

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

DATA CLOUD TECHNOLOGIES, LLC,

Plaintiff,

v.

BOX, INC.,

Defendant.

CIVIL ACTION NO. _____

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT

Plaintiff DataCloud Technologies, LLC (hereinafter, “Plaintiff” or “DataCloud”), by and through its undersigned counsel, files this Complaint for Patent Infringement against Defendant Box, Inc. (hereinafter, “Defendant” or “Box”) as follows:

NATURE OF THE ACTION

1. This is a patent infringement action to stop Defendant’s infringement of the following United States Patents (collectively, the “Patents-in-Suit”), copies of which are attached hereto as **Exhibit A, Exhibit B, Exhibit C, and Exhibit D**, respectively:

	U.S. Patent No.	Title
A.	6,560,613	Disambiguating File Descriptors
B.	6,651,063	Data Organization And Management System And Method
C.	7,398,298	Remote Access And Retrieval Of Electronic Files
D.	8,762,498	Apparatus, System, And Method For Communicating To A Network Through A Virtual Domain

2. Plaintiff seeks injunctive relief and monetary damages.

PARTIES

3. DataCloud is a limited liability company organized and existing under the laws of the State of Georgia and maintains its principal place of business at 44 Milton Avenue, Suite 254, Alpharetta, Georgia, 30009 (Fulton County).

4. Based upon public information, Box is a corporation duly organized and existing under the laws of the state of Delaware since March 11, 2008.

5. Based upon public information, Box has its principal place of business located at 900 Jefferson Avenue, Redwood City, California 94063 (San Mateo County).

6. Defendant may be served through its registered agent, Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19801.

JURISDICTION AND VENUE

7. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271, 281, 283, 284, and 285. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

8. The Court has personal jurisdiction over Box because: Defendant has minimum contacts within the State of Delaware and in this District; Defendant has purposefully availed itself of the privileges of conducting business in the State of Delaware and in this District; Defendant has sought protection and benefit from the laws of the State of Delaware and is incorporated there; Defendant regularly conducts business within the State of Delaware and within this District, and Plaintiff's causes of action arise directly from Defendant's business contacts and other activities in the State of Delaware and in this District.

9. More specifically, Box, directly and/or through its intermediaries, ships, distributes, makes, uses, imports, offers for sale, sells, and/or advertises its products and services in the United States, the State of Delaware, and the District of Delaware.

10. Based upon public information, Box solicits customers in the State of Delaware and in this District and has many paying customers who are residents of the State of Delaware and this District and who use its products in the State of Delaware and in this District. Defendant is also incorporated in the State of Delaware and in this District.

11. Venue is proper pursuant to 28 U.S.C. §1400(b) because Box resides in the District of Delaware because of its formation under the laws of Delaware.

12. Venue is proper pursuant to 28 U.S.C. § 1391(b) and (c) because Box resides in the District of Delaware because of its formation under the laws of Delaware, which subjects it to the personal jurisdiction of this Court.

BACKGROUND INFORMATION

13. The Patents-in-Suit were duly and legally issued by the United States Patent and Trademark Office (hereinafter, the “USPTO”) after full and fair examinations.

14. Plaintiff is the owner of the Patents-in-Suit, and possesses all right, title and interest in the Patents-in-Suit including the right to enforce the Patents-in-Suit, the right to license the Patents-in-Suit, and the right to sue Defendant for infringement and recover past damages.

15. Plaintiff has at all times complied with the marking provisions of 35 U.S.C. § 287 with respect to the Patents-in-Suit.

16. Plaintiff does not sell, offer to sell, make, or use any products itself, so it does not have any obligation to mark any of its own products under 35 U.S.C. § 287.

17. By letter dated April 16, 2020, DataCloud’s licensing agent sent Defendant a letter in which it identified DataCloud’s patent portfolio, which includes each of the Patents-in-Suit. *See Exhibit E* (hereinafter, the “Notice Letter”).

DEFENDANT’S PRODUCTS AND SERVICES

18. Based upon public information, Defendant owns, operates, advertises, and/or controls the website www.box.com through which it advertises, sells, offers to sell, provides and/or educates customers about its products and services. *See Exhibit F.*

19. Based upon public information, Defendant provides sales information, training and educational information, for its products. *See Exhibit G.*

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 6,560,613

20. Plaintiff re-alleges and incorporates by reference each of the paragraphs above.

21. U.S. Patent No. 6,560,613 (hereinafter, the “’613 Patent”), was issued on May 6, 2003 after full and fair examination by the USPTO of Application No. 09/500,212 which was filed on February 8, 2000. *See Ex. A.* A Certificate of Correction was issued on August 26, 2003. *See id.*

22. Based upon public information, Plaintiff is informed and believes that Defendant has infringed one or more claims of the ’613 Patent, either literally or under the doctrine of equivalents, because it ships distributes, makes, uses, imports, offers for sale, sells, and/or advertises virtualization services, which use QEMU and KVM, as part of their Box cloud infrastructure that underlies its cloud computing product offerings (“Cloud Services”). *See Exhibit H.*

23. Upon information and belief, the use of QEMU and KVM in the Cloud Services meets each and every element of at least Claim 1 of the ’613 Patent, either literally or equivalently.

24. Based upon public information, the Cloud Services has infringed one or more claims of the ’613 Patent, including Claim 1, because it provides a method for disambiguating file descriptors in a computer system through a process which intercepts the system calls that

identify file descriptors and the system calls that create copies of one or more file descriptors, stores one or more file type indicators for each file descriptor and each file descriptor copy, and upon an attempt to access a file based upon a file descriptor, determines what file type is associated with the file descriptor based on a review of the stored file type indicators. QEMU and KVM employ disambiguation of file descriptors (files/sockets/pipes) that are used in shadowed I/O system call routines by intercepting them, storing related indicators (*e.g.*, reference to images), and examining those stored indicators to determine the associated file type.

25. To the extent that Defendant is not the only direct infringer of one or more claims of the '613 Patent, it instructs its customers on how to use the Cloud Services in ways that infringe one or more claims of the '613 Patent through its support and sales activities. *See Ex. G.*

26. Based upon public information, Defendant's customers use its Cloud Services in such a way that infringes one or more claims of the '613 Patent. *See Ex. H.*

27. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

28. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT II: INFRINGEMENT OF U.S. PATENT NO. 6,651,063

29. Plaintiff re-alleges and incorporates by reference each of the paragraphs above.

30. U.S. Patent No. 6,651,063 (hereinafter, the "'063 Patent"), was issued on November 18, 2003 after full and fair examination by the USPTO of Application No. 09/493,911 which was filed on January 28, 2000. *See Ex. B.* A Certificate of Correction was issued on

February 3, 2004. *See id.*

31. Based upon public information, Plaintiff is informed and believes that Defendant has infringed one or more claims of the '063 Patent, either literally or under the doctrine of equivalents, because it ships distributes, makes, uses, imports, offers for sale, sells, and/or advertises its “Box Drive” which provides access to Box Apps and files from a desktop or a mobile device. *See Exhibit I.*

32. Upon information and belief, Box Drive meets each and every element of at least Claim 4 of the '063 Patent, either literally or equivalently.

33. Based upon public information, Box Drive has infringed one or more claims of the '613 Patent, including Claim 4, because its installation procedures provide a method for storing and controlled access of data in a repository by storing information in an “information pack” (its “installer package,” *e.g.*, Box-x64.msi) associated with the address of a data repository (C:/Program Files/Box/Box . . .), a “category identifier” (Path), and a “provider identifier” (Box, Inc.). The information pack is sent to the specified data repository and stored there in a location reserved for the specified category identifier that is specifically created for the information pack and a “custom category identifier” (certificate issued by Box, Inc.) is assigned to the information pack. The custom category identifier is subsequently used to identify other information packs that should be stored in the same location based on matching category identifiers.

34. To the extent that Defendant is not the only direct infringer of one or more claims of the '063 Patent, it instructs its customers on how to use Box Drive in ways that infringe one or more claims of the '063 Patent through its support and sales activities. *See Ex. G.*

35. Based upon public information, Defendant’s customers use Box Drive in such a way that infringes one or more claims of the '063 Patent. *See Ex. I.*

36. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

37. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT III: INFRINGEMENT OF U.S. PATENT NO. 7,398,298

38. Plaintiff re-alleges and incorporates by reference each of the paragraphs above.

39. U.S. Patent No. 7,398,298 (hereinafter, the "'298 Patent"), was issued on July 8, 2008 after full and fair examination by the USPTO of Application No. 11/690,803 which was filed on March 23, 2007. *See Ex. C.*

40. Based upon public information, Plaintiff is informed and believes that Defendant has infringed and continues to infringe one or more claims of the '298 Patent, either literally or under the doctrine of equivalents, because it ships distributes, makes, uses, imports, offers for sale, sells, and/or advertises Box for Enterprises/Box Platform, including its Box Admin Tools, in which "Enterprise admins have the ability to add multiple users to folders and assign access permissions quickly and easily" ("Box Enterprise") *See Exhibit J.*

41. Upon information and belief, the Box Admin Tools in Box Enterprise meets each and every element of at least Claim 1 of the '298 Patent, either literally or equivalently.

42. Based upon public information, Box Enterprise has infringed and continues to infringe one or more claims of the '298 Patent, including Claim 1, because it provides a system of hardware and software (creating and managing groups) that is configured to process requests for data from remote data repositories only if the requestor's profile matches an entry in a profile list that contains information about the data and its repository. Enterprise administrators for Box

Enterprise have the ability to add multiple users to folder and assign access permissions, the associated information for which is included in a Box/HBase datastore.

43. Based upon public information, Defendant has intentionally induced and continues to induce infringement of one or more claims of the '298 Patent in this District and elsewhere in the United States, by its intentional acts which have successfully, among other things, encouraged, instructed, enabled, and otherwise caused Defendant's customers to use Box Enterprise in an infringing manner. To the extent that Defendant is not the only direct infringer of one or more claims of the '298 Patent, it instructs its customers on how to use Box Enterprise in ways that infringe one or more claims of the '298 Patent through its support and sales activities. *See Ex. G.*

44. Despite knowledge of the '298 Patent as early as the date of its receipt of the Notice Letter, Defendant, based upon public information, continues to encourage, instruct, enable, and otherwise cause its customers to use its products and services, in a manner which infringes one or more claims of the '298 Patent. Based upon public information, the provision of and sale of Box Enterprise is a source of revenue and a business focus for Defendant. *See Ex. F.*

45. Based upon public information, Defendant specifically intends its customers to use its products and services in such a way that infringes one or more claims of the '298 Patent by, at a minimum, providing and supporting Box Enterprise and instructing its customers on how to use them in an infringing manner, at least through information available on Defendant's website including information brochures, promotional material, and contact information. *See Ex. J.*

46. Specifically, Defendant offers design services to select, deploy and integrate Box Enterprise into its customers' systems. Based upon public information, Defendant knew that its

actions, including, but not limited to any of the aforementioned products and services, would induce, have induced, and will continue to induce infringement by its customers by continuing to sell, support, and instruct its customers on using Box Enterprise.

47. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

48. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

49. Defendant's infringement of Plaintiff's rights under the '298 Patent will continue to damage Plaintiff, causing irreparable harm to Plaintiff for which there is no adequate remedy at law, unless enjoined by this Court.

COUNT IV: INFRINGEMENT OF U.S. PATENT NO. 8,762,498

50. Plaintiff re-alleges and incorporates by reference each of the paragraphs above.

51. U.S. Patent No. 8,762,498 (hereinafter, the "'498 Patent"), was issued on June 24, 2014 after full and fair examination by the USPTO of Application No. 13/731,731 which was filed on December 31, 2012. *See Ex. D.*

52. Based upon public information, Plaintiff is informed and believes that Defendant has infringed one or more claims of the '498 Patent, either literally or under the doctrine of equivalents, because it ships distributes, makes, uses, imports, offers for sale, sells, and/or advertises its Box for Enterprises/Box Platform which provides a "the capabilities and tools you need to build custom apps" in order to "connect[] every business interaction into a single platform for your content." *See Exhibit K.*

53. Upon information and belief, the Box Enterprise meets each and every element of

at least Claim 1 of the '498 Patent, either literally or equivalently.

54. Based upon public information, the Box Platform has infringed one or more claims of the '498 Patent, including Claim 1, because it provides a system of hardware and software that is configured to respond to a request for data by identifying a virtual namespace (from a plurality of namespaces, *e.g.*, *alice.box.com*, *cdw.box.com*, *cisco.box.com*, *cmu.box.com*, etc.) destination IP address from a selection of categories to determine a device with a specific forwarder IP address (by correlation *via* HAProxy) and instruct it to send the request for data to the destination IP address (Notes Server).

55. To the extent that Defendant is not the only direct infringer of one or more claims of the '498 Patent, it instructs its customers on how to use the Box Enterprise in ways that infringe one or more claims of the '498 Patent through its support and sales activities. *See* Ex. G.

56. Based upon public information, Defendant's customers use its products and services in such a way that infringes one or more claims of the '498 Patent. *See* Ex. K.

57. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

58. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

JURY DEMAND

59. Plaintiff demands a trial by jury on all issues.

PRAYER FOR RELIEF

60. Plaintiff respectfully requests the following relief with respect to Box:

- A. An adjudication that one or more claims of the Patents-in-Suit has been infringed, either literally and/or under the doctrine of equivalents, by Defendant;
- B. An adjudication that Box has induced infringement of one or more claims of the Patents-in-Suit based upon pre-suit knowledge of the Patents-in-Suit;
- C. An award of damages to be paid by Defendant adequate to compensate Plaintiff for Defendant's past infringement and any continuing or future infringement up until the date such judgment is entered, including interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary to adequately compensate Plaintiff for Defendant's infringement, an accounting of all infringing sales including, but not limited to, those sales not presented at trial;
- D. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining Defendant and its respective officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, from further acts of infringement with respect to any one or more of the claims of the Patents-in-Suit that have not expired;
- E. That this Court declare this to be an exceptional case and award Plaintiff its reasonable attorneys' fees and costs in accordance with 35 U.S.C. § 285; and,
- F. Any further relief that this Court deems just and proper.

Dated: June 5, 2020

Respectfully submitted,

Stamoulis & Weinblatt, LLC

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LIST OF EXHIBITS

- A. U.S. Patent No. 6,560,613
- B. U.S. Patent No. 6,651,063
- C. U.S. Patent No. 7,398,298
- D. U.S. Patent No. 8,762,498
- E. Letter dated April 16, 2020 from DataCloud's Licensing Agent
- F. Webpage Describing Products Offered
- G. Webpage Describing Support for Products
- H. Datasheet Describing Cloud Content Management
- I. Datasheet Describing Box Drive
- J. Webpage Describing Creating and Managing Groups with Box Admin Tools
- K. Webpage Describing Serverless Architecture and Box Platform