

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

DATA CLOUD TECHNOLOGIES, LLC,
Plaintiff,
v.
A10 NETWORKS, 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 Original Complaint for Patent Infringement against Defendant A10 Networks, Inc., (hereinafter, “Defendant” or “A10 Networks”) 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.	7,139,780	System And Method For Synchronizing Files In Multiple Nodes
B.	7,209,959	Apparatus, System, And Method For Communicating To A Network Through A Virtual Domain Providing Anonymity To A Client Communicating On The Network
C.	8,370,457	Network Communication Through A Virtual Domain
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, A10 Networks is a corporation duly organized and existing under the laws of the state of Delaware since at least December 6, 2013.

5. Based upon public information, A10 Networks has its principal place of business located at 2300 Orchard Parkway, San Jose, California 95131 (Santa Clara County).

6. Defendant may be served through its registered agent, United Agent Group Inc. located at 3411 Silverside Road, Tatnall Building #104, Wilmington, Delaware 19810.

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 A10 Networks 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; Defendant has is registered to do business the State of Delaware; 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. A10 Networks, directly and/or through its Agents and 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 in this District.

10. Based upon public information, A10 Networks 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.

11. Venue is proper in this district under 28 U.S.C. §§ 1391(b)-(d) and 1400(b) because A10 Networks, is registered to do business in the State of Delaware, has transacted business in this District, and has committed acts of direct and indirect infringement in this District.

BACKGROUND INFORMATION

12. 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.

13. 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.

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

15. 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.

16. By letter dated December 16, 2020, DataCloud’s licensing agent sent Defendant information in which it identified DataCloud’s patent portfolio, which included the Patents-in-Suit (the “Licensing Letter”).

DEFENDANT’S PRODUCTS AND SERVICES

17. Based upon public information, Defendant owns, operates, advertises, and/or controls the website www.a10networks.com through which it advertises, sells, offers to sell, provides and/or educates customers about its infringing products. *See Exhibit E.*

18. Based upon public information, Defendant provides training and educational information for its products. *See Exhibit F.*

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 7,139,780

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

20. U.S. Patent No. 7,139,780 (hereinafter, the “’780 Patent”), was issued on November 21, 2006 after full and fair examination by the USPTO of Application No. 10/335,516 which was filed on December 30, 2002. *See* Ex. A.

21. Based upon public information, Plaintiff is informed and believes that Defendant has infringed one or more claims of the ’780 Patent, either literally or under the doctrine of equivalents, because it ships distributes, makes, uses, imports, offers for sale, sells, and/or advertises its Thunder Device Manager. *See Exhibit G.*

22. Upon information and belief, Thunder Device Manager meets each and every element of at least Claim 1 of the ’780 Patent, either literally or equivalently.

23. Based upon public information, A10’s Thunder Device Manager has infringed and continues to infringe one or more claims of the ’780 Patent, including Claim 1, because it provides a method for synchronizing files between a central node and local nodes, each of which consists of a file server with a database and an application to allow for automatic updates to firmware for at least all the A10 Thunder devices, which method includes (a) storing one copy of each file (*e.g.*, an update) that is shared between the local nodes (*e.g.*, the systems comprising the devices/device network); (b) creating a first table in each of the local databases to store information on copies of files in its respective local device (*e.g.*, the databases on the showing devices/current versioning of firmware); (c) creating a second table in the central database to record all update information on copies of files in all the devices; (d) updating a copy of a file in one of the devices (*e.g.*, using a schedule from Device Manager); (e) adding a new item of update information on the file in the second table; (f) downloading the updated copy of the file from said one of the local file servers (*e.g.*, the firmware), and uploading the updated copy of the file to the central file server as the

latest edition of the file (*e.g.*, latest version of firmware); (g) determining whether a required copy of the file in another of the local file servers needs to be updated; and (h) downloading the latest edition of the file from the central file server to update said another of the local file servers if the required copy of the file needs to be updated.

24. Based upon public information, Defendant's customers use its products and services in such a way that infringes one or more claims of the '780 Patent. *See* Ex. G.

25. Based upon public information, Defendant has intentionally induced and continues to induce infringement of one or more claims of the '780 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 Thunder Device Manager in an infringing manner.

26. To the extent that Defendant is not the only direct infringer of one or more claims of the '780 Patent, it instructs its customers on how to use Thunder Device Manager in ways that infringe one or more claims of the '780 Patent through its support and sales activities. *See* Ex. F, Ex. G.

27. Despite knowledge of the '780 Patent as early as the date of its receipt of the Licensing 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 '780 Patent. Based upon public information, the provision of and sale of Thunder Device Manager is a source of revenue and a business focus for Defendant. *See* Ex. E, Ex. G.

28. 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 '780 Patent by, at

a minimum, providing and supporting Thunder Device Manager 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. E, Ex. F, Ex. G.

29. 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 Thunder Device Manager.

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

31. 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. 7,209,959

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

33. U.S. Patent No. 7,209,959 (hereinafter, the "'959 Patent"), was issued on April 24, 2007 after full and fair examination by the USPTO of Application No. 09/542,858 which was filed on April 4, 2000. *See* Ex. B.

34. Based upon public information, Plaintiff is informed and believes that Defendant has infringed one or more claims of the '959 Patent, either literally or under the doctrine of equivalents, because it ships distributes, makes, uses, imports, offers for sale, sells, and/or advertises its A10 Networks websites (supported by A10's network infrastructure). *See* Ex. E.

35. Upon information and belief, A10 Networks websites meet each and every element of at least Claim 1 of the '959 Patent, either literally or equivalently.

36. Based upon public information, A10 Networks websites have infringed one or more claims of the '959 Patent, including Claim 1, because it provides a method of, in response to a request (*e.g.*, “Client Hello”) by a client (*e.g.*, 10.0.0.3) to initiate communication with a destination website (*e.g.*, a10networks.com); setting up a forwarding session (*e.g.*, from the internet to a WWW server) between the client (*e.g.*, internet device) and a destination server corresponding to the destination website (*e.g.*, WWW server), the forwarding session employing a forwarder disposed between (*e.g.*, a front-end server switch) the client and the destination server to forward packets sent from the client to the destination server and to forward packets sent from the destination server to the client (*e.g.*, bilateral communications); employing the forwarder (*e.g.*, front-end server switch), to transfer packets (*e.g.*, ethernet or others) between the client (*e.g.*, internet device) and the destination server (*e.g.*, WWW server) during the forwarding session, wherein the forwarding session is set up and implemented such that neither the client or the destination server is aware of the employment of the forwarder (*e.g.*, the WWW server has a direct TCP connection between a local address of, say, 172.31.15.21:22 and a client address of, say, 96.72.88.222:64947; thus, neither the client or the destination server is aware of the employment of the forwarder); employing a controller configured to communicate (*e.g.*, firewall) with the forwarder (*e.g.*, front-end server switch) and a domain name server (*e.g.*, a DNS), wherein the controller queries the domain name server to resolve the name of the destination website (*e.g.*, a10networks.com) associated with the destination server (*e.g.*, WWW server) and initiates communication (*e.g.*, between the firewall and front-end server switch) with the forwarder in response to an answer from the domain name server to resolve the name of the destination website

associated with the destination server; employing a deceiver (*e.g.*, router) configured to communicate with the controller (*e.g.*, firewall) and the client (*e.g.*, internet device), wherein the deceiver receives the request by the client to initiate communication (*e.g.*, from the internet to the router) with the destination website (*e.g.*, a10networks.com on a WWW server) and initiates the controller to query the domain name server to resolve the name of the destination website associated with the destination server (*e.g.*, the router both (i) receives the request and (ii) sends the data from the WWW server in a manner that makes the router appear to be the source of the data, when the source of the data is actually the WWW server); and in response to the controller (*e.g.*, router) receiving the answer from the domain name server and initiating communication with the forwarder initiating the forwarding session.

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

38. 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. 8,370,457

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

40. U.S. Patent No. 8,370,457 (hereinafter, the "457 Patent"), was issued on February 5, 2013 after full and fair examination by the USPTO of Application No. 11/717,911 which was filed on March 13, 2007. *See* Ex. C. A Certificate of Correction was issued on March 18, 2004. *See id.*

41. Based upon public information, Plaintiff is informed and believes that Defendant

has infringed one or more claims of the '457 Patent, either literally or under the doctrine of equivalents, because it ships, distributes, makes, uses, imports, offers for sale, sells, and/or advertises its A10 Thunder® Convergent Firewall (CFW).

42. Upon information and belief, the CFW meets each and every element of at least Claim 9 of the '457 Patent, either literally or equivalently. *See Exhibit H.*

43. Based upon public information, CFW has infringed one or more claims of the '457 Patent, including Claim 9, by its operation of and through its performance of each step of those claims by its shipment, distribution, making, using, importing, offering for sale, selling, and/or advertising CFW, because it provides a method that establishes a forwarding internet protocol (IP) address (*e.g.*, the WAN interface will be the forwarding IP address based on either (i) DHCP or (ii) statically configured) for a pre-defined combination of a client IP address and a destination IP address (*e.g.*, in the net service filter settings both “Source IP” and “Destination IP,” respectively, can be set), identifies, in a data request received from the client IP address (*e.g.*, when running in subject mode, it only lets certain packets get through the WiFi router), the pre-defined combination (*e.g.*, *via* the network services filter), and in response forwards (*e.g.*, data requests identified as matching the net service filter in the subject mode will be forwarded from the forwarding IP address (WAN IP) to the destination IP address) the data request *via* the forwarding IP address to the destination IP address.

44. Defendant’s aforesaid activities have been without authority and/or license from Plaintiff.

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

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

47. 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.

48. 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 network infrastructure for A10 websites. *See* Ex. E.

49. Upon information and belief, the network infrastructure for A10 websites meets each and every element of at least Claim 1 of the ’498 Patent, either literally or equivalently.

50. Based upon public information, network infrastructure for A10 websites has infringed one or more claims of the ’498 Patent, including Claim 1, because it provides a method for determining, by a controller device comprising a processor (*e.g.*, a router), a destination internet protocol (IP) address (*e.g.*, www.a10networks.com has an IP address of XX.XX.XX.XXX) from a plurality of categories for virtual names (*e.g.*, a10networks.com) based on a virtual namespace destination address (*e.g.*, www.a10networks.com) specified by request data received from a device (request data in the form of “Client Hello” from, say 10.0.0.3), wherein a category (*e.g.*, a10networks.com) of the plurality of categories is related to the virtual namespace destination address (*e.g.*, www.a10networks.com), establishing a correlation between the destination IP address (*e.g.*, say, 52.71.37.188) and a forwarder IP address (IP address of the router) of a forwarder device (*e.g.*, the router); and instructing the forwarder device to send the request data to

the destination IP address (*e.g.*, *via* SNI Routing)

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

52. 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

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

PRAYER FOR RELIEF

54. Plaintiff respectfully requests the following relief:

- 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 A10 Networks;
- B. An adjudication that A10 Networks has induced infringement of one or more claims of the U.S. Patent No. 7,139,780 based upon pre-suit knowledge of the Patent;
- C. An award of damages to be paid by A10 Networks adequate to compensate Plaintiff for A10 Networks' past infringement, including interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary to adequately compensate Plaintiff for A10 Networks' infringement, an accounting of all infringing sales including, but not limited to, those sales not presented at trial;
- D. That this Court find that A10 Networks willfully infringed U.S. Patent No.

7,139,780;

- 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: December 29, 2022

Respectfully submitted,

Stamoulis & Weinblatt LLC

/s/ Richard C. Weinblatt

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* Admission *pro hac vice* anticipated

LIST OF EXHIBITS

- A. U.S. Patent No. 7,139,780
- B. U.S. Patent No. 7,209,959
- C. U.S. Patent No. 8,370,457
- D. U.S. Patent No. 8,762,498
- E. Webpage: ww.a10networks.com/a10-home/
- F. Webpage: www.a10networks.com/resources/
- G. Webpage: Thunder Device Manager
- H. Datasheet: A10 Thunder Convergent Firewall