

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C. 20436**

In the matter of

**CERTAIN NETWORK DEVICES,
RELATED SOFTWARE AND
COMPONENTS THEREOF (I), (II)**

Investigation Nos. 337-TA-3045, 3046

**PROPOSED RESPONDENT ARISTA NETWORKS INC.'S
PUBLIC INTEREST STATEMENT PURSUANT TO 19 C.F.R. § 210.14(f)**

Arista is an American success story. At the time of its founding in 2004, the data center switching market was at a crossroads. Cisco had achieved market dominance in data-center switching with almost 80 percent market share. Cisco's products, however, were based on 1990's architectures that were ill-suited to address the requirements of large-scale Internet companies and cloud services providers that were becoming the economic engine of the new economy. Arista's founders focused Arista's efforts on the development of a new kind of network switch software that was fully programmable, highly modular, and based on open standards.

Arista started from a clean sheet of paper and invested over 1,000 person-years building a new, open software architecture that was the antithesis of the traditional closed, proprietary system used by legacy vendors such as Cisco. The result was Arista's Extensible Operating System ("EOS"), the most programmable and resilient network operating system in the industry. In 2008, Arista started shipping its first switch product implementing its award winning EOS, which powers every single Arista product today. Headquartered in Santa Clara, California, Arista now employs over 750 people in the United States and provides its solutions to over 3,000 customers.

In the decade since its founding, Arista's products and innovations have fundamentally changed the competitive dynamics in the data center switch market. Although Cisco remains the dominant player in this market, Arista's success has forced its competitors to innovate more quickly and compete more aggressively in a critical sector of the economy, benefiting both the

U.S. economy and, ultimately, the American consumer.

Nothing in Cisco's two complaints or in the remedies that Cisco seeks would serve the public interest. On that point, Cisco's complaints are not about protecting innovation. Many others have used, and continue to use, technologies Cisco accuses Arista of using without any complaint from Cisco. Only Arista was singled out. Cisco never sought to discuss with Arista the subject matter of the complaints nor any licensing arrangement regarding the technologies in question. Indeed, the timing of the litigation is more aligned with Arista's recent and successful IPO and its rapid gain in the share of the data center switching market. And despite Cisco's prior public statements against the use of injunctions in patent suits, that is exactly what Cisco is requesting here. Cisco seeks to use the ITC to stop its greatest threat to its dominant status in the rapidly changing data switching market.

1. Arista's Products Power Critical Infrastructure of the United States Economy and Government

Arista's products are deployed in the next generation data centers that power the modern economy. Data centers are the infrastructure at the heart of online services that touch the lives of virtually every American, including financial trading, e-commerce, cloud storage, social and professional networking, internet search engines, and video and music on demand. Less visible to the end consumer, but no less vital to the economy are the rapidly growing cloud computing and application-as-a-service sectors that provide platforms that allow businesses to exploit high performance computing platforms and specialized applications without the need to build a complex and expensive in-house IT infrastructure.

Arista built its products to serve as the backbone of this vital infrastructure. Arista's cumulative end-customer base is over 3000—about 80% of which are in the United States—spanning large Internet companies, service providers, financial services organizations, government agencies, educational institutions, and media and entertainment companies. To provide a few examples, large stock and trading exchanges and over 100 Wall Street firms and U.S. banks use Arista switches in networks and data centers. Six out of seven of America's

largest cloud service providers rely on Arista switches for their networks, including providers of major cloud computing services, social networks, and e-commerce platforms. Major national laboratories and research institutes, such as well-known medical institutes, rely on Arista switches, including for uses such as brain research. Government agencies, including the Department of Defense, also deploy Arista switches in their data centers and networks. *See* Arista Networks, Inc. Prospectus (June 5, 2014), filed pursuant to Rule 424(b)(4), at 1-2, <http://www.sec.gov/Archives/edgar/data/1596532/000119312514227698/d639957d424b4.htm> (listing exemplary Arista customers).

As a result of their wide and diverse use, Arista's products serve critical roles in U.S. commerce and security. The issuance of any exclusion order would raise public health, safety, or welfare concerns and thus these public interest issues should be delegated to the Administrative Law Judge so that a complete record can be developed and considered by the Commission.

2. Cisco Is Exploiting the ITC to Undermine Competition and Innovation to the Detriment of U.S. Consumers

If any remedial order were to issue, there would be a significant harm to U.S. consumers. Arista has provided the next generation data center market with a competitive switch solution that has allowed customers to leverage the open and programmable characteristics of EOS. Without EOS, customers would be unable to deliver many of the cutting edge, cloud based services that they provide. Moreover, the market has flourished in recent years, as Arista's innovative products have provided an alternative to Cisco's market dominance and created competition. Customers would lose a viable second vendor competing for their business, which would result in higher prices to consumers. Cisco's motivation to innovate and respond to customer demand would decrease, and the market would find itself once again in a regime with a dominant competitor that is content to rest on its laurels and let technology stagnate.

3. Cisco's Requested Remedial Orders Undermine the Open Standards That Have Allowed the Modern Networking Industry To Thrive

The modern networking industry has grown up around interoperable standards, which

benefit all market participants. To have a competitive market, networking gear from different vendors must be able to communicate, which is possible only if everyone agrees on standard protocols and interfaces, such as those promulgated by the IETF and IEEE. The alternative is a world of proprietary protocols and vendor lock-in, which stifles both competition and innovation. This is a world Cisco seeks to create with its recent spate of litigation activity against Arista and its request for product exclusion before the Commission.

In public statements, Cisco has said that it “support[s] open standardization” and that the process should be “transparent and predictable with strict limits on the availability of injunctions.” But that is not how Cisco has conducted itself before the standards bodies, and it is certainly in conflict with its current exclusion request. For example, with respect to at least one of the patents asserted here, on December 5, 2014 (the same day Cisco filed the related California lawsuits), Cisco “updated” its IETF intellectual property disclosure to state:

Cisco is the owner of US Patent No. 7,224,668. We have very recently discovered that this patent relates to the subject matter of RFC 6192 entitled “Protecting the Router Control Plane” (draft-ietf-opsec-protect-control-plane). RFC 6192 is a non-standards track informational RFC that was not intended for standardization. To the extent any of the claims of this patent or any other patent owned by Cisco may be interpreted to be essential to RFC 6192, Cisco is **not** committing to license such essential claims for practicing the subject matter of the RFC.

Cisco’s Internet Engineering Task Force Submission, <https://datatracker.ietf.org/ipr/2493/> (emphasis added).

This litigation-driven “update” cannot nullify obligations that Cisco has based on its participation in an industry working group whose members include competitors and other interested market participants. In addition, at least with respect to asserted U.S. Patent No. 6,741,592, Cisco has committed to license patent claims that may be necessary to practice the technology if adopted as a standard. See <http://www.ietf.org/ietf-ftp/IPR/cisco-ipr-draft-sanjib-private-vlan-01.txt>. The Commission should investigate the scope and extent of Cisco’s standard-related activities and any impact its actions may have on the requested relief.

4. There Are No Substitutes for Arista's Products

A decade ago, Arista's founders foresaw the modern, network- and cloud-driven world that has taken shape and began building EOS to power cloud data centers critical to that world. Central to Arista's vision was the open, programmable, and modular platform provided by EOS. Unlike Cisco's closed monolithic software, Arista wanted its customers to be able to customize their network equipment and develop new data center designs that would meet the performance requirements of the future. Arista provides interfaces that allow customers to access the management, control, and data planes based on familiar APIs and direct access to the standard Linux environment that underpins EOS. EOS also empowered leading cloud, virtualization, and other network vendors to develop applications that integrate with EOS.

No other product in the market offers the level of extensibility and programmability provided by Arista. A number of Arista customers have designed data centers with these unique capabilities in mind, and run their own software programs on Arista switches. These cloud-networking designs depend on the continued availability of Arista's products—there are no substitutes. Given the 1,000 person-years Arista has invested in building EOS and the dramatic departure Arista has taken from architectures used by legacy vendors, no other vendor, including Cisco, could develop the technology to replace Arista in the near future, if ever.

* * *

For at least the reasons noted herein, the Commission should decline to institute an investigation against an American company that has been built with United States human and financial capital and, in any event, should closely scrutinize as part of any investigation the impact Cisco's allegations and requested remedy would have on the public interest.

Respectfully submitted,
FISH & RICHARDSON P.C.

Dated: January 6, 2015

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing document,

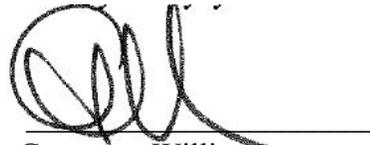
**PROPOSED RESPONDENT ARISTA NETWORKS INC.'S
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have been served on this 6th day of January, 2015, on the following:

<p>Lisa R. Barton Secretary U.S. International Trade Commission 500 E Street, S.W. Washington, D.C. 20436</p>	<p><input type="checkbox"/> Via First Class Mail <input checked="" type="checkbox"/> Via Hand Delivery <input type="checkbox"/> Via Federal Express <input checked="" type="checkbox"/> Via Electronic Filing</p>
<p>Margaret MacDonald Office of Unfair Import Investigations U.S. International Trade Commission 500 E Street, S.W., Suite 401 Washington, D.C. 20436 margaret.mcdonald@usitc.gov</p>	<p><input type="checkbox"/> Via First Class Mail <input checked="" type="checkbox"/> Via Hand Delivery <input type="checkbox"/> Via Federal Express <input checked="" type="checkbox"/> Via Electronic Mail</p>
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