent No. 7,523,497 (“the ‘497 patent”, included as **EXHIBIT A**)  
4 entitled “PACKET FLOODING DEFENSE SYSTEM,” was duly and legally issued by the U.S.  
5 Patent and Trademark Office. PacSec3, LLC owns the ‘497 Patent by assignment.

6           13. The ‘497 patent relates to a novel and improved manner and system of defense to a  
7 data packet flood attack.

8           14. Defendant offers for sale, sells and manufactures one or more firewall systems that  
9 infringes one or more claims of the ‘497 Patent, including one or more of claims 7 and 10, literally  
10 or under the doctrine of equivalents. Defendant put the inventions claimed by the ‘497 Patent into  
11 service, i.e., used them, and; but for Defendant’s actions, the claimed-inventions embodiments  
12 involving Defendant’s products and services would never have been put into service. Defendant’s  
13 acts complained of herein caused those claimed-invention embodiments as a whole to perform, and  
14 Defendant’s procurement of monetary and commercial benefit from it.

15           15. Support for the allegations of infringement may be found in **Exhibit B**, a claim chart  
16 for claim 10, provided herewith.

17           16. Defendant has and continues to induce infringement. Defendant has actively  
18 encouraged or instructed others, e.g., its customers and/or the customers of its related companies,  
19 and continues to do so, on how to use its products and services, e.g. Behavioral DoS, and related  
20 services that provide services across the Internet such as to cause infringement of one or more of  
21 claims 7 and 10 of the ‘497 patent, literally or under the doctrine of equivalents. Moreover,  
22 Defendant has known of the ‘497 patent and the technology underlying it from at least the filing  
23 date of the lawsuit.<sup>1</sup> For clarity, direct infringement is previously alleged in this complaint.  
24  
25  
26  
27

28 <sup>1</sup> Plaintiff reserves the right to amend if discovery reveals an earlier date of

1 17. Defendant has and continues to contributorily infringe. Defendant has actively  
2 encouraged or instructed others, e.g., its customers and/or the customers of its related companies,  
3 and continues to do so, on how to use its products and services, e.g., Behavioral DoS, and related  
4 services that provide question and answer services across the Internet such as to cause infringement  
5 of one or more of claims 7 and 10 of the '497 patent, literally or under the doctrine of equivalents.  
6 Further, there are no substantial noninfringing uses for Defendant's products and services.  
7 Moreover, Defendant has known of the '497 patent and the technology underlying it from at least  
8 the filing date of the lawsuit.<sup>2</sup> For clarity, direct infringement is previously alleged in this complaint.  
9

10 18. On information and belief, Defendant's infringement of the '497 Patent has been  
11 willful and merits increased damages.  
12

13 19. On information and belief, Defendant has made no attempt to design around the  
14 claims of the '497 Patent.

15 20. On information and belief, Defendant did not have a reasonable basis for believing  
16 that the claims of the '497 Patent were invalid.

17 21. On information and belief, Defendant's Accused Products are available to businesses  
18 and individuals throughout the United States and including in this District.  
19

20 22. Plaintiff has been damaged as the result of Defendant's infringement.

21 23. The claim chart attached hereto as **Exhibit B** describes how the elements of an  
22 exemplary claim from the '497 Patent are infringed by the Accused Products. This provides details  
23 regarding only one example of Defendant's infringement, and only as to a single patent claim. These  
24 allegations of infringement are preliminary and are therefore subject to change.  
25  
26

27 knowledge.

28 <sup>2</sup> Plaintiff reserves the right to amend if discovery reveals an earlier date of knowledge.

1           24. Defendant has caused and will continue to cause PacSec3 damage by direct and  
2 indirect infringement (including inducement and contributory) of the claims of the '497 Patent.  
3

4           **IV. CONDITIONS PRECEDENT**

5           Plaintiff is a non-practicing entity, with no products to mark. Plaintiff has pled all statutory  
6 requirements to obtain pre-suit damages. Further, all conditions precedent to recovery are met.  
7

8           **V. JURY DEMAND**

9           25. Plaintiff hereby requests a trial by jury on issues so triable by right.

10          **VI. PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff prays for relief as follows:

- 12          a. enter judgment that Defendant has infringed the claims of the '497 patent;
- 13          b. award Plaintiff damages in an amount sufficient to compensate it for Defendant's  
14 infringement of the Patent-in-Suit in an amount no less than a reasonable royalty or lost  
15 profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. §  
16 284;
- 17          c. award Plaintiff an accounting for acts of infringement not presented at trial and an award by  
18 the Court of additional damage for any such acts of infringement;
- 19          d. declare this case to be "exceptional" under 35 U.S.C. § 285 and award Plaintiff its attorneys'  
20 fees, expenses, and costs incurred in this action;
- 21          e. declare Defendant's infringement to be willful and treble the damages, including attorneys'  
22 fees, expenses, and costs incurred in this action and an increase in the damage award  
23 pursuant to 35 U.S.C. § 284;
- 24          f. a decree addressing future infringement that either (if) awards a permanent injunction  
25 enjoining Defendant and its agents, servants, employees, affiliates, divisions, and  
26  
27  
28

1 subsidiaries, and those in association with Defendant from infringing the claims of the  
2 Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an  
3 amount consistent with the fact that for future infringement the Defendant will be an  
4 adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the  
5 future infringement will be willful as a matter of law; and  
6

7 g. award Plaintiff such other and further relief as this Court deems just and proper.

8 Dated: April 10, 2024

Respectfully submitted,

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RAMEY LLP

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/s/ Susan S.Q. Kalra

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Susan S.Q. Kalra (CA State Bar No. 16740)

12

5020 Montrose Blvd., Suite 800

13

Houston, Texas 77006

14

Telephone: (800) 993-7499

15

Fax: (832) 900-4941

16

*Northern California Office:*

17

303 Twin Dolphin Drive, Suite 600

18

Redwood City, CA, US 94065

19

/s/ William P. Ramey, III

20

William P. Ramey, III (*pro hac vice* anticipated)

21

Texas Bar No. 24027643

22

wramey@rameyfirm.com

23

5020 Montrose Blvd., Suite 800

24

Houston, Texas 77006

25

Telephone: (713) 426-3923

26

Fax: (832) 689-9175

27

*Attorneys for Plaintiff*

28

*PacSec3, LLC*