

1 SUSAN ELIZABETH SEABROOK (AZ BN: 10718)
SSeabrook@winston.com
2 WINSTON & STRAWN LLP
1901 L Street NW
3 Washington, DC 20036
Telephone: (202) 282-5000
4 Facsimile: (212) 282-5100

5 KRISHNAN PADMANABHAN (*pro hac vice forthcoming*)
6 kpadmanabhan@winston.com
WINSTON & STRAWN LLP
7 200 Park Ave.
New York, NY 10166
8 Telephone: (212) 294-3564
Facsimile: (212) 294-4700

9 Attorneys for Plaintiff
10 CABLE ONE, INC.

11
12 **IN THE UNITED STATES DISTRICT COURT**
13 **DISTICT OF ARIZONA**
14

15 CABLE ONE, INC.,
16 Plaintiff,
17 v.
18 DIGIMEDIA TECH, LLC
19 Defendant.
20

Civil Action No.: _____

**COMPLAINT FOR DECLARATORY
JUDGEMENT**

JURY TRIAL DEMANDED

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1 Plaintiff, Cable One, Inc. (“Cable One” or “Plaintiff”) for this Complaint and Jury
2 Demand against Defendant DigiMedia Tech, LLC (“Defendant”) upon personal knowledge of
3 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. 6,684,220 (“the ’220 patent”), 8,160,980 (“the ’980 patent”), 6,744,818 (“the ’818
7 patent”), 6,807,568 (“the ’568 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 Prevention Act, Ariz. Rev. Stat. § 44-1422
10 *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 The Parties’ Correspondence

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1 7. On July 7, 2022, Defendant’s counsel sent Cable One’s counsel a letter stating
2 that Defendant has “an international patent portfolio of more than 120 patents,” including “18
3 active issued patent assets.”

4 8. The letter states that “[a] number of these assets appear to be particularly relevant
5 to and infringed by Cable One.” The letter specifically identifies that: (1) Sparklight chatbot
6 infringes claim 1 of the ’220 patent; (2) Compressing video with H.264 for Sparklight TV App
7 streaming services infringes claim 1 of the ’818 patent; (3) Cable One integration of Netflix
8 infringes claim 1 of the ’568 patent; and (4) Sparklight TV App program recommendations
9 infringes claim 1 of the ’980 patent.

10 9. 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 1 of the ’220 patent;
- 14 • Claim 1 of the ’980 patent;
- 15 • Claim 1 of the ’818 patent;
- Claim 1 of the ’568 patent;

16 10. Defendant has alleged infringement of its patents at least five times. *See* Case
17 Nos. 1-21-cv-01831 (SDNY), 1-21-cv-00227 (DDE), 1-20-cv-04995 (NDGA), 6-21-cv-01341
18 (WDTX), and 4-22-cv-00114 (MDGA).

19 11. The ’220 patent issued on January 27, 2004 and is entitled “Method and System
20 for Automatic Information Exchange.” The ’220 patent is attached as Exhibit A to the
21 Complaint.

22 12. Claim 1 of the ’220 patent is reproduced below.

23 1. A system for automatic information exchange, comprising:
24 a processor;

25 an information source coupled to the processor and operable to store a model, the
26 model comprising a plurality of objects, each of the plurality of objects comprising an
input variable and an output variable; and

27 a loading engine residing in a memory and executable by the processor, the
28 loading engine operable to automatically create object links between corresponding
input variables and output variables of each of the plurality of objects.

1 13. The '980 patent issued on April 17, 2012 and is entitled "Information System
2 Based on Time, Space and Relevance." The '980 patent is attached as Exhibit B to this
3 Complaint. Claim 1 of the '980 patent is reproduced below.

4 1. An information system based on time, space and relevance, said system
5 comprising:

6 a client that displays information in a user-friendly manner;

7 a proxy that handles the collection and parsing of data;

8 a server that gathers usage data from the client;

9 a data mining cluster that allows for user profiling and time, space and relevance
10 analysis;

11 a set of information channels, which are periodically updated, and upon which
12 automatic suggestions are given based on a user profile.

13 14. The '818 patent issued on June 1, 2004 and is entitled "Method and Apparatus
14 for Visual Perception Encoding." The '818 patent is attached as Exhibit C to this Complaint.
15 Claim 1 of the '818 patent is reproduced below.

16 1. A video encoding system comprising:

17 a visual perception estimator adapted to estimate a perception threshold for a
18 pixel of a current frame of a videostream;

19 an encoder adapted to encode said current frame;

20 a compression dependent threshold estimator adapted to estimate a compression
21 dependent threshold for said pixel at least from said perception threshold and
22 information from said encoder; and

23 a filter unit adapted to filter said pixel at least according to said compression
24 dependent threshold.

25 15. The '568 patent issued on October 19, 2004 and is entitled "Recipient Selection
26 of Information to be Subsequently Delivered." The '568 patent is attached as Exhibit D to this
27 Complaint. Claim 1 of the '568 patent is reproduced below.

28 1. A method of delivering information to a requesting user, said method
comprising the steps of:

 making a request available to information providers by a user that said user
desires certain information content;

 accessing said request by any information provider other than said user and
wherein said accessing is under control of said accessing information provider
independent from said user;

1 determining by said information provider whether said information provider has
2 control of information content that said user desires; and
3 under at least partial control of said determining step delivering said information
4 content which is under the control of said information provider and which information
5 content is desired by said user.

6 **IV. JURISDICTION AND VENUE**

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

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

16 18. On information and belief, Defendant directed a letter to Cable One in this
17 District on May 27, 2020 requesting that Cable One license its patents. Defendant further, via
18 its attorneys, directed a letter to Cable One in this District on July 7, 2022, by Federal Express
19 and by email, asserting allegations of patent infringement which give rise to each claim in this
20 action. On August 9, 2022, Defendant’s exclusive licensing agent, who on information and
21 belief is also an officer of Defendant, sent an e-mail to representatives of Cable One in this
22 District, to discuss whether Cable One would take a license to its patents. Defendant’s
23 exclusive licensing agent also conducted a follow-up licensing telephone call with a Cable
24 One representative in this District on September 7, 2022 related to Cable One’s alleged
25 infringement of the Asserted Patents during which he threatened to file suit a patent
26 infringement lawsuit against Cable One, and sent follow-up e-mails to Cable One
27 representative in this District on September 8, 2022, September 22, 2022, September 26, 2022,
28 and October 4, 2022, related to Cable One’s alleged infringement and licensing negotiations
with Cable One.

1 19. 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 20. 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 21. 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 '220 patent)**

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

20 23. 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 1 of the '220 patent.

23 24. Specifically, Defendant has asserted that Cable One's Sparklight chatbot
24 infringes claim 1 of the '220 patent.

25 25. Cable One does not infringe claim 1 of the '220 patent. Without limiting the
26 generality of the foregoing and by way of example only, the Cable One chatbot does not meet,
27 either literally or under the doctrine of equivalents, at least the following claim limitation of
28

1 claim 1 of the '220 patent: “the loading engine operable to automatically create object links
2 between corresponding input variables and output variables of each of the plurality of objects.”

3 **VI. COUNT 2**

4 **(Declaratory Judgment of Non-infringement of the '980 patent)**

5 26. The foregoing paragraphs are incorporated as if set forth herein.

6 27. By virtue of Defendant’s past litigation history and assertion letter to Cable One,
7 an actual and justiciable controversy exists between Cable One and Defendant as to whether
8 Cable One infringes claim 1 of the '980 patent.

9 28. Specifically, Defendant has asserted that Sparklight TV App program “You
10 Might Like” feature infringes claim 1 of the '980 patent.

11 29. Cable One does not infringe claim 1 of the '980 patent. Without limiting the
12 generality of the foregoing and by way of example only, the Cable One Sparklight TV App
13 “You might also like” feature does not meet, either literally or under the doctrine of
14 equivalents, at least the following claim limitations of claim 1 of the '980 patent: “a data
15 mining cluster that allows for . . . time, space and relevance analysis” and “a set of information
16 channels, which are periodically updated, and upon which automatic suggestions are given
17 based on a user profile.”

18 **VII. COUNT 3**

19 **(Declaratory Judgment of Non-infringement of the '818 patent)**

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

21 31. 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 '818 patent.

24 32. Specifically, Defendant has asserted that Compressing video with H.264 for
25 Sparklight TV App streaming services infringes claim 1 of the '818 patent.

26 33. Cable One does not infringe claim 1 of the '818 patent. Without limiting the
27 generality of the foregoing and by way of example only, Cable One Sparklight TV App does
28 not meet, either literally or under the doctrine of equivalents, at least the following claim

1 limitation of claim 1 of the '818 patent: “a compression dependent threshold estimator adapted
2 to estimate a compression dependent threshold for said pixel at least from said perception
3 threshold and information from said encoder” because it does not perform the estimation as
4 claimed.

5 **VIII. COUNT 4**

6 **(Declaratory Judgment of Non-infringement of the '568 patent)**

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

8 35. 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 1 of the '568 patent.

11 36. Specifically, Defendant has asserted that Cable One’s integration of Netflix
12 infringes claim 1 of the '568 patent.

13 37. Cable One does not infringe claim 1 of the '568 patent. Without limiting the
14 generality of the foregoing and by way of example only, Cable One does not meet, either
15 literally or under the doctrine of equivalents, any of the claim limitations of claim 1 of the '568
16 patent because the accused Cable One integration of Netflix does not perform “determining
17 by said information provider whether said information provider has control of information
18 content.”

19 **IX. COUNT 5**

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

21 38. Defendant has violated the Arizona Patent Troll Prevention Act (Ariz. Rev. Stat.
22 § 44-1422 et seq.). As but one example, Defendants’ communications into this District alleging
23 infringement by Cable One of the Asserted Patents fails to provide “[f]acts relating to the
24 specific areas in which the target's product, service or technology infringes the patent or is
25 covered by the claims in the patent,” such as an indication of how any given Cable One product
26 or service satisfies each limitation of any claim of the Asserted Patents. As another example,
27 Defendants’ infringement analysis is cursory, unsupported, and without merit.
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1 **X. PRAYER FOR RELIEF**

2 39. WHEREFORE, Cable One requests entry of judgement in its favor against
3 Defendant as follows.

- 4 a. A declaration that Cable One does not infringe any claim of the Asserted Patents;
5 b. A declaration that this case is exceptional and that Cable One is entitled to an award of
6 reasonable attorney's fees pursuant to 35 U.S.C. § 285;
7 c. That Defendants be found in violation of Arizona Patent Troll Prevention Act, § 44-
8 1422 *et seq.*, and awarding Plaintiff damages related to the business disruptions and
9 incurred expenses from investing and responding to the unsupported infringement
10 accusations, among other things; and
11 d. Any other such relief as the Court may deem just and proper.

12 **XI. DEMAND FOR JURY TRIAL**

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

15
16 Dated: October 21, 2022

Respectfully submitted,

17 By: /s/ Susan E. Seabrook

18 Susan E. Seabrook (AZ BN: 10718)
19 SSeabrook@winston.com
20 WINSTON & STRAWN LLP
21 1901 L Street NW
22 Washington, DC 20036
23 Telephone: (202) 282-5000
24 Facsimile: (212) 282-5100

25 Krishnan Padmanabhan (*pro hac vice forthcoming*)
26 KPadmanabhan@winston.com
27 WINSTON & STRAWN LLP
28 200 Park Avenue
New York, NY 10166
Telephone: (212) 294-6700
Facsimile: (212) 294-4700

Attorneys for Plaintiff,
Cable One, Inc.