

Form PTO-1594 (Rev. 06/04)
OMB Collection 0651-0027 (exp. 8/30/2005)

U.S. DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

RECORDATION FORM COVER SHEET TRADEMARKS ONLY

To the Director of the U. S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies)/Execution Date(s):

Acme Packet, Inc.

- Individual(s)
- General Partnership
- Corporation-State DE
- Other
- Association
- Limited Partnership

Citizenship (see guidelines)

Execution Date(s) 07/29/04

Additional names of conveying parties attached? Yes No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

4. Application number(s) or registration number(s) and identification or description of the Trademark.

A. Trademark Application No.(s)

76/403198; 76/376396; 76/346886

B. Trademark Registration No.(s)

Additional sheet(s) attached? Yes No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

5. Name & address of party to whom correspondence concerning document should be mailed:

Name: Christopher E. Kondracki

Internal Address:

Street Address: 2001 Jefferson Davis Highway
Suite 1007

City: Arlington

State: VA Zip: 22202

Phone Number: 703-415-1555

Fax Number: 703-415-1557

Email Address:

6. Total number of applications and registrations involved:

3

7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$ 90.00

- Authorized to be charged by credit card
- Authorized to be charged to deposit account
- Enclosed

8. Payment Information:

a. Credit Card Last 4 Numbers _____
Expiration Date _____

b. Deposit Account Number 19-3545
Authorized User Name Christopher E. Kondracki

9. Signature:

CKondracki

Signature

9/2/04

Date

Christopher E. Kondracki

Name of Person Signing

Total number of pages including cover sheet, attachments, and document:

13

Documents to be recorded (including cover sheet) should be faxed to (703) 306-5995, or mailed to: Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

CH \$90.00 193545 76403198

INTELLECTUAL PROPERTY SECURITY AGREEMENT

This Intellectual Property Security Agreement (this "IP Agreement") is made as of the 29th day of July, 2004, by and between **ACME PACKET, INC.**, a Delaware corporation with its chief executive office located at 130 New Boston Street, Woburn, Massachusetts 01801 ("Grantor"), and **SILICON VALLEY BANK**, a California-chartered bank, with its principal place of business at 3003 Tasman Drive, Santa Clara, California 95054 and with a loan production office located at One Newton Executive Park, Suite 200, 2221 Washington Street, Newton, Massachusetts 02462, doing business under the name "Silicon Valley East" ("Lender").

RECITALS

A. Lender agreed to make advances of money and to extend certain financial accommodations to Grantor (the "Loan"), pursuant to a certain Loan and Security Agreement dated as of June 22, 2001 between Grantor and Lender, as amended from time to time and a certain Loan and Security Agreement dated May 22, 2003, as amended from time to time (collectively, the "Loan Agreement"). The Loan is secured pursuant to the terms of the Loan Agreement. Lender entered into certain financial accommodations with Grantor, but only upon the condition, among others, that Grantor shall grant to Lender a security interest in certain Copyrights, Trademarks, Patents, and Mask Works, and other assets, to secure the obligations of Grantor under the Loan Agreement. Defined terms used but not defined herein shall have the same meanings as in the Loan Agreement.

B. Pursuant to the terms of the Loan Agreement, Grantor has granted to Lender a security interest in all of Grantor's right title and interest, whether presently existing or hereafter acquired in, to and under all of the Collateral (as defined therein).

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged and intending to be legally bound, as collateral security for the prompt and complete payment when due of Grantor's Indebtedness (as defined below), Grantor hereby represents, warrants, covenants and agrees as follows:

1. Grant of Security Interest. As collateral security for the prompt and complete payment and performance of all of Grantor's present or future indebtedness, obligations and liabilities to Lender (hereinafter, the "Indebtedness") under the Loan Agreement, Grantor hereby grants a security interest in all of Grantor's right, title and interest in, to and under its registered and unregistered intellectual property collateral (all of which shall collectively be called the "Intellectual Property Collateral"), including, without limitation, the following:
 - a. Any and all copyright rights, copyright registration applications, copyright registrations of Grantor in each work of authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret, now or hereafter existing, created, acquired or held, including without limitation those set forth on EXHIBIT A attached hereto (collectively, the "Copyrights");
 - b. Any and all trade secrets of Grantor, and any and all intellectual property rights of Grantor in computer software and computer software products now or hereafter existing, created, acquired or held;
 - c. Any and all design rights of Grantor now or hereafter existing, created, acquired or held;

- d. All patents, patent applications of Grantor including, without limitation, improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same, including without limitation the patents and patent applications set forth on EXHIBIT B attached hereto (collectively, the "Patents");
 - e. Any trademark and service mark rights, slogans, trade dress, and tradenames of Grantor, whether registered or not, applications to register and registrations of the same, and the entire goodwill of the business of Grantor connected with and symbolized by such trademarks, including without limitation those set forth on EXHIBIT C attached hereto (collectively, the "Trademarks");
 - f. All mask works of Grantor, now owned or hereafter acquired by Grantor, including, without limitation those set forth on EXHIBIT D attached hereto (collectively, the "Mask Works");
 - g. Any and all claims for damages by way of past, present and future infringements of any of the rights included above (with the right (but not the obligation), upon and during the continuance of an Event of Default, to sue for and collect such damages for said use or infringement of the intellectual property rights identified above);
 - h. All licenses or other rights granted by Grantor to third parties to use any of the Copyrights, Patents, Trademarks, or Mask Works and all license fees and royalties arising from such use to the extent permitted by such license or rights, including, without limitation those set forth on EXHIBIT E attached hereto; and
 - i. All amendments, extensions, renewals and extensions of any of the Copyrights, Trademarks, Patents, or Mask Works; and
 - j. All proceeds and products of the foregoing, including without limitation all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.
2. Authorization and Request. Grantor authorizes and requests that the Register of Copyrights and the Commissioner of Patents and Trademarks record this IP Agreement.
 3. Covenants and Warranties. Grantor represents, warrants, covenants and agrees as follows:
 - a. Grantor is now the sole owner of now existing Intellectual Property Collateral, except for non-exclusive licenses granted by Grantor to its customers in the ordinary course of business.
 - b. Performance of this IP Agreement does not conflict with or result in a breach of any agreements to which Grantor is bound, except to the extent that certain intellectual property agreements prohibit the assignment of the rights thereunder to a third party without the licensor's or other party's consent and this IP Agreement creates a security interest.

- c. During the term of this IP Agreement, Grantor will not transfer or otherwise encumber any interest in the Intellectual Property Collateral, except for non-exclusive and exclusive licenses granted by Grantor in the ordinary course of business or as set forth in this IP Agreement;
- d. To its knowledge, each of the Patents is valid and enforceable, and no part of the Intellectual Property Collateral has been adjudicated in any way to be invalid or unenforceable, in whole or in part, and no claim has been made, to the best of Grantor's knowledge, that any part of the Intellectual Property Collateral violates the rights of any third party;
- e. Grantor shall promptly advise Lender of any material adverse change in the composition of the Collateral;
- f. Grantor shall promptly advise Lender of any subsequent ownership right of the Grantor in or to any Trademark, Patent, Copyright, or Mask Work specified in this IP Agreement;
- g. Grantor shall, as it may deem necessary and appropriate in the exercise of its reasonable business discretion, (i) protect, defend and maintain the validity and enforceability of the Trademarks, Patents, Copyrights, and Mask Works, (ii) use commercially reasonable efforts to detect infringements of the Trademarks, Patents, Copyrights, and Mask Works and promptly advise Lender in writing of material infringements detected and (iii) not allow any Trademarks, Patents, Copyrights, or Mask Works to be abandoned, forfeited or dedicated to the public without the written consent of Lender, which shall not be unreasonably withheld, unless Grantor determines that reasonable business practices suggest that abandonment is appropriate.
- h. Grantor shall promptly register with the U.S. Copyright Office the most recent version of any of Grantor's Copyrights which Grantor determines in its reasonable business discretion warrants such registration, if not so already registered, and shall, from time to time, execute and file such other instruments, and take such further actions as Lender may, consistent with this IP Agreement, reasonably request from time to time to perfect or continue the perfection of Lender's interest in the Intellectual Property Collateral;
- i. This IP Agreement creates, and in the case of after acquired Intellectual Property Collateral, this IP Agreement will create at the time Grantor first has rights in such after acquired Intellectual Property Collateral, in favor of Lender a valid and perfected first priority security interest and collateral assignment in the Intellectual Property Collateral in the United States securing the payment and performance of the obligations evidenced by the Loan Agreement upon making the filings referred to in clause (i) below;
- j. To its knowledge, except for, and upon, the filing with the United States Patent and Trademark office with respect to the United States Patents and Trademarks and the Register of Copyrights with respect to the United States Copyrights and Mask Works necessary to perfect the security interests created hereunder (and the filing of UCC Financing Statements in connection with same) and except as has been already made or obtained, no authorization, approval or other action by, and no notice to or filing with, any U.S. governmental authority or U.S. regulatory body is required either (i) for the grant by Grantor of the security interest granted hereby, or for the

execution, delivery or performance of this IP Agreement by Grantor in the U.S. or (ii) for the perfection in the United States or the exercise by Lender of its rights and remedies thereunder;

- k. All information heretofore, herein or hereafter supplied to Lender by or on behalf of Grantor with respect to the Intellectual Property Collateral is accurate and complete in all material respects.
 - l. Grantor shall not enter into any agreement that would materially impair or conflict with Grantor's obligations hereunder without Lender's prior written consent, which consent shall not be unreasonably withheld. Grantor shall not permit the inclusion in any material contract to which it becomes a party of any provisions that could or might in any way prevent the creation of a security interest in Grantor's rights and interest in any property included within the definition of the Intellectual Property Collateral acquired under such contracts.
 - m. Upon any executive officer of Grantor obtaining actual knowledge thereof, Grantor will promptly notify Lender in writing of any event involving Grantor or its assets that materially adversely affects the value of any of Grantor's material Intellectual Property Collateral, the ability of Grantor to dispose of any material Intellectual Property Collateral or the rights and remedies of Lender in relation thereto, including the levy of any legal process against any of the Intellectual Property Collateral.
4. Lender's Rights. Lender shall have the right, but not the obligation, to take, at Grantor's sole expense, any actions that Grantor is required under this IP Agreement to take but which Grantor fails to take, after fifteen (15) days' notice to Grantor. Grantor shall reimburse and indemnify Lender for all reasonable costs and reasonable expenses incurred in the reasonable exercise of its rights under this section 4.
5. Inspection Rights. Grantor hereby grants to Lender and its employees, representatives and agents the right to visit, during reasonable hours upon prior reasonable written notice to Grantor, any of Grantor's plants and facilities that manufacture, install or store products (or that have done so during the prior six-month period) that are sold utilizing any of the Intellectual Property Collateral, and to inspect the products and quality control records relating thereto upon reasonable written notice to Grantor and as often as may be reasonably requested, but not more than once in every six (6) months; provided, however, nothing herein shall entitle Lender access to Grantor's trade secrets and other proprietary information.
6. Further Assurances; Attorney in Fact
- i. On a continuing basis, Grantor will, subject to any prior licenses, encumbrances and restrictions and prospective licenses, and consistent with the terms and conditions of this IP Agreement, make, execute, acknowledge and deliver, and file and record in the proper filing and recording places in the United States, all such instruments, including appropriate financing and continuation statements and collateral agreements and filings with the United States Patent and Trademarks Office and the Register of Copyrights, and take all such action as may reasonably be deemed necessary or advisable, or as requested by Lender, to perfect Lender's security interest in all Copyrights, Patents, Trademarks, and Mask Works and otherwise to carry out the intent and purposes of this IP Agreement, or for assuring and confirming to Lender the grant or perfection of a security interest in all Intellectual Property Collateral.

- ii. Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact, with full authority in the place and stead of Grantor and in the name of Grantor, Lender or otherwise, from time to time in Lender's discretion, upon Grantor's failure or inability to do so, to take any action and to execute any instrument which Lender may deem necessary or advisable to:
 - a) Modify, in its sole discretion, this IP Agreement without first obtaining Grantor's approval of or signature to such modification by amending Exhibit A, Exhibit B, Exhibit C, and Exhibit D hereof, as appropriate, to include reference to any right, title or interest in any Copyrights, Patents, Trademarks or Mask Works acquired by Grantor after the execution hereof or to delete any reference to any right, title or interest in any Copyrights, Patents, Trademarks, or Mask Works in which Grantor no longer has or claims any right, title or interest; and
 - b) File, in its sole discretion, one or more financing or continuation statements and amendments thereto, relative to any of the Intellectual Property Collateral without the signature of Grantor where permitted by law.
- iii. Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact, with full authority in the place and stead of Grantor and in the name of Grantor, Lender or otherwise, from time to time in Lender's discretion, within a reasonable time after written request by Lender to Grantor and after Grantor's failure or inability to do so, to take any action and to execute any instrument which Lender may deem necessary or advisable to accomplish the purposes of this IP Agreement.

Events of Default. The occurrence of any of the following shall constitute an Event of Default under this IP Agreement:

- a. An Event of Default occurs under the Loan Agreement; or any document from Grantor to Lender; or
- b. Grantor breaches any warranty or agreement made by Grantor in this IP Agreement.

Remedies. Upon the occurrence and continuance of an Event of Default, Lender shall have the right to exercise all the remedies of a secured party under the Massachusetts Uniform Commercial Code, including without limitation the right to require Grantor to assemble the Intellectual Property Collateral and any tangible property in which Lender has a security interest and to make it available to Lender at a place designated by Lender. Lender shall have a nonexclusive, royalty free license to use the Copyrights, Patents, Trademarks, and Mask Works to the extent reasonably necessary to permit Lender to exercise its rights and remedies upon the occurrence of an Event of Default. Grantor will pay any expenses (including reasonable attorney's fees) incurred by Lender in connection with the exercise of any of Lender's rights hereunder, including without limitation any expense incurred in disposing of the Intellectual Property Collateral. All of Lender's rights and remedies with respect to the Intellectual Property Collateral shall be cumulative.

9. **Indemnity.** Grantor agrees to defend, indemnify and hold harmless Lender and its officers, employees, and agents against: (a) all obligations, demands, claims, and liabilities claimed or asserted by any other party in connection with the transactions contemplated by this IP Agreement, and (b) all losses or expenses in any way suffered, incurred, or paid by Lender as a result of or in any way arising out of, following or consequential to transactions between Lender and Grantor, whether under this IP Agreement or otherwise (including without limitation, reasonable attorneys fees and reasonable expenses), except for losses arising from or out of Lender's gross negligence or willful misconduct.
10. **Reassignment.** At such time as Grantor shall completely satisfy all of the obligations secured hereunder, Lender shall execute and deliver to Grantor all deeds, assignments, and other instruments as may be necessary or proper to release and terminate Lender's security interest in and reinvest in Grantor full title to the Intellectual Property Collateral, subject to any disposition thereof which may have been made by Lender pursuant hereto in accordance with the terms hereof or of the Loan Agreement.
11. **Course of Dealing.** No course of dealing, nor any failure to exercise, nor any delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof.
12. **Amendments.** This IP Agreement may be amended only by a written instrument signed by both parties hereto.
13. **Counterparts.** This IP Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument.
14. **Law and Jurisdiction.** This IP Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. GRANTOR ACCEPTS FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, UNCONDITIONALLY, THE NON-EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN THE COMMONWEALTH OF MASSACHUSETTS IN ANY ACTION, SUIT, OR PROCEEDING OF ANY KIND, AGAINST IT WHICH ARISES OUT OF OR BY REASON OF THIS AGREEMENT.
- GRANTOR AND LENDER EACH HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF ANY OF THE LOAN DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED THEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS. EACH PARTY RECOGNIZES AND AGREES THAT THE FOREGOING WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR IT TO ENTER INTO THIS AGREEMENT. EACH PARTY REPRESENTS AND WARRANTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.
15. **Confidentiality.** In handling any confidential information, Lender shall exercise the same degree of care that it exercises for its own proprietary information, but disclosure of information may be made: (i) to Lender's subsidiaries or affiliates in connection with their present or prospective business relations with Grantor; (ii) to prospective transferees or purchasers of any interest in the Loans; (iii) as required by law, regulation, subpoena, or other order, (iv) as required in connection with Lender's examination or audit; and (v) as Lender considers appropriate in exercising remedies under this Agreement. Confidential information

does not include information that either: (a) is in the public domain or in Lender's possession when disclosed to Lender, or becomes part of the public domain after disclosure to Lender; or (b) is disclosed to Lender by a third party, if Lender reasonably does not know that the third party is prohibited from disclosing the information.

EXECUTED as a sealed instrument under the laws of the Commonwealth of Massachusetts on the day and year first written above.

Address of Grantor:

130 New Boston Street
Woburn, Massachusetts 01801

GRANTOR:

ACME PACKET, INC.

By: 

Name: Keith Serdman

Title: Chief Financial Officer.

56120/456

2004. Exhibit "A" attached to that certain Intellectual Property Security Agreement dated July 29

EXHIBIT "A"

COPYRIGHTS

SCHEDULE A - REGISTERED COPYRIGHTS

<u>COPYRIGHT DESCRIPTION</u>	<u>REGISTRATION NUMBER</u>	<u>DATE OF ISSUANCE</u>
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None

SCHEDULE B - PENDING COPYRIGHT REGISTRATION APPLICATIONS

<u>COPYRIGHT DESCRIPTION</u>	<u>APPLICATION NUMBER</u>	<u>DATE OF FILING</u>	<u>DATE OF CREATION</u>	<u>FIRST DATE OF PUBLIC DISTRIBUTION</u>
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SCHEDULE C - MATERIAL UNREGISTERED COPYRIGHTS (Where No Copyright Application is Pending)

<u>COPYRIGHT DESCRIPTION</u>	<u>DATE OF CREATION</u>	<u>FIRST DATE OF DISTRIBUTION</u>	<u>DATE AND RECORDATION NUMBER OF IP AGREEMENT WITH OWNER OR ORIGINAL GRANTOR IF AUTHOR OR OWNER OF COPYRIGHT IS DIFFERENT FROM GRANTOR</u>	<u>ORIGINAL AUTHOR OR OWNER OF COPYRIGHT IS DIFFERENT FROM GRANTOR</u>
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Exhibit "B" attached to that certain Intellectual Property Security Agreement dated July 29, 2004.

EXHIBIT "B"

PATENT APPLICATIONS

TITLE OF INVENTION	SERIAL NO.	DATE FILED	COUNTRY
System and Method for Providing Encryption for Rerouting of Real Time Multi-Media Flows	09/941,229	August 28, 2001	US
System and Method for Determining Flow Quality Statistics for Real-Time Transport Protocol Data Flows	09/911,256	July 23, 2001	US
System and Method for Providing Rapid Rerouting of Real-Time Multi-Media Flows	09/911,304	July 23, 2001	US
System and Method for Improving Communication Between a Switched Network and a Packet Network	10/000,409	November 2, 2001	US
System and Method for Providing Statistics Gathering Within a Packet Network	10/059,919	January 29, 2002	US
System and Method for Determining a Source of an Internet Protocol Packet	10/085,324	February 28, 2002	US
System and Method for Determining a Source of An Internet Protocol Packet	10/103,408	March 21, 2002	US
System and Method for Providing Session Admission Control	10/198,852	July 19, 2002	US

Exhibit "C" attached to that certain Intellectual Property Security Agreement dated July 29, 2004.

EXHIBIT "C"

TRADEMARK REGISTRATION AND REGISTRATION APPLICATIONS

MARK	SERIAL NO.	DATE FILED	COUNTRY
Acme Packet Session Aware Networking	76/403,198	May 1, 2002	US
Net-Net	76/376,396	February 28, 2002	US
Session Aware Networking	76/346,886	December 10, 2001	US

Exhibit "D" attached to that certain Intellectual Property Security Agreement dated July 29, 2004.

EXHIBIT "D"

MASK WORK REGISTRATIONS

MASK WORK
DESCRIPTION

COUNTRY

REG. NO

Exhibit "E" attached to that certain Intellectual Property Security Agreement dated July 29, 2004.

EXHIBIT "E"

LICENSES

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