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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

REALTIME DATA LLC d/b/a IXO,

Plaintiff,

v.

INFRASCALE, INC.,

Defendant.

Case No. 2:19-cv-06160-DSF-AS

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT AGAINST INFRASCALE, INC.

JURY TRIAL DEMANDED

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.* in which Plaintiff Realtime Data LLC d/b/a IXO ("Plaintiff," "Realtime," or "IXO") makes the following allegations against Defendant Infrascale, Inc. ("Infrascale" or "Defendant"):

PARTIES

1. Realtime is a limited liability company organized under the laws of the State of New York. Realtime has its principal place of business at 66 Palmer Avenue, Suite 27, Bronxville, NY 10708. Since the 1990s, Realtime has researched and developed specific solutions for data compression, including, for example, those that increase the speeds at which data can be stored and accessed. As recognition of its innovations rooted in this technological field, Realtime holds over 30 United States patents and has numerous pending patent applications. Realtime has licensed patents in this portfolio to many of the world's leading technology companies. The patents-in-suit relate to Realtime's development of advanced systems and methods for fast and efficient data compression using numerous innovative compression techniques based on, for example, particular attributes of the data.

2. On information and belief, Infrascale is a California corporation with its principal place of business at 999 N Pacific Coast Hwy. Suite 100, El Segundo, California 90245. Infrascale can be served through its registered agent, Business Filings Incorporated, 818 W 7th St. Ste. 930, Los Angeles, California 90017.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Defendant Infrascale in this action because Infrascale is incorporated in California and has committed acts within the Central District of California giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over

Infrascale would not offend traditional notions of fair play and substantial justice. Infrascale, directly and through subsidiaries or intermediaries, has committed and continues to commit acts of infringement in this District by, among other things, offering to sell and selling products and/or services that infringe the asserted patents.

5. Venue is proper in this district under 28 U.S.C. § 1400(b). Upon information and belief, Infrascale is incorporated in California, has transacted business in the Central District of California, and has committed acts of direct and indirect infringement in the Central District of California.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 9,054,728

6. Plaintiff realleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein.

7. Plaintiff Realtime is the owner by assignment of United States Patent No. 9,054,728 ("the '728 Patent") entitled "Data compression systems and methods." The '728 Patent was duly and legally issued by the United States Patent and Trademark Office on June 9, 2015. A true and correct copy of the '728 Patent is included as Exhibit A.

8. On information and belief, Infrascale has offered for sale, sold and/or imported into the United States Infrascale products and services that infringe the '728 patent, and continues to do so. By way of illustrative example, these infringing products and services include, without limitation, Infrascale's products and services, *e.g.*, Cloud Backup, Cloud Application Backup, Disaster Recovery, Data Protection Appliances, Cloud Failover Appliance, EndGuard, and the system hardware on which they operate, and all versions and variations thereof since the issuance of the '728 Patent ("Accused Instrumentalities").

9. On information and belief, Infrascale has directly infringed and continues to infringe the '728 Patent, for example, by making, selling, offering for sale, and/or importing the Accused Instrumentalities, and through its own use and

testing of the Accused Instrumentalities, which constitute a computer implemented method claimed by Claim 25 of the '728 Patent, comprising: analyzing, using a processor, data within a data block to identify one or more parameters or attributes of the data within the data block; determining, using the processor, whether to output the data block in a received form or in a compressed form; and outputting, using the processor, the data block in the received form or the compressed form based on the determination, wherein the outputting the data block in the compressed form comprises determining whether to compress the data block with content dependent data compression based on the one or more parameters or attributes of the data within the data block or to compress the data block with a single data compression encoder; and wherein the analyzing of the data within the data block to identify the one or more parameters or attributes of the data excludes analyzing based only on a descriptor that is indicative of the one or more parameters or attributes of the data within the data block. Upon information and belief, Infrascale uses the Accused Instrumentalities, which are infringing systems, for its own internal non-testing business purposes, while testing the Accused Instrumentalities, and while providing technical support and repair services for the Accused Instrumentalities to Infrascale's customers.

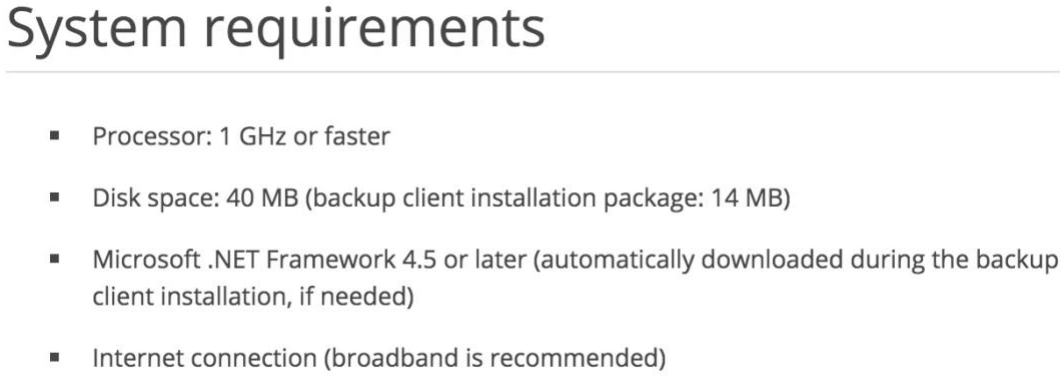
10. On information and belief, Infrascale has had knowledge of the '728 Patent since at least the filing of the original Complaint in this action, or shortly thereafter, and on information and belief, Infrascale knew of the '728 Patent and knew of its infringement, including by way of this lawsuit. By the time of trial, Infrascale will have known and intended (since receiving such notice) that their continued actions would actively induce and contribute to the infringement of the claims of the '728 Patent.

11. Infrascale's affirmative acts of making, using, selling, offering for sale, and/or importing the Accused Instrumentalities have induced and continue to induce users of the Accused Instrumentalities to use the Accused Instrumentalities in their

normal and customary way to infringe the claims of the '728 Patent, knowing that when the Accused Instrumentalities are used in their ordinary and customary manner, such method constitute infringing communication method comprising: analyzing, using a processor, data within a data block to identify one or more parameters or attributes of the data within the data block; determining, using the processor, whether to output the data block in a received form or in a compressed form; and outputting, using the processor, the data block in the received form or the compressed form based on the determination, wherein the outputting the data block in the compressed form comprises determining whether to compress the data block with content dependent data compression based on the one or more parameters or attributes of the data within the data block or to compress the data block with a single data compression encoder; and wherein the analyzing of the data within the data block to identify the one or more parameters or attributes of the data excludes analyzing based only on a descriptor that is indicative of the one or more parameters or attributes of the data within the data block. For example, Infrascale explains to customers the benefits of using the Accused Instrumentalities, such as by touting their performance advantages: "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored. … This translates into massive storage efficiencies on the order of up to 10X." *See* https://www.infrascale.com/technologies/. For similar reasons, Infrascale also induces its customers to use the Accused Instrumentalities to infringe other claims of the '728 Patent. Infrascale specifically intended and was aware that the normal and customary use of the Accused Instrumentalities on compatible systems would infringe the '728 Patent. Infrascale performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '728 Patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Infrascale engaged in such inducement to promote the sales of the Accused Instrumentalities,

e.g., through Infrascale's user manuals, product support, marketing materials, and training materials to actively induce the users of the accused products to infringe the '728 Patent. Accordingly, Infrascale has induced and continues to induce end users of the accused products to use the accused products in their ordinary and customary way with compatible systems to make and/or use systems infringing the '728 Patent, knowing that such use of the Accused Instrumentalities with compatible systems will result in infringement of the '728 Patent.

12. The Accused Instrumentalities analyze, using a processor, data within a data block to identify one or more parameters or attributes of the data within the data block. For example, the Accused Instrumentalities' include "[F]ile deduplication with up to 10X reduction in backed up data size for highly efficient backups." See https://www.infrascale.com/wp-content/uploads/pdf/Infrascale-Data-Protection-Appliances-Data-Sheet.pdf. As another example, Infrascale's Cloud Backup requires 1GHz or faster processor. *See* https://docs.infrascale.com/cb-spec.html#system-requirements.



As another example, Infrascale's Data Protection Appliances require "2x3 GHz processors (or better)." *See* https://www.infrascale.com/wp-content/uploads/pdf/Infrascale-Data-Protection-Appliances-Data-Sheet.pdf.

System Requirements

	Disk 1	Disk 2	Disk 3
Minimum disk space	2 GB – boot volume	180 GB – database volume (should be SSD)	2 TB (or larger) – backup storage volume
Recommended disk space	4 GB – boot volume	360GB – database volume (should be SSD)	2 TB (or larger) – backup storage volume
CPU	2 x 3 GHz processors (or better)		
Minimum RAM memory	16 GB		
Recommended RAM memory	48 GB		
Operating system	Delivered as a VMware virtual machine		

Moreover, Infrascale discloses that "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Furthermore, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/.

13. The Accused Instrumentalities determine, using the processor, whether to output the data block in a received form or in a compressed form. For example, Infrascale discloses that "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Moreover, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. As another

example, Accused Instrumentalities state "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html

14. The Accused Instrumentalities perform outputting, using the processor, the data block in the received form or the compressed form based on the determination, wherein the outputting the data block in the compressed form comprises determining whether to compress the data block with content dependent data compression based on the one or more parameters or attributes of the data within the data block or to compress the data block with a single data compression encoder. For example, Infrascale discloses that "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Moreover, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. As another example, Accused Instrumentalities state "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html. As another example, the Accused Instrumentalities use "data compression to speed up the backup and recovery processes." *See* https://docs.infrascale.com/cb-spec.html#data-compression. As such, Infrascale "compresses data using Ionic Zip libraries (lossless compression) *prior* to transfer to the cloud, and decompresses it using Xceed." *See* https://docs.infrascale.com/cb-spec.html#data-compression.

15. The Accused Instrumentalities analyze of the data within the data block to identify the one or more parameters or attributes of the data excludes analyzing based only on a descriptor that is indicative of the one or more parameters or attributes of the data within the data block. For example, Infrascale discloses that "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Moreover, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. As another example, Accused Instrumentalities state "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html.

16. Infrascale also infringes other claims of the '728 Patent, directly and through inducing infringement and contributory infringement.

17. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the methods claimed by the '728 Patent.

18. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' compression features, Infrascale has injured Realtime and is liable to Realtime for infringement of the '728 Patent pursuant to 35 U.S.C. § 271.

19. As a result of Infrascale's infringement of the '728 Patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for Infrascale's infringement, but in no event less than a reasonable royalty for the use made of the invention by Infrascale, together with interest and costs as fixed by the Court.

COUNT II

INFRINGEMENT OF U.S. PATENT NO. 9,667,751

20. Plaintiff realleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein.

21. Plaintiff Realtime is the owner by assignment of United States Patent No. 9,667,751 ("the '751 Patent") entitled "Data feed acceleration." The '751 Patent was duly and legally issued by the United States Patent and Trademark Office on May 30, 2017. A true and correct copy of the '751 Patent is included as Exhibit B.

22. On information and belief, Infrascale has offered for sale, sold and/or imported into the United States Infrascale products and services that infringe the '751 patent, and continues to do so. By way of illustrative example, these infringing products and services include, without limitation, Infrascale's products and services, *e.g.*, Cloud Backup, Cloud Application Backup, Disaster Recovery, Data Protection Appliances, Cloud Failover Appliance, EndGuard, and the system hardware on which they operate, and all versions and variations thereof since the issuance of the '751 Patent ("Accused Instrumentalities").

23. On information and belief, Infrascale has directly infringed and continues to infringe the '751 Patent, for example, through its own use and testing of the Accused Instrumentalities, which in the ordinary course of their operation form a system for compressing data claimed by Claim 25 of the '751 Patent, including: a data server implemented on one or more processors and one or more memory systems; the data server configured to analyze content of a data block to identify a parameter, attribute, or value of the data block that excludes analysis based

solely on reading a descriptor; the data server configured to select an encoder associated with the identified parameter, attribute, or value; the data server configured to compress data in the data block with the selected encoder to produce a compressed data block, wherein the compression utilizes a state machine; and the data server configured to store the compressed data block; wherein the time of the compressing the data block and the storing the compressed data block is less than the time of storing the data block in uncompressed form. Upon information and belief, Infrascale uses the Accused Instrumentalities, which are infringing systems, for its own internal non-testing business purposes, while testing the Accused Instrumentalities, and while providing technical support and repair services for the Accused Instrumentalities to Infrascale's customers.

24. On information and belief, Infrascale has had knowledge of the '751 Patent since at least the filing of the original Complaint in this action, or shortly thereafter, and on information and belief, Infrascale knew of the '751 Patent and knew of its infringement, including by way of this lawsuit.

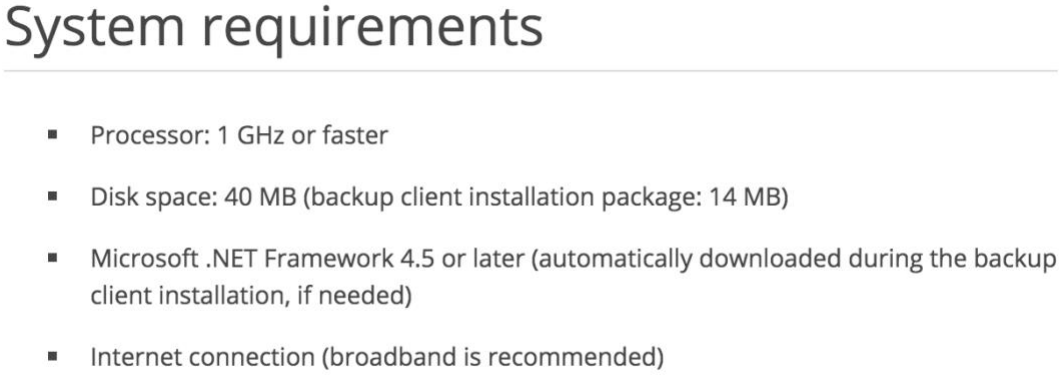
25. Upon information and belief, Infrascale's affirmative acts of making, using, and selling the Accused Instrumentalities, and providing implementation services and technical support to users of the Accused Instrumentalities, have induced and continue to induce users of the Accused Instrumentalities to use them in their normal and customary way to infringe Claim 25 of the '751 Patent by making or using a data server implemented on one or more processors and one or more memory systems; the data server configured to analyze content of a data block to identify a parameter, attribute, or value of the data block that excludes analysis based solely on reading a descriptor; the data server configured to select an encoder associated with the identified parameter, attribute, or value; the data server configured to compress data in the data block with the selected encoder to produce a compressed data block, wherein the compression utilizes a state machine; and the data server configured to store the compressed data block; wherein the time of the

compressing the data block and the storing the compressed data block is less than the time of storing the data block in uncompressed form. For example, Infrascale explains to customers the benefits of using the Accused Instrumentalities, such as by touting their efficiency: "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored. … This translates into massive storage efficiencies on the order of up to 10X." *See* https://www.infrascale.com/technologies/. For similar reasons, Infrascale also induces its customers to use the Accused Instrumentalities to infringe other claims of the '751 Patent. Infrascale specifically intended and was aware that these normal and customary activities would infringe the '751 Patent. Infrascale performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '751 Patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Infrascale engaged in such inducement to promote the sales of the Accused Instrumentalities. Accordingly, Infrascale has induced and continues to induce users of the accused products to use the accused products in their ordinary and customary way to infringe the '751 Patent, knowing that such use constitutes infringement of the '751 Patent.

26. The Accused Instrumentalities include a system for compressing data. For example, Infrascale discloses that "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Moreover, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/.

As another example, Accused Instrumentalities state "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html. As another example, the Accused Instrumentalities use "data compression to speed up the backup and recovery processes." *See* https://docs.infrascale.com/cb-spec.html#data-compression. As such, Infrascale "compresses data using Ionic Zip libraries (lossless compression) *prior* to transfer to the cloud, and decompresses it using Xceed." *See* https://docs.infrascale.com/cb-spec.html#data-compression.

27. The Accused Instrumentalities include a data server implemented on one or more processors and one or more memory systems. For example, Infrascale's Cloud Backup requires 1GHz or faster processor and a disk space of 40 MB. *See* https://docs.infrascale.com/cb-spec.html#system-requirements.



As another example, Infrascale's Data Protection Appliances require "2x3 GHz processors (or better)" and a minimum disk space of 2 GB with minimum a RAM memory of 16 GB. *See* https://www.infrascale.com/wp-content/uploads/pdf/Infrascale-Data-Protection-Appliances-Data-Sheet.pdf.

System Requirements

	Disk 1	Disk 2	Disk 3
Minimum disk space	2 GB – boot volume	180 GB – database volume (should be SSD)	2 TB (or larger) – backup storage volume
Recommended disk space	4 GB – boot volume	360GB – database volume (should be SSD)	2 TB (or larger) – backup storage volume
CPU	2 x 3 GHz processors (or better)		
Minimum RAM memory	16 GB		
Recommended RAM memory	48 GB		
Operating system	Delivered as a VMware virtual machine		

On information and belief, all of the Accused Instrumentalities use one or more memory systems in substantially the same way.

28. The Accused Instrumentalities include a data server configured to analyze content of a data block to identify a parameter, attribute, or value of the data block that excludes analysis based solely on reading a descriptor. For example, Infrascale discloses that "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Moreover, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. As another example, Accused Instrumentalities state "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html.

29. The Accused Instrumentalities include a data server configured to select an encoder associated with the identified parameter, attribute, or value. For

example, the Accused Instrumentalities select between deduplication or other compression. For example, Infrascale discloses that "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Moreover, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. As another example, Accused Instrumentalities state "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html. As another example, the Accused Instrumentalities use "data compression to speed up the backup and recovery processes." *See* https://docs.infrascale.com/cb-spec.html#data-compression. As such, Infrascale "compresses data using Ionic Zip libraries (lossless compression) *prior* to transfer to the cloud, and decompresses it using Xceed." *See* https://docs.infrascale.com/cb-spec.html#data-compression.

30. The Accused Instrumentalities include a data server configured to compress data in the data block with the selected encoder to produce a compressed data block, wherein the compression utilizes a state machine. For example, Infrascale discloses that "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Moreover, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists

within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. As another example, Accused Instrumentalities state "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html

31. The Accused Instrumentalities include a data server configured to store the compressed data block. For example, the Accused Instrumentalities have storage devices. *See* https://docs.infrascale.com/cb-spec.html#system-requirements.

System requirements

- Processor: 1 GHz or faster
- Disk space: 40 MB (backup client installation package: 14 MB)
- Microsoft .NET Framework 4.5 or later (automatically downloaded during the backup client installation, if needed)
- Internet connection (broadband is recommended)

See https://www.infrascale.com/wp-content/uploads/pdf/Infrascale-Data-Protection-Appliances-Data-Sheet.pdf.

System Requirements

	Disk 1	Disk 2	Disk 3
Minimum disk space	2 GB – boot volume	180 GB – database volume (should be SSD)	2 TB (or larger) – backup storage volume
Recommended disk space	4 GB – boot volume	360GB – database volume (should be SSD)	2 TB (or larger) – backup storage volume
CPU	2 x 3 GHz processors (or better)		
Minimum RAM memory	16 GB		
Recommended RAM memory	48 GB		
Operating system	Delivered as a VMware virtual machine		

As another example, Infrascale discloses that "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Moreover, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. As another example, Accused Instrumentalities state "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html

32. The time of the compressing the data block and the storing the compressed data block in the Accused Instrumentalities is less than the time of storing the data block in uncompressed form. Due to the data reduction and acceleration features of the specific compression algorithms used, the time of the compressing the data block and the storing the compressed data block is less than the time of storing the data block in uncompressed form. For example, Infrascale discloses that "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Moreover, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/.

33. On information and belief, Infrascale also infringes, directly and through induced infringement, and continues to infringe other claims of the '751 Patent.

34. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the methods claimed by the '751 Patent.

35. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' compression features, Infrascale has injured Realtime and is liable to Realtime for infringement of the '751 Patent pursuant to 35 U.S.C. § 271.

36. As a result of Infrascale's infringement of the '751 Patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for Infrascale' infringement, but in no event less than a reasonable royalty for the use made of the invention by Infrascale, together with interest and costs as fixed by the Court.

COUNT III

INFRINGEMENT OF U.S. PATENT NO. 8,933,825

37. Plaintiff realleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein. Plaintiff Realtime is the owner by assignment of United States Patent No. 8,933,825 ("the '825 Patent") entitled "Data compression systems and methods." The '825 Patent was duly and legally issued by the United States Patent and Trademark Office on January 13, 2015. A true and correct copy of the '825 Patent is included as Exhibit C.

38. On information and belief, Infrascale has offered for sale, sold and/or imported into the United States Infrascale products and services that infringe the '825 patent, and continues to do so. By way of illustrative example, these infringing products and services include, without limitation, Infrascale products and

services, *e.g.*, Cloud Backup, Cloud Application Backup, Disaster Recovery, Data Protection Appliances, Cloud Failover Appliance, EndGuard, and the system hardware on which they operate, and all versions and variations thereof since the issuance of the '825 Patent ("Accused Instrumentalities").

39. On information and belief, Infrascale has directly infringed and continues to infringe the '825 Patent, for example, by making, selling, offering for sale, and/or importing the Accused Instrumentalities, and through its own use and testing of the Accused Instrumentalities, which constitute performing a method claimed by Claim 18 of the '825 Patent, comprising: associating at least one encoder to each one of a plurality of parameters or attributes of data; analyzing data within a data block to determine whether a parameter or attribute of the data within the data block is identified for the data block; wherein the analyzing of the data within the data block to identify a parameter or attribute of the data excludes analyzing based only on a descriptor that is indicative of the parameter or attribute of the data within the data block; identifying a first parameter or attribute of the data of the data block; compressing, if the first parameter or attribute of the data is the same as one of the plurality of parameter or attributes of the data, the data block with the at least one encoder associated with the one of the plurality of parameters or attributes of the data that is the same as the first parameter or attribute of the data to provide a compressed data block; and compressing, if the first parameter or attribute of the data is not the same as one of the plurality of parameters or attributes of the data, the data block with a default encoder to provide the compressed data block. Upon information and belief, Infrascale uses the Accused Instrumentalities, which perform the infringing method, for its own internal non-testing business purposes, while testing the Accused Instrumentalities, and while providing technical support and repair services for the Accused Instrumentalities to its customers.

40. Infrascale also indirectly infringes the '825 Patent by manufacturing, using, selling, offering for sale, and/or importing the accused products, with

knowledge that the accused products were and are especially manufactured and/or especially adapted for use in infringing the '825 Patent and are not a staple article or commodity of commerce suitable for substantial non-infringing use. On information and belief, the Accused Instrumentality is designed to function with compatible hardware to perform a method comprising: associating at least one encoder to each one of a plurality of parameters or attributes of data; analyzing data within a data block to determine whether a parameter or attribute of the data within the data block is identified for the data block; wherein the analyzing of the data within the data block to identify a parameter or attribute of the data excludes analyzing based only on a descriptor that is indicative of the parameter or attribute of the data within the data block; identifying a first parameter or attribute of the data of the data block; compressing, if the first parameter or attribute of the data is the same as one of the plurality of parameter or attributes of the data, the data block with the at least one encoder associated with the one of the plurality of parameters or attributes of the data that is the same as the first parameter or attribute of the data to provide a compressed data block; and compressing, if the first parameter or attribute of the data is not the same as one of the plurality of parameters or attributes of the data, the data block with a default encoder to provide the compressed data block. Because the Accused Instrumentality is designed to operate as the claimed method, the Accused Instrumentality has no substantial non-infringing uses, and any other uses would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental. Infrascale's manufacture, use, sale, offering for sale, and/or importation of the Accused Instrumentality constitutes contributory infringement of the '825 Patent.

41. On information and belief, Infrascale has had knowledge of the '825 Patent since at least the filing of the original Complaint in this action, or shortly thereafter, and on information and belief, Infrascale knew of the '825 Patent and knew of its infringement, including by way of this lawsuit.

42. Infrascale's affirmative acts of making, using, selling, offering for sale, and/or importing the Accused Instrumentalities have induced and continue to induce users of the Accused Instrumentalities to use the Accused Instrumentalities in their normal and customary way to infringe claims of the '825 Patent. Use of the Accused Instrumentalities in their ordinary and customary manner results in infringement of claims of the '825 Patent.

43. For example, Infrascale explains to customers the benefits of using the Accused Instrumentalities, such as by touting their performance advantages: "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored. … This translates into massive storage efficiencies on the order of up to 10X." *See* https://www.infrascale.com/technologies/. For similar reasons, Infrascale also induces its customers to use the Accused Instrumentalities to infringe other claims of the '825 Patent. Infrascale specifically intended and was aware that the normal and customary use of the Accused Instrumentalities on compatible systems would infringe the '825 Patent. Infrascale performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '825 Patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Infrascale engaged in such inducement to promote the sales of the Accused Instrumentalities, *e.g.*, through Infrascale's user manuals, product support, marketing materials, and training materials to actively induce the users of the accused products to infringe the '825 Patent. Accordingly, Infrascale has induced and continues to induce end users of the accused products to use the accused products in their ordinary and customary way with compatible systems to make and/or use systems infringing the '825 Patent, knowing that such use of the Accused Instrumentalities with compatible systems will result in infringement of the '825 Patent.

44. The Accused Instrumentalities associate at least one encoder to each one of a plurality of parameters or attributes of data. For example, the Accused Instrumentalities support lossless Ionic Zip compression and deduplication techniques. (e.g., "compresses data using Ionic Zip libraries (lossless compression) *prior* to transfer to the cloud, and decompresses it using Xceed." *See* https://docs.infrascale.com/cb-spec.html#data-compression). As such, the Accused Instrumentalities analyze data blocks to detect duplicate data blocks (e.g., "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html.). The Accused Instrumentalities associate deduplication encoder with the duplicate data block and Ionic Zip compression encoder with a unique data block.

45. The Accused Instrumentalities analyze data within a data block to determine whether a parameter or attribute of the data within the data block is identified for the data block. For example, the Accused Instrumentalities state that "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Moreover, Infrascale discloses "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-

the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. As another example, Accused Instrumentalities state "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html.

46. The Accused Instrumentalities analyze data, wherein the analyzing of the data within the data block to identify a parameter or attribute of the data excludes analyzing based only on a descriptor that is indicative of the parameter or attribute of the data within the data block. For example, the Accused Instrumentalities support data deduplication (e.g., "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html). As such, the Accused Instrumentalities analyze the data blocks to detect duplicate data blocks.

47. The Accused Instrumentalities identify a first parameter or attribute of the data of the data block. For example, the Accused Instrumentalities analyze the

data blocks to identify duplicate data blocks. In particular, the Accused Instrumentalities state

"[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Moreover, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. As another example, Accused Instrumentalities state "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html.

48. The Accused Instrumentalities compress, if the first parameter or attribute of the data is the same as one of the plurality of parameter or attributes of the data, the data block with the at least one encoder associated with the one of the plurality of parameters or attributes of the data that is the same as the first parameter or attribute of the data to provide a compressed data block. For example, the Accused Instrumentalities support data deduplication (e.g., "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the

speed of replication." *See* https://www.infrascale.com/technologies/. "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html.) As such, if a duplicate block is found, the Accused Instrumentalities use deduplication technique to eliminate redundancy across data blocks.

49. The Accused Instrumentalities compress, if the first parameter or attribute of the data is not the same as one of the plurality of parameters or attributes of the data, the data block with a default encoder to provide the compressed data block. For example, the Accused Instrumentalities support lossless Ionic Zip compression technique. (e.g., "compresses data using Ionic Zip libraries (lossless compression) *prior* to transfer to the cloud, and decompresses it using Xceed." *See* https://docs.infrascale.com/cb-spec.html#data-compression). As such, if the data block is not the duplicate of previously stored data block, the Accused Instrumentalities use lossless Ionic Zip compression technique to address redundancy across said data block.

50. Infrascale also infringes other claims of the '825 Patent, directly and through inducing infringement and contributory infringement.

51. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the methods claimed by the '825 Patent.

52. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' data storage accelerating features, Infrascale has injured Realtime and is liable to Realtime for infringement of the '825 Patent pursuant to 35 U.S.C. § 271.

53. As a result of Infrascale's infringement of the '825 Patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for

Infrascale's infringement, but in no event less than a reasonable royalty for the use made of the invention by Infrascale, together with interest and costs as fixed by the Court.

COUNT IV

INFRINGMENT OF U.S. PATENT NO. 9,116,908

54. Plaintiff Realtime realleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein.

55. Plaintiff Realtime is the owner by assignment of United States Patent No. 9,116,908 ("the '908 Patent") entitled "System and methods for accelerated data storage and retrieval." The '908 Patent was duly and legally issued by the United States Patent and Trademark Office on August 25, 2015, and Claims 1, 2, 4-6, 9, 11, 21, 22, 24, and 25 of the '908 Patent confirmed as patentable in a Final Written Decision of the Patent Trial and Appeal Board on October 31, 2017. A true and correct copy of the '908 Patent is included as Exhibit D.

56. On information and belief, Infrascale has offered for sale, sold and/or imported into the United States Infrascale products and services that infringe the '908 Patent, and continues to do so. By way of illustrative example, these infringing products and services include, without limitation, Infrascale's products and services, *e.g.*, Cloud Backup, Cloud Application Backup, Disaster Recovery, Data Protection Appliances, Cloud Failover Appliance, EndGuard, and the system hardware on which they operate, and all versions and variations thereof since the issuance of the '908 Patent (the "Accused Instrumentality").

57. On information and belief, Infrascale has directly infringed and continues to infringe the '908 Patent, for example, through its own use and testing of the Accused Instrumentality, which constitutes a system comprising: a memory device; and a data accelerator configured to compress: (i) a first data block with a first compression technique to provide a first compressed data block; and (ii) a second data block with a second compression technique, different from the first

compression technique, to provide a second compressed data block; wherein the compressed first and second data blocks are stored on the memory device, and the compression and storage occurs faster than the first and second data blocks are able to be stored on the memory device in uncompressed form. Upon information and belief, Infrascale uses the Accused Instrumentality, an infringing system, for its own internal non-testing business purposes, while testing the Accused Instrumentality, and while providing technical support and repair services for the Accused Instrumentality to Infrascale's customers.

58. On information and belief, use of the Accused Instrumentality in its ordinary and customary fashion results in infringement of the systems claimed by the '908 Patent.

59. On information and belief, Infrascale has had knowledge of the '908 Patent since at least the filing of the original Complaint or shortly thereafter, and on information and belief, Infrascale knew of the '908 Patent and knew of its infringement, including by way of this lawsuit.

60. Upon information and belief, Infrascale's affirmative acts of making, using, and selling the Accused Instrumentalities, and providing implementation services and technical support to users of the Accused Instrumentalities, have induced and continue to induce users of the Accused Instrumentalities to use them in their normal and customary way to infringe Claim 1 of the '908 Patent by making or using a system comprising: a memory device; and a data accelerator configured to compress: (i) a first data block with a first compression technique to provide a first compressed data block; and (ii) a second data block with a second compression technique, different from the first compression technique, to provide a second compressed data block; wherein the compressed first and second data blocks are stored on the memory device, and the compression and storage occurs faster than the first and second data blocks are able to be stored on the memory device in uncompressed form. For example, Infrascale explains to customers the benefits of

using the Accused Instrumentalities, such as by touting their performance advantages: "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored. … This translates into massive storage efficiencies on the order of up to 10X." *See* https://www.infrascale.com/technologies/. For similar reasons, Infrascale also induces its customers to use the Accused Instrumentalities to infringe other claims of the '908 Patent. Infrascale specifically intended and was aware that these normal and customary activities would infringe the '908 Patent. Infrascale performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '908 Patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Infrascale engaged in such inducement to promote the sales of the Accused Instrumentalities. Accordingly, Infrascale has induced and continues to induce users of the accused products to use the accused products in their ordinary and customary way to infringe the '908 Patent, knowing that such use constitutes infringement of the '908 Patent.

61. The Accused Instrumentality includes a memory device and a data accelerator configured to compress: (i) a first data block with a first compression technique (e.g., deduplication) to provide a first compressed data block; and (ii) a second data block with a second compression technique (e.g., another compression), different from the first compression technique, to provide a second compressed data block. For example, the Accused Instrumentalities use one or more memory devices. *See* https://docs.infrascale.com/cb-spec.html#system-requirements.

System requirements

- Processor: 1 GHz or faster
- Disk space: 40 MB (backup client installation package: 14 MB)
- Microsoft .NET Framework 4.5 or later (automatically downloaded during the backup client installation, if needed)
- Internet connection (broadband is recommended)

See https://www.infrascale.com/wp-content/uploads/pdf/Infrascale-Data-Protection-Appliances-Data-Sheet.pdf.

System Requirements

	Disk 1	Disk 2	Disk 3
Minimum disk space	2 GB – boot volume	180 GB – database volume (should be SSD)	2 TB (or larger) – backup storage volume
Recommended disk space	4 GB – boot volume	360GB – database volume (should be SSD)	2 TB (or larger) – backup storage volume
CPU	2 x 3 GHz processors (or better)		
Minimum RAM memory	16 GB		
Recommended RAM memory	48 GB		
Operating system	Delivered as a VMware virtual machine		

Moreover, Infrascale discloses that "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Furthermore, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. As another example, Accused Instrumentalities state "[D]eduplication occurs by reading the

backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html. As another example, the Accused Instrumentality uses a different data compression "to speed up the backup and recovery processes." *See* https://docs.infrascale.com/cb-spec.html#data-compression. In particular, Infrascale uses "[I]onic Zip libraries (lossless compression) *prior* to transfer to the cloud, and decompresses it using Xceed." *See* https://docs.infrascale.com/cb-spec.html#data-compression.

62. The Accused Instrumentality stores the compressed first and second data blocks on a memory device. For example, Infrascale includes a memory device. *See* https://docs.infrascale.com/cb-spec.html#system-requirements.

System requirements

- Processor: 1 GHz or faster
- Disk space: 40 MB (backup client installation package: 14 MB)
- Microsoft .NET Framework 4.5 or later (automatically downloaded during the backup client installation, if needed)
- Internet connection (broadband is recommended)

See https://www.infrascale.com/wp-content/uploads/pdf/Infrascale-Data-Protection-Appliances-Data-Sheet.pdf.

System Requirements

	Disk 1	Disk 2	Disk 3
Minimum disk space	2 GB – boot volume	180 GB – database volume (should be SSD)	2 TB (or larger) – backup storage volume
Recommended disk space	4 GB – boot volume	360GB – database volume (should be SSD)	2 TB (or larger) – backup storage volume
CPU	2 x 3 GHz processors (or better)		
Minimum RAM memory	16 GB		
Recommended RAM memory	48 GB		
Operating system	Delivered as a VMware virtual machine		

Moreover, Infrascale discloses that "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Furthermore, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. As another example, Accused Instrumentalities state "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html. As another example, the Accused Instrumentalities use "data compression to speed up the backup and recovery processes." *See* https://docs.infrascale.com/cb-spec.html#data-compression. As such, Infrascale "compresses data using Ionic Zip libraries (lossless compression) *prior* to transfer to the cloud, and decompresses it using Xceed." *See* https://docs.infrascale.com/cb-spec.html#data-compression.

63. The compression and storage occurs faster than the first and second data blocks are able to be stored on the memory device in uncompressed form. Due to the data reduction and acceleration features of the specific compression algorithms used, the time of the compressing the data block and the storing the compressed data block is less than the time of storing the data block in uncompressed form. For example, Infrascale discloses that "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Moreover, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud

repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/.

64. On information and belief, Infrascale also infringes, directly and through induced infringement, and continues to infringe other claims of the '908 Patent.

65. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' compression features, Infrascale has injured Realtime and is liable to Realtime for infringement of the '908 Patent pursuant to 35 U.S.C. § 271.

66. As a result of Infrascale's infringement of the '908 Patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for Infrascale' infringement, but in no event less than a reasonable royalty for the use made of the invention by Infrascale, together with interest and costs as fixed by the Court.

COUNT V

INFRINGMENT OF U.S. PATENT NO. 9,859,919

67. Plaintiff Realtime realleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein.

68. Plaintiff Realtime is the owner by assignment of United States Patent No. 9,859,919 ("the '919 Patent") entitled "System and Method for data compression." The '919 Patent was duly and legally issued by the United States Patent and Trademark Office on January 2, 2018. A true and correct copy of the '919 Patent is included as Exhibit E.

69. On information and belief, Infrascale has offered for sale, sold and/or imported into the United States Infrascale products and services that infringe

the '919 Patent, and continues to do so. By way of illustrative example, these infringing products and services include, without limitation, Infrascale's products and services, *e.g.*, Cloud Backup, Cloud Application Backup, Disaster Recovery, Data Protection Appliances, Cloud Failover Appliance, EndGuard, and the system hardware on which they operate, and all versions and variations thereof since the issuance of the '919 Patent (the "Accused Instrumentality").

70. On information and belief, Infrascale has directly infringed and continues to infringe the '919 Patent, for example, through its own use and testing of the Accused Instrumentality, which constitutes a system for compressing data in one or more data blocks, comprising: a data storage server implemented on one or more processors and one or more memory systems and configured to: analyze a data block to determine a parameter, attribute, or value of the data block; wherein the analyzing excludes only reading a descriptor or data token associated with the data block; select at least one lossless encoder associated with the determined parameter, attribute, or value; compress data in the data block with the selected at least one lossless encoder to produce a compressed data block, having a size over 10 times smaller than the data block; and store the compressed data block, wherein the time of the compressing the data block and the storing the compressed data block is less than the time of storing the data block in uncompressed form. Upon information and belief, Infrascale uses the Accused Instrumentality, an infringing system, for its own internal non-testing business purposes, while testing the Accused Instrumentality, and while providing technical support and repair services for the Accused Instrumentality to Infrascale's customers.

71. On information and belief, use of the Accused Instrumentality in its ordinary and customary fashion results in infringement of the systems claimed by the '919 Patent.

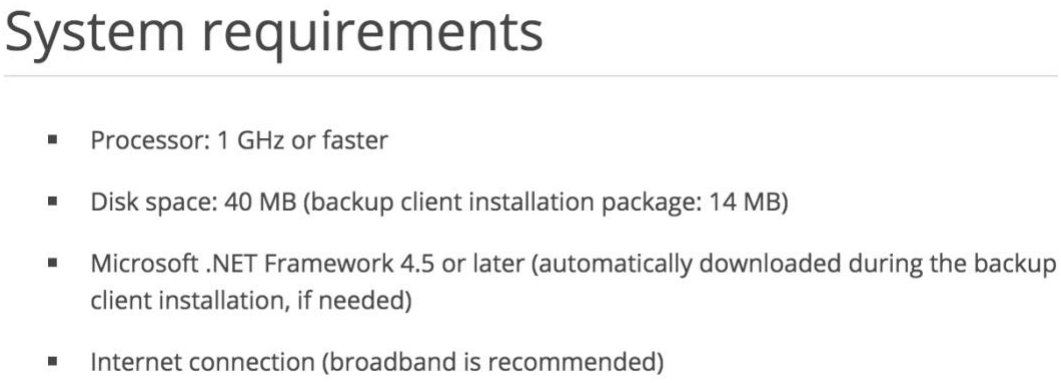
72. On information and belief, Infrascale has had knowledge of the '919 Patent since at least the filing of this First Amended Complaint or shortly thereafter,

and on information and belief, Infrascale knew of the '919 Patent and knew of its infringement, including by way of this lawsuit.

73. Upon information and belief, Infrascale's affirmative acts of making, using, and selling the Accused Instrumentalities, and providing implementation services and technical support to users of the Accused Instrumentalities, have induced and continue to induce users of the Accused Instrumentalities to use them in their normal and customary way to infringe Claim 9 of the '919 Patent by making or using a system for compressing data in one or more data blocks, comprising: a data storage server implemented on one or more processors and one or more memory systems and configured to: analyze a data block to determine a parameter, attribute, or value of the data block; wherein the analyzing excludes only reading a descriptor or data token associated with the data block; select at least one lossless encoder associated with the determined parameter, attribute, or value; compress data in the data block with the selected at least one lossless encoder to produce a compressed data block, having a size over 10 times smaller than the data block; and store the compressed data block, wherein the time of the compressing the data block and the storing the compressed data block is less than the time of storing the data block in uncompressed form. For example, Infrascale explains to customers the benefits of using the Accused Instrumentalities, such as by touting their performance advantages: "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored. … This translates into massive storage efficiencies on the order of up to 10X." *See* https://www.infrascale.com/technologies/. For similar reasons, Infrascale also induces its customers to use the Accused Instrumentalities to infringe other claims of the '919 Patent. Infrascale specifically intended and was aware that these normal and customary activities would infringe the '919 Patent. Infrascale performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '919 Patent and with the knowledge, or willful blindness

to the probability, that the induced acts would constitute infringement. On information and belief, Infrascale engaged in such inducement to promote the sales of the Accused Instrumentalities. Accordingly, Infrascale has induced and continues to induce users of the accused products to use the accused products in their ordinary and customary way to infringe the '919 Patent, knowing that such use constitutes infringement of the '919 Patent.

74. The Accused Instrumentality includes a data storage server implemented on one or more processors and one or more memory systems. For example, Infrascale's Cloud Backup requires 1GHz or faster processor and a disk space of 40 MB. *See* https://docs.infrascale.com/cb-spec.html#system-requirements.



As another example, Infrascale's Data Protection Appliances require "2x3 GHz processors (or better)" and a minimum disk space of 2 GB with minimum a RAM memory of 16 GB. *See* https://www.infrascale.com/wp-content/uploads/pdf/Infrascale-Data-Protection-Appliances-Data-Sheet.pdf.

System Requirements

	Disk 1	Disk 2	Disk 3
Minimum disk space	2 GB – boot volume	180 GB – database volume (should be SSD)	2 TB (or larger) – backup storage volume
Recommended disk space	4 GB – boot volume	360GB – database volume (should be SSD)	2 TB (or larger) – backup storage volume
CPU	2 x 3 GHz processors (or better)		
Minimum RAM memory	16 GB		
Recommended RAM memory	48 GB		
Operating system	Delivered as a VMware virtual machine		

75. The Accused Instrumentality is configured to analyze a data block to determine a parameter, attribute, or value of the data block, wherein the analyzing excludes only reading a descriptor or data token associated with the data block. For example, Infrascale discloses that "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Moreover, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. As another example, Accused Instrumentality states "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html.

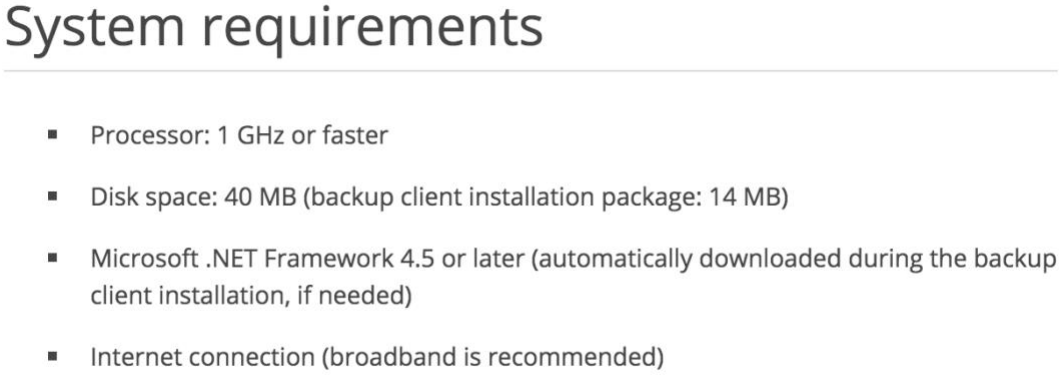
76. The Accused Instrumentality is configured to select at least one lossless encoder associated with the determined parameter, attribute, or value. For example, the Accused Instrumentalities select between deduplication or other compression. For example, Infrascale discloses "[D]ata deduplication identifies duplicate data,

removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Moreover, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. As another example, Accused Instrumentalities state "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html. As another example, the Accused Instrumentalities use "data compression to speed up the backup and recovery processes." *See* https://docs.infrascale.com/cb-spec.html#data-compression. As such, Infrascale "compresses data using Ionic Zip libraries (lossless compression) *prior* to transfer to the cloud, and decompresses it using Xceed." *See* https://docs.infrascale.com/cb-spec.html#data-compression.

77. The Accused Instrumentality compresses data in the data block with the selected at least one lossless encoder to produce a compressed data block, having a size over 10 times smaller than the data block. For example, the Accused Instrumentalities support data deduplication, which is a lossless encoder (e.g., "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your

network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html). As another example, Tan (2017) discloses "[D]ata deduplication is a lossless compression technology that has been widely used in storage systems for space optimization." *See* Abstract of Multi-Objective Metrics to Evaluate Deduplication Approaches available at IEEEAccess in Special Section On Heterogeneous Crowdsourced Data Analytics included herein as Exhibit G. As another example, Infrascale discloses "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored. … This translates into massive storage efficiencies on the order of up to 10X." *See* https://www.infrascale.com/technologies/.

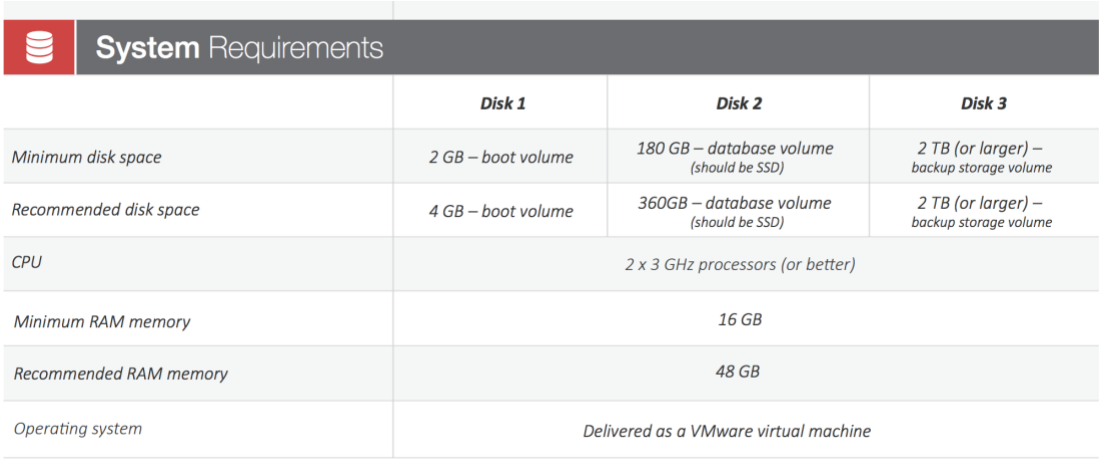
78. The Accused Instrumentality stores the compressed data block, wherein the time of the compressing the data block and the storing the compressed data block is less than the time of storing the data block in uncompressed form. For example, the Accused Instrumentalities have storage devices configured to store the compressed data black. *See* https://docs.infrascale.com/cb-spec.html#system-requirements.



System requirements

- Processor: 1 GHz or faster
- Disk space: 40 MB (backup client installation package: 14 MB)
- Microsoft .NET Framework 4.5 or later (automatically downloaded during the backup client installation, if needed)
- Internet connection (broadband is recommended)

See https://www.infrascale.com/wp-content/uploads/pdf/Infrascale-Data-Protection-Appliances-Data-Sheet.pdf.



System Requirements

	Disk 1	Disk 2	Disk 3
Minimum disk space	2 GB – boot volume	180 GB – database volume (should be SSD)	2 TB (or larger) – backup storage volume
Recommended disk space	4 GB – boot volume	360GB – database volume (should be SSD)	2 TB (or larger) – backup storage volume
CPU	2 x 3 GHz processors (or better)		
Minimum RAM memory	16 GB		
Recommended RAM memory	48 GB		
Operating system	Delivered as a VMware virtual machine		

Moreover, due to the data reduction and acceleration features of the specific compression algorithms used, the time of the compressing the data block and the storing the compressed data block is less than the time of storing the data block in uncompressed form. As such, Infrascale discloses that "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Moreover, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. As another example, Accused Instrumentalities state "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on

the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html.

79. On information and belief, Infrascale also infringes, directly and through induced infringement, and continues to infringe other claims of the '919 Patent.

80. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' compression features, Infrascale has injured Realtime and is liable to Realtime for infringement of the '919 Patent pursuant to 35 U.S.C. § 271.

81. As a result of Infrascale's infringement of the '919 Patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for Infrascale' infringement, but in no event less than a reasonable royalty for the use made of the invention by Infrascale, together with interest and costs as fixed by the Court.

COUNT VI

INFRINGMENT OF U.S. PATENT NO. 10,284,225

82. Plaintiff Realtime realleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein.

83. Plaintiff Realtime is the owner by assignment of United States Patent No. 10,284,225 ("the '225 Patent") entitled "System and Method for data compression." The '225 Patent was duly and legally issued by the United States Patent and Trademark Office on May 7, 2019. A true and correct copy of the '225 Patent is included as Exhibit F.

84. On information and belief, Infrascale has offered for sale, sold and/or imported into the United States Infrascale products and services that infringe the '225 Patent, and continues to do so. By way of illustrative example, these infringing

products and services include, without limitation, Infrascale's products and services, *e.g.*, Cloud Backup, Cloud Application Backup, Disaster Recovery, Data Protection Appliances, Cloud Failover Appliance, EndGuard, and the system hardware on which they operate, and all versions and variations thereof since the issuance of the '225 Patent (the "Accused Instrumentality").

85. On information and belief, Infrascale has directly infringed and continues to infringe the '225 Patent, for example, through its own use and testing of the Accused Instrumentality, which constitutes a system for compressing data in data blocks, comprising: one or more memory devices; first and second lossless encoders configured to utilize different lossless compression techniques; and one or more processors configured to: analyze a data block to determine a parameter, attribute, or value of the data block without only reading a descriptor or data token associated with the data block, select the first lossless encoder when the first lossless encoder is associated with the determined parameter, attribute, or value, and the second lossless encoder when the first lossless encoder is not associated with the determined first parameter, attribute, or value, wherein the selected first lossless encoder can compress data in the data block to produce a compressed data block or the selected second lossless encoder can compress data in the data block to produce a compressed data block, and initiate transmission of the compressed data block in one or more data packets, the one or more data packets including control information and the compressed data block; and wherein the time taken to compress the data block with the first or second lossless encoder and transmit the compressed data block is less than the time to transmit the data block in uncompressed form. Upon information and belief, Infrascale uses the Accused Instrumentality, an infringing system, for its own internal non-testing business purposes, while testing the Accused Instrumentality, and while providing technical support and repair services for the Accused Instrumentality to Infrascale's customers.

86. On information and belief, use of the Accused Instrumentality in its ordinary and customary fashion results in infringement of the systems claimed by the ’225 Patent.

87. On information and belief, Infrascale has had knowledge of the ’225 Patent since at least the filing of this First Amended Complaint or shortly thereafter, and on information and belief, Infrascale knew of the ’225 Patent and knew of its infringement, including by way of this lawsuit.

88. Upon information and belief, Infrascale’s affirmative acts of making, using, and selling the Accused Instrumentalities, and providing implementation services and technical support to users of the Accused Instrumentalities, have induced and continue to induce users of the Accused Instrumentalities to use them in their normal and customary way to infringe Claim 1 of the ’225 Patent by making or using a system for compressing data in data blocks, comprising: one or more memory devices; first and second lossless encoders configured to utilize different lossless compression techniques; and one or more processors configured to:

analyze a data block to determine a parameter, attribute, or value of the data block without only reading a descriptor or data token associated with the data block,

select the first lossless encoder when the first lossless encoder is associated with the determined parameter, attribute, or value, and the second lossless encoder when the first lossless encoder is not associated with the determined first parameter, attribute, or value, wherein the selected first lossless encoder can compress data in the data block to produce a compressed data block or the selected second lossless encoder can compress data in the data block to produce a compressed data block, and initiate transmission of the compressed data block in one or more data packets, the one or more data packets including control information and the compressed data block; and wherein the time taken to compress the data block with the first or second lossless encoder and transmit the compressed data block is less than the time to transmit the data block in uncompressed form. For example, Infrascale explains to customers the

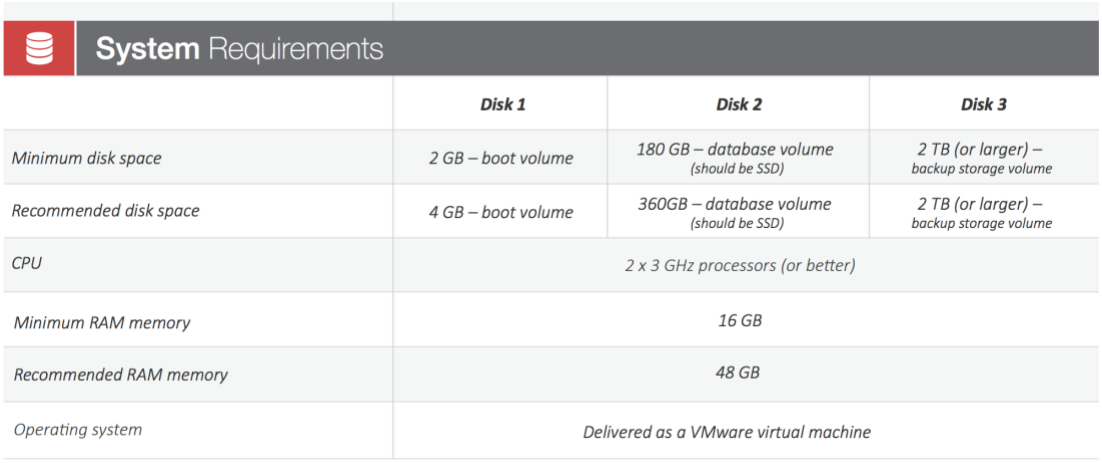
benefits of using the Accused Instrumentalities, such as by touting their performance advantages: "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored. … This translates into massive storage efficiencies on the order of up to 10X." *See* https://www.infrascale.com/technologies/. For similar reasons, Infrascale also induces its customers to use the Accused Instrumentalities to infringe other claims of the '225 Patent. Infrascale specifically intended and was aware that these normal and customary activities would infringe the '225 Patent. Infrascale performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '225 Patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Infrascale engaged in such inducement to promote the sales of the Accused Instrumentalities. Accordingly, Infrascale has induced and continues to induce users of the accused products to use the accused products in their ordinary and customary way to infringe the '225 Patent, knowing that such use constitutes infringement of the '225 Patent.

89. The Accused Instrumentality includes one or more memory devices. For example, Infrascale's Cloud Backup requires a disk space of 40 MB. *See* https://docs.infrascale.com/cb-spec.html#system-requirements.

System requirements

- Processor: 1 GHz or faster
- Disk space: 40 MB (backup client installation package: 14 MB)
- Microsoft .NET Framework 4.5 or later (automatically downloaded during the backup client installation, if needed)
- Internet connection (broadband is recommended)

As another example, Infrascale's Data Protection Appliances require a minimum disk space of 2 GB with minimum a RAM memory of 16 GB. *See* https://www.infrascale.com/wp-content/uploads/pdf/Infrascale-Data-Protection-Appliances-Data-Sheet.pdf.



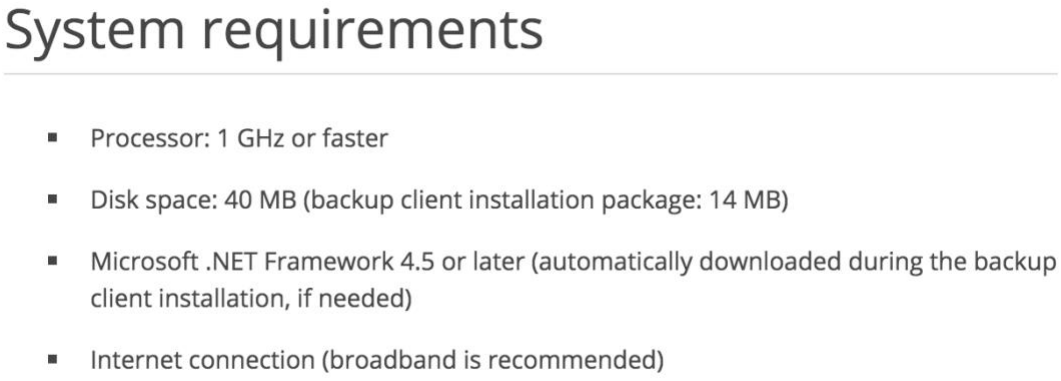
System Requirements

	Disk 1	Disk 2	Disk 3
Minimum disk space	2 GB – boot volume	180 GB – database volume (should be SSD)	2 TB (or larger) – backup storage volume
Recommended disk space	4 GB – boot volume	360GB – database volume (should be SSD)	2 TB (or larger) – backup storage volume
CPU	2 x 3 GHz processors (or better)		
Minimum RAM memory	16 GB		
Recommended RAM memory	48 GB		
Operating system	Delivered as a VMware virtual machine		

90. The Accused Instrumentality includes first and second lossless encoders configured to utilize different lossless compression techniques. For example, Infrascale discloses "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Furthermore, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. As another example, Accused Instrumentalities state "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html. As another example, Tan (2017) discloses "[D]ata deduplication is a lossless compression technology that

has been widely used in storage systems for space optimization." *See* Abstract of Multi-Objective Metrics to Evaluate Deduplication Approaches available at IEEEAccess in Special Section On Heterogeneous Crowdsourced Data Analytics included herein as Exhibit G. As another example, the Accused Instrumentality uses a different data compression "to speed up the backup and recovery processes." *See* https://docs.infrascale.com/cb-spec.html#data-compression. In particular, Infrascale uses "[I]onic Zip libraries (lossless compression) *prior* to transfer to the cloud, and decompresses it using Xceed." *See* https://docs.infrascale.com/cb-spec.html#data-compression.

91. The Accused Instrumentality includes one or more processors. For example, Infrascale's Cloud Backup requires 1GHz or faster processor. *See* https://docs.infrascale.com/cb-spec.html#system-requirements.



As another example, Infrascale's Data Protection Appliances require "2x3 GHz processors (or better)." *See* https://www.infrascale.com/wp-content/uploads/pdf/Infrascale-Data-Protection-Appliances-Data-Sheet.pdf.

System Requirements

	Disk 1	Disk 2	Disk 3
Minimum disk space	2 GB – boot volume	180 GB – database volume (should be SSD)	2 TB (or larger) – backup storage volume
Recommended disk space	4 GB – boot volume	360GB – database volume (should be SSD)	2 TB (or larger) – backup storage volume
CPU	2 x 3 GHz processors (or better)		
Minimum RAM memory	16 GB		
Recommended RAM memory	48 GB		
Operating system	Delivered as a VMware virtual machine		

92. The Accused Instrumentality is configured to analyze a data block to determine a parameter, attribute, or value of the data block without only reading a descriptor or data token associated with the data block. For example, Infrascale discloses that "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Moreover, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. As another example, Accused Instrumentality states "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html.

93. The Accused Instrumentality is configured to selects the first lossless encoder when the first lossless encoder is associated with the determined parameter, attribute, or value, and the second lossless encoder when the first lossless encoder is not associated with the determined first parameter, attribute, or value, wherein the

selected first lossless encoder can compress data in the data block to produce a compressed data block or the selected second lossless encoder can compress data in the data block to produce a compressed data block. For example, the Accused Instrumentalities selects data deduplication when a duplicate data block is found (e.g., "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/. "[D]eduplication occurs by reading the backup job data and copying unique files to a repository that is also on the RAID, while duplicate files are simply referenced and not copied." *See* https://docs.infrascale.com/deduplication-best-practices.html.) As another example, Tan (2017) discloses "[D]ata deduplication is a lossless compression technology that has been widely used in storage systems for space optimization." *See* Abstract of Multi-Objective Metrics to Evaluate Deduplication Approaches available at IEEEAccess in Special Section On Heterogeneous Crowdsourced Data Analytics included herein as Exhibit G. For example, the Accused Instrumentalities support lossless Ionic Zip compression technique. (e.g., "compresses data using Ionic Zip libraries (lossless compression) *prior* to transfer to the cloud, and decompresses it using Xceed." *See* https://docs.infrascale.com/cb-spec.html#data-compression). As such, if a data block is not the duplicate of previously stored data block, the Accused Instrumentalities select a lossless Ionic Zip compression technique to address redundancies within said data block.

94. The Accused Instrumentality initiates transmission of the compressed data block in one or more data packets, the one or more data packets including control information and the compressed data block, wherein the time taken to compress the data block with the first or second lossless encoder and transmit the compressed data block is less than the time to transmit the data block in uncompressed form. Due to the data reduction and acceleration features of the specific compression algorithms used, the time of the compressing the data block and the transmitting the compressed data block is less than the time of transmitting the data block in uncompressed form. As such, Infrascale discloses that "[D]ata deduplication identifies duplicate data, removing redundancies and reducing the amount of data transferred and stored." *See* https://www.infrascale.com/technologies/. Moreover, Infrascale leverages "[D]eduplicating File System-Assisted Replication (DDFS-AR) to perform over-the-WAN (block-level) deduplication. DDFS-AR effectively queries your cloud repository before it transmits any data to see if a particular block already exists within the cloud. It only writes to the cloud archive if that block does not yet exist which reduces your network footprint bandwidth costs but dramatically increase the speed of replication." *See* https://www.infrascale.com/technologies/.

95. On information and belief, Infrascale also infringes, directly and through induced infringement, and continues to infringe other claims of the '225 Patent.

96. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' compression features, Infrascale has injured Realtime and is liable to Realtime for infringement of the '225 Patent pursuant to 35 U.S.C. § 271.

97. As a result of Infrascale's infringement of the '225 Patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for

Infrascale' infringement, but in no event less than a reasonable royalty for the use made of the invention by Infrascale, together with interest and costs as fixed by the Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Realtime respectfully requests that this Court enter:

a. A judgment in favor of Plaintiff that Infrascale has infringed, either literally and/or under the doctrine of equivalents, the '728 Patent, the '751 Patent, the '825 Patent, the '908 Patent, the '919 Patent, and the '225 Patent;

b. A permanent injunction prohibiting Infrascale from further acts of infringement of the '728 Patent, the '751 Patent, the '825 Patent, the '908 Patent, the '919 Patent, and the '225 Patent;

c. A judgment and order requiring Infrascale to pay Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for its infringement of the '728 Patent, the '751 Patent, the '825 Patent, the '908 Patent, the '919 Patent, and the '225 Patent; and

d. A judgment and order requiring Infrascale to provide an accounting and to pay supplemental damages to Realtime, including without limitation, prejudgment and post-judgment interest;

e. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees against Defendants; and

f. Any and all other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

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

Respectfully submitted,

DATED: August 7, 2019

RUSS, AUGUST & KABAT

/s/ Reza Mirzaie

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