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9 Attorneys for Plaintiff
CABLE ONE, INC.

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11
12 **IN THE UNITED STATES DISTRICT COURT**
13 **DISTICT OF ARIZONA**

14
15 CABLE ONE, INC.,

16 Plaintiff,

17 v.

18 DATACLOUD TECHNOLOGIES,
19 LLC

20 Defendant.

Civil Action No.: _____

**COMPLAINT FOR DECLARATORY
JUDGEMENT**

JURY TRIAL DEMANDED

1 Plaintiff, Cable One, Inc. (“Cable One” or “Plaintiff”) for this Complaint and Jury
2 Demand against Defendant DataCloud Technologies, LLC (“Defendant”) upon personal
3 knowledge of their own actions, and information and belief as to all other matters, as follows.

4 **I. NATURE OF ACTION**

5 1. This is an action for declaratory judgment of non-infringement of U.S. Patent
6 Nos. 6,560,613 (the “’613 patent”), 6,651,063 (the “’063 patent”), 7,209,959 (the “’959
7 patent”), and 8,762,498 (the ‘498 patent”) (collectively, the “Asserted Patents”) under Federal
8 Declaratory Judgments Act, 28 U.S.C. §§ 2201 and 2202, the patent laws of the United States,
9 35 U.S.C. §§ 1 *et seq.* 2, and the Arizona Patent Troll Prevention Act, Ariz. Rev. Stat. § 44-
10 1422 *et seq.*

11 2. Cable One seeks relief because Defendant has made it clear through
12 correspondence to Cable One that it intends to sue Cable One for alleged infringement of the
13 Asserted Patents.

14 **II. THE PARTIES**

15 3. Plaintiff Cable One is a Delaware corporation with its principal place of business
16 at 210 E. Earll Drive Phoenix, Arizona 85012.

17 4. On information and belief, Defendant is a limited liability company under the
18 laws of the State of Georgia with its principal place of business at 44 Milton Ave., Suite 254,
19 Alpharetta, Georgia 30009.

20 5. On information and belief, Defendant is subsidiary of Brainbox Innovations,
21 LLC (“Brainbox”), a limited liability company under the laws of the State of Georgia with its
22 principal place of business at 44 Milton Ave., Suite 254, Alpharetta, Georgia 30009.

23 6. On information and belief, Brainbox has at least four additional subsidiaries that
24 assert patent portfolios: CDN Innovations, LLC, DataCloud Technologies, LLC, CommWorks
25 Solutions, LLC, and Hanger Solutions, LLC.

26 **III. FACTUAL BACKGROUND**

27 7. On May 4, 2022, Defendant’s counsel sent a Cable One representative a demand
28 letter stating that Defendant “would like to bring to your attention the following DataCloud

1 patents that related to certain of the products and services offered by Cable One, Inc. operating
 2 under at least the name ‘SparkLight.’” (See Exhibit A). The letter further asserts that “[b]ased
 3 on publicly-available information, it is the understanding and contention of DataCloud that
 4 Cable One has infringed claims of the [Asserted Patents].” The letter asserts that Cable One
 5 has infringed (1) at least claim 8 of the ’613 patent by employing virtualizing in its network
 6 and systems environment, (2) at least claim 4 of the ’063 patent by way of the Cable One
 7 Android App, (3) at least claim 1 of the ’959 patent by way of Sparklight’s website
 8 infrastructure, and (4) at least claim 1 of the ’498 patent by way of Sparklight’s web sites that
 9 use Transport Layer Security (TLS) version 1.2 or 1.3.

10 8. In all, through its correspondence, Defendant has alleged that Cable One
 11 infringes the following claims (individually, an “Asserted Claim,” and collectively, “the
 12 Asserted Claims”):

- 13 • Claim 8 of the ’613 patent;
- 14 • Claim 4 of the ’063 patent;
- 15 • Claim 1 of the ’959 patent;
- 16 • Claim 1 of the ’498 patent;

17 9. Defendant has alleged infringement of its patents at least seventeen times. *See*
 18 Case Nos. 1-20-cv-00764 (DDE); 1-20-cv-00763 (DDE); 2-20-cv-00872 (WDWA); 1-20-cv-
 19 01314 (DDE); 1-20-cv-01313 (DDE); 1-21-cv-00155 (DDE); 1-21-cv-00164 (DDE); 1-21-cv-
 20 00170 (DDE); 1-21-cv-00837 (DDE); 6-21-cv-00662 (WDTX); 1-21-cv-01020 (DDE); 1-21-
 21 cv-01629 (DDE); 6-21-cv-01211 (WDTX); 6-21-cv-01275 (WDTX); 6-22-cv-00786
 (WDTX); 1-22-cv-00874 (EDVA); 1-22-cv-01178 (DDE).

22 The Asserted Patents

23 10. The ’613 patent issued on May 6, 2003, and is entitled “Disambiguating File
 24 Descriptors.” The ’613 patent is attached as Exhibit B. Claim 8 of the ’613 patent is
 25 reproduced below.

26 8. A method in a computer system for disambiguating file descriptors, the
 27 method comprising:

28 intercepting system calls that establish a file stored on media;

1 storing at least one indicator that a file descriptor established by an intercepted
2 system call is associated with a file stored on media, wherein storing an indicator that
3 an established file descriptor is associated with a file stored on media further
4 comprises storing the indicator in a table; and

5 examining at least one stored indicator to determine with what file type a file
6 descriptor is associated.

7 11. The '063 patent issued on November 18, 2003 and is entitled "Data Organization
8 and Management System and Method." The '063 patent is attached as Exhibit C. Claim 4 of
9 the '063 patent is reproduced below.

10 4. A method for providing information to one or more users of a system
11 comprising the steps of:

12 storing information to be provided in an information pack;

13 associating with said information pack at least a user destination address
14 associated with one of a multiplicity of user data repositories each of said user data
15 repositories associated with at least one of said users and a category identifier;

16 associating with said information pack a provider identifier;

17 communicating said information pack by means of a network to said user data
18 repository associated with the user destination address;

19 locating said information pack in a location of said user data repository
20 associated with the user destination address reserved for information corresponding to
21 a category to which said category identifier corresponds; and

22 further comprising, after said step of communicating the information pack to
23 said user data repository associated with the user destination address, the steps of:

24 creating a custom location in said user data repository;

25 placing said information pack in said custom location;

26 associating a custom category identifier with said information pack;

27 sending a custom category signal to a processing station uniquely associated
28 with said user data repository including a data storage means and a data processing
means, said data storage means storing together said custom category identifier and
said provider identifier, and said data processing means analyzing the provider
identifier of subsequent of said information packs, comparing said provider identifier
of said subsequent information packs with said provider identifier stored in said
storage means and in the event of a match between the provider identifier of one of
said subsequent information packs and the provider identifier stored in said storage
means, placing said one of the subsequent information packs in said custom location.

1 12. The '959 patent issued on April 24, 2007, and is entitled "Apparatus, System,
2 and Method for Communicating to a Network Through a Virtual Domain Providing
3 Anonymity to a Client Communicating On the Network." The '959 patent is attached as
4 Exhibit D. Claim 1 of the '959 patent is reproduced below.

5 1. A method comprising:

6 in response to a request by a client to initiate communication with a destination
7 website;

8 setting up a forwarding session between the client and a destination server
9 corresponding to the destination website, the forwarding session employing a
10 forwarder disposed between the client and the destination server to forward packets
sent from the client to the destination server and to forward packets sent from the
destination server to the client;

11 employing the forwarder to transfer packets between the client and the
12 destination server during the forwarding session, wherein the forwarding session is set
up and implemented such that neither the client or the destination server is aware of
the employment of the forwarder;

13 employing a controller configured to communicate with the forwarder and a
14 domain name server, wherein the controller queries the domain name server to resolve
the name of the destination website associated with the destination server and initiates
15 communication with the forwarder in response to an answer from the domain name
server to resolve the name of the destination website associated with the destination
16 server;

17 employing a deceiver configured to communicate with the controller and the
18 client, wherein the deceiver receives the request by the client to initiate
communication with the destination website and initiates the controller to query the
19 domain name server to resolve the name of the destination website associated with the
destination server; and

20 in response to the controller receiving the answer from the domain name server
21 and initiating communication with the forwarder, initiating the forwarding session

22 13. The '498 patent issued on June 24, 2014 and is entitled "Apparatus, System, and
23 Method for Communicating to a Network Through a Virtual Domain." The '498 patent is
24 attached as Exhibit E. Claim 1 of the '498 patent is reproduced below.

25 1. A method, comprising:

26 determining, by a controller device comprising a processor, a destination
27 internet protocol (IP) address from a plurality of categories for virtual names based on
a virtual namespace destination address specified by request data received from a
28 device, wherein a category of the plurality of categories is related to the virtual
namespace destination address;

1 establishing a correlation between the destination IP address and a forwarder
2 IP address of a forwarder device; and

3 instructing the forwarder device to send the request data to the destination IP
4 address.

5 **IV. JURISDICTION AND VENUE**

6 14. The foregoing paragraphs are incorporated as if set forth herein.

7 15. This action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et*
8 *seq.* This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331, 1338,
9 and 2201 based on a definite and concrete, real and substantial, justiciable controversy between
10 Cable One, on the one hand, and Defendant, on the other hand, for declaratory judgment of
11 patent noninfringement under 28 U.S.C. §§ 1331, 1338, 2201, and 2202. This court has
12 supplemental jurisdiction over the subject matter of the claims for Defendant's violation of the
13 Arizona Patent Troll Prevention Act, Ariz. Rev. Stat. § 44-1422 *et seq.* pursuant to 28 U.S.C.
14 § 1367.

15 16. Defendant, via its attorneys directed a demand letter to representatives of Cable
16 One in this District, via Federal Express, on May 24, 2022 alleging infringement of claims of
17 the Asserted Patents, and requesting that Cable One license its patents. (Exhibit A). On August
18 9, 2022, Defendant's exclusive licensing agent, who on information and belief is also an officer
19 of Defendant, sent an e-mail to representatives of Cable One in this District, to discuss whether
20 Cable One would take a license to its patents. (Exhibit F). Defendant's exclusive licensing
21 agent also conducted a follow-up licensing telephone call with a Cable One representative in
22 this District on September 7, 2022 related to Cable One's alleged infringement of the Asserted
23 Patents during which he threatened to file suit a patent infringement lawsuit against Cable One,
24 and sent follow-up e-mails to Cable One representative in this District on September 8, 2022,
25 September 22, 2022, September 26, 2022, and October 4, 2022, related to Cable One's alleged
26 infringement and licensing negotiations with Cable One. (Exhibit G).

1 17. Defendant's repeated communications directed to this District provided it fair
2 warning that its activity might subject it to the jurisdiction in Arizona, and its negotiation
3 efforts, directed through mail, telephone, and email, into Arizona are activities purposefully
4 directed to Cable One in this District. By engaging in licensing negotiations, including through
5 the assertion that Cable One infringes the Asserted Patents in this District, defendant has
6 caused harm felt by Cable One in this District and has created a cloud over the business
7 operations of Cable One in this District and has interfered with those business operations.
8 Further, on information and belief, Defendant's monitor the products and services developed
9 by Cable One in this District and offered by Cable One for sale in this District, on a regular
10 and systematic basis to determine whether Defendant can monetize their patents, whether
11 through license to Cable One, or assertion against Cable One.

12 18. As a result of the contacts with this District described in the foregoing
13 paragraphs, Defendant is subject to specific personal jurisdiction in this District with respect
14 to alleged infringement of the Asserted Patents by Cable One.

15 19. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1391 and
16 1400(b).

17 **V. COUNT 1**

18 **(Declaratory Judgment of Non-infringement of the '613 patent)**

19 20. The foregoing paragraphs are incorporated as if set forth herein.

20 21. By virtue of Defendant's past litigation history and assertion letter to Cable One,
21 an actual and justiciable controversy exists between Cable One and Defendant as to whether
22 Cable One infringes claim 8 of the '613 patent.

23 22. Specifically, Defendant has asserted that Cable One's employment of
24 virtualizing in its network and systems environment infringes claim 8 of the '613 patent.

25 23. Cable One does not infringe claim 8 of the '613 patent. Without limiting the
26 generality of the foregoing and by way of example only, Cable One's use of virtualization does
27 not meet, either literally or under the doctrine of equivalents, at least the following claim
28 limitations found in claim 8 of the '613 patent: "intercepting system calls that establish a file

1 stored on media,” “storing at least one indicator that a file descriptor established by an
2 intercepted system call is associated with a file stored on media,” “wherein storing an indicator
3 that an established file descriptor is associated with a file stored on media further comprises
4 storing the indicator in a table.”

5 **VI. COUNT 2**

6 **(Declaratory Judgment of Non-infringement of the '063 patent)**

7 24. The foregoing paragraphs are incorporated as if set forth herein.

8 25. By virtue of Defendant’s past litigation history and assertion letter to Cable One,
9 an actual and justiciable controversy exists between Cable One and Defendant as to whether
10 Cable One infringes claim 4 of the '063 patent.

11 26. Specifically, Defendant has asserted that Cable One’s Android App infringes
12 claim 4 of the '063 patent.

13 27. Cable One does not infringe claim 4 of the '063 patent. Without limiting the
14 generality of the foregoing and by way of example only, Cable One’s Android App does not
15 meet, either literally or under the doctrine of equivalents, at least the following claim
16 limitations found in claim 4 of the '063: “storing information to be provided in an information
17 pack,” “user data repository,” “communicating said information pack by means of a network
18 to said user data repository associated with the user destination address,” “locating said
19 information pack in a location of said user data repository associated with the user destination
20 address reserved for information corresponding to a category to which said category identifier
21 corresponds,” “creating a custom location in said user data repository,” and “placing said
22 information pack in said custom location.”

23 **VII. COUNT 3**

24 **(Declaratory Judgment of Non-infringement of the '959 patent)**

25 28. The foregoing paragraphs are incorporated as if set forth herein.

26 29. By virtue of Defendant’s past litigation history and assertion letter to Cable One,
27 an actual and justiciable controversy exists between Cable One and Defendant as to whether
28 Cable One infringes claim 1 of the '959 patent.

1 30. Specifically, Defendant has asserted that Sparklight’s website infrastructure
2 infringes claim 1 of the ’959 patent.

3 31. Cable One does not infringe claim 1 of the ’959 patent. Without limiting the
4 generality of the foregoing and by way of example only, Defendant cannot show that
5 Sparklight’s website infrastructure meets, either literally or under the doctrine of equivalents,
6 at least the, at least the following claim limitations in claim 1 of the ’959 patent: “setting up a
7 forwarding session between the client and a destination server corresponding to the destination
8 website, the forwarding session employing a forwarder disposed between the client and the
9 destination server to forward packets sent from the client to the destination server and to
10 forward packets sent from the destination server to the client,” “employing the forwarder to
11 transfer packets between the client and the destination server during the forwarding session,
12 wherein the forwarding session is set up and implemented such that neither the client or the
13 destination server is aware of the employment of the forwarder,” and “employing a deceiver
14 configured to communicate with the controller and the client,” and “wherein the deceiver
15 receives the request by the client to initiate communication with the destination website and
16 initiates the controller to query the domain name server to resolve the name of the destination
17 website associated with the destination server.”

18 **VIII. COUNT 4**

19 **(Declaratory Judgment of Non-infringement of the ’498 patent)**

20 32. The foregoing paragraphs are incorporated as if set forth herein.

21 33. By virtue of Defendant’s past litigation history and assertion letter to Cable One,
22 an actual and justiciable controversy exists between Cable One and Defendant as to whether
23 Cable One infringes claim 1 of the ’498 patent.

24 34. Specifically, Defendant has asserted that Sparklight’s web sites that use
25 Transport Layer Security (TLS) version 1.2 or 1.3 infringes claim 1 of the ’498 patent.

26 35. Cable One does not infringe claim 1 of the ’498 patent. Without limiting the
27 generality of the foregoing and by way of example only, Defendant cannot show that
28 Sparklight’s web sites meets, either literally or under the doctrine of equivalents, at least the

1 following claim limitation of claim 1 of the '498 patent: "determining, by a controller device
2 comprising a processor, a destination internet protocol (IP) address from a plurality of
3 categories for virtual names based on a virtual namespace destination address specified by
4 request data received from a device, wherein a category of the plurality of categories is related
5 to the virtual namespace destination address."

6 **IX. COUNT 5**

7 **(Violation of Ariz. Rev. Stat. § 44-1422 *et seq.*)**

8 36. Defendant has violated the Arizona Patent Troll Prevention Act (Ariz. Rev. Stat.
9 § 44-1422 *et seq.*). As but one example, Defendants' communications into this District
10 (Exhibits A, F, and G) alleging infringement by Cable One of the Asserted Patents fails to
11 provide "[f]acts relating to the specific areas in which the target's product, service or
12 technology infringes the patent or is covered by the claims in the patent," such as an indication
13 of how any given Cable One product or service satisfies each limitation of any claim of the
14 Asserted Patents. As another example, Defendants' infringement analysis is cursory,
15 unsupported, and without merit.

16 **X. PRAYER FOR RELIEF**

17 WHEREFORE, Cable One requests entry of judgement in its favor against Defendant
18 as follows.

- 19 a. A declaration that Cable One does not infringe any claim of the Asserted Patents;
20 b. A declaration that this case is exceptional and that Cable One is entitled to an award of
21 reasonable attorney's fees pursuant to 35 U.S.C. § 285;
22 c. That Defendants be found in violation of Arizona Patent Troll Prevention Act, § 44-
23 1422 *et seq.*, and awarding Plaintiff damages related to the business disruptions and
24 incurred expenses from investing and responding to the unsupported infringement
25 accusations, among other things; and
26 d. Any other such relief as the Court may deem just and proper.
- 27
28

XI. DEMAND FOR A JURY TRIAL

37. Pursuant to Federal Rule of Civil Procedure 38(b), Cable One hereby demands a trial by jury of all issues so triable in this action.

Dated: October 21, 2022

Respectfully submitted,

By: /s/ Susan E. Seabrook

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