

**THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF
NEW YORK**

**ROTHSCHILD BROADCAST
DISTRIBUTION SYSTEMS, LLC,**

Plaintiff,

v.

CANARY CONNECT, INC.,

Defendant.

CIVIL ACTION NO. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Rothschild Broadcast Distribution Systems, LLC (“Plaintiff” or “Rothschild Broadcast Distribution Systems”) files this complaint against Defendant Canary Connect, Inc (“Defendant” or “Canary”) for infringement of U.S. Patent No. 8,856,221 (hereinafter the “’221 Patent”) and alleges as follows:

PARTIES

1. Plaintiff is a Texas limited liability company with an office at 1400 Preston Road, Suite 400, Plano, Texas 75093.
2. On information and belief, Defendant is a corporation organized under the laws of the state of Delaware and has a principal place of business within this judicial district at 222 Broadway, 19th Floor, New York, New York .

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, 35 U.S.C. § 271 et seq. Plaintiff is seeking damages, as well as attorney fees and costs.

4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents).

5. On information and belief, this Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in this District, has conducted business in this District, and/or has engaged in continuous and systematic activities in this District.

6. Upon information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in this District.

7. Venue is proper in this District under 28 U.S.C. §1400(b) because acts of infringement are occurring in this District and Defendant has a regular and established place of business in this District.

BACKGROUND

8. On October 7, 2014, the United States Patent and Trademark Office ("USPTO") duly and legally issued the '221 Patent, entitled "System and Method for Storing Broadcast Content in an Cloud-Based Computing Environment" after the USPTO completed a full and fair examination. The '221 Patent is attached as Exhibit A.

9. Rothschild Broadcast Distribution Systems is currently the owner of the '221 Patent.

10. Rothschild Broadcast Distribution Systems possesses all rights of recovery under the '221 Patent, including the exclusive right to recover for past, present and future infringement.

11. The '221 Patent contains thirteen claims including two independent claims (claims 1 and 7) and eleven dependent claims.

COUNT ONE
(Infringement of United States Patent No. 8,856,221)

12. Plaintiff refers to and incorporates the allegations in Paragraphs 1 - 11, the same as if set forth herein.

13. This cause of action arises under the patent laws of the United States and, in particular under 35 U.S.C. §§ 271, *et seq.*

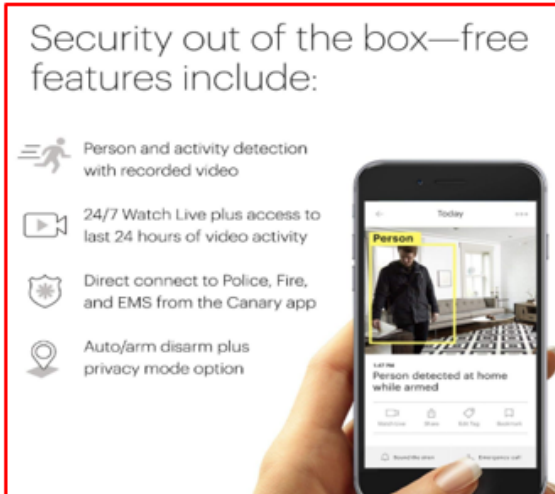
14. Defendant has knowledge of its infringement of the '221 Patent, at least as of the service of the present complaint.

15. Upon information and belief, Defendant has infringed and continues to infringe one or more claims, including at least Claim 1, of the '221 Patent by making, using, importing, selling, and/or offering for media content storage and delivery systems and services covered by one or more claims of the '221 Patent.

16. Accordingly, Defendant has infringed, and continues to infringe, the '221 Patent in violation of 35 U.S.C. § 271.

17. Defendant sells, offers to sell, and/or uses media content storage and delivery systems and services, including, without limitation, Canary security cameras together with the Canary system and Canary app, and any similar products ("Product"), which infringes at least Claim 1 of the '221 Patent.

18. The Product practices a method of storing (e.g. cloud storage) media content (e.g. live and recorded video) and delivering requested media content (e.g. view live footage and recorded clips) to a consumer device. Certain aspects of these elements are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.



Source: <https://www.amazon.com/CAN100USBK-Security-Insurance-Discount-Eligible/dp/B00NW31YSE>

Storage in the Canary Cloud.

Canary offers free video storage on the Canary Cloud of events recorded within the past 24 hours. For those who want even more storage, we provide the ability to securely save up to 30 days of video through [Canary Membership](#).

Source: <https://canary.is/security/>

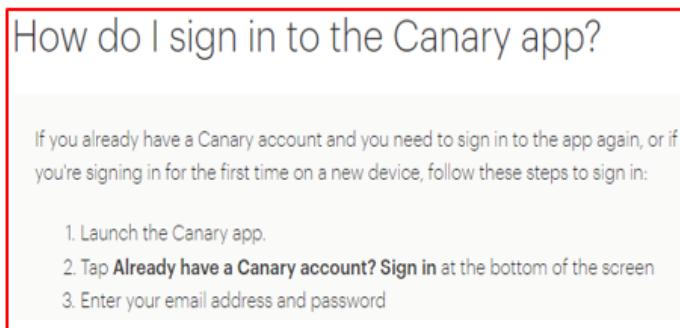
Video recordings captured by your Canary are encrypted and sent to the Canary Cloud where they are temporarily stored. You can easily access these videos in the Canary app where they're securely streamed from the cloud.

Source: <https://help.canary.is/hc/en-us/articles/206619098-Original-Canary-FAQ>

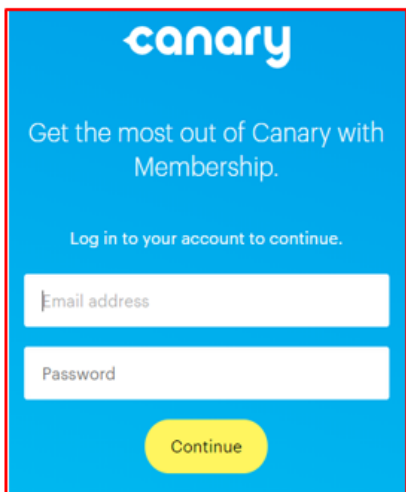
19. The Product necessarily includes at least one server for hosting and storing media content for customers. For example, the Product necessarily includes at least one server (e.g. cloud server) to store recorded security videos.

20. The at least one server necessarily includes a first receiver configured to receive a request message including data indicating requested media content (e.g., the server must have infrastructure to receive a request to store recorded security videos or to stream recorded video on a smartphone; additionally, the request message must contain data that identifies the video to

be stored or streamed) and a consumer device identifier corresponding to a consumer device (e.g., the user credentials are used to tie a smartphone and user account to particular cameras and the videos they produce). The cloud services (including camera view from cloud) can be accessed from web/mobile application (e.g. Canary app) by just signing in with correct credentials. Certain aspects of these elements are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.



Source: <https://help.canary.is/hc/en-us/articles/115005433927-How-do-I-sign-in-to-the-Canary-app->



Source: <https://my.canary.is/>

Supported features:

1. Watch Live
2. Video history (not including bookmarked video)

To access your Canary, follow these steps:

1. Log in to your account at my.canary.is.
2. Select your location, if you have more than one.

To stream live video:

1. Select the device you would like to access.
2. Click **Watch Live**

To view recorded clips:

1. Scroll down and click on an entry.
2. Click View more to see more from your 30 day history.

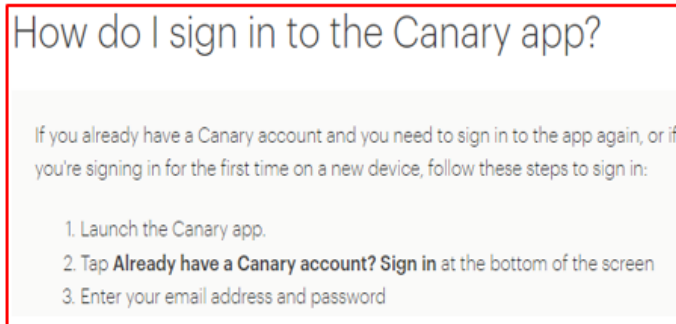
Source: <https://help.canary.is/hc/en-us/articles/206239267-Can-I-access-my-Canary-through-a-web-app-from-a-laptop-or-desktop-computer->



Source: <http://website-assets.canary.is/resources/CanaryFlex UserGuide EN.pdf>

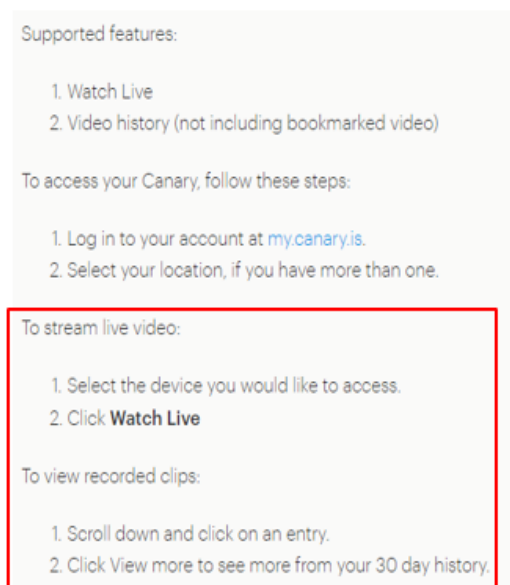
21. The Product necessarily includes a processor to determine whether the consumer device identifier corresponds to the registered consumer device (e.g., the server must authenticate a user's credentials to ensure that the credentials match those registered with a security camera which the user would like to access). The user must be a registered user to access Canary cloud

services. Certain aspects of these elements are illustrated in the screen shot below and/or in screen shots provided in connection with other allegations herein.



Source: <https://help.canary.is/hc/en-us/articles/115005433927-How-do-I-sign-in-to-the-Canary-app->

22. The Product provides for both media downloads and/or storage, and media streaming. As per the information available, after successful login, a processor within the Product necessarily determines whether the request received from a customer is a request for storage (e.g., recording or storing content) or content (e.g. streaming of media content, live view). Certain aspects of these elements are illustrated in the screen shot below and/or in screen shots provided in connection with other allegations herein.



Source: <https://help.canary.is/hc/en-us/articles/206239267-Can-I-access-my-Canary-through-a-web-app-from-a-laptop-or-desktop-computer->

23. The server verifies that media content (e.g., specific recording from specific camera) identified in the media data of the storage request message (e.g., request to record content) is available for storage in order to prevent data errors that would result from attempting to store content that is not available for storage (e.g., the server must verify that a particular security camera is adequately connected to the internet as to allow for video recording and storage on the cloud; additionally, a user's ability to store video is limited to a certain amount of memory usage based upon their subscription, thus media content may not be available for storage if a user is already above their memory limit or if he or she hasn't subscribed to any service). The server must verify that the media content (e.g., specific recording from a specific camera) identified in the media data of the storage request message is available for storage in order to prevent data errors that would result from attempting to store content that is not available for storage (e.g. the server must verify that a particular security camera is adequately connected to the internet as to allow for video recording and storage on the cloud; additionally, a user's ability to store video is limited to a certain amount of memory usage based upon their subscription, thus media content may not be available for storage if a user is already above their memory limit or if he hasn't subscribed to any service). Also, in the accused product, the number of cameras supported is based on the activated subscription pack. A user can also schedule the recording as per his requirement, only the events happened in between the scheduled time will be eligible to be recorded on the clouds storage. Certain aspects of these elements are illustrated in the screen shot below and/or in screen shots provided in connection with other allegations herein.

Membership applies to each device at a specific location, but the price will vary according to the number of devices you have at that location.

	Monthly	Annual (two free months)
1 to 5 Devices	\$9.99	\$99
Each additional device	\$4.99 per each additional device	\$49 per each additional device

Source: <https://help.canary.is/hc/en-us/articles/227195347-Membership-FAQ#What%20comes%20with%20Canary%20Membership?>

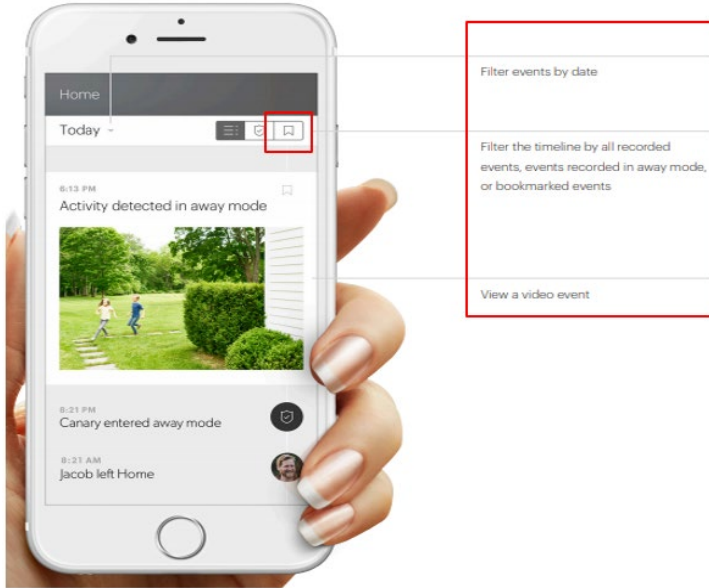
Canary features motion-activated video recording. This means that the device doesn't capture endless hours of footage of an empty room; instead, it only records video when it detects activity. The recorded video is stored in the Canary Cloud, and it's easy to watch on the app. Canary devices capture 24 hours of Video Previews, and you can bookmark an unlimited number of videos.

Canary Membership comes with Full-length Videos and an extended timeline of 30 days. Members also receive Two-way Canary Talk and Desktop Streaming. Learn

Source: <https://help.canary.is/hc/en-us/articles/206619098-Original-Canary-FAQ>

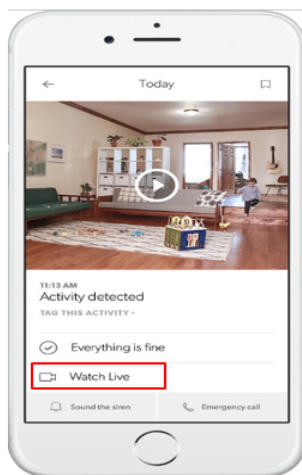
Canary All-in-One provides total home security and intelligence with a 1080p HD camera, 90 decibel siren, plus a built-in climate monitor. Pay less when you bundle with **Membership for 30 days of video storage,** desktop streaming, and two-way talk.

Source: <https://canary.is/canary/>



Source: http://website-assets.canary.is/resources/CanaryFlex_UserGuide_EN.pdf

24. If a customer requests content (e.g., live streaming of media content), then a processor within the Product necessarily initiates delivery of the content to the customer's device. The server will initiate delivery of the requested media content to the consumer device (e.g. stream live camera feed to a smartphone or tablet or desktop computer) if the request message is a content request message (e.g. request for live streaming). Certain aspects of these elements are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.



Source: <https://www.bestbuy.com/site/canary-indoor-wireless-full-hd-all-in-one-home-security-system-black/9967102.p?skuId=9967102#>

You can securely stream live video from your Canary with the iOS or Android app.

Source: <https://help.canary.is/hc/en-us/articles/206619098-Original-Canary-FAQ>

Watch Live gives you a live view of your home when Canary is in **away** mode or any time it's set to record motion.

Source: http://website-assets.canary.is/resources/CanaryFlex_UserGuide_EN.pdf

25. The media data includes time data that indicates a length of time to store the requested media content (e.g. a user is allowed to store videos for maximum of 30 days as based upon their subscription level). Certain aspects of these elements are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.

Free service includes live streaming and recorded video segments on 24-hour timeline for up to 4 cameras. Premium Membership includes 30-day recorded video history and additional features including desktop monitoring.*

Source: <https://www.bestbuy.com/site/canary-indoor-wireless-full-hd-all-in-one-home-security-system-black/9967102.p?skuld=9967102#>

Canary All-in-One provides total home security and intelligence with a 1080p HD camera, 90 decibel siren, plus a built-in climate monitor. Pay less when you bundle with Membership for 30 days of video storage, desktop streaming, and two-way talk.

Web Exclusive: Pick Your Price (?)

\$139 (Save \$30)	\$99 + purchase of 1-year Membership (Save \$70)	\$69 + purchase of 2-year Membership (Save \$100)
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Source: <https://canary.is/canary/>

	Get the complete Canary experience. Only \$9.99/month	
	Membership (Complete experience)	Free Access (Basic experience)
24/7 Watch Live	●	●
Motion-activated Recording	Full-length Videos	Video Clips
Video History	30 Days	1 Day

Source: <https://canary.is/membership/>

26. The server must first determine whether the requested media content exists prior to initiating delivery in order to prevent data errors that would result from attempting to transmit media content that does not exist (e.g. the server must verify that a particular security camera is adequately connected to the internet as to allow for video recording and streaming). Certain aspects of these elements are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.

Works on Wi-Fi or Ethernet.
Canary doesn't rely on extra hubs or wiring. No clutter, no tangles, no hassles. Connect to Wi-Fi, or simply plug in with Ethernet and Canary is good to go.

Security in seconds.
There's no installation. Set Canary on a shelf or table, connect to the internet, and you're done. All systems go.

Source: <https://canary.is/canary/>

27. After the processor determines whether the requested media content is available, it determines whether there are restrictions associated with the requested media content (e.g., subscription level etc.).

28. Defendant's actions complained of herein will continue unless Defendant is enjoined by this Court.

29. Defendant's actions complained of herein is causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

30. Upon information and belief, Defendant has induced, and continues to induce infringement of the '221 Patent through its customers' actions, at least as of the service of the present complaint.

31. The '221 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

32. A copy of the '221 Patent, titled "System and Method for Storing Broadcast Content in a Cloud-based Computing Environment," is attached hereto as Exhibit A.

33. By engaging in the conduct described herein, Defendant has injured Rothschild Broadcast Distribution Systems and is thus liable for infringement of the '221 Patent, pursuant to 35 U.S.C. § 271.

34. Defendant has committed these acts of literal infringement, or infringement under the doctrine of equivalents of the '221 Patent, without license or authorization.

35. As a result of Defendant's infringement of the '221 Patent, injured Rothschild Broadcast Distribution Systems has suffered monetary damages and is entitled to a monetary judgment in

an amount adequate to compensate for Defendant's past infringement, together with interests and costs.

36. Plaintiff is in compliance with 35 U.S.C. § 287.

37. As such, injured Rothschild Broadcast Distribution Systems is entitled to compensation for any continuing and/or future infringement of the '221 Patent up until the date that Defendant ceases its infringing activities.

DEMAND FOR JURY TRIAL

38. Rothschild Broadcast Distribution Systems, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

- (a) Enter judgment for Plaintiff on this Complaint on all cases of action asserted herein;
- (b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receives notice of the order from further infringement of United States Patent No. 8,856,221 (or, in the alternative, awarding Plaintiff running royalty from the time judgment going forward);
- (c) Award Plaintiff damages resulting from Defendants infringement in accordance with 35 U.S.C. § 284;
- (d) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

DATED April 23, 2019

Respectfully submitted,

/s/Gerard F. Dunne

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