

01-28-2002



Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002) Tab settings

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

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Rapid5 Networks, Inc.

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

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other

Execution Date: 5/30/01

2. Name and address of receiving party(ies)

Name: Venture Lending & Leasing III, Inc., as Agent

Address:

Street Address: 2010 North First Street

City: San Jose State: CA Zip: 95131

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

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? Yes No

4. Application number(s) or registration number(s): 4

A. Trademark Application No.(s)

76/084856 76/084857 76/151069 76/209364

B. Trademark Registration No.(s)

JUN 15 2002

Additional number(s) attached Yes No

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

Name: Russell D. Pollock

Internal Address:

Street Address: c/o Greene Radovsky et al

Four Embarcadero Center, Suite 4000

City: San Francisco State: CA Zip: 94111

6. Total number of applications and registrations involved: 4

7. Total fee (37 CFR 3.41): \$ 115.00

- Enclosed Authorized to be charged to deposit account

8. Deposit account number:

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Russell D. Pollock

Signature

10/29/01 Date

Name of Person Signing

00000360 76084856

9

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

01/25/2002 DBYRNE

01 FC:481 02 FC:482

40.00 OP 75.00 OP

Mail documents to be recorded with required cover sheet information to: Commissioner of Patent & Trademarks, Box Assignments Washington, D.C. 20231

TRADEMARK REEL: 002431 FRAME: 0116

## INTELLECTUAL PROPERTY SECURITY AGREEMENT

This Intellectual Property Security Agreement (the "Agreement") is made as of May 30, 2001, by and between RAPID5 NETWORKS, INC., a Delaware corporation ("Grantor"), and VENTURE LENDING & LEASING III, INC., as Agent ("Secured Party") for certain lenders as hereinafter described ("Lenders").

### RECITALS

A. Pursuant to a Loan Agreement of even date herewith (the "Loan Agreement") among Grantor, as borrower, and Secured Party and Lenders, Lenders have agreed to make certain advances of money and to extend certain financial accommodations to Grantor (the "Loans") in the amounts and manner set forth in the Loan Agreement. All capitalized terms used herein without definition shall have the meanings ascribed to them in the Loan Agreement.

B. Lenders are willing to make the Loans to Grantor, but only upon the condition, among others, that Grantor shall grant to Secured Party, for the ratable benefit of Lenders, a security interest in substantially all of Grantor's personal property whether presently existing or hereafter acquired. To that end, Grantor has executed in favor of Secured Party a Security Agreement of even date herewith (the "Security Agreement") granting a security interest in all Collateral, and is executing this Agreement with respect to certain items of Intellectual Property, in particular.

NOW, THEREFORE, THE PARTIES HERETO AGREE 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 Obligations, Grantor hereby grants a security interest and mortgage to Secured Party, as security, in and to Grantor's entire right, title and interest in, to and under the following Intellectual Property, now owned or hereafter acquired by Grantor or in which Grantor now holds or hereafter acquires any interest (all of which shall collectively be called the "IP Collateral" for purposes of this Agreement):

(a) Any and all copyrights, whether registered or unregistered, held pursuant to the laws of the United States, any State thereof or of any other country; all registrations, applications and recordings in the United States Copyright Office or in any similar office or agency of the United States, and State thereof or any other country; all continuations, renewals, or extensions thereof; and any registrations to be issued under any pending applications, including without limitation those set forth on Exhibit A attached hereto (collectively, the "Copyrights");

(b) All letters patent of, or rights corresponding thereto in, the United States or any other country, all registrations and recordings thereof, and all applications for letters patent of, or rights corresponding thereto in, the United States or any other country, including, without limitation, registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country; all reissues, continuations, continuations-in-part or extensions thereof; all petty patents, divisionals, and patents of addition; and all patents to be issued under any such applications, including without limitation the patents and patent applications set forth on Exhibit B attached hereto (collectively, the "Patents");

(c) All trademarks, trade names, corporate names, business names, trade styles, service marks, logos, other source or business identifiers, prints and labels on which any of the foregoing have appeared or appear, designs and general intangibles of like nature, now existing or hereafter adopted or acquired, all registrations and recordings thereof, and any applications in connection therewith, including, without limitation, registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country or any political subdivision thereof, and reissues, extensions or renewals thereof, 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");

(d) Any and all claims for damages by way of past, present and future infringement of any of the rights included above, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the intellectual property rights identified above;

(e) All licenses or other rights to use any of the Copyrights, Patents or Trademarks, and all license fees and royalties arising from such use to the extent permitted by such license or rights;

(f) All amendments, renewals and extensions of any of the Copyrights, Trademarks or Patents; and

(g) 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.

Notwithstanding the foregoing the term "IP Collateral" shall not include: (a) "intent-to-use" trademarks at all times prior to the first use thereof, whether by the actual use thereof in commerce, the recording of a statement of use with the United States Patent and Trademark Office or otherwise or (b) any contract, instrument or chattel paper in which Grantor has any right, title or interest if and to the extent such contract, instrument or chattel paper includes a provision containing a restriction on assignment such that the creation of a security interest in the right, title or interest of Grantor therein would be prohibited and would, in and of itself, cause or result in a default thereunder enabling another person party to such contract, instrument or chattel paper to enforce any remedy with respect thereto; provided, however, that the foregoing exclusion shall not apply if (i) such prohibition has been waived or such other person has otherwise consented to the creation hereunder of a security interest in such contract, instrument or chattel paper, or (ii) such prohibition would be rendered ineffective pursuant to Section 9-318(4) of the UCC or Sections 9-407(a) or 9-408(a) of Revised Article 9 of the UCC, as applicable and as then in effect in any relevant jurisdiction, or any other applicable law (including the Bankruptcy Code) or principles of equity); provided further that immediately upon the ineffectiveness, lapse or termination of any such provision, the term "IP Collateral" shall include, and Grantor shall be deemed to have granted a security interest in, all its rights, title and interests in and to such contract, instrument or chattel paper as if such provision had never been in effect; and provided further that the foregoing exclusion shall in no way be construed so as to limit, impair or otherwise affect Secured Party's unconditional continuing security interest in and to all rights, title and interests of Grantor in or to any payment obligations or other rights to receive monies due or to become due under any such contract, instrument or chattel paper and in any such monies and other proceeds of such contract, instrument or chattel paper.

2. Covenants and Warranties. Except as set forth in the Schedule of Exceptions attached hereto, Grantor represents, warrants, covenants and agrees as follows:

(a) During the term of this Agreement, Grantor will not transfer or otherwise encumber any interest in the IP Collateral, except for non-exclusive licenses granted by Grantor in the ordinary course of business or as set forth in this Agreement or the Loan Agreement; provided, however, that for the purposes of this Agreement and each other Loan Document, a license of Intellectual Property shall be deemed to be "non-exclusive" if and when (A) Grantor enters into a license in connection with an OEM agreement with a service provider, on customary terms and conditions, where such service provider requests exclusive licensing solely with respect to the unique intellectual property elements Grantor may develop to achieve interoperability between Grantor's product and the service provider's proprietary network, and (B) Grantor enters into a license in connection with a work-for-hire arrangement with a service provider, where the service provider requests exclusive licensing solely with respect to the unique intellectual property elements Grantor may develop to achieve interoperability between Grantor's product and the product of a third party vendor.

(b) To its knowledge, each of the Patents is valid and enforceable, and no part of the IP Collateral has been judged invalid or unenforceable, in whole or in part, and no claim has been made that any part of the IP Collateral violates the rights of any third party.

(c) **Grantor shall deliver to Secured Party within thirty (30) days of the last day of each fiscal quarter, a report signed by Grantor, in form reasonably acceptable to Secured Party, listing any applications or registrations that Grantor has made or filed in respect of any patents, copyrights or**

**trademarks and the status of any outstanding applications or registrations. Grantor shall promptly advise Secured Party of any material change in the composition of the IP Collateral, including but not limited to any subsequent ownership right of the Grantor in or to any Trademark, Patent or Copyright not specified in this Agreement.**

(d) Grantor shall (i) protect, defend and maintain the validity and enforceability of the Trademarks, Patents and Copyrights (ii) use reasonable commercial efforts to detect infringements of the Trademarks, Patents and Copyrights and promptly advise Secured Party in writing of material infringements detected and (iii) not allow any Trademarks, Patents or Copyrights to be abandoned, forfeited or dedicated to the public without the written consent of Lenders, which consent shall not be unreasonably withheld.

(e) Grantor shall apply for registration (to the extent not already registered) with the United States Patent and Trademark Office or the United States Copyright Office, as applicable: (i) those intellectual property rights listed on Exhibits A, B and C hereto within thirty (30) days of the date of this Agreement; (ii) all material registrable intellectual property rights Grantor has developed as of the date of this Agreement but heretofore failed to register, within 30 days after the date of this Agreement; and (iii) those additional intellectual property rights developed or acquired by Grantor from time to time in connection with any product or service, prior to the sale or licensing of such product or the rendering of such service to any third party (including without limitation revisions or additions to the intellectual property rights listed on such Exhibits A, B and C), provided, however, that in the case of clauses (ii) and (iii) Grantor need not apply for registration with respect to such rights that Grantor determines in its sole but reasonable commercial judgment need not be registered to protect its own business interests; provided, further, however, that Grantor shall apply for registration of such additional Copyrights as are developed or obtained by Grantor in connection with any product that accounts for more than 5% of Grantor's gross revenues in any calendar month. Grantor shall, from time to time, execute and file such other instruments, and take such further actions as Secured Party may reasonably request from time to time to perfect or continue the perfection of Secured Party's interest in the IP Collateral. Grantor shall give Secured Party notice of all such applications or registrations.

(f) Grantor shall not enter into any agreement that would materially impair or conflict with Grantor's obligations hereunder without Lenders' 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 reasonably be determined to prevent the creation of a security interest in Grantor's rights and interests in any property included within the definition of the IP Collateral acquired under such contracts.

### 3. Further Assurances; Attorney in Fact.

(a) For so long as Grantor owes obligations under the Loan Agreement, Grantor will 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 Trademark Office and the Register of Copyrights, and take all such action as may reasonably be deemed necessary or advisable, or as requested by Secured Party, to perfect Secured Party's security interest in all Copyrights, Patents and Trademarks and otherwise to carry out the intent and purposes of this Agreement, or for assuring and confirming to Secured Party the grant or perfection of a security interest in all IP Collateral.

(b) For so long as Grantor owes obligations under the Loan Agreement, Grantor hereby irrevocably appoints Secured Party as Grantor's attorney-in-fact, with full authority in the place and stead of Grantor and in the name of Grantor, from time to time in Secured Party's discretion, to take any action and to execute any instrument which Secured Party may deem necessary or advisable to accomplish the purposes of this Agreement, including (i) to modify, in its sole discretion, this Agreement without first obtaining Grantor's approval of or signature to such modification by amending Exhibit A, Exhibit B and Exhibit C, hereof, as appropriate, to include reference to any right, title or interest in any Copyrights, Patents or Trademarks acquired by Grantor after the execution hereof or to delete any reference to any right, title or interest in any Copyrights, Patents or Trademarks in which Grantor no longer has or claims any right, title or interest, (ii) to file, in its sole discretion, one or more financing or continuation statements and amendments thereto, relative to any of the IP Collateral without the signature of Grantor where permitted by law, and (iii) after the occurrence of an Event of Default, to transfer the IP

Collateral into the name of Secured Party or a third party to the extent permitted under the California Uniform Commercial Code.

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

(a) An Event of Default under the Loan Agreement; or

(b) Grantor shall fail to perform or observe any covenant contained in Section 2(a) of this Agreement and the breach of such covenant, if susceptible of cure, is not cured within 10 days.

(c) Grantor shall fail to perform or observe any covenant contained in this Agreement (other than a covenant which is dealt with specifically elsewhere in this Section 4) and the breach of such covenant is not cured within 30 days after the sooner to occur of Grantor's receipt of notice of such breach from Secured Party or any Lender or the date on which such breach first becomes known to any officer of Grantor; provided, however, that if such breach is not capable of being cured within such 30-day period and Grantor timely notifies Lenders of such fact and Grantor diligently pursues such cure, then the cure period shall be extended to the date requested in Grantor's notice, but in no event more than 90 days from the initial breach; provided, further, that such additional 60-day opportunity to cure shall not apply in the case of any failure to perform or observe any covenant which has been the subject of a prior failure within the preceding 180 days or which is a willful and knowing breach by Grantor.

5. Amendments. This Agreement may be amended only by a written instrument signed by both parties hereto, except for amendments permitted under Section 5 hereof to be made by Secured Party alone.

6. Counterparts. This 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.

7. Termination of Security Interest. Upon the payment in full of the Obligations and if the Lenders have no further obligations under their Commitments, the security interest granted hereby shall terminate and all rights to the Collateral shall revert to Grantor. Upon any such termination, Secured Party shall, at Grantor's expense, execute and deliver to Grantor such documents as Grantor shall reasonably request to evidence such termination.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

GRANTOR:

Address of Grantor:

RAPID5 NETWORKS, INC.

180 Baytech Drive  
San Jose, CA 95134

By:  \_\_\_\_\_

Attn: William Deihl

Its: CEO \_\_\_\_\_

SECURED PARTY

Address of Secured Party:

VENTURE LENDING & LEASING III, INC., as Agent  
for Lenders

2010 North First Street, Suite 310  
San Jose, CA 95  
Attn: President

By:  \_\_\_\_\_

Its: **SALVADOR O. GUTIERREZ**  
**PRESIDENT** \_\_\_\_\_

EXHIBIT A

Copyrights

A. COPYRIGHTS AND COPYRIGHT APPLICATIONS:

<u>Application or Copyright No.</u>	<u>Issue or Filing Date</u>	<u>Expiration Date or Status</u>	<u>App. No./ Filed</u>	<u>Reg. No./ Reg. Date</u>
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None

B. COPYRIGHT LICENSES:

<u>Corresponding Copyright No.</u>	<u>Date License Granted</u>	<u>Licensee</u>	<u>Termination Date</u>
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None

EXHIBIT B

Patents

A. PATENTS AND PATENT APPLICATIONS:

<u>Application or Patent No.</u>	<u>Issue or Filing Date</u>	<u>Expiration Date</u>	<u>Title</u>
None			

B. PATENT LICENSES:

<u>Corresponding Patent No.</u>	<u>Date License Granted</u>	<u>Licensee</u>	<u>Termination Date</u>
None			



EXHIBIT C

Trademarks

A. REGISTERED TRADEMARK AND TRADEMARK APPLICATIONS:

<u>Mark</u>	<u>Country</u>	<u>Status</u>	<u>App. No./ Filed</u>	<u>Reg. No./ Reg. Date</u>
RAPID5 NETWORKS	U.S.	Filed. Office Action mailed 1/17/01.	76/084856 / 7-7-00	--
Stylized 5 and Design Logo	U.S.	Filed. Office Action mailed 1/17/01.	76/084857 / 7-7-00	--
ADVANCING THE ALL-PACKET NETWORK	U.S.	Filed. Office Action mailed 4/19/01.	76/151069 / 10-20-00	--
CIRCUIT-TO- PACKET	U.S.	Filed. Pending response.	76/209364 / 2-13-01	--

B. TRADEMARK LICENSES:

<u>Corresponding Trademark No.</u>	<u>Date License Granted</u>	<u>Licensee</u>	<u>Termination Date</u>
None			