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County of Santa Clara, California
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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SANTA CLARA

115CV282286

12 BART HORNUNG, derivatively on behalf)
13 of A10 NETWORKS, INC.,)

14 Plaintiff,)

15 vs.)

16 LEE CHEN, PETER Y. CHUNG, ROBERT)
17 COCHRAN, ALAN S. HENRICKS,)
18 PHILLIP J. SALSBUURY, GREGORY)
STRAUGHN, and RAJKUMAR JALAN,)

19 Defendants,)

20 and)

21 A10 NETWORKS, INC., a Delaware)
22 corporation,)

23 Nominal Defendant.)

Case No. _____

**SHAREHOLDER DERIVATIVE COMPLAINT
FOR:**

- (1) BREACH OF FIDUCIARY DUTY;
- (2) ABUSE OF CONTROL;
- (3) GROSS MISMANAGEMENT;
- (4) BREACH OF DUTY OF HONEST SERVICES; AND
- (5) UNJUST ENRICHMENT

DEMAND FOR JURY TRIAL

BY FAX

1 Plaintiff Bart Hornung (“Plaintiff”), derivatively and on behalf of nominal
2 defendant A10 Networks, Inc. (“A10 Networks” or the “Company”), files this
3 Shareholder Derivative Complaint against the Individual Defendants for breaches of
4 their fiduciary duties as directors and officers of the Company, abuse of control, gross
5 mismanagement, unjust enrichment, and breach of the duty of honest services. In
6 support of these claims, Plaintiff alleges upon personal knowledge with respect to those
7 allegations pertaining to himself, and upon information and belief based upon, *inter*
8 *alia*, a review of public filings, press releases and reports, and investigations undertaken
9 by his counsel, as to all other allegations, as follows. Plaintiff believes that substantial
10 additional evidentiary support will exist for the allegations set forth below after a
11 reasonable opportunity for discovery.

12 NATURE OF THE ACTION

13 1. This is a shareholder derivative action brought on behalf of A10 Networks
14 against the Individual Defendants (as defined herein) seeking to remedy the Individual
15 Defendants’ breaches of their fiduciary duties, abuse of control, gross mismanagement,
16 unjust enrichment, and breach of the duty of honest services from April 2012 to the
17 present (“Relevant Period”).

18 2. A10 Networks was previously a California corporation and is currently a
19 Delaware corporation that provides advanced application networking technologies. The
20 Company’s solutions enable enterprises, service providers, Web giants and government
21 organizations to accelerate, secure and optimize the performance of their data center
22 applications and networks. A10 Networks products are built on an Advanced Core
23 Operating System (ACOS), a platform of advanced networking technologies, which is
24 designed to deliver substantially greater performance and security.

25 3. During the Relevant Period, the Individual Defendants caused the
26 Company to infringe patents and intellectual property held by Foundry Networks, which
27 was subsequently acquired by Brocade Communications Systems, Inc. After being sued
28 by Foundry and Brocade, A10 Networks was forced to pay \$75 million to settle the case.

1 The Individual Defendants' wrongdoing also caused the Company to lose out on millions
2 of dollars of revenue, as the Company's customers refused to purchase the Company's
3 products due to uncertainty related to the patent infringement claims by Foundry and
4 Brocade.

5 4. During the Relevant Period, and in connection with the Company's Initial
6 Public Offering ("IPO"), the Individual Defendants breached their fiduciary duties of
7 candor and loyalty by causing the Company to issue a materially false and misleading
8 Prospectus and Registration Statement, subjecting the Company to being sued by
9 investors who acquired their shares pursuant to the Registration Statement issued in
10 connection with the Company's IPO.

11 5. The Individual Defendants also failed to ensure that the Company had
12 adequate internal controls in place.

13 6. This suit seeks to recover the substantial damages caused to the Company
14 by the Individual Defendants' self-dealing and breaches of fiduciary duties.

15 **JURISDICTION AND VENUE**

16 7. This Court has jurisdiction over the action under Article VI, Section 10 of
17 the California Constitution.

18 8. Jurisdiction over all defendants is proper because defendants conduct
19 business in California including, but not limited to, the misconduct alleged in this
20 complaint, and because they have sufficient minimum contacts with California to render
21 the exercise of jurisdiction by the California courts permissible under the traditional
22 notions of fair play and substantial justice. Each individual defendant is an officer
23 and/or director of A10 Networks and worked for the Company in this County and/or
24 attended board meetings in this County as a director of A10 Networks.

25 9. Venue is proper in this Court because the events and conduct at issue took
26 place and have effect in the County of Santa Clara, and because the Company's
27 headquarters are located in this County.

28 10. Plaintiff has complied with all the requirements under Section 800 of the

1 California Corporations Code.

2 **PARTIES**

3 **A. Plaintiff**

4 11. Plaintiff Bart Hornung is a current shareholder of A10 Networks and has
5 continuously held A10 Networks stock at all relevant times since April 2012.

6 **B. Nominal Defendant**

7 12. Nominal Defendant A10 Networks, Inc. was incorporated in California in
8 July 2004, and reincorporated in Delaware in connection with its IPO in 2013. Its
9 headquarters are located at 3 West Plumeria Drive, San Jose, CA 95134. A10 Networks
10 provides advanced application networking technologies. The Company's solutions
11 enable enterprises, service providers, Web giants and government organizations to
12 accelerate, secure and optimize the performance of their data center applications and
13 networks. A10 Networks products are built on an ACOS, a platform of advanced
14 networking technologies, which is designed to deliver substantially greater performance
15 and security. During a portion of the Relevant Period, the Company was privately held.
16 The Company went public in an IPO on March 21, 2014 and its shares are now traded on
17 the New York Stock Exchange.

18 **C. Director Defendants**

19 13. Defendant Lee Chen has served as A10 Networks' President, Chief
20 Executive Officer and as a member of the Company's board of directors (the "Board")
21 since July 2004. From 1996 to August 2004, Mr. Chen served in a variety of positions,
22 including as Vice President of Software Engineering and Quality Assurance at Foundry
23 Networks, Inc., a company that designed, manufactured and sold high-end enterprise
24 and service provider switches and routers, as well as wireless, security, and traffic
25 management solutions. Mr. Chen has previously held management and senior technical
26 positions at OTS, Apple Computer, Convergent Technologies, Inc. and InSync Group,
27 and was a co-founder of Centillion Networks, Inc. Mr. Chen has an M.S.E.E. from San
28 Jose State University and a B.S. in Electrophysics from National Chiao-Tung University

1 in Taiwan. A10 Networks' website claims that Mr. Chen is "a technology pioneer,
2 especially in the area of Internet Protocol Multicast and System & System Security and
3 holds numerous patents."

4 14. Defendant Peter Y. Chung has served as a member of the Board since June
5 2013. Mr. Chung is a managing director and member of various entities affiliated with
6 Summit Partners, L.P., where he has been employed since 1994. He is currently a
7 director of M/A-COM Technology Solutions Holdings, Inc., a provider of semiconductor
8 solutions for use in radio frequency, microwave and millimeter wave applications, as
9 well as several privately-held companies. Previously, Mr. Chung served as a director of
10 iPayment, Inc., a payment processing company, NightHawk Radiology Holdings, Inc., a
11 provider of teleradiology services, SeaBright Holdings, Inc., a specialty workers'
12 compensation insurer, Sirenza Microdevices, Inc., an RF components company and
13 Ubiquiti Networks, Inc., a company that develops networking technology. Mr. Chung
14 has an M.B.A. from the Stanford University Graduate School of Business and an A.B. in
15 Economics from Harvard University.

16 15. Defendant Robert Cochran has served as A10 Networks' Vice President of
17 Legal and Corporate Collaboration since January 2012 and as a member of the Board
18 since April 2012. Mr. Cochran has served as A10 Networks' Secretary since August
19 2004, and previously served on the Board from August 2004 to October 2004. From
20 January 1993 to January 2012, Mr. Cochran was an attorney in private practice in
21 Woodside, California, where he had served as A10 Networks' outside legal counsel since
22 A10 Networks' incorporation. From 2004 to 2010, Mr. Cochran served as a director of
23 Techwell, Inc., a fabless semiconductor public company that was acquired by Intersil
24 Corporation. Mr. Cochran also serves as a director of one privately held company. Mr.
25 Cochran has a J.D. from Harvard Law School and an A.B. from Harvard University.

26 16. Defendant Alan S. Henricks has served as a member of the Board since
27 March 2014. Since April 2010 he has served as a member of the board of directors of
28 Ellie Mae, Inc. (NYSE: ELLI), a SaaS company, and as its lead independent director

1 since November 2012. Since May 2012 he has served as a member of the board of
2 directors and audit committee chairman of Roku, Inc., a consumer electronics company.
3 From May 2009 to the present, Mr. Henricks has been a board member, advisor and
4 consultant to a variety of private technology companies. His consulting CFO roles
5 included Livescribe Inc., Santur Corporation and AcademixDirect, Inc. From September
6 2006 to May 2009, Mr. Henricks served as Chief Financial Officer of Pure Digital
7 Technologies, Inc. Prior to September 2006, Mr. Henricks served as Chief Financial
8 Officer of several private and public companies including Traiana Inc., Informix
9 Software, Inc., Documentum, Inc., Borland International, Inc., Cornish & Carey and
10 Maxim Integrated Products, Inc. Mr. Henricks holds a Bachelor of Science in
11 Engineering from the Massachusetts Institute of Technology and a Master of Business
12 Administration from Stanford University.

13 17. Defendant Phillip J. Salsbury has served as a member of the Board since
14 May 2013. Salsbury is also A10 Networks' designated lead independent director. From
15 2005 to April 2010, Salsbury served as a director of Techwell, Inc., a fabless
16 semiconductor public company that was acquired by Intersil Corporation. Salsbury was
17 a founder, the Chief Technology Officer, and later the president and Chief Executive
18 Officer of SEEQ Technology, Inc., a non-volatile memory and Ethernet communications
19 semiconductor company, from January 1981 until its acquisition by LSI Logic
20 Corporation, a large semiconductor company, in June 1999. He holds a Ph.D and an
21 M.S. in Electrical Engineering from Stanford University and a B.S. in Electrical
22 Engineering from the University of Michigan.

23 18. Defendants Chen, Chung, Cochran, Henricks, and Salsbury are collectively
24 referred to as the "Director Defendants."

25 **D. Officer Defendants**

26 19. Defendant Gregory Straughn is the CFO of A10 Networks and was the
27 Company's CFO at all times relevant to this complaint. Straughn signed the Company's
28 Registration Statement issued in connection with the Company's IPO and was also the

1 Company's CFO during the time of the Brocade patent infringement lawsuit.

2 20. Rajkumar Jalan has served as A10 Networks' Chief Technology Officer
3 since November 2008. From 2005 to 2008, he served as a consultant to the company.
4 From 1996 to 2002, Jalan served in various capacities, including as a Director of IP
5 Routing, for Foundry Networks, Inc., a company that designed, manufactured and sold
6 high-end enterprise and service provider switches and routers, as well as wireless,
7 security, and traffic management solutions. Jalan's prior employers included Bay
8 Networks, Inc. and Network Equipment Technologies Inc. Jalan holds a number of
9 patents related to Layer 2/Layer 3 as well as Layer 4/Layer 7 switching. He has a B.Tech
10 from the Indian Institute of Technology Bombay.

11 21. Defendants Straughn and Jalan are sometimes referred to as the "Officer
12 Defendants."

13 22. The Director Defendants and the Officer Defendants are collectively
14 referred to as the "Individual Defendants."

15 **FIDUCIARY DUTIES OF THE INDIVIDUAL DEFENDANTS**

16 **A. General Duties as Officers and Directors of A10 Networks**

17 23. By reason of their positions as officers and directors of A10 Networks and
18 because of their ability to control the business and corporate affairs of the Company, the
19 Individual Defendants owed A10 Networks and its shareholders fiduciary obligations of
20 trust, loyalty, good faith, and due care. These duties required the Individual Defendants
21 to use their utmost ability to control and manage the Company in a fair, just, honest,
22 and equitable manner, and to act in the best interests of A10 Networks and its
23 shareholders so as to benefit all shareholders equally and not in furtherance of their
24 personal interest or benefit.

25 24. Each director and officer of the Company owed and owes to A10 Networks
26 and its shareholders the fiduciary duty to exercise good faith and diligence in the
27 administration of the affairs of the Company and in the use and preservation of its
28 property and assets, and the highest obligations of fair dealing.

1 25. To discharge their duties, the officers and directors of A10 Networks were
2 required to exercise reasonable and prudent supervision over the management, policies,
3 practices, and controls of the affairs of the Company. By virtue of such duties, the
4 officers and directors of A10 Networks were required to, among other things:

5 (a) ensure that proper internal controls existed at A10 Networks,
6 including internal controls for avoiding patent infringement, controls to ensure
7 accurate financial reporting, accounting, and management systems;

8 (b) ensure that the filing of any audits, reports, or other public
9 statements issued by A10 Networks included full and accurate disclosures of all
10 material facts;

11 (c) manage, direct, and supervise the employees, businesses, and
12 affairs of A10 Networks in accordance with the laws of the United States, the laws
13 of its states of incorporation, and all other states in which A10 Networks conducts
14 business;

15 (d) manage, direct, and supervise the employees, businesses, and
16 affairs of A10 Networks in accordance with the rules and regulations set by
17 government agencies and in accordance with the Company's certificate of
18 incorporation and by-laws;

19 (e) fully inform themselves as to A10 Networks' operations and, upon
20 receiving notice or information of potentially unsafe, imprudent, or unlawful
21 practices, to make a reasonable investigation into those practices as well as to
22 take all necessary corrective action;

23 (f) supervise and assist in the preparation, creation, filing, and
24 dissemination of all SEC filings, press releases, audits, financial statements,
25 reports, and other information disseminated to the public by A10 Networks;

26 (g) conduct A10 Networks' affairs in an efficient, businesslike matter so
27 as to make it possible to provide the highest quality of performance of its
28 business, to avoid wasting A10 Networks' assets, and to maximize the value of

1 A10 Networks' stock;

2 (h) exercise reasonable control and supervision over the officers and
3 employees of the Company; and

4 (i) preserve and enhance the reputation and goodwill of A10 Networks
5 in the public eye to ensure trust and confidence in A10 Networks as a prudently-
6 managed corporation.

7 26. Each Individual Defendant, by virtue of his or her position as a director or
8 officer, owed to the Company and its shareholders the highest fiduciary duties of loyalty,
9 good faith, and the exercise of due care and diligence in the management and
10 administration of the affairs of the Company, as well as in the use and preservation of its
11 property and assets. The conduct of the Individual Defendants, as alleged in this
12 complaint, involves a knowing and/or reckless violation of their obligations as directors
13 and officers of A10 Networks, the absence of good faith on their part, and/or a reckless
14 disregard for their duties to the Company and its shareholders. The Individual
15 Defendants were aware or should have been aware that the wrongful conduct described
16 in this complaint posed a risk of serious injury to the Company.

17 27. The conduct of the Individual Defendants who were also officers and/or
18 directors of the Company has been ratified by the remaining Individual Defendants.

19 28. At times relevant hereto, defendants were the agents of each of the other
20 defendants and were at all times acting within the course and scope of such agency.

21 **B. The Audit Committee Charter**

22 29. Pursuant to the Audit Committee Charter, the purpose of the Audit
23 Committee is to assist the Board in its oversight of the Company's accounting and
24 financial reporting processes and the audits of the Company's financial statements.

25 30. The members of the Audit Committee owed specific duties to A10
26 Networks under the Audit Committee Charter to review and approve quarterly and
27 annual financial statements and earnings press releases, and to ensure that the
28 Company had in place appropriate and effective internal controls over financial

1 reporting and concerning compliance with patent laws and intellectual property laws.

2 31. During most of the relevant time period, the Company had no Audit
3 Committee Charter. The Company finally adopted an Audit Committee Charter,
4 effective as of February 6, 2014. Pursuant to the Audit Committee Charter, the duties of
5 the Audit Committee include the following:

6 Review Procedures

7 ■ Reviewing the reports of management, internal audit and the
8 independent auditors concerning the design, implementation and
9 maintenance of the Company's internal controls and procedures for
10 financial reporting, including meeting periodically with the
11 Company's management, internal audit and the independent
12 auditors to review their assessment of the adequacy of such controls
and to review before release the disclosure regarding such system of
internal controls required under SEC rules to be contained in the
Company's periodic filings and the attestations or reports by the
independent auditors relating to such disclosure;

13 ■ Reviewing and providing oversight of the external audit by
14 (i) reviewing the independent auditors' proposed audit scope and
15 approach; (ii) discussing with the Company's independent auditors
16 the financial statements and audit findings, including any
17 significant adjustments, management judgments and accounting
18 estimates, significant new accounting policies, disagreements with
19 management and any other required communications described in
20 applicable accounting standards; (iii) reviewing with the
21 independent auditors the Company's critical accounting policies
22 and practices, alternative treatments of financial information within
generally accepted accounting principles that have been discussed
with management and the treatment recommended by the
independent auditors, and other material written communications
between the independent auditors and management; and (iv)
reviewing reports submitted to the Audit Committee by the
independent auditors in accordance with applicable SEC
requirements;

23 ■ Reviewing and discussing with management and the
24 independent auditors the annual audited financial statements and
25 quarterly unaudited financial statements, including the Company's
26 disclosures under "Management's Discussion and Analysis of
27 Financial Condition and Results of Operations," prior to filing the
Company's Annual Report on Form 10-K and Quarterly Reports on
Form 10-Q, respectively, with the SEC;

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- Recommending to the Board, if deemed appropriate, that the audited financial statements be included in the Company's Annual Report on Form 10-K, in accordance with the rules and regulations of the SEC;
- Directing the Company's independent auditors to review before filing with the SEC, the Company's interim financial statements included in Quarterly Reports on Form 10-Q, using professional standards and procedures for conducting such reviews;
- Conducting a post-audit review of the financial statements and audit findings, including any suggestions for improvements provided to management by internal audit or the independent auditors, and management's response to such suggestions;
- Reviewing with the independent auditor any audit problems or difficulties the independent auditor encountered in the course of audit work (e.g., restrictions on the scope of the independent auditor's activities or access to requested information and any significant disagreements with management) and the management's response;
- Reviewing, prior to announcement, Company press releases and other disclosures containing financial information for the purpose of ensuring that such press releases and other disclosures properly disclose financial information presented in accordance with GAAP and, to the extent non-GAAP information is included, adequately disclose how such non-GAAP information differs from the comparable GAAP information and ensure that disclosure of such non-GAAP information is not given undue prominence and that such non-GAAP information does not provide a misleading presentation of the Company's results of operations or financial condition;
- Providing oversight and review at least annually of the Company's risk management policies, including its investment policies;
- Reviewing and approving in advance any proposed related party transactions;
- Reviewing, in conjunction with counsel, any legal matters that could have a significant impact on the Company's financial statements;
- Reviewing its own charter and processes on an annual basis; and
- Engaging in an annual assessment of the Audit Committee's performance.

1 **C. The Compensation Committee Charter**

2 32. During most of the relevant time period, the Company had no
3 Compensation Committee Charter. The Company finally adopted a Compensation
4 Committee Charter, effective as of February 6, 2014. Pursuant to the Compensation
5 Committee Charter, the duties of the Compensation Committee include primarily
6 reviewing and approving the compensation of Defendant Chen (the Company's CEO).

7 33. The Charter states: "The Committee has overall responsibility for
8 evaluating and approving the executive officer compensation plans, policies and
9 programs of the Company, and specifically relating to the compensation of the
10 Company's Chief Executive Officer (the "CEO")."

11 34. The Charter also states: "The Committee shall initially, and at least
12 annually thereafter, determine the salary, bonus, equity compensation, severance
13 arrangements, change-of-control protections and any other compensatory
14 arrangements (including, without limitation, perquisites and any other form of
15 compensation) of the CEO, based on evaluating his or her performance and other
16 relevant criteria as determined by the Committee."

17 35. The Company's Compensation Committee is currently composed of
18 Defendants Chung, Henricks, and Salsbury.

19 36. Prior to the establishment of the Compensation Committee Charter, A10
20 Networks had no Compensation Committee, or at least did not have a charter for any
21 such committee. Upon information and belief, Chen's compensation was reviewed and
22 approved by all other directors prior to February 2014.

23 **D. The Company's Non-Existent Corporate Governance Policies**

24 37. During most of the Relevant Period, the Company did not have any
25 corporate governance policies concerning key aspects of the Company's operations.

26 38. First, A10 Networks has no formal policy to ensure compliance with
27 federal patents and trademarks, and lacks adequate internal controls to prevent patent
28 infringement and violation of intellectual property rights.

1 39. Second, the Company has no Insider Trading Policy.

2 40. Third, the Company had no whistleblower policy until February 6, 2014.

3 41. Fourth, the Company had no Code of Ethics and Business Conduct for
4 most of the relevant time period, having only adopted such a policy on March 4, 2014.

5 42. Fifth, the Company had no Corporate Governance Guidelines for most of
6 the relevant time period. Such Guidelines were only adopted on February 6, 2014 and
7 were not made effective until the closing of the IPO.

8 43. Finally, during the relevant time period, A10 Networks lacked effective
9 internal controls over financial reporting and laws governing intellectual property and
10 patents. The Company also lacked an independent Board. These deficiencies allowed
11 the Individual Defendants to engage in the wrongdoing detailed herein, causing damage
12 to A10 Networks.

13 44. The Company still lacks effective internal controls over various aspects of
14 its operations. On May 6, 2015, the Company filed a Form 10-Q with the SEC stating
15 that the Company's "management identified a material weakness in our internal control
16 over financial reporting as it relates to the computation of stock-based compensation
17 associated with our 2014 Purchase Plan."

18 **E. The Duty of Reasonable and Prudent Supervision**

19 45. To discharge their duties, the officers and directors of the Company were
20 required to exercise reasonable and prudent supervision over the management, policies,
21 practices, and internal controls of the Company. By virtue of such duties, the officers
22 and directors of A10 Networks were required to, among other things:

23 (a) refrain from acting upon material inside corporate information to benefit
24 themselves;

25 (b) ensure that the Company complied with its legal obligations and
26 requirements, including avoiding patent infringement and violation of intellectual
27 property rights, acting only within the scope of its legal authority and disseminating
28 truthful and accurate statements to the investing public;

1 (c) conduct the affairs of the Company in an efficient, business-like manner so
2 as to make it possible to provide the highest quality performance of its business, to avoid
3 wasting the Company's assets, and to maximize the value of the Company's stock;

4 (d) properly and accurately guide investors and analysts as to the true
5 financial condition of the Company at any given time, including making accurate
6 statements about the Company's financial results;

7 (e) remain informed as to how the Company conducted its operations, and,
8 upon receipt of notice or information of imprudent or unsound conditions or practices,
9 make reasonable inquiry in connection therewith, and take steps to correct such
10 conditions or practices and make such disclosures as necessary to comply with securities
11 laws; and

12 (f) ensure that the Company was operated in a diligent, honest, and prudent
13 manner in compliance with all applicable laws, rules, and regulations.

14 **CONSPIRACY AND CONCERTED ACTION**

15 46. In committing the wrongful acts alleged in this complaint, the Individual
16 Defendants have pursued, or joined in the pursuit of, a common course of conduct, and
17 have acted in concert with and conspired with one another in furtherance of their
18 wrongdoing. The Individual Defendants further aided and abetted and/or assisted each
19 other in breaching their respective duties.

20 47. During the Relevant Period, the Individual Defendants collectively and
21 individually initiated a course of conduct, including:

22 (a) Causing the Company to infringe patents held by Foundry and Brocade
23 Communications;

24 (b) Allowing the Board to be composed of a majority of interested directors;

25 (c) Causing the Company to file a Registration Statement that is alleged to
26 have been materially false and misleading;

27 (d) as a result of the foregoing, the Individual Defendants lacked a reasonable
28 basis for their positive statements about the Company's financial performance and

1 outlook during the Relevant Period; and

2 (e) as a result of the foregoing, the Company's SEC filings were materially
3 false or misleading.

4 48. The Individual Defendants engaged in a conspiracy, common enterprise,
5 and/or common course of conduct. During this time, the Individual Defendants
6 breached their fiduciary duties to the Company.

7 49. The purpose and effect of the Individual Defendants' conspiracy, common
8 enterprise, and/or common course of conduct was, among other things, to: (a) earn
9 profits by infringing patents held by Foundry and Brocade Communications; (b)
10 disguise the Individual Defendants' breaches of fiduciary duties; and (c) disguise and
11 misrepresent the Company's financial results and future business prospects.

12 50. The Individual Defendants accomplished their conspiracy, common
13 enterprise, or common course of conduct by causing the Company to recruit employees
14 from Foundry, use Foundry's intellectual property at A10 Networks to falsely represent
15 that the Company had adequate internal controls in place, and by purposefully,
16 recklessly, or negligently causing the Company to release improper statements. Because
17 the actions described herein occurred under the authority of the Board, each of the
18 Individual Defendants was a direct, necessary, and substantial participant in the
19 conspiracy, common enterprise, or common course of their misconduct.

20 51. Each of the Individual Defendants aided and abetted and rendered
21 substantial assistance in the wrongs complained of in this complaint. In taking such
22 actions to substantially assist the commissions of the wrongdoing complained of in this
23 complaint, each Individual Defendant acted with knowledge of the primary wrongdoing,
24 substantially assisted the accomplishment of that wrongdoing, and was aware of his or
25 her overall contribution to and furtherance of the wrongdoing.

26 **SUBSTANTIVE ALLEGATIONS**

27 **A. Factual Background**

28 52. Nominal Defendant A10 Networks was incorporated in California in July

1 2004, and reincorporated in Delaware in connection with its IPO in 2013.

2 53. A10 Networks provides advanced application networking technologies.
3 The Company's solutions enable enterprises, service providers, Web giants and
4 government organizations to accelerate, secure and optimize the performance of their
5 data center applications and networks. A10 Networks products are built on an ACOS, a
6 platform of advanced networking technologies, which is designed to deliver
7 substantially greater performance and security.

8 54. A10 Networks currently offers three software-based advanced application
9 networking solutions. These are Application Delivery Controllers, or ADCs, to optimize
10 data center performance; Carrier Grade Network Address Translation, or CGN, to
11 provide address and protocol translation services for service provider networks; and a
12 Distributed Denial of Service Threat Protection System, or TPS, for network-wide
13 security protection. The Company delivers these solutions both on optimized hardware
14 appliances and as virtual appliances across its Thunder Series and AX Series product
15 families.

16 55. A10 Networks sells its products globally to service providers and
17 enterprises that depend on data center applications and networks to generate revenue
18 and manage operations efficiently. The Company's sales force engages directly or
19 through indirect distribution channels with end-customers. Product fulfillment is
20 generally done through the Company's original equipment manufacturers or
21 distribution channel partners.

22 56. For the years ended December 31, 2010, 2011, 2012 and 2013, the
23 Company's total revenues were \$55.3 million, \$91.3 million, \$120.1 million and \$141.7
24 million, representing a compound annual growth rate of approximately 37% from 2010
25 to 2013. The Company's total revenues grew 32% from 2011 to 2012 and 18% from 2012
26 to 2013. For the years ended December 31, 2010, 2011, 2012 and 2013, the Company's
27 gross margins were 78%, 80%, 80% and 76%. A10 Networks generated net income (loss)
28 of \$5.2 million, \$7.3 million, \$(90.2) million and \$(27.1) million for the years ended

1 December 31, 2010, 2011, 2012 and 2013. Moreover, as the Company admitted in its
2 Prospectus for the IPO: “***Our net income (loss) in these periods was affected***
3 ***by the settlement of, and legal expenses related to, our litigation with***
4 ***Brocade Communications Systems, Inc.***”¹

5 **B. The Individual Defendants Cause the Company to Infringe**
6 **Patents Held by Brocade Communications Systems, Inc. (as**
7 **acquirer of Foundry Networks)**

8 57. In 2010, Brocade and Foundry Networks jointly sued A10 Networks for
9 patent infringement, misappropriation of trade secrets, interference with contract, and
10 other claims. According to Brocade's original suit, A10 Networks used its close
11 connections to Foundry Networks, where A10 Networks' founder Chen and other key
12 Company employees including Defendant Jalan used to work, to convince Foundry
13 employees to transfer source code and other intellectual property to A10 Networks,
14 often just before accepting jobs at the Company.

15 58. A10 Networks hired at least five Foundry Networks engineers in the years
16 between 2004 and 2007, according to Silicon Valley Business Journal.

17 59. At the time, ZK Research founder and principal analyst Zeus Kerravala
18 described the data transfer as being demonstrated by "a significant paper trail of
19 Foundry employees emailing source code to their A10 accounts."

20 60. Defendant Chen, as the founder of A10 Networks and as a former Foundry
21 executive, personally orchestrated the theft of source code and was personally named as
22 a defendant in the Brocade lawsuit. Brocade alleged that Chen's violation of patents and
23 intellectual property owned by Foundry and Brocade, and Chen/A10 Networks'
24 interference with contacts between Foundry/Brocade and their employees, allowed A10
25 Networks to build competitive products in 2-3 years instead of the 7-10 years that is
26 typical for new players in the industry.

27 61. Brocade's complaint alleged that Chen formed a new company called
28 Raksha Networks (later re-named A10 Networks) even before he left Foundry. After

¹ See Prospectus, at p. 86 (filed with the SEC on March 21, 2014).

1 leaving Foundry, Chen kept in touch with Foundry employees by emailing them and
2 socializing with them at Silicon Valley restaurants, along the way recruiting them to
3 work for him at A10 Networks.

4 62. As of 2010, A10 Networks had a total workforce of just 67 employees, at
5 least 24 of whom were former Foundry and Brocade employees. Defendant Jalan was
6 the chief architect of Founder's ServerIron data center switch line.

7 63. Beginning in April 2012, as the case neared a trial date, the Individual
8 Defendants had multiple opportunities to settle the case and avoid a large verdict
9 against A10 Networks. Both Defendants Chen and Jalan were named defendants in the
10 case and both were alleged to have taken one or more unauthorized copies of Foundry's
11 source code and used parts of it in A10 Networks' products.

12 64. Instead of settling the case, however, the Individual Defendants breached
13 their duty of loyalty and good faith by causing A10 Networks to refuse to enter into a
14 reasonable settlement and instead push ahead to trial. Defendant Chen was the main
15 decision-maker for A10 Networks in these negotiations. Chen breached his duty of
16 loyalty to the Company because he was conflicted since he was named personally in the
17 lawsuit and because he was the person who had directly recruited Foundry employees to
18 come to work for A10 Networks at the time they were still employed by Foundry. Chen
19 had actual knowledge that the Foundry employees were subject to non-compete and
20 confidentiality agreements at Foundry and actively worked with such employees to
21 intentionally breach these agreements and cause the employees to misappropriate
22 Foundry intellectual property for use at A10 Networks.

23 65. On August 6, 2012, a jury in San Jose, CA returned a verdict against A10
24 Networks and in favor of Brocade Communications Systems, Inc.

25 66. The same day, Brocade issued a press release stating:

26 SAN JOSE, CA--(Marketwire - Aug 6, 2012) - Brocade (NASDAQ:
27 BRCD) today announced that a San Jose federal court jury returned its
28 verdict this afternoon in the case of Brocade v. A10 Networks, and found
A10 responsible for broad-based intellectual property infringement and
unfair competition, awarding approximately \$112 million to Brocade. The
trial lasted three weeks.

1
2 The jury unanimously awarded punitive damages against A10 and
3 also personally against its CEO Lee Chen, strongly condemning Chen and
4 A10's unfair competition. The jury also returned an unambiguous verdict
5 for patent and copyright infringement and trade secret misappropriation
6 covering A10's entire AX Series load balancing server products.

7 The jury found for Brocade on:

- 8 ▪ Three claims of patent infringement involving technologies for
9 Global Server Load Balancing and High Availability. The jury
10 found that the A10 AX Series line of load balancers infringe on
11 these specific patents.
- 12 ▪ Misappropriation of four trade secrets involving techniques
13 used in the Brocade ServerIron products that A10 applied for
14 use in its AX series.
- 15 ▪ Direct copying of proprietary Brocade code used in Brocade's
16 ServerIron products for use in A10 products.
- 17 ▪ Unfair competition based on interference with the contract of an
18 engineer while he was employed at Foundry Networks (which
19 Brocade acquired in late 2008). A10's CEO Lee Chen directly
20 recruited the engineer to work at both places at the same time in
21 breach of his contract with Foundry.

22 67. Total damages of \$112 million were awarded to Brocade by the jury, which
23 were later reduced by Judge Grewal to \$60 million on or about January 11, 2013.

24 68. The jury found that Defendant Chen intentionally interfered with the
25 employment contract between Foundry Networks and one of its employees, Zhenwu He
26 ("He"). During the trial, Brocade produced emails between Chen and He in which Chen
27 solicited He to perform work for A10 Networks in breach of He's employment
28 agreement with Foundry, which specifically precluded He from working for any other
company without Foundry's express permission. Chen's knowledge that he was inducing
He to breach his employment agreement with Foundry was demonstrated by evidence
showing that He had asked Chen to pay him with stock options put in his wife's name to
avoid detection by Foundry, and since He knew his employment agreement with
Foundry precluded him from performing work for A10 Networks while he was still

1 employed at Foundry.² Due to Chen's direct involvement in inducing He to breach his
2 contract with Foundry, the jury ordered Chen to personally pay \$500,000 in punitive
3 damages to Brocade and Foundry. Judge Grewal later affirmed the jury's compensatory
4 and punitive damages award in a decision dated January 10, 2013, but found the actual
5 amount of the punitive damages to be excessive and ordered a new trial on the issue of
6 the appropriate amount of punitive damages to impose on Chen.

7 69. One reporter at the time issued an article stating:

8 Overall, A10 took a wallop. The company was found liable not just for
9 patent infringement but also for copyright infringement, trade secret
10 violations, and unfair competition. A10 was ordered to pay Brocade \$60
million, and the company had to change the design of its flagship
networking equipment in view of the court's injunction.

11 *See Joe Mullin, "Brocade and A10 Settle Patent Case," ARS Technica, May 20, 2013.*

12 70. In addition, in January 2013, the federal court in San Jose, California
13 issued a permanent injunction enjoining A10 Networks from selling server load
14 balancers that infringe on patents belonging to Brocade.³ The court enjoined A10
15 Networks from "making, using, selling, or offering to sell in the United States, or
16 importing into the United States any AX series application delivery controller that
17 includes features that infringe" on the asserted claims.⁴ A10 Networks was also ordered
18 to provide notice of the injunction within 10 business days to all distributors, customers
19 and third-parties that had ordered, received or purchased AX ADCs.

20 71. The next month, in February 2013, the federal court in San Jose denied a
21 motion filed by A10 Networks to delay enforcement of the permanent injunction.

23 ² Evidence was also presented at trial indicating Chen was aware of He's non-solicitation
24 agreement because Chen had signed a substantially similar agreement while employed
at Foundry.

25 ³ The patents, covering a series of load balancers and application delivery controllers
26 (ADCs), were originally granted to Foundry Networks, which Brocade acquired for \$3
27 billion in 2008. The Foundry technology currently sells under Brocade's VDX line of
Ethernet switches and VCS Ethernet-fabric products.

28 ⁴ Application Delivery Controllers ("ADCs") focus on improving delivery of chunks of
data related to specific application sessions, especially those of virtualized applications.

1 72. Because the jury verdict did not quantify all the damages awarded to
2 Brocade, another trial was set for May 2013 to quantify and assess additional damages
3 based on the verdict imposed by the jury. Just one hour before the jury was set to hear
4 this phase of the damages trial, A10 Networks agreed to settle the case by paying \$75
5 million to Brocade and issuing a broad patent license to Brocade. A10 Networks also
6 agreed not to use any of the versions of source code that were found to infringe any of
7 Brocade's copyrights, patents or trade secrets, except as necessary to service prior
8 versions of product already sold to and in the possession of A10 Networks' customers.

9 **C. The Individual Defendants' Wrongdoing Causes Millions of**
10 **Dollars in Damages to the Company**

11 73. As a result of the Individual Defendants' wrongdoing regarding violation
12 of Brocade's patents and copyrights, the Company has suffered over \$100 million in
13 damages, consisting of damages, costs, and attorneys' fees related to the lawsuit filed
14 against the Company by Brocade, and in lost profits resulting from customers not
15 ordering A10 Networks products due to the lawsuit.

16 74. First, beginning soon after Brocade sued A10 Networks, the Company's
17 customers began to suspend orders from A10 Networks, as the Company has admitted
18 in its SEC filings:

19 In recent years, our financial performance was affected by a protracted,
20 but now settled, intellectual property litigation with Brocade
21 Communications Systems, Inc. Since the litigation commenced in August
22 2010, we incurred substantial legal expenses in each financial period, as
23 shown in our results of operations. In addition, the agreement to settle the
24 litigation in May 2013 resulted in the cash payment by us of an aggregate
25 of \$75.0 million in the second and third quarters of 2013, plus interest.
26 ***We also believe that the presence of such litigation, and the***
27 ***uncertainty it created in our market, affected our revenue***
28 ***during these periods, especially following the issuance of injunctions***
in the litigation in the first quarter of 2013. Although such injunctions did
not prevent us from selling our redesigned products, certain customers
informed us that they would not purchase any of our products
until we settled the dispute. In particular, total revenue for the
quarters ended March 31 and June 30, 2013 grew 12% and 7%
year over year, as compared to growth of 27% and 23% in the

1 ***quarters ended September 30 and December 31, 2013, year***
2 ***over year.***⁵

3 75. Second, the Company was forced to pay well over \$100 million in
4 attorneys' fees, expenses, and settlement amounts related to the Brocade litigation.

5 76. The actual settlement amount of \$75 million which A10 Networks was
6 forced to pay to Brocade was highly material to the Company. In 2011, A10 Networks'
7 revenues were only \$92 million. A10 Networks did not have much cash at the time, and
8 the cash it was forced to pay Brocade was very detrimental to the Company's liquidity
9 and finances. As a testament to A10's precarious financial condition at the time, it was
10 only able to pay \$5 million in cash to Brocade at the time; it was forced to fund the rest
11 of the \$75 million settlement by issuing a \$70 million unsecured convertible promissory
12 note payable to Brocade. The note bore interest at 8% per annum and was due six
13 months after the issuance date with up to 50% convertible, at Brocade's sole option, into
14 A10 Networks preferred shares issued in a subsequent round of equity financing.

15 77. Chen engaged in self-dealing when he caused A10 Networks to settle the
16 case. The jury had awarded \$1 million in punitive damages as a direct result of Chen's
17 personal conduct in causing He to breach his contract with Foundry. While the jury
18 apportioned these punitive damages equally between Chen and A10 Networks, with each
19 ordered to pay \$500,000, the reality is that Chen was responsible for the entire \$1
20 million award since the Company was only held liable under the theory of respondeat
21 superior due to the fact that Chen was acting as an officer and director of A10 Networks
22 when he engaged in the wrongdoing. Punitive damages may only be awarded based on
23 evidence of willful, intentional conduct – conduct for which A10 Networks' Articles and
24 Bylaws prohibit indemnification.

25 78. When he went to settle the case with Brocade, Chen did not offer to pay
26 any portion of the \$75 million settlement personally. Instead, he wrongfully caused A10
27 Networks to pay the entire \$5 million cash portion of the settlement and then caused the

28 _____
⁵ See Amendment No. 1 to S1 Registration Statement, filed Mar. 10, 2014, at p. 51.

1 Company to issue a \$70 million note for the remaining balance due. By causing A10
2 Networks to pay the entire amount of the settlement, including an amount for the
3 damages personally incurred by Chen, Chen engaged in blatant self-dealing. The
4 settlement with Brocade specifically included a complete release to Chen, yet Chen did
5 not pay one cent of the settlement amount. Defendants Cochran and Salsbury were also
6 directors of A10 Networks at the time and breached their fiduciary duty of loyalty by
7 wrongfully approving the settlement. Because Chen was interested in the case and
8 settlement, a special committee of the Board should have been formed and Chen should
9 have been excluded from any deliberations or voting on the Company's decisions
10 regarding the case. Defendants Cochran and Salsbury failed to appoint a committee and
11 allowed Chen to participate in and in fact direct the settlement decisions.

12 79. Defendant Jalan, who has been the Company's Chief Technology Officer at
13 all relevant times, was also aware of Chen's wrongful solicitation of He and other
14 employees from Foundry and the misappropriation of Foundry's intellectual property.
15 Indeed, Jalan worked at Foundry with Chen and He before joining the Company. Prior
16 to A10 Networks, Jalan was the lead architect for Foundry Networks' ServerIron and
17 L2/L3 switching product families. Before Foundry he worked on a wide range of
18 networking technologies from Ethernet, Token-Ring, ATM and Digital Switching
19 Systems. Jalan holds a number of patents related to L2/L3 as well as L4/L7 switching.
20 He has a B.Tech from the Indian Institute of Technology Bombay.

21 80. In violation of his duties of good faith and loyalty as an officer of A10
22 Networks, Jalan actively assisted Chen in misappropriating intellectual property from
23 Foundry and utilizing such unlawfully obtained IP in the Company's products.

24 81. Defendant Chung, who became an A10 Networks' director in June 2013,
25 approved and ratified the unlawful settlement that Chen brokered. The proposed
26 judgment reflecting the settlement was not submitted to the court until June 2013 and
27 the satisfaction of judgment was not filed until October 1, 2013. Thus, Chung also
28 breached his fiduciary duties of good faith and loyalty.

82. In the Company's IPO Prospectus, filed with the SEC on March 21, 2014, the Company detailed the costs and expenses related to the Brocade/Foundry litigation. The Company excluded these costs and expenses from EBITDA since it did not want the Company to look dramatically less profitable than its peers, even though the Brocade costs and expenses did in fact make A10 Networks dramatically less profitable than its peers. The Prospectus detailed the huge costs and expenses related to the Brocade litigation in its calculation of adjusted EBITDA as follows:⁶

Adjusted EBITDA

Adjusted EBITDA (loss) is an important measure used by our management and board of directors to evaluate our operating performance, develop future operating plans, make strategic decisions for the allocation of capital and determine our compliance with debt covenants. ***In particular, the exclusion of certain expenses, primarily the amounts paid in settlement of, and other expenses associated with, litigation between ourselves and Brocade Communication Systems, Inc.,*** in calculating Adjusted EBITDA facilitates comparisons of our operating performance on a period-to-period basis. Accordingly, we believe that Adjusted EBITDA also may provide useful information to investors and others in understanding and evaluating our operating results in the same manner as our management and board of directors. ***We define Adjusted EBITDA as our net income (loss) excluding: (i) amounts paid in settlement of, and other expenses associated with, the Brocade litigation, (ii) interest expense, (iii) interest income and other (income) expense, net, which primarily includes changes in the fair value of convertible preferred stock warrant liabilities and foreign exchange gains and losses, (iv) stock-based compensation, (v) depreciation and amortization and (vi) our provision for income taxes.***

Reconciliation of Net Income (Loss) to Adjusted EBITDA (Loss)

	Year Ended December 31,		
	2011	2012	2013
	(In thousands)		
Net income (loss)	\$ 7,304	\$(90,150)	\$(27,096)
Brocade litigation	6,333	94,296	7,317
Interest expense	241	135	1,495
Interest income and other (income) expense, net	618	2,237	2,118
Stock-based compensation	1,464	2,540	4,282
Depreciation and amortization	3,417	5,294	7,080
Provision for income taxes	850	758	640
Adjusted EBITDA (loss)	\$ 20,227	\$ 15,110	\$ (4,164)

⁶ See Prospectus at pp. 11-12.

1 83. Brocade is not the only company to have sued A10 Networks for patent
2 infringement and other alleged intellectual property violations. As the Prospectus
3 admitted:

4 “We have in the past been involved in two litigation matters with F5
5 Networks, Inc., a litigation matter with Allegro Software Development,
6 Inc. and a litigation matter with Brocade, all of which have since settled.
7 We are currently party to two litigation matters. In May 2013, Radware
8 filed suit against us for patent infringement in the United States District
9 Court for the Northern District of California, alleging that our AX and EX
10 Series products infringe three Radware patents. In November 2013,
11 Parallel Networks, LLC, which we believe is a patent holding company,
12 filed a lawsuit against us in the United States District Court for the District
13 of Delaware alleging that our AX and Thunder series products infringe two
14 of their patents. These plaintiffs are seeking injunctive relief, damages,
15 costs and, in the case of the Radware lawsuit, attorneys’ fees. While we
16 intend to defend ourselves vigorously against the allegations in these
17 lawsuits, these litigation matters, regardless of the outcome, could result
18 in significant costs and diversion of our management’s efforts.”⁷

19 84. The Brocade litigation has been particularly costly for the Company. As
20 stated by the Company:⁸

21 As an example of how intellectual property litigation could harm our
22 business and results of operations, in the now-settled litigation with
23 Brocade, a jury had rendered a verdict that (1) Brocade had proved non-
24 willful patent infringement claims, non-willful copyright infringement
25 claims and trade secret misappropriation claims against us, and (2)
26 Brocade had proved intentional interference with contract claims against
27 us and against Lee Chen, our founder and Chief Executive Officer. The
28 court determined, subsequent to the jury verdict, that (i) a re-trial was
needed with respect to the amount of damages for the patent infringement
claims, but that the jury verdict that patent infringement existed should be
maintained, (ii) the \$60.0 million in damages awarded by the jury for the
copyright infringement claims was appropriate, (iii) the one dollar in
damages awarded by the jury for the trade secret misappropriation claims
was appropriate, (iv) the one dollar in damages awarded by the jury for the
intentional interference with contract claims was appropriate, and (v) the
punitive damages of \$500,000 awarded by the jury with respect to the
intentional interference with contract claims against each of the company
and Lee Chen were excessive and should be limited to the constitutionally
maximum amount. The court also entered permanent injunctions against
us as a result of the patent infringement and trade secret determinations,

⁷ See March 21, 2014 Prospectus at p. 17.

⁸ See March 21, 2014 Prospectus at p. 17.

1 which were subsequently dissolved as a result of the settlement. At the
2 time of the settlement, the appeals to the Court of Appeals for the Federal
3 Circuit were unresolved. As a result of all these circumstances with respect
4 to this litigation with Brocade, we determined that it was in our best
5 interest to settle with Brocade in May 2013, and that settlement included
6 (1) a dismissal of all claims against the individual defendants, including
7 Lee Chen, which was followed by entry of a final judgment in favor of the
8 individual defendants on all claims, (2) a \$75.0 million dollar cash
9 payment by us to Brocade, (3) a license by us to Brocade of all of our
10 issued patents, our pending patent applications, and any future patents
11 and patent applications that we may acquire, obtain, apply for or have a
12 right to license to Brocade through May 2025, (4) a covenant by us not to
13 sue Brocade on claims relating to its products and services through May
14 2025, (5) certain covenants by Brocade not to sue us, which are intended
15 to prevent lawsuits against our Layer 4-7 products by Brocade with respect
16 to thirteen specific Brocade patent families through May 2025 for the life
17 of each such patent and with respect to any other Brocade patents through
18 May 2017 and (6) general releases to all parties. A satisfaction of judgment
19 was entered by the court in October 2013.

20 85. A10 Networks also ended up paying \$1.1 million in interest to Brocade on
21 the \$70 million promissory note it issued to Brocade as part of the settlement.⁹

22 86. In addition to the monetary aspect of A10 Networks' settlement with
23 Brocade, the settlement included "a license by us to Brocade of all of our issued patents,
24 our pending patent applications, and any future patents and patent applications that we
25 may acquire, obtain, apply for or have a right to license to Brocade through May 2025."
26 See Amendment No. 1 to S1 Registration Statement, filed Mar. 10, 2014, at p. 17.

27 **D. Defendants Chen, Straughn and Jalan Personally Benefitted**
28 **From the Unlawful Conduct**

87. During the time that A10 Networks was unlawfully utilizing the intellectual
property of Foundry and Brocade, Defendants Chen, Straughn and Jalan personally
benefitted from the wrongdoing because they were employees and officers of the

⁹ "[I]n July 2013 we entered into an unsecured convertible promissory note with Brocade for \$70.0 million as part of the terms of our legal settlement. The interest rate on the convertible promissory note was fixed at 8.0% and matured on December 28, 2013. The convertible promissory note was repaid in September 2013. We recognized interest expense of \$1.1 million for the year ended December 31, 2013 on the convertible promissory note in the accompanying consolidated statements of operations." See Amendment No. 1 to S1 Registration Statement, filed Mar. 10, 2014, at p. F 22.

1 Company and their salaries, bonuses, and stock options were based on the financial
2 performance of A10 Networks. Defendants' wrongdoing allowed A10 Networks to earn
3 greater revenues and profits, and reduce its expenses, compared to what the Company
4 would have earned absent misappropriation of employees and intellectual property from
5 Foundry.

6 88. Because A10 Networks did not publicly report its financial results or
7 executive compensation during this time (prior to its IPO), the exact details of the
8 defendants' improper personal financial benefits are unknown to Plaintiff at present and
9 such information is within the exclusive possession and custody of Defendants and the
10 Company.

11 89. Upon information and belief, however, during 2011-2013 Defendants
12 Chen, Straughn and Jalan received compensation that was at least in part calculated
13 based on EBITDA. As indicated *supra*, for 2011-2013 the Company excluded the
14 significant costs and expenses incurred by A10 Networks related to the Brocade
15 litigation from EBITDA, thus inflating EBITDA. Defendants Chen, Straughn and Jalan
16 thus benefitted from their own wrongdoing because they received greater compensation
17 by wrongfully causing the Company to exclude from EBITDA costs and expenses
18 directly caused by their own wrongdoing.¹⁰

19 90. For 2013, the decision to exclude the Brocade costs and expenses from
20 EBITDA, and to base at least part of the compensation of Defendants Chen, Straughn
21 and Jalan on EBITDA, was approved by, among others, Director Defendants Chen,
22 Cochran, Chung, and Salsbury.

23 ///

24 ///

25 ///

26

27 ¹⁰ In addition, Chen, Straughn and Jalan also benefitted personally from the wrongdoing
28 because, as alleged *supra*, their misappropriation of IP from Foundry/Brocade allowed
A10 Networks to build and sell competitive products in 2-3 years instead of 7-10 years.

1 **E. The Individual Defendants Failed to Adopt and Implement**
2 **Effective Internal Controls at A10 Networks**

3 91. Both before and after the Company's IPO, the Individual Defendants
4 breached their duties of good faith and loyalty by causing the Company to operate with
5 non-existent and/or materially defective internal controls.

6 92. Prior to the IPO, and as alleged *supra*, Defendants Chen, Chung, Cochran
7 and Salsbury failed to adopt or implement any policies to ensure compliance with federal
8 patents and trademarks, and to prevent patent infringement and violation of intellectual
9 property rights. Second, they failed to adopt or implement any Insider Trading Policy.

10 93. Third, Defendants Chen, Chung, Cochran and Salsbury failed to cause the
11 Company to adopt any whistleblower policy until February 6, 2014.

12 94. Fourth, Defendants Chen, Chung, Cochran and Salsbury failed to cause the
13 Company to adopt a Code of Ethics and Business Conduct until March 4, 2014.

14 95. Fifth, Defendants Chen, Chung, Cochran and Salsbury failed to cause the
15 Company to adopt Corporate Governance Guidelines until February 6, 2014, which were
16 not made effective until the closing of the IPO.

17 96. Finally, during the relevant time period, A10 Networks lacked effective
18 internal controls over financial reporting. As the Registration Statement for the IPO
19 admitted: "We currently have significant deficiencies in our internal control over
20 financial reporting relating to our inadequate design of the financial closing and
21 reporting process. We did not maintain financial close process and procedures that were
22 adequately designed, documented and executed to support the accurate and timely
23 reporting of our financial results. Specifically, during 2013, we did not maintain effective
24 controls in relation to reviews of account reconciliations and the tax provision."¹¹

25 97. The Company also lacked an independent Board. These deficiencies
26 allowed the Individual Defendants to engage in the wrongdoing detailed herein, causing
27 damage to A10 Networks.

28 ¹¹ See Registration Statement on Form S-1, filed with SEC Feb. 18, 2014, at p. 23.

1 98. The Company still lacks effective internal controls over various aspects of
2 its operations. On May 6, 2015, the Company filed a Form 10-Q with the SEC stating
3 that the Company’s “management identified a material weakness in our internal control
4 over financial reporting as it relates to the computation of stock-based compensation
5 associated with our 2014 Purchase Plan.”

6 **F. The Individual Defendants Caused the Company to File a False**
7 **and Misleading Registration Statement for the IPO**

8 99. In anticipation of an IPO, on November 26, 2013, A10 filed with the SEC a
9 Registration Statement on Form S-1. On March 21, 2014, following several amendments
10 to the S-1 Registration Statement, the SEC declared the Registration Statement effective
11 and A10 Networks and the Underwriter Defendants priced the IPO at \$15 per share and
12 filed the final Prospectus for the IPO, which forms part of the Registration Statement
13 (collectively, the “Registration Statement”). The Company sold nine million shares in
14 the IPO and certain “Selling Stockholders” sold another 3.845 million shares, including
15 shares sold pursuant to the underwriters’ over allotment.

16 100. The Registration Statement was negligently prepared and, as a result,
17 contained untrue statements of material facts or omitted to state other facts necessary to
18 make the statements made not misleading and was not prepared in accordance with the
19 rules and regulations governing its preparation.

20 101. The Registration Statement was signed by Director Defendants Chen,
21 Chung, Cochran, Henricks, and Salsbury, and by Defendant Straughn, the Company’s
22 CFO.

23 102. The Registration Statement was false and misleading because it stated that
24 revenue growth had only been temporarily dampened during 2013 due to the Brocade
25 litigation and stated that A10 Networks’ sales were increasing in 2014 due to the
26 settlement of that litigation in 2013. The Registration Statement was false and
27 misleading because it both concealed an ongoing negative effect from the terms of the
28 Brocade settlement and also used ill-effects from the Brocade litigation as a

1 smokescreen to mask completely separate organic problems with the Company's
2 products.

3 103. The Management Discussion and Analysis of Financial Condition and
4 Results Operations ("MD&A") Section of the Registration Statement also emphasized that
5 A10 Networks' sales demand, which it stated was strong and growing, had only been
6 temporarily dampened during 2013 due to the Brocade litigation and that the Company's
7 sales were increasing in 2014 due to the settlement of that litigation in 2013, and
8 concealing any ongoing negative effect from the terms of the Brocade settlement, stating
9 in pertinent part as follows:

10 ***Revenue growth from the year ended December 31, 2012 to***
11 ***2013 reflects increased demand for our products and related***
12 ***support and services.*** The increase in products revenue was driven by
13 increased sales of our products primarily to existing customers. The
14 increase in services revenue was related to the increase in PCS sales in
15 connection with the increased unit sales of our hardware products, and the
16 resulting increase in our installed base and the renewals of PCS on our
17 installed customer base. The percentage increase in service revenue
18 exceeds that of product revenue because service revenue is directly related
19 to the installed base of product rather than the current year's sales of
20 product. Current year sales of product generate service revenue only after
21 the date the unit is received by the customer. Services revenue in 2013,
22 excluding revenue from new 2013 service contracts, as compared to
23 services revenue in 2012, excluding revenue from new 2012 service
24 contracts, grew by 58.9%. Services revenue related to new product orders
25 during 2013 accounted for 21.6% of total services revenue during the year.

26 ***We believe the Brocade litigation affected our revenues***
27 ***during both these periods, but we believe this effect was***
28 ***particularly evident in the year ended December 31, 2013, due***
to the uncertainty created by injunctions issued in the matter
in the six months ended June 30, 2013. Although such injunctions
did not prevent us from selling our redesigned products, ***certain***
customers informed us that they would not purchase any of
our products until we settled the dispute. The settlement of the
Brocade litigation did not result in any material restrictions to our
business.

104. The MD&A Section of the Registration Statement was false and misleading
because it ***concealed the fact that a significant portion of the 2013 sales***

1 **growth was due to existing customers exchanging AX Series product for**
2 **the newly released Thunder Series product.**

3 105. The Registration Statement was also false and misleading in its
4 description of the Company's quarterly revenue trends. The Registration Statement
5 trumpeted the fact that A10 Networks' 2013 quarterly revenues had grown from
6 \$29.581 million in Q1 2013 to \$30.131 million in Q2 2013 to \$39.826 million in Q3
7 2013, to \$42.2 million in Q4 2013, and implied that the downturn in revenue had been
8 remedied with the resolution of the Brocade litigation and the lifting of the injunction:

9 **Quarterly products revenue increased year-over-year for**
10 **2013 compared to 2012**, except for the second quarter. For the three
11 months ended June 30, 2013, our products revenue decreased slightly
12 compared to the three months ended June 30, 2012. As discussed above,
13 we believe the **uncertainty created in our market by the Brocade**
14 **litigation, and the injunctions outstanding during the first two**
15 **quarters of 2013** affected our customers' buying behavior. We entered
16 into a settlement agreement regarding the Brocade matter in May 2013.
17 **The year-over-year and sequential growth in services revenue**
18 **was primarily driven by higher product sales and the resulting**
19 **expansion of our customer base.**

20 106. The Registration Statement was also false and misleading in its
21 description of the Company's sales trends. The Registration Statement emphasized
22 A10 Networks' purportedly strong sales growth rate, highlighting that total revenues
23 increased from \$55.3 million in fiscal 2010, to \$91.3 million in fiscal 2011, to \$120.1
24 million in fiscal 2012, and to \$141.7 million in 2013 - without disclosing the existing
25 decrease in that sales trend – and instead falsely emphasizing that the previous sales
26 “represent[ed] a compound **annual growth rate** of approximately 37% from 2010 to
27 2013,” and that A10 Networks' “total revenue grew 32% from 2011 to 2012 and 18%
28 from 2012 to 2013.”

29 107. Similarly, the Registration Statement also stated that the Company was
30 “Driv[ing] Greater Penetration into [Its] Customer Base,” stating that it “intend[ed] to
31 **continue to expand** [its] penetration into existing customer accounts from an initial
32 deployment of [its] products to broader deployments across the organization,” and to

1 “sell new products and services to existing end-customers, which provide[d] [it] with
2 **opportunities for additional revenue,**” without disclosing that much of A10
3 Networks’ prior revenue growth had been attributable to the 2013 launch of the
4 Thunder Series and existing customers replacing their AX Series with Thunder Series.

5 108. The Registration Statement was also false and misleading in its
6 description of the Company’s profitability trends. The Registration Statement
7 highlighted the fact that A10 Networks’ gross margin was 78%, 80%, 80% and 76%, in
8 fiscal years 2010, 2011, 2012 and 2013, respectively. While acknowledging that the
9 Company had generated net losses of \$90.2 million and \$27.1 million for fiscal years
10 2012 and 2013, the Registration Statement attributed those losses to “the settlement of,
11 and legal expenses related to, [A10’s patent] litigation with Brocade,” further
12 emphasizing in the MD&A Section of the Registration Statement that A10 Networks’
13 “net income in these periods was affected by the settlement and legal expenses related to
14 [its] litigation with Brocade,” implying that, with the Brocade litigation now behind it,
15 the Company was on track to return to profitability in fiscal 2014 - thus negating any
16 ongoing, long-term negative impact from the terms of the settlement with Brocade.

17 109. Similarly, elsewhere in the MD&A Section, the Registration Statement
18 stated in pertinent part as follows:

19 ***In recent years, our financial performance was affected***
20 ***by a protracted, but now settled, intellectual property***
21 ***litigation with Brocade ...*** . Since the litigation commenced in August
22 2010, we incurred substantial legal expenses in each financial period, as
23 shown in our results of operations. In addition, the agreement to settle the
24 litigation in May 2013 resulted in the cash payment by us of an aggregate
25 of \$75.0 million in the second and third quarters of 2013, plus interest. We
26 also believe that the presence of such litigation, and the uncertainty it
27 created in our market, affected our revenue during these periods,
28 especially following the issuance of injunctions in the litigation in the first
quarter of 2013. Although such injunctions did not prevent us from selling
our redesigned products, certain customers informed us that they would
not purchase any of our products until we settled the dispute. In
particular, total revenue for the quarters ended March 31 and June 30,
2013 grew 12% and 7% year over year, as compared to growth of 27% and
23% in the quarters ended September 30 and December 31, 2013, year
over year. We chose to invest in product development and sales and

1 marketing during the period of the Brocade litigation in order to best
2 position our portfolio and presence in the market in anticipation of the
time that the litigation was over.

3 110. Also in the MD&A Section, the Registration Statement stated in pertinent
4 part as follows:

5 ***We expect our overall revenue to increase as a result of the***
6 ***investments described above, coupled with the impact of the***
7 ***resolution of our litigation with Brocade.... The majority of the***
8 ***revenue increase is expected to be from repeat customer***
9 ***purchases, however, we also expect to increase revenue***
expansion of both our direct salesforce and distribution
channel partner programs.

10 * * *
11 ***The decrease in Adjusted EBITDA in 2012 to 2013 was***
12 ***primarily a result of a 18.1% increase in revenue, while***
13 ***operating expenses excluding the Brocade litigation increased***
14 ***by 40.3%. We believe the Brocade litigation affected our***
revenue during the first half of 2013 due to the uncertainty
created by the injunctions outstanding during the first half of
2013.

15 111. Concerning the Company's purportedly quarterly profitability trends, the
16 Registration Statement stated in pertinent part as follows:

17 ***Quarterly Gross Profit and Gross Margin Trends***

18 ***Total gross profit increased year over year for each***
19 ***quarter presented. Total gross margin percent has remained***
20 ***relatively consistent over most periods presented, ranging***
21 ***from 77% to 78%, with the exception of the third and fourth quarters of***
22 ***2012 where gross margin was 80% and 82% due to higher than normal***
23 ***historical volumes coming from geographic regions with generally higher***
24 ***gross margins and the fourth quarter of 2013 where gross margin was 74%***
25 ***due primarily to geographical mix and selling some end-of-life product at***
26 ***low margins. In addition, demand for certain new Thunder models***
27 ***exceeded our expectations and inventory levels on these new Thunder***
28 ***models were constrained. In one transaction, in order to satisfy a***
customer's need, a high-end model with a higher cost per unit was
substituted for an out-of-stock new Thunder model at a lower than typical
price resulting in a lower gross margin on the transaction. We do not
expect these specific factors to negatively impact future quarters to the
same degree although there can be no assurances that similar occurrences
may not happen in the future.

1 112. The Registration Statement was also false and misleading in its
2 description of the adequacy of the Company's senior management and engineering staff
3 to support its sales. The Registration Statement stated that A10 Networks was
4 "target[ing] new end-customers by **continuing to invest in [its] high-touch sales**
5 **organization.**" The Registration Statement also stated:

6 We sell substantially all of our solutions through our high-touch
7 sales organization as well as distribution channel partners, including
8 distributors, value added resellers and system integrators, and fulfill
9 nearly all orders globally through such partners. **We believe this sales**
10 **approach allows us to obtain the benefits of channel**
11 **distribution, such as expanding our market coverage, while**
12 **still maintaining face-to-face relationships with our end-**
13 **customers.**

14 113. The Registration Statement also emphasized A10 Networks' sales
15 expertise, stating as follows:

16 We believe that the network engineer or architect is the primary influencer
17 within an organization that purchases our products. As such, we believe
18 that **our high-touch sales organization is unique given our deep**
19 **focus on technology competence and partnership with our end-**
20 **customers' network engineers and architects. We believe this**
21 **sales approach allows us to leverage the benefits of the**
22 **channel, such as expanding our market coverage, as well as**
23 **maintain face-to-face relationships with our end-customers.**

24 Our sales team is comprised of inside sales and field sales personnel
25 who are organized by geography and maintain sales presence in 23
26 countries, including in the following countries and regions: United States,
27 Western Europe, Japan, China, Taiwan and South Korea. **Our sales**
28 **organization also includes sales engineers with deep technical**
domain expertise who are responsible for pre-sales technical
support, solutions engineering for our end-customers, proof of
concept work and technical training for our distribution
channel partners. Our sales team is also comprised of a
channel sales organization that is expanding our market reach
through partners. We expect to continue to grow our sales headcount,
including in geographies where we currently do not have a sales presence.

Our sales team objectives are to expand our end-customer base to
new end- customers and to increase sales to existing end-customers
through adoption of incremental products and services. **We leverage**
our key strengths and attributes to collaborate with end-
customers and demonstrate the value of our products in their
network. For example, we demonstrate our solution

1 **functionality, performance and scale with well executed proof**
2 **of concepts and evaluations. We believe that our customer**
3 **support and responsiveness provides a differentiated**
4 **experience for the end-customer and leads to retaining and**
5 **expanding our end-customer base.**

6 114. Concerning the valuation of the Company's inventory, which the
7 Registration Statement indicated was \$37.704 million as of December 31, 2013, the
8 Registration Statement stated as follows:

9 ***Inventory Valuation***

10 Inventory consists primarily of finished goods and component parts
11 to be used in the manufacturing process and is stated at lower of average
12 cost or market. ***A provision is recorded when inventory is***
13 ***determined to be in excess of anticipated demand or obsolete,***
14 ***to adjust inventory to its estimated realizable value.***
15 ***Significant judgment is used in establishing our forecasts of***
16 ***future demand and obsolete material exposures.*** If the actual
17 component usage and product demand are significantly lower than
18 forecast, which may be caused by factors within and outside of our control,
19 or if there were a higher incidence of inventory obsolescence because of
20 rapidly changing technology and our customer requirements, we may be
21 required to increase our inventory write-downs. We incurred inventory
22 write downs of \$2.4 million, \$3.3 million and \$2.6 million for the years
23 ended December 31, 2011, 2012 and 2013.

24 115. The statements referenced above in ¶¶ 102-114 were inaccurate statements
25 of material facts because they failed to disclose the following material facts which
26 existed at the time of the IPO:

27 (a) The Company's 2013 sales growth had been substantially augmented by
28 customers converting from the AX Series to the Thunder Series, rather than through
organic sales to new customers, and the upgrade cycle had largely run its course by the
time of the IPO;

(b) A10 Networks was experiencing lower sales orders from its key North
American service provider customers;

(c) A10 was experiencing longer sales closing cycles than it had historically;

(d) A10 Networks' sales cycle for certain select large enterprise deals was
lengthening for customers that required features in development because the Company

1 lacked sufficient engineering staff to timely close the sales and did not have sufficient
2 management oversight and involvement in those sales;

3 (e) the Registration Statement overstated A10 Networks' assets and
4 understated its pre-IPO net-losses because the Company's inventory was bloated with
5 obsolete product due to the Company's product transition from the AX Series to the
6 Thunder Series that should have been written off earlier;

7 (f) Rather than disclose these fundamental problems afflicting the Company,
8 the Registration Statement stated that revenue growth had only been temporarily
9 dampened during 2013 due to the Brocade litigation and stated that A10 Networks' sales
10 were increasing in 2014 due to the settlement of that litigation in 2013. The Registration
11 Statement was false and misleading because it both concealed an ongoing negative effect
12 from the terms of the Brocade settlement and also used ill-effects from the Brocade
13 litigation as a smokescreen to mask completely separate organic problems with the
14 Company's products;

15 (g) As a result of the foregoing, the Company was not on track to achieve the
16 financial results the Registration Statement stated the Company was on track to achieve;
17 and

18 (h) A10 Networks lacked effective internal controls over inventory.

19 116. Pursuant to Item 303 of Regulation S-K [17 C.F.R. §229.303], and the
20 SEC's related interpretive releases thereto, issuers are required to disclose events or
21 uncertainties, including any known trends, that have had or are reasonably likely to
22 cause the registrant's financial information not to be indicative of future operating
23 results. At the time of the IPO, A10 Networks' sales were languishing and substantial
24 portions of its inventory were obsolete. The adverse events and uncertainties associated
25 with these declining trends were reasonably likely to have a material impact on the
26 Company's profitability and, therefore, were required to be disclosed in the Registration
27 Statement but were not.

28

1 117. In the IPO, the Selling Stockholders and the Underwriter Defendants sold
2 12.845 million shares of A10 Networks common stock to the public at \$15 per share,
3 raising more than \$135 million in gross proceeds for the Company and \$57.675 million
4 in gross proceeds for the Selling Stockholders.

5 118. At the time of the filing of this action, A10 Networks stock is trading at
6 \$6.40 per share, *a more than 57% decline from the IPO price.*

7 119. Moreover, the Company's sales growth continues to decline. On May 6,
8 2015, the Company filed its Quarterly Report for Q1 2015, in which it stated that revenue
9 from sales of the Company's products had declined 16.2% in Q1 2015 compared to Q1
10 2014 (from \$36.4 million to \$30.5 million).¹² Gross margins on the sale of the
11 Company's products had also declined to 76.9% in Q1 2015 from 79.6% in Q1 2014.

12 **DAMAGES TO A10 NETWORKS**

13 120. Due to the Individual Defendants' conduct, the Company incurred millions
14 of dollars in damages in the Brocade patent lawsuit. The Company had to pay \$75
15 million to settle the lawsuit and incurred millions of additional dollars in attorneys' fees
16 in the case. In addition, the Company lost out on millions of dollars in revenue since
17 actual and potential clients chose not to purchase products and software from the
18 Company due to the uncertainty created by the defendants' unlawful conduct. The
19 defendants' wrongdoing has also undermined the Company's credibility. As a result,
20 A10 Networks has been, and will continue to be, severely damaged and injured by the
21 Individual Defendants' misconduct.

22 121. As a direct and proximate result of the Individual Defendants' actions, the
23 Company's market capitalization has also been substantially damaged.

24 122. Moreover, as a direct and proximate result of the Individual Defendants'
25 conduct, the Company has expended and will continue to expend significant sums of
26

27 ¹² The Form 10-Q stated: "Products revenue decreased \$5.9 million, or 16.2% in the first
28 quarter of 2015 compared to the first quarter in 2014 which is primarily attributable to a
slowdown in demand for our products from service providers."

1 money. Such expenditures include, but are not limited to:

2 (a) \$75 million paid to Brocade in settlement of the patent infringement
3 lawsuit;

4 (b) \$1.1 million paid to Brocade as interest on the \$70 million promissory note
5 A10 Networks issued in connection with the settlement of the Brocade/Foundry lawsuit;

6 (c) legal fees associated with the lawsuits filed against the Company and its
7 officers for patent infringement and violations of the federal securities laws;

8 (d) loss of reputation and goodwill, and a “liar’s discount” that will plague the
9 Company’s stock in the future due to the Individual Defendants’ false statements and
10 lack of candor;

11 (e) amounts paid to outside lawyers, accountants, and investigators in
12 connection with the alleged wrongdoing; and

13 (f) loss of revenues and profits.

14 **DERIVATIVE AND DEMAND FUTILITY ALLEGATIONS**

15 123. Plaintiff brings this action derivatively on behalf and for the benefit of A10
16 Networks to redress injuries suffered by the Company as a direct result of the breaches
17 of fiduciary duties by the Individual Defendants.

18 124. Plaintiff will adequately and fairly represent the interests of A10 Networks
19 and has retained competent counsel, experienced in derivative litigation, to enforce and
20 prosecute this action.

21 125. Plaintiff has continuously held stock in A10 Networks during the Relevant
22 Period and remains a shareholder of the Company.

23 126. Plaintiff incorporates by reference and re-alleges each and every allegation
24 stated above as if fully set forth below. Plaintiff did not make a demand on the Board to
25 bring this action because such demand would be futile given the facts as alleged in this
26 complaint and, therefore, such a demand is excused.

27 127. A10 Networks is controlled by its Board, which, at the time of the
28 commencement of this action consisted of Defendants Chen, Chung, Cochran, Henricks

1 and Salsbury. When a board is comprised of five directors, a plaintiff need only
2 demonstrate that three of the five directors are interested or lack independence. As set
3 forth below, a majority of the Company's directors lack independence; thus, any demand
4 on the Board is futile and therefore excused.

5 128. As A10 Networks admits in its SEC filings, Directors Chen and Cochran
6 are not independent directors because, among other things, they are employees of the
7 Company.

8 129. Chen is also interested because he caused the Company to engage in
9 patent infringement and interference with contractual relations and was held liable by
10 the federal jury in San Jose of inducing Foundry employee He to breach his employment
11 contract with Foundry. Punitive damages of \$500,000 were awarded against Chen.

12 130. Moreover, demand is futile as to Directors Chen, Cochran and Salsbury
13 because, after Chen was held personally liable for compensatory and punitive damages,
14 Chen, Cochran and Salsbury thereafter wrongfully caused A10 Networks to settle the
15 lawsuit filed by Brocade and Foundry by causing the Company to pay Chen's personal
16 share of the liability, even though punitive damages represent damages for intentional
17 and willful conduct which cannot be indemnified by the Company.

18 131. Demand is also futile as to Chung because Chung, who became an A10
19 Networks' director in June 2013, approved and ratified the unlawful settlement that
20 Chen, Cochran and Salsbury brokered. The proposed judgment reflecting the
21 settlement was not submitted to the Court until June 2013 and the satisfaction of
22 judgment was not filed until October 1, 2013. Thus, Chung also breached his fiduciary
23 duties of good faith and loyalty – conduct that cannot be indemnified by A10 Networks.

24 132. Demand is also futile as to Defendant Chung because he faces a substantial
25 likelihood of liability for causing the Company to issue the false and misleading
26 Registration Statement for the IPO. Chung is a named defendant in the related
27 securities class action complaints seeking damages under Section 11 of the Securities Act
28 of 1933.

1 133. Demand is also futile as to Chung because he is interested. Chung is one
2 of a two-man executive/investment committee at Summit Partners that has control over
3 the investment and voting decisions of Summit’s investments, including its significant
4 current 15.28% equity stake in A10 Networks. The Proxy filed by A10 Networks in April
5 2015 states that the “two-person investment committee, currently composed of Martin
6 J. Mannion and Mr. Chung, has voting and dispositive authority over the shares held by
7 each of these entities and therefore beneficially owns such shares.”

8 134. Chung and Summit Partners made a very significant equity investment in
9 A10 Networks (\$80 million) in October 2013, for which they received equity in the
10 Company. Chung is thus not an independent Board member but instead a close friend
11 and confidant of Defendant Chen who cannot exercise independent judgment as to
12 whether to sue Chen. When making the equity investment in A10 Networks, Chung
13 stated "***We look forward to serving as the company's partner*** during this next
14 phase of its growth."¹³

15 135. Thus, as Chung has admitted, he views his role on the Board as being a
16 “partner” to A10 Networks and not an independent and objective Board member.
17 Chung’s “partnership” with A10 Networks and its founder and 17.13% stockholder Chen
18 renders Chung interested. Moreover, the fact that Summit Partners is one of A10
19 Networks’ most significant sources of liquidity and financing makes it impossible for the
20 rest of the Board to objectively consider suing Chung, since suing Chung would cause
21 Chung to quit the Board and sell Summit’s huge equity stake in the Company.

22 136. Any sale of Summit’s equity stake in A10 Networks would cause the
23 Company’s stock price to tank. Indeed, after the IPO, as the lockup period neared
24 expiration, stock analysts opined that, in light of the Company’s dismal performance
25 after the IPO, many pre-IPO shareholders such as Summit might sell their A10
26

27 _____
28 ¹³ See <https://www.a10networks.com/press-releases/a10-networks-raises-115-million-new-capital-based-upon-continued-growth>, last visited April 14, 2015.

1 Networks stock, flooding the market with sell orders and thus causing the stock to drop
2 even further than it had after the IPO.¹⁴

3 137. In response to these reports, A10 Networks filed a Form 8-K on 9/11/14
4 stating that it had discussed the issue with Chung and Summit and that “our largest
5 institutional stockholder group, the Summit Partners investment funds, which are
6 affiliated with a member of our board of directors, have informed us they have no
7 present intention to sell or distribute A10 Networks stock to their limited partners
8 before or upon the expiration of our lockup or immediately after the Q3 financial
9 report.”

10 138. The fact that A10 Networks would take the unusual step of filing a Form 8-
11 K to advise the market that Summit did not intend to sell the Company’s stock amply
12 demonstrates the key relationship between A10 Networks and Chung/Summit and that
13 A10 Networks needed (and continues to need) Summit and Chung to cooperate with it
14 with respect to its huge equity stake in the Company, which affects many critical things
15 for A10 Networks, including its stock price.

16 139. Chung is also interested since he and the other defendants caused the
17 Company to file a materially false and misleading Registration Statement. The
18 Registration Statement was signed by Chung, who therefore is liable under Section 11 of
19 the Securities Act of 1933 for any materially false or misleading statements therein.

20 140. Demand is also futile as to all five directors – Chen, Chung, Cochran,
21 Henricks, and Salsbury – because they face a substantial likelihood of personal liability
22 for violating the Securities Act of 1933 by approving and signing the false and
23 misleading Registration Statement issued in connection with the Company’s IPO. The
24 Registration Statement was signed by Director Defendants Chen, Chung, Cochran,
25 Henricks, and Salsbury, and by Defendant Straughn, the Company’s CFO. As

26 _____
27 ¹⁴ See, e.g., Pre-IPO Shareholders Of A10 Networks Could Be Eager To Sell At IPO
28 Lockup Expiration, Seeking Alpha, Sept. 3, 2014, available at
[http://seekingalpha.com/article/2468785-pre-ipo-shareholders-of-a10-networks-
could-be-eager-to-sell-at-ipo-lockup-expiration](http://seekingalpha.com/article/2468785-pre-ipo-shareholders-of-a10-networks-could-be-eager-to-sell-at-ipo-lockup-expiration), last visited 4/14/15.

1 demonstrated above, the Registration Statement violated the Securities Act of 1933
2 because it contained false statements and material omissions. Defendants Chen, Chung,
3 Cochran, Henricks, and Salsbury have been sued in multiple class action lawsuits in this
4 court alleging violations of the Securities Act of 1933. The Director Defendants face
5 strict liability if the plaintiffs in those cases establish their claims by demonstrating that
6 the Registration Statement contained false statements or material omissions. Such
7 claims are subject to a strict liability and/or negligence standard and are not fraud-
8 based claims.

9 141. Significantly, if Defendants Chen, Chung, Cochran, Henricks, and Salsbury
10 are found liable for violating the Securities Act of 1933, they will be personally liable for
11 damages since it is against public policy for a corporation to indemnify its directors or
12 executives for violations of the federal securities laws.

13 142. Thus Defendants Chen, Chung, Cochran, Henricks, and Salsbury face a
14 substantial likelihood of liability for violating the Securities Act of 1933. Demand is thus
15 excused as to the entire Board.

16 143. Demand is futile as to Defendants Chung, Chen, Cochran and Salsbury
17 because they face a substantial likelihood of liability for breaching their fiduciary duties
18 of good faith and loyalty by awarding unjust compensation to Defendants Chen, Jalan
19 and Cochran. As alleged above, the defendants caused A10 Networks to manipulate
20 EBITDA earnings so as to exclude the significant and material expenses paid by the
21 Company to settle and defend the lawsuit brought against Chen and the Company by
22 Foundry and Brocade. But for such manipulation, Chen, Jalan and Cochran would have
23 received less compensation as employees and officers of the Company.

24 144. For 2013 compensation, the decision to exclude the Brocade costs and
25 expenses from EBITDA, and to base at least part of the compensation of Defendants
26 Chen, Straughn and Jalan on EBITDA, was approved by, among others, Director
27 Defendants Chen, Cochran, Chung, and Salsbury, all of whom were directors in 2013.
28 Such directors breached their duties of good faith and loyalty by preferring the interests

1 of Chen, Jalan and Straughn over the interests of the Company. EBITDA would
2 normally have included the substantial expenses related to the Brocade litigation. By
3 excluding such expenses from EBITDA notwithstanding knowledge that Defendants
4 Chen, Jalan and Cochran had committed wrongdoing resulting in the liability and
5 expenses, Director Defendants Chen, Cochran, Chung, and Salsbury breached their
6 fiduciary duties of good faith and loyalty. They thus face a substantial likelihood of
7 liability and any demand upon them is futile and thus excused.

8
9 **Count I**
Breaches of Fiduciary Duties
Against All Individual Defendants

10 145. Plaintiff incorporates by reference and re-alleges each and every allegation
11 set forth above, as though fully set forth below.

12 146. Each of the Individual Defendants owed to A10 Networks the duty to
13 exercise candor, good faith, and loyalty in the management and administration of the
14 Company's business and affairs, particularly with respect to issues regarding its
15 financial viability.

16 147. Each of the Individual Defendants violated and breached his or her
17 fiduciary duties of candor, good faith, loyalty, reasonable inquiry, oversight, and
18 supervision.

19 148. The Individual Defendants' conduct set forth in this complaint was
20 characterized by intentional, reckless, or negligent breaches of the fiduciary duties the
21 Defendants owed to A10 Networks, as alleged in this complaint. The Individual
22 Defendants intentionally, recklessly, or negligently breached or disregarded their
23 fiduciary duties to protect the rights and interests of A10 Networks.

24 149. In breach of their fiduciary duties owed to A10 Networks, the Individual
25 Defendants willfully caused the Company to infringe patents held by Brocade, and
26 willfully caused A10 Networks to settle the lawsuit brought by Brocade without
27 requiring Defendant Chen to personally pay any portion of the settlement despite the
28 fact that he had been assessed punitive damages by the jury. The Individual Defendants

1 also all signed the Company's false and misleading Registration Statement for the
2 Company's IPO, thus violating the Securities Act of 1933. Violations of the Securities
3 Act of 1933 cannot be indemnified by the Company.

4 150. The defendants' actions were not a good-faith exercise of prudent business
5 judgment to protect and promote the corporate interests of A10 Networks.

6 151. As a direct and proximate result of the Individual Defendants' breaches of
7 their fiduciary obligations, A10 Networks has sustained and continues to sustain
8 significant damages. As a result of the misconduct alleged above, the Individual
9 Defendants are liable to A10 Networks.

10 **Count II**
11 **Abuse of Control**
12 **Against All Individual Defendants**

13 152. Plaintiff incorporates by reference and re-alleges each and every allegation
14 set forth above, as though fully set forth herein.

15 153. Defendants' misconduct alleged herein constituted an abuse of their ability
16 to control and influence A10 Networks, for which they are legally responsible.

17 154. As a direct and proximate result of defendants' abuse of control, A10
18 Networks has sustained significant damages. As a direct and proximate result of
19 defendants' breaches of their fiduciary obligations of candor, good faith, and loyalty,
20 A10 Networks has sustained and continues to sustain significant damages. As a result of
21 the misconduct alleged herein, defendants are liable to the Company.

22 **Count III**
23 **Gross Mismanagement**
24 **Against All Individual Defendants**

25 155. Plaintiff incorporates by reference and re-alleges each and every allegation
26 set forth above, as though fully set forth below.

27 156. The Individual Defendants each owed a duty to A10 Networks and its
28 shareholders to act in good faith and to act loyally in the best interests of A10 Networks.

1 compensation that was directly tied to the Company's financial performance and
2 because he avoided paying his personal share of the settlement with Brocade and
3 Foundry. Defendants Straughn and Jalan benefitted from their wrongdoing because
4 they received compensation that was directly tied to the Company's financial
5 performance, which was greater than it would have been absent the defendants'
6 wrongful conduct.

7 166. The Company was harmed by these Defendant's breaches of the undivided
8 duty of loyalty.

9 167. By reason of the foregoing, the Company was harmed and will continue to
10 suffer harm as described in greater detail above.

11 **Count V**
12 **Unjust Enrichment**
13 **Against Defendants Chen, Straughn, and Jalan**

14 168. Plaintiff incorporates by reference and realleges each and every allegation
15 contained above, as though fully set forth herein.

16 169. This claim is brought derivatively on behalf of the Company against
17 Defendants Chen, Straughn and Jalan for unjust enrichment.

18 170. Defendants Chen, Straughn and Jalan were employees and officers of A10
19 Networks and continue to be officers of the Company.

20 171. As alleged above, Chen, Straughn and Jalan breached their duties of
21 loyalty to the Company by not acting solely in the Company's interests in performing
22 their employment duties. As a result of their disloyal conduct, Chen, Straughn and
23 Jalan were unjustly enriched. Chen caused the Company to pay his share of a punitive
24 damages award issued by a unanimous federal jury against him, and also received
25 incentive-based compensation that was unearned and/or that would be inequitable for
26 him to retain in light of his wrongful and disloyal conduct. As alleged above, the
27 defendants caused A10 Networks to manipulate EBITDA earnings so as to exclude the
28 significant and material expenses paid by the Company to settle and defend the lawsuit

1 brought against Chen and the Company by Foundry and Brocade. But for such
2 manipulation, Chen, Straughn and Jalan would have received less compensation as
3 officers of the Company.

4 172. The Company was harmed by Chen, Straughn and Jalan's wrongful
5 conduct.

6 173. Because it would be inequitable to allow Chen, Straughn and Jalan to
7 retain the monies they acquired, they should be forced to disgorge all of their ill-gotten
8 gains and the amounts by which they have been unjustly enriched.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff demands judgment in A10 Networks' favor and against
11 all Individual Defendants as follows:

12 A. Declaring that Plaintiff may maintain this action on behalf of A10
13 Networks and that Plaintiff is an adequate representative of A10 Networks;

14 B. Declaring that the Individual Defendants have breached their fiduciary
15 duties to A10 Networks;

16 C. Determining and awarding to A10 Networks damages sustained by it as a
17 result of the violations set forth above from each of the Individual Defendants, jointly
18 and severally, together with interest;

19 D. Directing A10 Networks and the Individual Defendants to take all
20 necessary actions to reform and improve its corporate governance and internal
21 procedures to comply with applicable laws and to protect A10 Networks and its
22 shareholders from a repeat of the damaging events alleged above, including, but not
23 limited to, enhancements to and improvements for the Company's internal controls,
24 corporate governance policies, and policies regarding compliance with the patent and
25 intellectual property laws, as well as putting forward for shareholder vote resolutions for
26 amendments to the Company's By-Laws or Articles of Incorporation and taking such
27 other action as may be necessary to place before shareholders for a vote the following
28 corporate governance policies:

- 1 • a proposal to strengthen the Board’s supervision of operations and
- 2 compliance with applicable state and federal laws and regulations;
- 3 • a proposal to strengthen the Company’s internal reporting and financial
- 4 disclosure controls;
- 5 • a provision to strengthen the Company’s internal controls;
- 6 • a proposal to develop and implement procedures for greater shareholder
- 7 input into the policies and guidelines of the Board;
- 8 • a provision to permit the shareholders of A10 Networks to nominate at
- 9 least two candidates for election to the Board;
- 10 • a proposal to ensure the accuracy of the qualifications of A10 Networks’
- 11 directors, executives and other employees;
- 12 • a proposal to strengthen the Company’s procedures for the receipt,
- 13 retention and treatment of complaints received by the Company regarding
- 14 internal controls; and
- 15 • a provision to appropriately test and then strengthen the Company’s
- 16 internal operational control functions;
- 17 E. Awarding to A10 Networks restitution from the Individual Defendants,
- 18 and each of them, and ordering disgorgement of all profits, benefits, and other
- 19 compensation improperly obtained by the Individual Defendants;
- 20 F. Awarding to A10 Networks exemplary damages in an amount necessary to
- 21 punish the Individual Defendants and to make an example of the Individual Defendants
- 22 to the community according to the proof at trial;
- 23 G. Ordering all appropriate equitable and/or injunctive relief against the
- 24 Individual Defendants to the extent that the Company is unable to obtain from such
- 25 Individual Defendants an adequate remedy at law;
- 26 H. Awarding to Plaintiff the costs and disbursements of the action, including
- 27 attorneys’ fees, expert fees, costs, and expenses; and
- 28 I. Granting such other and further relief as the Court deems just and proper.

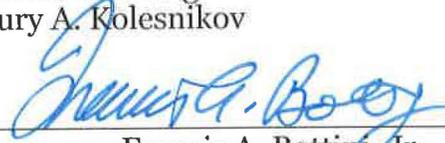
1 **DEMAND FOR JURY TRIAL**

2 Plaintiff demands a trial by jury on all issues so triable.

3 DATED: June 24, 2015

Respectfully submitted,

4 BOTTINI & BOTTINI, INC.
5 Francis A. Bottini, Jr.
6 Albert Y. Chang
7 Yury A. Kolesnikov



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