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9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN JOSE DIVISION**

12 COOPERATIVE
13 ENTERTAINMENT, INC.,
14 Plaintiff,

15 v.

16 ALIBABA CLOUD US LLC,
17 Defendant.

Case No.:

**PLAINTIFF’S ORIGINAL
COMPLAINT FOR PATENT
INFRINGEMENT**

(35 U.S.C. § 271)

JURY TRIAL DEMANDED

18 **PLAINTIFF’S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT**

19 Plaintiff, Cooperative Entertainment, Inc., (“CEI”) files this Original
20 Complaint and demand for jury trial seeking relief from patent infringement of the
21 claims of U.S. Patent No. 9,432,452 (“the ’452 patent”) (referred to as the “Patent-in-
22 Suit”) by Alibaba Cloud US LLC. (“Defendant” or “Alibaba”).

23 **I. THE PARTIES**

24 1. Plaintiff is a North Carolina corporation with its principal place of business
25 located in Raleigh, North Carolina.

26 2. On information and belief, Defendant is a corporation organized and existing
27 under the laws of the State of Delaware, with a regular and established place of
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1 business located at 525 Almanor Ave Fourth Floor, Sunnyvale California 94085.
2 Defendant may be served through its registered California agent, CSC – Lawyers
3 Incorporating Service, at 2710 Gateway Oaks Drive, Sacramento California, through
4 its registered Delaware agent, Corporation Service Company, at 251 Little Falls
5 Drive, Wilmington, Delaware 19801, at its place of business, or anywhere Defendant
6 may be found.

7 3. On information and belief, Defendant sells and offers to sell products and
8 services throughout California, including in this judicial district, and introduces
9 products and services that perform infringing methods or processes into the stream of
10 commerce knowing that they would be sold in California and this judicial district.

11 **II. JURISDICTION AND VENUE**

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13 4. This Court has original subject-matter jurisdiction over the entire action
14 pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff’s claim arises under an
15 Act of Congress relating to patents, namely, 35 U.S.C. § 271.

16 5. This Court has personal jurisdiction over Defendant because: (i) Defendant is
17 present within or has minimum contacts within the State of California and this judicial
18 district; (ii) Defendant has purposefully availed itself of the privileges of conducting
19 business in the State of California and in this judicial district; and (iii) Plaintiff’s cause
20 of action arises directly from Defendant’s business contacts and other activities in the
21 State of California and in this judicial district.

22 6. Venue is proper in this district under 28 U.S.C. § 1400(b). Defendant has
23 committed acts of infringement and has a regular and established place of business in
24 this District. Further, venue is proper because Defendant conducts substantial
25 business in this forum, directly or through intermediaries, including: (i) at least a
26 portion of the infringements alleged herein; and (ii) regularly doing or soliciting
27 business, engaging in other persistent courses of conduct and/or deriving substantial
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1 revenue from goods and services provided to individuals in California and this
2 District.

3 **III. INFRINGEMENT OF THE '452 PATENT**

4 7. On August 30, 2016, U.S. Patent No. 9,432,452 (“the '452 patent”, included as
5 Exhibit A) entitled “Systems and Methods for Dynamic Networked Peer-To-Peer
6 Content Distribution” was duly and legally issued by the U.S. Patent and Trademark
7 Office. Plaintiff owns the '452 patent by assignment.

8 8. The '452 patent relates to peer-to-peer network content distribution.

9 9. Defendant maintains, operates, and administers systems, products, and services
10 that facilitate peer-to-peer network content distribution that infringes one or more of
11 claims 1-15 of the '452 patent, literally or under the doctrine of equivalents.
12 Defendant put the inventions claimed by the '452 Patent into service (i.e., used them);
13 but for Defendant’s actions, the claimed inventions embodiments involving
14 Defendant’s products and services would never have been put into service.
15 Defendant’s acts complained of herein caused those claimed-invention embodiments
16 as a whole to perform, and Defendant’s procurement of monetary and commercial
17 benefit from it.

18 10. Support for the allegations of infringement may be found in the chart attached
19 as Exhibit B. These allegations of infringement are preliminary and are therefore
20 subject to change.

21 11. Defendant has and continues to induce infringement. Defendant has actively
22 encouraged or instructed others (e.g., its customers and/or the customers of its related
23 companies), and continues to do so, on how to use its products and services (e.g.,
24 peer-to-peer network content distribution) such as to cause infringement of one or
25 more of claims 1-15 of the '452 patent, literally or under the doctrine of equivalents.
26 Moreover, Defendant has known of the '452 patent and the technology underlying it
27 from at least the filing date of the lawsuit. For clarity, direct infringement is
28 previously alleged in this complaint.

1 12. Defendant has and continues to contributorily infringe. Defendant has actively
2 encouraged or instructed others (e.g., its customers and/or the customers of its related
3 companies), and continues to do so, on how to use its products and services (e.g.,
4 peer-to-peer network content distribution) and related services such as to cause
5 infringement of one or more of claims 1-15 of the '452 patent, literally or under the
6 doctrine of equivalents. Further, there are no substantial non-infringing uses for
7 Defendant's products and services. Moreover, Defendant has known of the '452
8 patent and the technology underlying it from at least the filing date of the lawsuit. For
9 clarity, direct infringement is previously alleged in this complaint.

10 13. Defendant has caused and will continue to cause Plaintiff damage by direct and
11 indirect infringement of (including inducing infringement of) the claims of the '452
12 patent.¹

13 **IV. CONDITIONS PRECEDENT**

14 14. Plaintiff has never sold a product. Upon information and belief, Plaintiff
15 predecessor-in-interest has never sold a product. Plaintiff is a non-practicing entity,
16 with no products to mark. Plaintiff has pled all statutory requirements to obtain pre-
17 suit damages. Further, all conditions precedent to recovery are met. Under the rule
18 of reason analysis, Plaintiff has taken reasonable steps to ensure marking by any
19 licensee producing a patented article.

20 15. Plaintiff and its predecessors-in-interest have entered into settlement licenses
21 with several defendant entities, but none of the settlement licenses were to produce a
22 patented article, for or under the Plaintiff's patents. Duties of confidentiality prevent
23 disclosure of settlement licenses and their terms in this pleading but discovery will
24 show that Plaintiff and its predecessors-in-interest have substantially complied with
25 § 287(a). Furthermore, each of the defendant entities in the settlement licenses did not
26 agree that they were infringing any of Plaintiff's patents, including the Patent-in-Suit,

27 ¹ Plaintiff reserves the right to amend to add claims for indirect infringement, including
28 inducement and contributory, and/or willful infringement, to the extent fact discovery shows
Defendant's pre-expiration knowledge of the patent.

1 and thus were not entering into the settlement license to produce a patented article for
2 Plaintiff or under its patents. Further, to the extent necessary, Plaintiff will limit its
3 claims of infringement to method claims and thereby remove any requirement for
4 marking.

5 16. To the extent Defendant identifies an allegedly unmarked product produced for
6 Plaintiff or under Plaintiff's patents, Plaintiff will develop evidence in discovery to
7 either show that the alleged unmarked product does not practice the Patent-in-suit and
8 that Plaintiff has substantially complied with the marking statute. Defendant has
9 failed to identify any alleged patented article for which Section 287(a) would apply.
10 Further, Defendant has failed to allege any defendant entity produce a patented article.

11 17. The policy of § 287 serves three related purposes: (1) helping to avoid innocent
12 infringement; (2) encouraging patentees to give public notice that the article is
13 patented; and (3) aiding the public to identify whether an article is patented.

14 18. These policy considerations are advanced when parties are allowed to freely
15 settle cases without admitting infringement and thus not require marking. All
16 settlement licenses were to end litigation and thus the policies of §287 are not violated.
17 Such a result is further warranted by 35 U.S.C. §286 which allows for the recovery of
18 damages for six years prior to the filing of the complaint.

19 19. For each previous settlement license, Plaintiff understood that (1) the
20 settlement license was the end of litigation between the defendant entity and Plaintiff
21 and was not a license where the defendant entity was looking to sell a product under
22 any of Plaintiff's patents; (2) the settlement license was entered into to terminate
23 litigation and prevent future litigation between Plaintiff and defendant entity for
24 patent infringement; (3) defendant entity did not believe it produced any product that
25 could be considered a patentable article under 35 U.S.C. §287; and, (4) Plaintiff
26 believes it has taken reasonable steps to ensure compliance with 35 U.S.C. §287 for
27 each prior settlement license.

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1 20. Each settlement license that was entered into between the defendant entity and
2 Plaintiff was negotiated in the face of continued litigation and while Plaintiff believes
3 there was infringement, no defendant entity agreed that it was infringing. Thus, each
4 prior settlement license reflected a desire to end litigation and as such the policies of
5 §287 are not violated.

6 **V. PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff prays for relief as follows:

- 8 a. enter judgment that Defendant has infringed the claims of the '452 patent;
- 9 b. award Plaintiff damages in an amount sufficient to compensate it for
10 Defendant's infringement of the Patents-in-Suit in an amount no less than a
11 reasonable royalty or lost profits, together with pre-judgment and post-
12 judgment interest and costs under 35 U.S.C. § 284;
- 13 c. award Plaintiff an accounting for acts of infringement not presented at trial and
14 an award by the Court of additional damage for any such acts of infringement;
- 15 d. declare this case to be "exceptional" under 35 U.S.C. § 285 and award Plaintiff
16 its attorneys' fees, expenses, and costs incurred in this action;
- 17 e. declare Defendant's pre-lawsuit infringement to be willful and treble the
18 damages, including attorneys' fees, expenses, and costs incurred in this action
19 and an increase in the damage award pursuant to 35 U.S.C. § 284 if Plaintiff
20 proves that the infringement was deliberate or intentional;
- 21 f. declare Defendant's post-lawsuit infringement to be willful and treble the
22 damages, including attorneys' fees, expenses, and costs incurred in this action
23 and an increase in the damage award pursuant to 35 U.S.C. § 284;
- 24 g. a decree addressing future infringement that either (i) awards a permanent
25 injunction enjoining Defendant and its agents, servants, employees, affiliates,
26 divisions, and subsidiaries, and those in association with Defendant from
27 infringing the claims of the Patents-in-Suit, or (ii) awards damages for future
28 infringement in lieu of an injunction in an amount consistent with the fact that

1 for future infringement the Defendant will be an adjudicated infringer of a valid
2 patent, and trebles that amount in view of the fact that the future infringement
3 will be willful as a matter of law; and

4 h. award Plaintiff such other and further relief as this Court deems just and proper.

5 **VI. JURY DEMAND**

6 Plaintiff hereby requests a trial by jury on issues so triable by right.

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Dated: February 20, 2025

Respectfully submitted,

/s/ Jennifer Ishimoto

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