UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

DATACLOUD TECHNOLOGIES, LLC,

      Plaintiff,

v.

BARRACUDA NETWORKS, INC.,

      Defendant.

Civil Action No. 1:23-cv-00072-GBW

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff DataCloud Technologies, LLC (hereinafter, "Plaintiff" or "DataCloud") files this First Amended Complaint for patent infringement against Defendant Barracuda Networks, Inc. (hereinafter, "Defendant" or "Barracuda") alleging, based on its own knowledge as to itself and its own actions, and based on information and belief as to all other matters, 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") issued by the United States Patent and Trademark Office ("USPTO"), copies of which are attached hereto as **Exhibit A, Exhibit B, Exhibit C, Exhibit D, Exhibit G, Exhibit H, Exhibit I,** and **Exhibit J**, respectively:

	U.S. Patent No.	Title
A.	6,651,063 (the "'063 patent")	Data Organization And Management System And Method
B.	8,370,457 (the "'457 patent")	Network Communication Through A Virtual Domain
C.	8,762,498 (the '498 patent")	Apparatus, System, And Method For Communicating To A Network Through A Virtual Domain
D.	RE44,723 (the "'723 patent")	Regulating File Access Rates According To File Type
G.	6,560,613 (the "'613 patent")	Disambiguating File Descriptors
H.	7,398,298 ("'298 patent")	Remote Access And Retrieval Of Electronic Files

	U.S. Patent No.	Title
I.	7,139,780 ("'780 patent")	System And Method For Synchronizing Files In Multiple Nodes
J.	7,209,959 ("'959 patent")	Apparatus, System, And Method For Communicating To A Network Through A Virtual Domain Providing Anonymity To A Client Communicating On The Network

2.   Plaintiff seeks monetary damages and injunctive relief.[1]

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, Barracuda is a corporation duly organized and existing under the laws of the state of Delaware since November 17, 2004.

5.   Based upon public information, Barracuda lists its Corporate Headquarters as 3175 Winchester Boulevard, Campbell, California 95008 (Santa Clara County).

6.   Based upon public information, Barracuda may be served through its registered agent, Corporation Service Company located at 251 Little Falls Drive, Wilmington, Delaware 19808.

7.   Barracuda was made aware of DataCloud's patent portfolio, including the Patents-in-Suit, by way of a letter from DataCloud's licensing agent dated November 4, 2020.

8.   Barracuda was made aware of its infringement of the Patents-in-Suit by certain if its products by way of a letter from counsel for DataCloud dated February 12, 2021.

JURISDICTION AND VENUE

9.   Plaintiff repeats and re-alleges the allegations in the Paragraphs above as though

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[1] Injunctive relief is sought for the '780 patent

fully set forth in their entirety.

10.   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).

11.   The Court has personal jurisdiction over Barracuda 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 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.

12.   More specifically, Defendant 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 in this District.

13.   Specifically, Defendant intends to do and does business in, has committed acts of infringement in this District directly, and offers its services, including those accused of infringement here, to customers and potential customers located in the State of Delaware, including in this District.

14.   Therefore, venue is proper in this District pursuant to 28 U.S.C. §1400(b) because Defendant resides in this District by way of its incorporation in Delaware.

THE ACCUSED INSTRUMENTALITIES

15.   Based upon public information, Defendant owns, operates, advertises, and/or controls the website www.barracuda.com through which it advertises, sells, offers to sell, provides and/or educates customers about its website hosting platforms. *See* **Exhibit E. Exhibit F.**

16.   Defendant offers at least the following products (hereinafter, the "Accused Instrumentalities") that infringe one or more claims of the Patents-in-Suit:

- o   Barracuda Android App;

- o   Barracuda Firewalls with NAT translation;

- o   Barracuda websites using Transport Layer Security (TLS) version 1.2 or 1.3;

- o   Barracuda Firewalls with Rate Control;

- o   Barracuda's use of Kernel-based Virtual Machine (KVM), including but not limited to in its Barracuda's Siris with Virtualization;

- o   Barracuda Email Security Gateway and Email Gateway Defense;

- o   Web Security Gateways; and

- o   Barracuda Networks Website infrastructure

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

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

18.   Plaintiff re-alleges and incorporates by reference each of the paragraphs above as though fully set forth in their entirety.

19.   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. A, at A-1. A Certificate of Correction was issued on February 3, 2004. *See id.* at A-20.

20.   The claims of the '063 patent are not directed to an abstract idea and are not limited to well-understood, routine, or conventional activity. Rather, the claimed inventions include inventive components that improve networks and network systems by providing an organization scheme to streamline the process for storage and retrieval of information through a combination of automatic categorization and user influence.

21.   The written description of the '063 patent describes in technical detail each limitation of the claims, allowing a skilled artisan to understand the scope of the claims and how the non-conventional and non-generic combination of claim limitations is patently distinct from and improved upon what may have been considered conventional or generic in the art at the time of the invention.

22.   DataCloud owns all substantial rights, interest, and title in and to the '063 patent, including the sole and exclusive right to prosecute this action and enforce it against infringers and to collect damages for all relevant times.

23.   DataCloud or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '063 patent.

24.   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 Defendant's Barracuda Android App.

25.   Upon information and belief, the Barracuda Android App meets each and every step of at least Claim 4 of the '063 Patent, either literally or equivalently.

26.   Based upon public information, Defendant's provision of the Barracuda Android App has infringed one or more claims of the '063 Patent, including Claim 4 because it provides to one or more users a method for storing and controlled access of data in a repository by storing information in an "information pack" (*e.g.*, uploading to servers/saving image files) to which is associated the address of one of a multiplicity of data repositories associated with at least one of the users, a category identifier (*e.g.*, "data" directory), and a provider identifier (Barracuda). The

information pack is sent to and stored in the specified data repository and stored there in a custom location reserved for the specified category identifier that is specifically created for the information pack (*e.g.*, file folder in the Barracuda Android application is reserved for information), and a custom category identifier (*e.g.*, custom category identifier can be the digital signature for either of the Barracuda Android applications) 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 (*e.g.*, valid Android APK files contain a signature which allows to identify the author of the APK file, which allows verification that an updated version comes from the same author) by sending a custom category signal to a processing station uniquely associated with said user data repository.

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.

<u>**COUNT II: INFRINGEMENT OF U.S. PATENT NO. 8,370,457**</u>

29.   Plaintiff re-alleges and incorporates by reference each of the paragraphs above as though fully set forth in their entirety.

30.   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. B, at B-1. A Certificate of Correction was issued on March 18, 2014. *See id.* at B-11.

31.   The claims of the '457 patent are not directed to an abstract idea and are not limited to well-understood, routine, or conventional activity. Rather, the claimed inventions include

inventive components that improve networks and network systems by anonymizing network activity for individual clients and groups of clients.

32.   The written description of the '457 patent describes in technical detail each limitation of the claims, allowing a skilled artisan to understand the scope of the claims and how the non-conventional and non-generic combination of claim limitations is patently distinct from and improved upon what may have been considered conventional or generic in the art at the time of the invention.

33.   DataCloud owns all substantial rights, interest, and title in and to the '457 patent, including the sole and exclusive right to prosecute this action and enforce it against infringers and to collect damages for all relevant times.

34.   DataCloud or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '457 patent.

35.   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 Barracuda Firewalls with NAT translation.

36.   Upon information and belief, Barracuda Firewalls with NAT translation meets each and every step of at least Claim 9 of the '457 patent, either literally or equivalently.

37.   Based upon public information, Barracuda Firewalls with NAT translation has infringed one or more claims of the '457 patent, including Claim 9, through its advanced firewall settings in Cloud Firewall because it establishes a forwarding internet protocol (IP) address (translated IP address) for a pre-defined combination of a client IP address (*e.g.*, 10.10.XX.XX)

and a destination IP address (*e.g.*, 168.10.XX.XX), it identifies, in a data request received from the client IP address, the pre-defined combination, and in response to the identifying of the pre-defined combination, forward (*e.g.*, from "Host A" to the NAT Router) the data request *via* (*e.g.*, commands are configured to translate source addresses to the destination IP address for all packets with IP destination addresses in the 168.10.XX.XX/24 subnet) the forwarding IP address to the destination IP address (*e.g.*, on "Host B").

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

39.   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. 8,762,498

40.   Plaintiff re-alleges and incorporates by reference each of the paragraphs above as though fully set forth in their entirety.

41.   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. C, at C-1.

42.   The claims of the '498 patent are not directed to an abstract idea and are not limited to well-understood, routine, or conventional activity. Rather, the claimed inventions include inventive components that improve networks and network systems by anonymizing network activity for individual clients and groups of clients.

43.   The written description of the '498 patent describes in technical detail each limitation of the claims, allowing a skilled artisan to understand the scope of the claims and how

the non-conventional and non-generic combination of claim limitations is patently distinct from and improved upon what may have been considered conventional or generic in the art at the time of the invention.

44.   DataCloud owns all substantial rights, interest, and title in and to the '498 patent, including the sole and exclusive right to prosecute this action and enforce it against infringers and to collect damages for all relevant times.

45.   DataCloud or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '498 patent.

46.   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 Barracuda websites using Transport Layer Security (TLS) version 1.2 or 1.3 ("Barracuda TLS websites").

47.   Upon information and belief, Barracuda TLS websites meet each and every step of at least Claim 1 of the '498 patent, either literally or equivalently.

48.   Based upon public information, Barracuda TLS websites have infringed one or more claims of the '498 patent, including Claim 1, because they provide a method of determining, by a controller device comprising a processor (*e.g.*, a router), a destination internet protocol (IP) address from a plurality of categories for virtual names (*e.g.,* barracuda.com, campus.barracuda.com, www.barracuda.com, www.barracudanetworks.com, ess.barracudanetworks.com, barracudanetworks.com) based on a virtual namespace destination address (*e.g.,* www.barracuda .com) specified by request data received from a device, wherein a

category of the plurality of categories is related to the virtual namespace destination address establishing a correlation between the destination IP address and a forwarder IP address of a forwarder device; and instructing the forwarder device to send the request data to the destination IP address. (*e.g.*, through a WWW server and SNI Routing).

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

50.   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. RE44,723

51.   Plaintiff re-alleges and incorporates by reference each of the paragraphs above as though fully set forth in their entirety.

52.   The. '723 patent was issued on January 21, 2014 after full and fair examination by the USPTO of Application No. 11/818,544 (hereinafter, the "'544 Application") which was filed on June 14, 2007. *See* Ex. D, at D-1.

53.   The claims of the '723 patent are not directed to an abstract idea and are not limited to well-understood, routine, or conventional activity. Rather, the claimed inventions include inventive components that improve networks and network systems by controlling access to file resources by intercepting system calls and regulating access based on pre-selected criteria.

54.   The written description of the '723 patent describes in technical detail each limitation of the claims, allowing a skilled artisan to understand the scope of the claims and how the non-conventional and non-generic combination of claim limitations is patently distinct from and improved upon what may have been considered conventional or generic in the art at the time

of the invention.

55.   DataCloud owns all substantial rights, interest, and title in and to the '723 patent, including the sole and exclusive right to prosecute this action and enforce it against infringers and to collect damages for all relevant times.

56.   DataCloud or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '723 patent.

57.   Based upon public information, Plaintiff is informed and believes that Defendant has infringed one or more claims of the '723 patent, either literally or under the doctrine of equivalents, because it ships, distributes, makes, uses, imports, offers for sale, sells, and/or advertises its Barracuda Firewalls with Rate Control.

58.   Upon information and belief, Barracuda Firewalls with Rate Control meet each and every element of at least Claim 1 of the '723 patent, either literally or equivalently.

59.   Based upon public information, Barracuda Firewalls with Rate Control have infringed one or more claims of the '723 patent, including Claim 1, in because they limit resource access to prevent "Denial of Service" (DoS) attacks by employing a computer-implemented method for regulating file access rates of processes according to file type, the computer implemented method comprising: intercepting a system call that attempts to access a file is an address table, which is stored as a file that is persistent and saved in nonvolatile memory; determining whether a process that made the intercepted system call is associated with an access rate, corresponding to a type of the file being accessed; in response to the attempt to access the file by the process, determining the associated access rate for the type of the file being accessed; and regulating the process to access of the file at the determined rate.

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

61.   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.

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

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62.   Plaintiff re-alleges and incorporates by reference each of the paragraphs above as though fully set forth in their entirety.

63.   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. G, at G-1. A Certificate of Correction was issued on August 26, 2003. *See id.* at G-30.

64.   The claims of the '613 patent are not directed to an abstract idea and are not limited to well-understood, routine, or conventional activity. Rather, the claimed inventions include inventive components that improve networks and network systems by anonymizing network activity for individual clients and groups of clients.

65.   The written description of the '613 patent describes in technical detail each limitation of the claims, allowing a skilled artisan to understand the scope of the claims and how the non-conventional and non-generic combination of claim limitations is patently distinct from and improved upon what may have been considered conventional or generic in the art at the time of the invention.

66.   DataCloud owns all substantial rights, interest, and title in and to the '613 patent, including the sole and exclusive right to prosecute this action and enforce it against infringers and to collect damages for all relevant times.

67.   DataCloud or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '613 patent.

68.   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 products that incorporate KVM, including but not limited to Siris with Virtualization.

69.   Upon information and belief, Barracuda's Siris with Virtualization meets each and every element of at least claim 8 of the '613 Patent, either literally or equivalently.

70.   Based upon public information, Barracuda's Siris with Virtualization has infringed one or more claims of the '613 patent, including Claim 8, because it provides a method for disambiguating file descriptors in a computer system through a process which intercepts the system calls that store files on media, stores one or more file type indicators for each file descriptor in a table, and determines what file type is associated with the file descriptor based on a review of the stored file type indicators. KVM, used in Barracuda's Siris with Virtualization, employs 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.

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

72.   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 VI: INFRINGEMENT OF U.S. PATENT NO. 7,398,298

73.   Plaintiff re-alleges and incorporates by reference each of the paragraphs above as though fully set forth in their entirety.

74.   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. H, at H-1.

75.   The claims of the '298 patent are not directed to an abstract idea and are not limited to well-understood, routine, or conventional activity. Rather, the claimed inventions include inventive components that improve the retrieval and transmission of data from and/or to a remote server.

76.   The written description of the '298 patent describes in technical detail each limitation of the claims, allowing a skilled artisan to understand the scope of the claims and how the non-conventional and non-generic combination of claim limitations is patently distinct from and improved upon what may have been considered conventional or generic in the art at the time of the invention.

77.   DataCloud owns all substantial rights, interest, and title in and to the '298 patent, including the sole and exclusive right to prosecute this action and enforce it against infringers and to collect damages for all relevant times.

78.   DataCloud or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '298 patent.

79.   Based upon public information, Plaintiff is informed and believes that Defendant has infringed 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 its Barracuda Email Security Gateway and Email Gateway Defense.

80.   Upon information and belief, Barracuda Email Security Gateway and Email Gateway Defense each and every step of at least Claim 13 of the '298 patent, either literally or equivalently.

81.   Based upon public information, Defendant's provision of Barracuda Email Security Gateway and Email Gateway Defense has infringed and one or more claims of the '298 patent, including Claim 13, because Barracuda Email Security Gateway and Email Gateway Defense provides a method for remotely controlling data directory structures (e.g., webpages and functions accessible to discrete users) across at least one communications network (*e.g.,* Internet) that has a computer server (e.g., WWW server), the computer server coupled to the communications network (*e.g.,* Internet); a remote data directory structure management computing application (*e.g.,* the Barracuda Email Security Gateway and Email Gateway Defense administrative/control dashboard) operating on the computer server (*e.g.,* WWW server) to process received requests for remote data directory management (*e.g.,* adding user accounts like administrator, domain administrator, help desk, or users) of desired data residing in directory structures by participating users (*e.g.,* administrators, domain administrators help desk personnel, or users that have been given certain roles and/or permissions); and a profile data store (*e.g.,* a secure SQL server/database) comprising information relating to the data and data directory structures (e.g., information on permissions, activations, files, and operations available to administrators, domain administrators help desk personnel, or users that have been given certain roles and/or permissions) accessible to each of the participating users *(e.g.*, administrators, domain administrators help desk personnel, or users), wherein the profile data store is queried for the data directory structures accessible to each of the participating users (*e.g.,* role definitions indicate directory structure for

each role to determine roles and/or permissions), wherein further a single directory structure (*e.g.*, abilities/permissions/roles for administrators, domain administrators help desk personnel, or users that have been given certain roles and/or permissions) from among a plurality of the data directory structures associated with the profile data store (*e.g.,* "Administrator", "Domain Administrator", Help Desk" and/or the available profile/account settings for users or user groups) is selected by each of the participating users for modification (the invited administrators, domain administrators help desk personnel, or users can accept the invitation or access).

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

83.   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.

<div align="center"><u>**COUNT VII: INFRINGEMENT OF U.S. PATENT NO. 7,139,780**</u></div>

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

85.   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. I, at I-1.

86.   The claims of the '780 patent are not directed to an abstract idea and are not limited to well-understood, routine, or conventional activity.   Rather, the claimed inventions include inventive components that improve how computerized communications systems synchronize files across multiple nodes.

87.   The written description of the '780 patent describes in technical detail each limitation of the claims, allowing a skilled artisan to understand the scope of the claims and how

the non-conventional and non-generic combination of claim limitations is patently distinct from and improved upon what may have been considered conventional or generic in the art at the time of the invention.

88.   DataCloud owns all substantial rights, interest, and title in and to the '780 patent, including the sole and exclusive right to prosecute this action and enforce it against infringers and to collect damages for all relevant times.

89.   DataCloud or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '780 patent.

90.   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 backup and restore feature for its Web Security Gateway.

91.   Upon information and belief, the backup and restore feature for Barracuda's Web Security Gateway meets each and every element of at least Claim 1 of the '780 patent, either literally or equivalently.

92.   Based upon public information, Barracuda's Web Security Gateway 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 using Cloud Manager and/or Energize Updates to firmware for Barracuda 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 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 Cloud Control and/or Energize Updates); (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.

93.   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. K.

94.   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 Barracuda's Web Security Gateway in an infringing manner. *See* Ex. K.

95.   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 Barracuda's Web Security Gateway in ways that infringe one or more claims of the '780 patent through its support and sales activities. *See* Ex. K.

96.   Despite knowledge of the '780 patent at least as early as the date of its receipt of

the this First Amended Complaint (and possibly earlier[2]), 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 Barracuda's Web Security Gateway is a source of revenue and a business focus for Defendant. *See* Ex. K.

97.   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 Barracuda's Web Security Gateway 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. K.

98.   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 Barracuda's Web Security Gateway.

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

100.   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.

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[2] By letter dated November 4, 2020 from DataCloud's licensing agent to Barracuda's Chief Administrative Officer and General Counsel, DataCloud provided Barracuda with a list of the patents in its portfolio which included the '780 patent.

COUNT VIII: INFRINGEMENT OF U.S. PATENT NO. 7,209,959

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

102.   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. J, at J-1.

103.   The claims of the '959 patent are not directed to an abstract idea and are not limited to well-understood, routine, or conventional activity. Rather, the claimed inventions include inventive components that improve networks and network systems by anonymizing network activity for individual clients and groups of clients for, among other reasons, security, traffic management, and routing purposes.

104.   The written description of the '959 patent describes in technical detail each limitation of the claims, allowing a skilled artisan to understand the scope of the claims and how the non-conventional and non-generic combination of claim limitations is patently distinct from and improved upon what may have been considered conventional or generic in the art at the time of the invention.

105.   DataCloud owns all substantial rights, interest, and title in and to the '959 patent, including the sole and exclusive right to prosecute this action and enforce it against infringers and to collect damages for all relevant times.

106.   DataCloud or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '959 patent.

107.   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 Barracuda Networks Website infrastructure.

108.   Upon information and belief, Barracuda Networks Website infrastructure meets each and every element of at least Claim 1 of the '959 patent, either literally or equivalently.

109.   Based upon public information, Barracuda Networks Website infrastructure has 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.X) to initiate communication with a destination website (*e.g.*, barracuda.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 IP address and a client IP address; 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.*, barracuda.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.*, barracuda.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.

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

111.   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

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

PRAYER FOR RELIEF

113.   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 Defendant;

   B.   An adjudication that Defendant has induced infringement of one or more claims of the '780 patent based upon pre-suit knowledge of the patent;

C.   An award of damages to be paid by Defendant adequate to compensate Plaintiff Defendant's past infringement, 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.   That this Court find that Defendant willfully infringed one or more claims of the '780 patent;

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: <u>April 14, 2023</u>   Respectfully submitted,

STAMOULIS & WEINBLATT, LLC

<u>/s/ Stamatios Stamoulis</u>

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* Admitted *pro hac vice*
** Admission *pro hac vice* anticipated

LIST OF EXHIBITS

CERTIFICATE OF SERVICE

I hereby certify that on this day, I caused the above documents to be electronically filed with the Clerk of Court using CM/ECF which will send electronic notification of such filings to all registered counsel.

Date: <u>April 14, 2023</u>   */s/ Stamatios Stamoulis*
                                   Stamatios Stamoulis (#4606)