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LLC
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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
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12 LONE STAR TARGETED ADVERTISING, LLC,
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14 Plaintiff,

15 v.

16 DATAXU, INC.
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18 Defendant.
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CASE NO.

COMPLAINT FOR PATENT
INFRINGEMENT

1 Plaintiff Lone Star Targeted Advertising, LLC (“LSTA”), for its Complaint against Dataxu,
2 Inc. (“Defendant” or “Dataxu”), alleges as follows:

3 **PARTIES**

4 1. Plaintiff Lone Star Targeted Advertising, LLC (“LSTA”) is a limited liability
5 company organized under the laws of the State of Texas with its principal place of business in
6 Dallas, Texas.

7 2. On information and belief, Dataxu, Inc. is a company organized under the laws of
8 Delaware with an office at 595 Market Street, Suite 920, San Francisco, CA 94105. Dataxu is a
9 registered corporation in the state of California.

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11 **JURISDICTION AND VENUE**

12 3. This is an action for patent infringement in violation of the Patent Act of the United
13 States, 35 U.S.C. §§ 1 *et seq.*

14 4. This Court has original and exclusive subject matter jurisdiction over the patent
15 infringement claims for relief under 28 U.S.C. §§ 1331 and 1338(a).

16 5. This Court has personal jurisdiction over Defendant because Defendant has
17 transacted and is transacting business in the Northern District of California that includes, but is not
18 limited to, the use of products and systems that practice the subject matter claimed in the patents
19 involved in this action. On information and belief, Defendant has an office in San Francisco,
20 California.

21 6. Venue is proper in this district under 28 U.S.C. 1400(b) because Defendant has
22 committed acts of infringement and has a regular and established place of business within this
23 District. Specifically, on information and belief, Dataxu has a regular and established place of
24 business at 595 Market Street, Suite 920, San Francisco, CA 94105.

25 **INTRADISTRICT ASSIGNMENT**

26 7. This is an Intellectual Property action appropriate for district-wide assignment
27 under Civ. L.R. 3-2(c).

FACTS

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2 8. On October 9, 2001, U.S. Patent No. 6,301,619, entitled “System and Method for
3 Providing Service of Sending Real Time Electronic Information to Selected Individual Viewers of
4 Transmitted Video or Computerized Signals” was duly and legally issued. A true and correct copy
5 of the ’619 Patent is attached hereto as Exhibit A. The ’619 Patent issued from application Serial
6 Number 09/260,035 filed March 2, 1999. The inventors assigned all right, title and interest in the
7 ’619 Patent to Oplus Technologies Ltd. Oplus Technologies Ltd. assigned its entire right, title,
8 and interest in ’619 Patent to Lone Star Technological Innovations, LLC, who then assigned its
9 entire right, title, and interest in the ’619 Patent to LSTA. LSTA is the sole owner of all rights,
10 title, and interest in and to the ’619 Patent including the right to sue for and collect past, present,
11 and future damages and to seek and obtain injunctive or any other relief for infringement of the
12 ’619 Patent.

13 9. Claim 1 of the ’619 Patent states:

14 A system for a sender sending real time electronic information to a viewer of
15 transmitted video signals, the system comprising:

16 (a) viewer attribute information related to the viewer;

17 (b) an electronic device included with and in communication with a television belonging to
18 the viewer for receiving and storing said viewer attribute information input into said
19 electronic device by the viewer;

20 (c) sender requested electronic information of the sender to be transmitted by request of the
21 sender to the viewer, said sender requested electronic information of the sender is included
22 with a non-viewer provided subset of said viewer attribute information related to the
23 viewer;

24 (d) a service center for communicating to a television station provider of the transmitted
25 video signals encoding instructions to form encoded sender requested electronic
26 information of the sender, said television provider of the transmitted video signals
27 transmits a compound video signal including said non-viewer provided subset of viewer
28 attribute information and said encoded sender requested electronic information of the
sender to said electronic device included with and in communication with said television
belonging to the viewer, said electronic device makes a decision selected from the group
consisting of accepting said encoded sender requested electronic information of the sender
and not accepting said encoded sender requested electronic information of the sender, said
decision of accepting said encoded sender requested electronic information is made by
recognizing said non-viewer provided sheet subset of said viewer attribute information, and

1 said electronic device decodes said encoded sender requested electronic information of the
2 sender to form decoded sender requested electronic information of the sender; and

3 (e) a subwindow within said television of the viewer for displaying said decoded sender
4 requested electronic information of the sender to the viewer.

5 On information and belief, Defendant has a system for sender sending real time electronic
6 information to a viewer of transmitted video signals. Specifically, Dataxu's TotalTV™ enables
7 media companies to enhance their high-quality video with the advanced audience analytics and
8 automation that advertisers seek. TotalTV™ also allows broadcasters, programmers, and
9 distributors to understand, engage, and monetize audiences across devices at the individual
10 consumer and household level. "This solution enables owners of high-quality TV content to offer
11 audience-based targeting and unify disparate distribution channels and consumer devices --
12 including connected, addressable, and/or linear TV -- into a single source of inventory. TotalTV
13 improves yield for media owners, increases efficiency for advertisers, and reduces ad load for
14 viewers." See [https://globenewswire.com/news-release/2018/04/17/1480195/0/en/Dataxu-
announces-TotalTV-for-Media-Companies.html](https://globenewswire.com/news-release/2018/04/17/1480195/0/en/Dataxu-announces-TotalTV-for-Media-Companies.html).

15 10. Dataxu's system infringes each element of Claim 1 as follows:

16 a. "Viewer attributable information related to the viewer" – Dataxu
17 utilizes viewer attribute information via advance audience analytics. In particular, "The solution
18 allows broadcasters, programmers and distributors to understand, engage and monetize audiences
19 across devices at the individual consumer level. It also provides a simple and powerful user
20 interface for marketers to target media across any audience, and to access real-time reporting on
21 delivery and performance." See [https://globenewswire.com/news-
22 release/2018/04/17/1480195/0/en/Dataxu-announces-TotalTV-for-Media-Companies.html](https://globenewswire.com/news-release/2018/04/17/1480195/0/en/Dataxu-announces-TotalTV-for-Media-Companies.html).

23 b. "an electronic device included with and in communication with a
24 television belonging to the viewer for receiving and storing said viewer attribute information input
25 into said electronic device by the viewer" – Dataxu's product is used for linear TV, including
26 televisions, set top boxes, and OTT. Further, in its April 17, 2018 press release, Dataxu stated that,
27 "[t]his solution enables owners of high-quality TV content to offer audience-based targeting and
28 unify disparate distribution channels and consumer devices -- including connected, addressable,

1 and/or linear TV -- into a single source of inventory. TotalTV improves yield for media owners,
2 increases efficiency for advertisers, and reduces ad load for viewers.” See
3 [https://globenewswire.com/news-release/2018/04/17/1480195/0/en/Dataxu-announces-TotalTV-](https://globenewswire.com/news-release/2018/04/17/1480195/0/en/Dataxu-announces-TotalTV-for-Media-Companies.html)
4 [for-Media-Companies.html](https://globenewswire.com/news-release/2018/04/17/1480195/0/en/Dataxu-announces-TotalTV-for-Media-Companies.html). Finally, the picture from Dataxu’s website further demonstrates this
5 element:

6 Enhance your ad offerings with TotalTV™

7 TotalTV™ for Sellers enables media companies to enhance their high-quality video
8 with the advanced audience analytics and automation that advertisers seek.

9 TotalTV™ allows broadcasters, programmers, and distributors to understand, engage,
10 and monetize audiences across devices at the individual consumer and household
11 level.



23 c. “sender requested electronic information of the sender to be
24 transmitted by request of the sender to the viewer, said sender requested electronic information of
25 the sender is included with a non-viewer provided subset of said viewer attribute information
26 related to the viewer” -- On information and belief, targeted advertisements based on the
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1 campaign being run using Dataxu’s TotalTV meet this requirement, as the sender is requesting the
2 sending of information from sender to viewer based on viewer attributable information.

3 d. “a service center for communicating to a television station provider
4 of the transmitted video signals encoding instructions to form encoded sender requested electronic
5 information of the sender, said television provider of the transmitted video signals transmits a
6 compound video signal including said non-viewer provided subset of viewer attribute information
7 and said encoded sender requested electronic information of the sender to said electronic device
8 included with and in communication with said television belonging to the viewer, said electronic
9 device makes a decision selected from the group consisting of accepting said encoded sender
10 requested electronic information of the sender and not accepting said encoded sender requested
11 electronic information of the sender, said decision of accepting said encoded sender requested
12 electronic information is made by recognizing said non-viewer provided subset of said
13 viewer attribute information, and said electronic device decodes said encoded sender requested
14 electronic information of the sender to form decoded sender requested electronic information of
15 the sender” -- Dataxu’s TotalTV allows dynamic ads to be deployed from the content provider
16 (TV Stations) to viewers, via advanced audience targeting. Dataxu uses its 10 years of experience
17 and the “most advanced real-time graph technology to provide a scalable solution to the TV
18 advertising market. See [https://globenewswire.com/news-
19 release/2018/04/17/1480195/0/en/Dataxu-announces-TotalTV-for-Media-Companies.html](https://globenewswire.com/news-release/2018/04/17/1480195/0/en/Dataxu-announces-TotalTV-for-Media-Companies.html).

20 e. “A subwindow within said television of the viewer for displaying
21 said decoded sender requested electronic information of the sender to the viewer.” -- A television
22 screen displays content. On information and belief, within the television screen, other windows
23 pop up, such as when choosing a menu and when dynamic ads are inserted.

24
25 **FIRST CLAIM FOR RELIEF**

26 **Patent Infringement of the '619 Patent (35 U.S.C. §§ 101, et seq.)**

27 **(Against all Defendants)**

28 11. LSTA refers to and incorporates herein by reference paragraphs 1-10.

1 12. Defendant infringed, either directly or indirectly, at least Claim 1 of the '619 Patent
2 in this judicial district and elsewhere in California and the United States, through the services they
3 provide as outlined at www.Dataxu.com and as described above.

4 13. Specifically, as outlined above Dataxu has a system for sender sending real time
5 electronic information to a viewer of transmitted video signals comprises:

6 f. "Viewer attributable information" related to the viewer, analytics, to target
7 specific ads of an advertiser to a viewer.

8 g. "An electronic device" that is included with and in communication with a
9 television belonging to a viewer in order to obtain "real-time" data and insights. As described
10 above in paragraph 10, on information and belief, for most viewers, this will be the Set Top Box
11 that provides the real-time analytics information to the "sender".

12 h. "Sender requested electronic information of the sender to be transmitted by
13 request of the send to the viewer." The targeted advertisement based on the campaign being run
14 using Defendant's platform meet this requirement, as the sender is requesting the sending of
15 information from sender to viewer based on viewer attributable information.

16 i. "A service center for communicating to a television station provider of the
17 transmitted video signals encoding instructions to form encoded sender requested electronic
18 information of the sender." Specifically, see paragraph 10 above.

19 j. "A subwindow within said television of the viewer for displaying said
20 decoded sender requested electronic information of the sender to the viewer." Specifically, on
21 information and belief, the television displays content and within the television, there are other
22 windows, such as when choosing the menu, which pop up, as shown above.

23 14. Defendants, therefore, by the acts complained of herein, are making, using, selling,
24 or offering for sale in the United States, including in the Northern District of California, products
25 and/or services embodying the invention, and have in the past and are now continuing to infringe
26 the '619 Patent, either literally or under the doctrine of equivalents, pursuant to 35 U.S.C. §271(a).

27 15. To the extent that some elements of a claim are performed by a different party than
28 Dataxu, Dataxu – through its infringing system – participates in the infringement (as described

1 above and herein) and receives a benefit upon performance of the steps of the patented
2 system. For example, Dataxu provides the software and technology that establishes viewer
3 attribute information related to the viewer that can be collected, and how that information is
4 transmitted, received, stored and acted upon in accordance with the patented system. Dataxu
5 receives a benefit from such actions by the customer and television station provider as it allows
6 targeted advertising to be displayed through the top set box.

7 16. Upon information and belief, the acts described above concerning the use, offer for
8 sale, sale, operation, distribution, and/or installation of Dataxu's products and/or software and
9 those described below also constitute acts of induced and contributory infringement. Customers
10 and users use the infringing products and software to provide targeted ads.

11 17. To the extent that some elements of a claim are performed by a different party than
12 Dataxu, Dataxu, through its software and infringing products, participates in the infringement (as
13 described herein) and receives a benefit upon performance of steps of a patented system. For
14 example, Dataxu provides the software and technology that establishes viewer attribute
15 information related to the viewer that can be collected, and how that information is transmitted,
16 received, stored and acted upon in accordance with the patented system. Dataxu receives a benefit
17 from such actions by the customer and television station provider as it allows targeted advertising
18 to be displayed.

19 18. Upon information and belief, Dataxu provides its customers and/or users of its
20 products and software to use, load and operate in an infringing manner or to create and use
21 infringing products. Upon information and belief, Dataxu further induces its customers and/or
22 users of Dataxu's platform to use its products (and accompanying software) by providing
23 subscriptions to Dataxu's platform. Further, Dataxu has actively induced infringement by its
24 customers and/or users of Dataxu's products and software in this judicial district. Upon
25 information and belief, Dataxu knowingly and specifically designed Dataxu's platform in a
26 manner that infringed the Asserted Patent. Upon information that belief, Dataxu also provides
27 support services for the Accused System and Method. Dataxu's targeted advertising platform has
28 no substantial non-infringing use. Dataxu has acted with specific intent to induce or cause

1 infringement and to conduct acts of infringement as described herein within the jurisdiction and
2 elsewhere. Upon information and belief, Dataxu continues to provide instructions since having
3 notice and actual knowledge of the Asserted Patent.

4 19. Upon information and belief, Dataxu has had knowledge of the Asserted Patent at
5 least as early as November 7, 2018, when LSTA's counsel sent a letter to Dataxu.

6 Notwithstanding, Dataxu continues to willfully and with specific intent infringe and cause others
7 to infringe the Asserted Patents. Dataxu provides, makes, sells, and offers to sell Dataxu systems
8 with the specific intent that its customers, third parties, and/or end users use the Dataxu systems in
9 an infringing manner, and its customers, third parties, and/or end users do so. Upon information
10 and belief, Dataxu provides and instructs third parties to use the aforementioned product in the
11 manner claimed in the Asserted Patents.

12 20. Upon information and belief, Dataxu's platform has no substantial non-infringing
13 uses and is especially made and/or adapted so as to infringe the Asserted Patents. Dataxu has
14 acted with specific intent to induce or cause infringement and to conduct acts of infringement as
15 described herein within this District and elsewhere. Dataxu continues to contribute to the
16 infringement of third parties even after having notice and actual knowledge of the Asserted Patent
17 as previously described.

18 21. Defendant threatens to continue to engage in the acts complained of herein and,
19 unless restrained and enjoined, will continue to do so, all to LSTA's irreparable injury. It would
20 be difficult to ascertain the amount of compensation that would afford LSTA adequate relief for
21 such future and continuing acts, and a multiplicity of judicial proceedings would be required.
22 LSTA does not have an adequate remedy at law to compensate it for the injuries threatened.

23 22. By reason of the acts of Dataxu alleged herein, LSTA has suffered damage in an
24 amount to be proved at trial.

25 **JURY DEMAND**

26 LSTA demands a jury trial on all issues so triable.

27 **PRAYER FOR RELIEF**

28 WHEREFORE, LSTA prays for relief as follows:

1 A. Judgment that Defendant has directly infringed, and induced others to infringe, the
2 '619 Patent either literally and/or under the doctrine of equivalents;

3 B. Judgment that Defendant's infringement of the '619 Patent have been willful at
4 least as early as this Complaint;

5 C. Judgment permanently enjoining Defendant, its officers, directors, agents, servants,
6 affiliates, employees, subsidiaries, divisions, branches, parents, attorneys, representatives, and all
7 others acting in concert or privity with any of them, from infringing the '619 Patent, and from
8 inducing others to infringe the '619 Patent;

9 D. Judgment awarding LSTA general and/or specific damages, including a reasonable
10 royalty and/or lost profits, in amounts to be fixed by the Court in accordance with proof, including
11 enhanced and/or exemplary damages, as appropriate, as well as all of Defendant's profits or gains
12 of any kind from their acts of patent infringement;

13 E. Judgment awarding LSTA enhanced damages pursuant to 35 U.S.C. § 284 due to
14 the willful and wanton nature of Defendant's infringement from at least November 7, 2018 when
15 notice was given;

16 F. Judgment awarding LSTA all of its costs, including its attorneys' fees, incurred in
17 prosecuting this action, including, without limitation, pursuant to 35 U.S.C. § 285 and other
18 applicable law;

19 G. Judgment awarding LSTA pre-judgment and post-judgment interest; and

20 H. Judgment awarding LSTA such other and further relief as the Court may deem just
21 and proper.

1 Dated: November 13, 2018

Respectfully submitted,

2 BANIE & ISHIMOTO LLP

3 By /s/ John A. Lee

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5 John A. Lee
Jennifer Ishimoto

6 Attorneys for Plaintiff
7 Lone Star Targeted Advertising, LLC

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DEMAND FOR JURY TRIAL

LSTA demands a jury trial on all claims as to which it has a right to a jury trial.

Dated: November 13, 2018

Respectfully submitted,

BANIE & ISHIMOTO LLP

By /s/ John A. Lee

John A. Lee
Jennifer Ishimoto

Attorneys for Plaintiff
Lone Star Targeted Advertising, LLC