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**UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF CALIFORNIA**
**SAN FRANCISCO DIVISION**

REALTIME DATA LLC d/b/a IXO,

Plaintiff,

v.

BACKBLAZE, INC.,

Defendant.

**Case No. 3:19-cv-01504-WHA**

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT AGAINST BACKBLAZE, 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 Backblaze Inc. ("Backblaze" or "Defendant"):

## PARTIES

1. Realtime is a limited liability company organized under the laws of the State of New York. Realtime's principal place of business is 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 40 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, Backblaze is a Delaware corporation with its principal place of business at 500 Ben Franklin Ct. San Mateo, San Mateo, CA 94401. Backblaze can be served through its registered agent, Incorporating Services, LTD., 3500 S. Dupont HWY, Dover, Delaware, 19901.

## 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 Backblaze in this action because Backblaze has its principal place of business and has committed acts within the Northern District of California giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over Backblaze would not offend traditional notions of

fair play and substantial justice. Backblaze, 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, Backblaze has its principal place of business in this District, has transacted business in this District, and has committed acts of direct and indirect infringement in this District.

**ASSERTED PATENTS**

6. 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. A true and correct copy of the '908 Patent is included as Exhibit A.

7. 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.

8. 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.

9. In addition to the factual allegations set forth below for each of the three Counts, the following are non-exhaustive list of fact-based claim constructions that confirm that the claimed solutions do not just cover any form of digital data compression techniques but instead are more focused—and covers a technical sub-species of digital data compression. These constructions include the following:[1]

a. "compressing" / "compressed" / "compression": [representing / represented / representation of] data with fewer bits.

[1] Realtime reserves the right to modify these constructions as case progresses, consistent with the practice of meeting and conferring that are typical in any claim construction proceeding.

b. "descriptor": recognizable digital data

c. "data stream": one or more data blocks transmitted in sequence

d. "data block": a single unit of data, which may range in size from individual bits through complete files or collection of multiple files

e. "analyze": directly examine

10. Prior constructions in earlier-filed cases involving the '908 patent and patents related to the '751 and '825 patents confirm that the claimed methods and systems are in fact limited to *the compression of digital data*. For example, pursuant to a stipulation, a Texas court construed the term "compress"—a term used in all patents—to mean "represent data **with fewer bits**." *Realtime Data LLC v. Actian Corp. et al.*, Case No. 15-cv-463-RWS-JDL, Dkt. No. 362 (E.D. Tex. July 28, 2016). This construction confirmed that the claimed inventions were limited to the realm of digital-data compression, as a "bit" is a unit of digital data. The constructions of other claim terms, such as "data block" and "accelerator" also confirmed that the patented inventions are unique to the compression of digital data. For example, the plain and ordinary meaning of the term "data block" was stipulated to be "a single **unit of data**," which may only "range in size from individual **bits through complete files or collection of multiple files**." *Realtime Data LLC v. Actian Corp. et al.*, Case No. 15-cv-463-RWS-JDL, Dkt. No. 362 (E.D. Tex. July 28, 2016).

11. The asserted '908 patent and patents related to the '751 and '825 patents have gone through §101 scrutiny before in multiple districts. In a detailed, twenty-two-page opinion issued on September 20, 2017, a court in Texas ruled, in a Report and Recommendation by Magistrate Judge Love, that the asserted '908 patent and three other patents that are related to the '751 and '825 patents are "inventive" and "directed to patent eligible subject matter" because they disclose "specific improvement[s] in computer capabilities." *Realtime Data LLC v. Carbonite, Inc.*, Case No. 17-cv-121, D.I. 70 (E.D. Tex. Sept. 20, 2017), *e.g.,* at 7, 10, 15, 16, 20.[2]

[2] U.S. Pat. No. 9,054,728 at issue in the Carbonite case is related to (and shares substantially the same specification as) the '825 patent asserted here, and U.S. Pat. No. 8,717,204 at issue in the Carbonite case is related to (and shares substantially the same specification as) the '751 patent asserted here.

12. On March 7, 2018, after the Carbonite case was transferred to Massachusetts, District Judge Young in Massachusetts adopted in full Judge Love's rulings "[a]fter careful consideration." *Realtime Data LLC v. Carbonite, Inc.*, Case No. 1:17-cv-12499, D.I. 97 (D. Mass. March 7, 2018).

13. In addition, two judges in Texas also denied other §101 motions involving two of the three patent families at issue here. In one, Magistrate Judge Love held that "an assessment of the claims at issues—by a careful reading of the claims themselves—does not clearly reveal that the patents are abstract." *Realtime Data LLC v. Actian Corp.*, 6:15-CV-463-RWS-JDL, D.I. 184 (E.D. Tex. Nov. 30, 2015). In the other, District Judge Schroeder adopted this ruling and further held that under Realtime's view, namely, that the claims are directed to the compression of digital data, the argument that the patents are directed to an abstract idea "would fail" because the patents "provide technological solutions to problems arising specifically in the realm of computer technology." *Realtime Data LLC v. Actian Corp.*, 6:15-CV-463-RWS-JDL, D.I. 226 (E.D. Tex. Jan. 21, 2016). Thus, in affirming the denial of the motions to dismiss, Judge Schroeder stated that, if the claim construction proceedings confirmed that the claimed inventions are specific to the methods and systems for the compression of digital data, then the claims would indeed be patent-eligible. *Realtime Data LLC v. Actian Corp. et al.* (E.D. Tex. Case No. 15-cv-463) involved the '908 patent asserted in this case, as well as Pat. Nos. 7,378,992 and 8,643,513, which are related to (and share substantially the same specification as) the '825 patent asserted here.

14. These rulings show that the patents are directed to patent eligible subject matter, and that they are also inventive.

## COUNT I

## INFRINGEMENT OF U.S. PATENT NO. 9,116,908

15. 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. 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. A true and correct copy of the '908 Patent is included as Exhibit A.

16. The claims at issue here are not abstract, but rather are limited to particularized technological solutions that improve computer capabilities—e.g., digital data compression systems to increase the capacity of a computer system to store or transfer data more efficiently.

17. The '908 patent teaches various improved, particularized digital data compression systems and methods to address problems specific to digital data. Indeed, the patent itself states that it deals specifically with limitations and problems arising in the realm of compressing "**[d]iffuse digital data"** which is **"a representation of data that . . . is typically not easily recognizable to humans in its native form**." '908 patent at 1:33-37.

18. In their most basic form, and ignoring many claim limitations, the claims of the '908 patent is directed to systems and methods of digital data compression utilizing a plurality of different encoders for accelerated storage and retrieval of data blocks. *See*, *e.g.*, '908 patent at Abstract, 2:58–60. The '908 patent addresses problems that existed in the realm of digital data compression, including:

a. "high performance disk interface standards . . . offer only the promise of higher data transfer rates through intermediate data buffering in random access memory"

b. "[f]aster disk access data rates are only achieved by the high cost solution of simultaneously accessing multiple disk drives with a technique known within the art as data striping"

c. "problems with bandwidth limitations similarly occur within the art by all other forms of sequential, pseudorandom, and random access mass storage devices"

'908 patent at 2:20–54.

19. The '908 patent solves the foregoing problems with novel technological solutions in digital data compression utilizing a plurality of different encoders, and optionally a compression descriptor, for accelerated storage and retrieval of data blocks. The novel approaches taught in the specification, include:

a. Using digital compression type descriptor "for output so as to indicate the type of compression format of the encoded data block"

b. "data storage and retrieval accelerator method and system [being] employed in a disk storage adapter to reduce the time required to store and retrieve data from computer to a disk memory device"

c. "data storage and retrieval accelerator method and system [being] employed in conjunction with random access memory to reduce the time required to store and retrieve data from random access memory"

d. "provid[ing] an effective increase of the data storage and retrieval bandwidth of a memory storage device"

'908 patent at 2:58–3:58; 12:14-59. Figure 8 illustrates of one preferred embodiment:

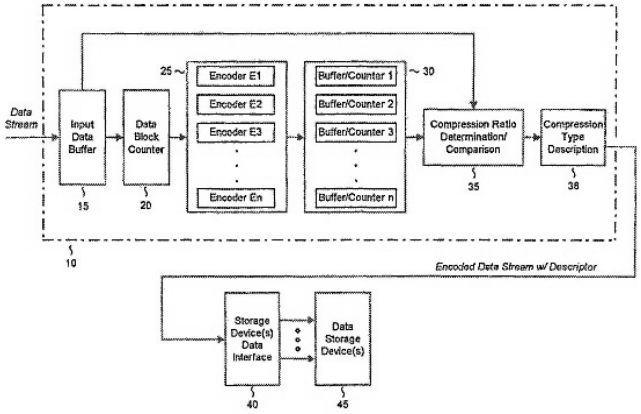



FIGURE 8

20. The claims require unconventional combination of elements, *e.g.*: (a) "a data accelerator" with two different compression techniques; (b) "a memory device"; (c) where the accelerator is configured to compress two data blocks; (d) including "a first data block with a first compression technique"; and (e) a "second data block with a second [and different] compression technique." (*Id.* 18:50-62.) The accelerator is unconventional, as it requires two different compression techniques and the structural capability of compressing and storing digital data faster than the digital data can be stored in uncompressed form.

21. The novelty and unconventional nature of the '908 patent is further confirmed by the fact that the '908 patent has gone through the adversarial *inter partes* review process, after

which all challenged claims were confirmed to be patentable. *E.g.,* IPR2016-01002 (PTAB, Oct. 31, 2017).

22. Further, the file history confirms that the claims were inventive over prior art and not well-understood, routine, and conventional. For instance, the patent claims were allowed by the PTO after the PTO considered hundreds of references, which are cited in the "References Cited" portion of the patent.

23. Claim 1 is not representative of all claims of the '908 patent. For example, claim 29 of the '908 patent requires "decompressing the first compressed data block and the second compressed data block, wherein the retrieval and decompression occurs faster than the first data block is able to be retrieved from the memory device in uncompressed form," which is not a limitation in claim 1 or other claims.

24. The claims do not merely recite a result. Instead, they recite specific steps for accomplishing a result—e.g., comprising a memory device and a data accelerator configured to compress two data blocks with two different compression techniques.

25. The dependent claims contain limitations not found in the independent claims. For example, dependent claim 3 recites "a second data descriptor on the memory device indicative of the second compression technique such that the second descriptor is capable of being utilized to decompress at least a portion of the second data block"; claim 9 recites "wherein the first compression technique applied to the first data block is a form of dictionary compression and the second compression technique applied to the second data block is a form of Lempel-Ziv compression"; claim 12 recites "wherein the first compression technique includes compressing with a plurality of encoders in a serial configuration"; claim 13 recites "wherein the first compression technique includes compressing with a plurality of encoders in a parallel configuration, each of the plurality of encoders having an identical type."

26. In a patent filed by Altera in 2012, it admitted that there was still a technical problem associated with computer capacity and a need for a more efficient compression system: "In order to better meet the requirements of higher speed data transfer, reduced memory utilization

and minimal computation in many computing applications, a need exists for computationally efficient compression and decompression." U.S. Pat. No. 9,026,568 at 2:43-47.

27. Similarly, in a 2013 patent filed by Western Digital, it also admitted that there was still a technical problem associated with computer capacity and a need for a more efficient compression system: "It is desirable to provide mechanisms and architectures for increasing capacity, reliability, and performance of data storage systems." U.S. Pat. No. 9,448,738 at 1:33-35.

28. The statements in these later-filed patents confirm that Realtime's patent at issue here are directed to technical solutions to technical problems, and improves computer functionalities. The statements in these later-filed patents also confirm that the limitations recited in Realtime's patent at issue here are not well-understood, routine, or conventional, and that the claims are not directed to other ideas "identified by the courts as abstract ideas," that recently have been synthesized into three groups: "(a) mathematical concepts"; "(b) methods of organizing human activity"; or "(c) mental processes." 84 Fed. Reg. 50 (Jan. 7, 2019) (2019 PTO §101 Guidance, citing and surveying post-*Alice* decisions).

29. On information and belief, Backblaze has offered for sale, sold and/or imported into the United States Backblaze 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, Backblaze products and services, *e.g.*, Backblaze Personal Backup, Business Backup, Backblaze 1.0, Backblaze 2.0, Backblaze 3.0, and the system hardware on which they operate, and all versions and variations thereof since the issuance of the '908 Patent ("Accused Instrumentalities").

30. On information and belief, Backblaze has directly infringed and continues to infringe the '908 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 for accelerating data storage of data claimed by Claim 21 of the '908 Patent, comprising: compressing a first data block with a first data compression technique to provide a first compressed data block; and compressing a second data block with a

second data compression technique to provide a second compressed data block, wherein the first data compression technique and the second data compression technique are different; storing the first and second data compressed blocks on a memory device wherein 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, Backblaze 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.

31. On information and belief, the Accused Instrumentality is designed to function with compatible hardware to perform a method for accelerating data storage of data comprising: compressing a first data block with a first data compression technique to provide a first compressed data block; and compressing a second data block with a second data compression technique to provide a second compressed data block, wherein the first data compression technique and the second data compression technique are different; storing the first and second data compressed blocks on a memory device wherein 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. Because the Accused Instrumentality is designed to operate as the claimed method for accelerating data storage of data, the Accused Instrumentality has no substantial non-infringing uses, and any other uses would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.

32. On information and belief, Backblaze has had knowledge of the '908 Patent since at least the filing of the original Complaint in this action, or shortly thereafter.

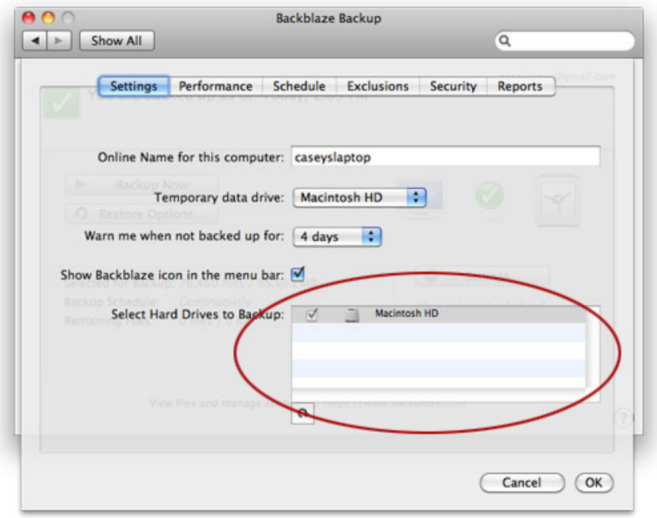
33. Use of the Accused Instrumentalities in their ordinary and customary manner results in infringement of claims of the '908 Patent. For example, Backblaze explains to customers the benefits of using the Accused Instrumentalities, such as by touting their performance advantages: "[F]or 3.0 we've basically doubled the speed of the deduplication process. Backups, both initial and incremental, will be faster, especially for someone with lots of duplicated files." *See* https://www.backblaze.com/blog/theres-nothing-to-see-here-backblaze-3-0/.

34. The Accused Instrumentalities compress a first data block with a first data compression technique to provide a first compressed data block. For example, the Accused Instrumentalities support zip lossless compression techniques (e.g., "Backblaze uses a lossless compression method - zip. This means that when you restore your files, they are a bit-for-bit identical to the originals. We do not use any lossy compression such as jpeg." *See* https://help.backblaze.com/hc/en-us/articles/217665238-Will-my-photo-quality-degrade-when-my-files-are-compressed-).

35. The Accused Instrumentalities compress a second data block with a second data compression technique to provide a second compressed data block, wherein the first data compression technique and the second data compression technique are different. For example, the Accused Instrumentalities include a data deduplication technique (e.g., "If the same file exists on your computer in multiple folders/directories, Backblaze will dedupe the file for backup and restore." https://www.backblaze.com/blog/theres-nothing-to-see-here-backblaze-3-0/.) As such, the Accused Instrumentalities define the data deduplication technique as a process where "files are digitally fingerprinted (checksummed) before they are sent to the server." *See* https://help.backblaze.com/hc/en-us/articles/217666718-What-happens-if-I-rename-or-replace-an-external-drive-. Furthermore, the Accused Instrumentalities discloses that when "file's fingerprint matches an already backed up file, but it's renamed or moved (including drive to drive), it's simply updated at the servers, rather than re-transmitted." *See* https://help.backblaze.com/hc/en-us/articles/217666718-What-happens-if-I-rename-or-replace-an-external-drive-. As another example, the Accused Instrumentalities support lossless zip compression technique (e.g., "Backblaze uses a lossless compression method - zip. This means that when you restore your files, they are a bit-for-bit identical to the originals. We do not use any lossy compression such as jpeg." *See* https://help.backblaze.com/hc/en-us/articles/217665238-Will-my-photo-quality-degrade-when-my-files-are-compressed-). In contrast to lossless zip compression, data deduplication is a process that compresses duplicated files. More specifically, the Accused Instrumentalities explain that "[W]hen we get to the files to actually upload them, we will see that they exist on our end, and then update their location without uploading the file itself.

This is deduplication, and it can take a while to complete, but everything should update without having to re-upload." *See* https://help.backblaze.com/hc/en-us/articles/217665548-Deduplication.

36. The Accused Instrumentalities store the first and second data compressed blocks on a memory device wherein 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, the Accused Instrumentalities backup compressed and deduplicated files on hard drives.




*See* https://help.backblaze.com/hc/en-us/articles/217666718-What-happens-if-I-rename-or-replace-an-external-drive-. As such, the Accused Instrumentalities disclose that "[I]f the same file exists on your computer in multiple folders/directories, Backblaze will dedupe the file for backup and restore." *See* https://help.backblaze.com/hc/en-us/articles/217666718-What-happens-if-I-rename-or-replace-an-external-drive-. As another example, the Accused Instrumentalities store compressed zip files (e.g., "Backblaze uses a lossless compression method - zip. This means that when you restore your files, they are a bit-for-bit identical to the originals." *See* https://help.backblaze.com/hc/en-us/articles/217665238-Will-my-photo-quality-degrade-when-my-files-are-compressed-). 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, the Accused Instrumentalities "doubled the speed of the deduplication process." *See* https://www.backblaze.com/blog/theres-nothing-to-see-here-backblaze-3-0/. That is, in the

Accused Instrumentalities "[B]ackups, both initial and incremental, will be faster, especially for someone with lots of duplicated files." *See* https://www.backblaze.com/blog/theres-nothing-to-see-here-backblaze-3-0/.

37. Backblaze also infringes other claims of the '908 Patent.

38. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the methods claimed by the '908 Patent.

39. 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, Backblaze has injured Realtime and is liable to Realtime for infringement of the '908 Patent pursuant to 35 U.S.C. § 271.

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

**COUNT II**

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

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

42. 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.

43. The claims at issue here are not abstract, but rather are limited to particularized technological solutions that improve computer capabilities—e.g., digital data compression systems to increase the capacity of a computer system to store or transfer data more efficiently.

44. The '751 patent teaches various improved, particularized digital data compression systems and methods to address problems specific to digital data. Indeed, the patent itself indicate

that it deals specifically with limitations and problems arising in the realm of compressing digital data. *See, e.g.,* '751 patent at 3:38-45.

45. In their most basic form, and ignoring many claim limitations, the claims of the '751 patent are directed to systems and methods for providing accelerated data transmission of digital data and effectively increasing the bandwidth of the communication channel and/or reducing the latency of data transmission. '751 patent at Abstract, 5:33–50. The '751 patent addresses specific problems in the field of optimally transmitting digital data, including:

a. "the latency induced by the act of encryption, compression, decryption, and decompression"

b. "substantial latency caused by aggregating data packets due to poor data compression efficiency and packet overhead"

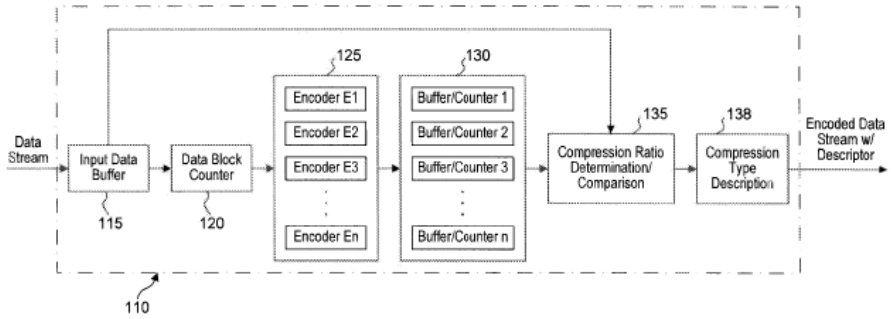
c. capacity limitations of data transmission using existing T1 lines

d. "[t]he limitation of highly significant bandwidth and/or long delays with co-location processing and long latency times"

'751 patent at 1:40–5:22.

46. The '751 patent solves these and other technological problems and limitations in the prior art by providing novel technological solutions in digital data transmission, which provide, among other things, transmission and transparent multiplication of digital-data communication bandwidth, as well as a potential reduction of the latency associated with data transmission of conventional systems, and also by utilizing a state machine to compress data blocks based on an analysis of the specific content of the data being encoded. *Id.* at 5:13–29, 6:13–40. "The effective increase in bandwidth and reduction of latency of the communication channel is achieved by virtue of the faster than real-time, real-time, near real-time, compression of a received data stream prior to transmission." *Id.* at 6:28–40. The claimed invention recognizes a characteristic, attribute, or parameter of data to select a compression encoder, and uses a state machine to provide compressed data. *Id.* Advantages of the claimed inventions include "a consistent reduction in latency" where "[t]he data compression ratio is substantial and repeatable on each data packet," and packet

independence (i.e., "no packet-to-packet data dependency"). *Id.* at 7:52–8:2. Figure 5 of the '751 patents is illustrative of one preferred embodiment:




47. To address the technological problems, the claims requires unconventional combination of elements, e.g.,: (a) "identif[ying] a parameter, attribute, or value of the data block," (b) analysis "that excludes analyzing based solely on reading a descriptor," (c) "selecting an encoder associated with the identified parameter, attribute, or value"; (c) "compressing data … with the selected encoder … utilizing a state machine"; (d) "storing compressed data block"; and (e) 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."

48. Further, the file history confirms that the claims were inventive over prior art and not well-understood, routine, and conventional. For instance, the patent claims were allowed by the PTO after the PTO considered hundreds of references, which are cited in the "References Cited" portion of the patent.

49. Claim 1 is not representative of all claims of the '751 patent. For example, claim 15 requires "transmitting the compressed data blocks in a packetized data stream of data packets having control and compressed data information, and resetting the one or more local state machines at a predetermined point of each data packet in the packetized data stream," which is not a limitation in claim 1 or other claims.

50. The claims do not merely recite a result. Instead, they recite specific steps for accomplishing a result—e.g., comprising doing analysis that excludes analyzing based solely on reading a descriptor, selecting an encoder associated with the identified parameter, attribute, or value, and utilizing a state machine, among other things.

51. The dependent claims contain limitations not found in independent claims. For example, dependent claim 2 recites "transmitting the compressed data block in a data packet to a client, the data packet including both control information and compressed data information"; claim 3 recites "wherein the compressed data block is transmitted utilizing Transmission Control Protocol/Internet Protocol (TCP/IP)"; claim 10 recites "wherein the at least one synchronization point is a predetermined byte sequence"; and claim 11 recites "transmitting the compressed data block in a packetized data stream having data packets that include control information and compressed data information, and wherein the selected encoder is a packet independent encoder."

52. In a patent filed by Altera in 2012, it admitted that there was still a technical problem associated with computer capacity and a need for a more efficient compression system: "In order to better meet the requirements of higher speed data transfer, reduced memory utilization and minimal computation in many computing applications, a need exists for computationally efficient compression and decompression." U.S. Pat. No. 9,026,568 at 2:43-47.

53. Similarly, in a 2013 patent filed by Western Digital, it also admitted that there was still a technical problem associated with computer capacity and a need for a more efficient compression system: "It is desirable to provide mechanisms and architectures for increasing capacity, reliability, and performance of data storage systems." U.S. Pat. No. 9,448,738 at 1:33-35.

54. The statements in these later-filed patents confirm that Realtime's patent at issue here are directed to technical solutions to technical problems, and improves computer functionalities. The statements in these later-filed patents also confirm that the limitations recited in Realtime's patent at issue here are not well-understood, routine, or conventional, and that the claims are not directed to other ideas "identified by the courts as abstract ideas," that recently have been synthesized into three groups: "(a) mathematical concepts"; "(b) methods of organizing

human activity"; or "(c) mental processes." 84 Fed. Reg. 50 (Jan. 7, 2019) (2019 PTO §101 Guidance, citing and surveying post-*Alice* decisions).

55. On information and belief, Backblaze has offered for sale, sold and/or imported into the United States Backblaze 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, Backblaze products and services, *e.g.*, Backblaze Personal Backup, Business Backup, Backblaze 1.0, Backblaze 2.0, Backblaze 3.0, and the system hardware on which they operate, and all versions and variations thereof since the issuance of the '751 Patent ("Accused Instrumentalities").

56. On information and belief, Backblaze 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 perform a method for compressing data claimed by Claim 1 of the '751 Patent, comprising: analyzing content of a data block to identify a parameter, attribute, or value of the data block that excludes analyzing based solely on reading a descriptor; selecting an encoder associated with the identified parameter, attribute, or value; compressing data in the data block with the selected encoder to produce a compressed data block, wherein the compressing includes utilizing a state machine; and storing 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, Backblaze 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 Backblaze's customers.

57. On information and belief, Backblaze 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, Backblaze knew of the '751 Patent and knew of its infringement, including by way of this lawsuit.

58. Upon information and belief, Backblaze'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 '751 Patent by analyzing content of a data block to identify a parameter, attribute, or value of the data block that excludes analyzing based solely on reading a descriptor; selecting an encoder associated with the identified parameter, attribute, or value; compressing data in the data block with the selected encoder to produce a compressed data block, wherein the compressing includes utilizing a state machine; and storing 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, Backblaze explains to customers the benefits of using the Accused Instrumentalities, such as by touting their efficiency: "[F]or 3.0 we've basically doubled the speed of the deduplication process. Backups, both initial and incremental, will be faster, especially for someone with lots of duplicated files." *See* https://www.backblaze.com/blog/theres-nothing-to-see-here-backblaze-3-0/. For similar reasons, Backblaze also induces its customers to use the Accused Instrumentalities to infringe other claims of the '751 Patent. Backblaze specifically intended and was aware that these normal and customary activities would infringe the '751 Patent. Backblaze 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, Backblaze engaged in such inducement to promote the sales of the Accused Instrumentalities. Accordingly, Backblaze 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.

59. Backblaze also indirectly infringes the '751 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

'751 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 perform a method for compressing data comprising: analyzing content of a data block to identify a parameter, attribute, or value of the data block that excludes analyzing based solely on reading a descriptor; selecting an encoder associated with the identified parameter, attribute, or value; compressing data in the data block with the selected encoder to produce a compressed data block, wherein the compressing includes utilizing a state machine; and storing 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. Because the Accused Instrumentality is designed to operate as the claimed method for compressing, the Accused Instrumentality has no substantial non-infringing uses, and any other uses would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental. Backblaze's manufacture, use, sale, offering for sale, and/or importation of the Accused Instrumentality constitutes contributory infringement of the '751 Patent.

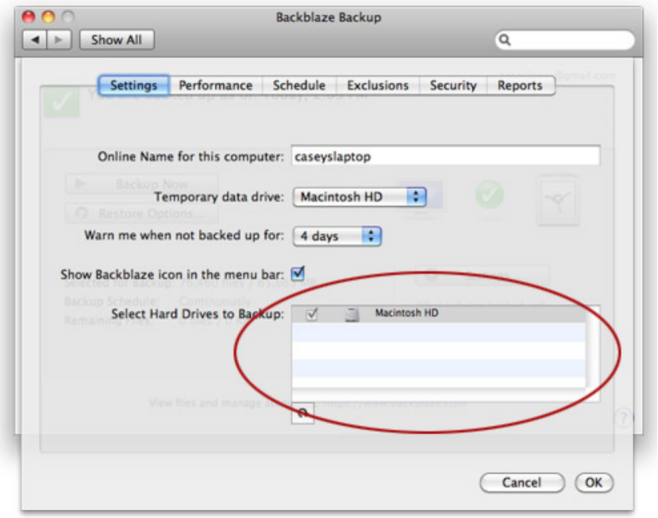
60. The Accused Instrumentalities analyze content of a data block to identify a parameter, attribute, or value of the data block that excludes analyzing based solely on reading a descriptor. For example, the Accused Instrumentalities support data deduplication technique (e.g., "If the same file exists on your computer in multiple folders/directories, Backblaze will dedupe the file for backup and restore." https://www.backblaze.com/blog/theres-nothing-to-see-here-backblaze-3-0/.) As such, the Accused Instrumentalities define data deduplication as a process where "files are digitally fingerprinted (checksummed) before they are sent to the server." *See* https://help.backblaze.com/hc/en-us/articles/217666718-What-happens-if-I-rename-or-replace-an-external-drive-

61. The Accused Instrumentalities select an encoder associated with the identified parameter, attribute, or value. For example, the Accused Instrumentalities support data compression and deduplication techniques (e.g., "Backblaze uses a lossless compression method - zip. This means that when you restore your files, they are a bit-for-bit identical to the originals." *See* https://help.backblaze.com/hc/en-us/articles/217665238-Will-my-photo-quality-degrade-

when-my-files-are-compressed-; "If the same file exists on your computer in multiple folders/directories, Backblaze will dedupe the file for backup and restore." https://www.backblaze.com/blog/theres-nothing-to-see-here-backblaze-3-0/). As such, the Accused Instrumentalities select data deduplication technique to compress duplicate files (e.g., "If the same file exists on your computer in multiple folders/directories, Backblaze will dedupe the file for backup and restore." *See* https://www.backblaze.com/blog/theres-nothing-to-see-here-backblaze-3-0/). The Accused Instrumentalities use lossless zip compression technique to eliminate redundancies in unique files. *See* https://help.backblaze.com/hc/en-us/articles/217665238-Will-my-photo-quality-degrade-when-my-files-are-compressed-.

62. The Accused Instrumentalities compress data in the data block with the selected encoder to produce a compressed data block, wherein the compressing includes utilizing a state machine. For example, the Accused Instrumentalities provide data compression and deduplication techniques outputting compressed data blocks (e.g., "Backblaze uses a lossless compression method - zip. This means that when you restore your files, they are a bit-for-bit identical to the originals." *See* https://help.backblaze.com/hc/en-us/articles/217665238-Will-my-photo-quality-degrade-when-my-files-are-compressed-; "If the same file exists on your computer in multiple folders/directories, Backblaze will dedupe the file for backup and restore." https://www.backblaze.com/blog/theres-nothing-to-see-here-backblaze-3-0/.) In particular, in the Accused Instrumentalities data deduplication technique is defined as a process where "files are digitally fingerprinted (checksummed) before they are sent to the server." *See* https://help.backblaze.com/hc/en-us/articles/217666718-What-happens-if-I-rename-or-replace-an-external-drive-. Furthermore, the Accused Instrumentalities discloses that when "file's fingerprint matches an already backed up file, but it's renamed or moved (including drive to drive), it's simply updated at the servers, rather than re-transmitted." *See* https://help.backblaze.com/hc/en-us/articles/217666718-What-happens-if-I-rename-or-replace-an-external-drive-.

63. The Accused Instrumentalities store the compressed data block. For example, the Accused Instrumentalities backup compressed and deduplicated files on hard drives.




*See* https://help.backblaze.com/hc/en-us/articles/217666718-What-happens-if-I-rename-or-replace-an-external-drive-. As such, the Accused Instrumentalities disclose that "[I]f the same file exists on your computer in multiple folders/directories, Backblaze will dedupe the file for backup and restore." *See* https://help.backblaze.com/hc/en-us/articles/217666718-What-happens-if-I-rename-or-replace-an-external-drive-. As another example, the Accused Instrumentalities store compressed zip files (e.g., "Backblaze uses a lossless compression method - zip. This means that when you restore your files, they are a bit-for-bit identical to the originals." *See* https://help.backblaze.com/hc/en-us/articles/217665238-Will-my-photo-quality-degrade-when-my-files-are-compressed-).

64. The Accused Instrumentalities compress data, 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 perform compression and data deduplication (e.g., "Backblaze uses a lossless compression method - zip. This means that when you restore your files, they are a bit-for-bit identical to the originals." *See* https://help.backblaze.com/hc/en-us/articles/217665238-Will-my-photo-quality-degrade-when-my-files-are-compressed-; "If the same file exists on your computer in multiple folders/directories, Backblaze will dedupe the file for backup and restore." https://www.backblaze.com/blog/theres-

nothing-to-see-here-backblaze-3-0/.) 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, the Accused Instrumentalities "doubled the speed of the deduplication process." *See* https://www.backblaze.com/blog/theres-nothing-to-see-here-backblaze-3-0/. As such, in the Accused Instrumentalities "[B]ackups, both initial and incremental, will be faster, especially for someone with lots of duplicated files." *See* https://www.backblaze.com/blog/theres-nothing-to-see-here-backblaze-3-0/.

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

66. 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.

67. 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, Backblaze has injured Realtime and is liable to Realtime for infringement of the '751 Patent pursuant to 35 U.S.C. § 271.

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

## COUNT III

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

69. 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.

70. The claims at issue here are not abstract, but rather are limited to particularized technological solutions that improve computer capabilities—e.g., digital data compression systems to increase the capacity of a computer system to store or transfer data more efficiently.

71. The '825 patent teaches various improved, particularized digital data compression systems and methods to address problems specific to digital data. Indeed, the patent itself states that it deals specifically with limitations and problems arising in the realm of compressing "**[d]iffuse digital data"** which is **"a representation of data that . . . is typically not easily recognizable to humans in its native form**." '825 patent at 1:44-51.

72. In their most basic form, and ignoring many claim limitations, the claims of The '825 patent is directed to systems and methods of digital-data compression utilizing multiple encoders to compress data blocks based on an analysis of the specific content or type of the data being encoded. *See*, *e.g.*, '825 patent at Abstract, 3:55–5:7. The '825 patent addresses specific problems in the field of losslessly compressing digital data, including:

a. "their content sensitive behavior . . . often referred to as data dependency"

b. "significant variations in the compression ratio obtained when using a single lossless data compression[3] technique for data streams having different data content and data size [*i.e.*,] natural variation"

'825 patent at 1:60–3:52. The patent further explains that, while "conventional content dependent techniques may be utilized" to combat some of the problems described above, even those content dependent techniques had limitations because they relied exclusively on a descriptor such as, e.g., file extensions (e.g., ".doc," ".txt," etc.). The limitations included:

c. "the extremely large number of application programs, some of which do not possess published or documented file formats, data structures, or data type descriptors"

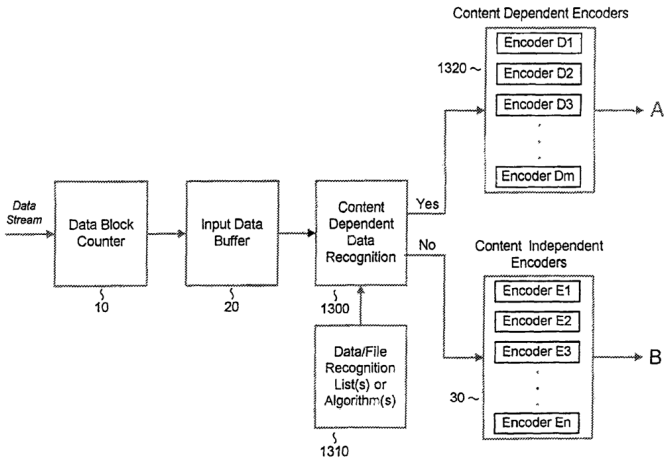
[3] In "lossless" compression, "the decoded (or reconstructed) data is identical to the original uncompressed/unencoded data." *See, e.g.*, '825 patent at 2:18-25.

d. "the ability for any data compression supplier or consortium to acquire, store, and access the vast amounts of data required to identify known file descriptors and associated data types, data structures, and formats"

e. "the rate at which new application programs are developed and the need to update file format data descriptions accordingly"

*Id*. at 3:6–19.

73. The '825 patent solves these technological problems and others with a novel technological solution in digital-data compression utilizing multiple encoders to compress data blocks based on an analysis of the specific content or type of the data being encoded without relying solely on a descriptor such as, e.g., file extensions. For example, when one or more digital-data parameters are identified in the content of the digital data blocks, the inventions will utilize one form of a compression encoder. And if no such digital-data parameter is identified, the inventions will utilize a different form of a compression encoder. The analysis of the digital data is not based solely a descriptor (e.g., file extensions). *See, e.g.,* '825 patent claim 1. Figure 13A of the '825 patent is illustrative of one preferred embodiment:




74. To address the technological problems, the claims requires unconventional combination of elements, e.g., (1) "wherein determining is not based solely on a descriptor that is indicative of the parameter or attribute of the data within the data block"; (2) "compressing, if the parameter or attribute of the data … is identified, the data block with at least one encoder associated

with the parameter or attribute," and (3) "compressing, if the parameter or attribute … is not identified, the data block with at least one encoder associated with a non-identifiable parameter or attribute."

75. Further, the file history confirms that the claims were inventive over prior art and not well-understood, routine, and conventional. For instance, the patent claims were allowed by the PTO after the PTO considered hundreds of references, which are cited in the "References Cited" portion of the patent.

76. Claim 1 is not representative of all claims of the '825 patent. For example, claim 2 requires "receiving and buffering the data block, wherein the buffering is performed after the receiving of the data block and before compressing of the data block," which is not a limitation in claim 1 or other claims.

77. The claims do not merely recite a result. Instead, they recite specific steps for accomplishing a result—e.g., comprising performing determination of parameter or attribute wherein the determining is not based solely on a descriptor that is indicative of the parameter or attribute of the data within the data block, and compressing using two different encoders based on the determined parameter or attribute, among other things.

78. The dependent claims contain limitations not found in independent claims. For example, dependent claim 3 recites "transmitting a data token indicative of the compression utilized to provide the compressed data block"; claim 8 recites "wherein the size of the data block is fixed"; claim 12 recites "wherein the at least one encoder associated with the parameter or attribute of the data within the data block is lossless"; and claim 14 recites "wherein the at least one encoder associated with the parameter or attribute of the data is a Lempel-Ziv encoder."

79. In a patent filed by Altera in 2012, it admitted that there was still a technical problem associated with computer capacity and a need for a more efficient compression system: "In order to better meet the requirements of higher speed data transfer, reduced memory utilization and minimal computation in many computing applications, a need exists for computationally efficient compression and decompression." U.S. Pat. No. 9,026,568 at 2:43-47.

80. Similarly, in a 2013 patent filed by Western Digital, it also admitted that there was still a technical problem associated with computer capacity and a need for a more efficient compression system: "It is desirable to provide mechanisms and architectures for increasing capacity, reliability, and performance of data storage systems." U.S. Pat. No. 9,448,738 at 1:33-35.

81. The statements in these later-filed patents confirm that Realtime's patent at issue here are directed to technical solutions to technical problems, and improves computer functionalities. The statements in these later-filed patents also confirm that the limitations recited in Realtime's patent at issue here are not well-understood, routine, or conventional, and that the claims are not directed to other ideas "identified by the courts as abstract ideas," that recently have been synthesized into three groups: "(a) mathematical concepts"; "(b) methods of organizing human activity"; or "(c) mental processes." 84 Fed. Reg. 50 (Jan. 7, 2019) (2019 PTO §101 Guidance, citing and surveying post-*Alice* decisions).

82. On information and belief, Backblaze has offered for sale, sold and/or imported into the United States Backblaze 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, Backblaze products and services, *e.g.*, Backblaze Personal Backup, Business Backup, Backblaze 1.0, Backblaze 2.0, Backblaze 3.0, and the system hardware on which they operate, and all versions and variations thereof since the issuance of the '825 Patent ("Accused Instrumentalities").

83. On information and belief, Backblaze 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, Backblaze 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.

84. 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.

85. On information and belief, Backblaze has had knowledge of the '825 Patent since at least the filing of the original Complaint in this action, or shortly thereafter.

86. For example, Backblaze explains to customers the benefits of using the Accused Instrumentalities, such as by touting their performance advantages: "[F]or 3.0 we've basically doubled the speed of the deduplication process. Backups, both initial and incremental, will be faster, especially for someone with lots of duplicated files." *See* https://www.backblaze.com/blog/theres-nothing-to-see-here-backblaze-3-0/.

87. 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 compression and deduplication encoders (e.g., "Backblaze uses a lossless compression method - zip. This means that when you restore your files, they are a bit-for-bit identical to the originals." *See* https://help.backblaze.com/hc/en-us/articles/217665238-Will-my-photo-quality-degrade-when-my-files-are-compressed-; "If the same file exists on your computer in multiple folders/directories, Backblaze will dedupe the file for backup and restore." https://www.backblaze.com/blog/theres-nothing-to-see-here-backblaze-3-0/). The Accused Instrumentalities analyze files to detect duplicates (e.g., "files are digitally fingerprinted (checksummed) before they are sent to the server. When a file's fingerprint matches an already backed up file, but it's renamed or moved (including drive to drive), it's simply updated at the servers, rather than re-transmitted." *See* https://help.backblaze.com/hc/en-us/articles/217666718-What-happens-if-I-rename-or-replace-an-external-drive-). In particular, the Accused Instrumentalities associate deduplication encoder with duplicate files and compression encoder with unique files.

88. 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 analyze data blocks to determine duplicate data files by performing data deduplication. (e.g., "files are digitally fingerprinted (checksummed) before they are sent to the server. When a file's fingerprint matches an already backed up file, but it's renamed or moved (including drive to drive), it's simply updated at the servers, rather than re-

transmitted." *See* https://help.backblaze.com/hc/en-us/articles/217666718-What-happens-if-I-rename-or-replace-an-external-drive-).

89. 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 analyze backup files to identify duplicate files (e.g., "files are digitally fingerprinted (checksummed) before they are sent to the server. When a file's fingerprint matches an already backed up file, but it's renamed or moved (including drive to drive), it's simply updated at the servers, rather than re-transmitted." *See* https://help.backblaze.com/hc/en-us/articles/217666718-What-happens-if-I-rename-or-replace-an-external-drive-; "If the same file exists on your computer in multiple folders/directories, Backblaze will dedupe the file for backup and restore." *See* https://www.backblaze.com/blog/theres-nothing-to-see-here-backblaze-3-0/).

90. The Accused Instrumentalities identify a first parameter or attribute of the data of the data block. For example, the Accused Instrumentalities identify duplicate files (e.g., "files are digitally fingerprinted (checksummed) before they are sent to the server. When a file's fingerprint matches an already backed up file, but it's renamed or moved (including drive to drive), it's simply updated at the servers, rather than re-transmitted." *See* https://help.backblaze.com/hc/en-us/articles/217666718-What-happens-if-I-rename-or-replace-an-external-drive-; "If the same file exists on your computer in multiple folders/directories, Backblaze will dedupe the file for backup and restore." *See* https://www.backblaze.com/blog/theres-nothing-to-see-here-backblaze-3-0/).

91. 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 that compresses duplicate files (e.g., "files are digitally fingerprinted (checksummed) before they are sent to the server. When a file's fingerprint matches an already backed up file, but it's renamed or moved

(including drive to drive), it's simply updated at the servers, rather than re-transmitted." *See* https://help.backblaze.com/hc/en-us/articles/217666718-What-happens-if-I-rename-or-replace-an-external-drive-).

92. 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 provide lossless zip data compression technique (e.g., "Backblaze uses a lossless compression method - zip. This means that when you restore your files, they are a bit-for-bit identical to the originals." *See* https://help.backblaze.com/hc/en-us/articles/217665238-Will-my-photo-quality-degrade-when-my-files-are-compressed-). As such, if duplicate files data blocks are not identified, the Accused Instrumentalities use zip compression encoder to compress unique files.

93. Backblaze also infringes other claims of the '825 Patent.

94. 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.

95. 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, Backblaze has injured Realtime and is liable to Realtime for infringement of the '825 Patent pursuant to 35 U.S.C. § 271.

96. As a result of Backblaze's infringement of the '825 Patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for Backblaze's infringement, but in no event less than a reasonable royalty for the use made of the invention by Backblaze, 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 Backblaze has infringed, either literally and/or under the doctrine of equivalents, the '908 Patent, the '825 Patent, and the '751 Patent;

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

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

d. A judgment and order requiring Backblaze 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: June 11, 2019

**RUSS, AUGUST & KABAT**

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