UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

DATACLOUD TECHNOLOGIES, LLC,	
Plaintiff,	Civil Action No. 1:24-cv-_____
v.	**JURY TRIAL DEMANDED**
HP INC.,	
Defendant.	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff DataCloud Technologies, LLC (hereinafter, "Plaintiff" or "DataCloud") files this Complaint for patent infringement against Defendant HP Inc. (hereinafter, "Defendant" or "HP") 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 "Asserted Patents") issued by the United States Patent and Trademark Office ("USPTO"):

	U.S. Patent No.	Title
1.	6,651,063	https://image-ppubs.uspto.gov/dirsearch-public/print/downloadPdf/6651063 https://patents.google.com/patent/US6651063B1/en?oq=6%2c651%2c063
2.	7,139,780	https://image-ppubs.uspto.gov/dirsearch-public/print/downloadPdf/7139780 https://patents.google.com/patent/US7139780B2/en?oq=https:%2f%2fimage-ppubs.uspto.gov%2fdirsearch-public%2fprint%2fdownloadPdf%2f7139780
3.	7,209,959	https://image-ppubs.uspto.gov/dirsearch-public/print/downloadPdf/7209959 https://patents.google.com/patent/US7209959B1/en?oq=7%2c209%2c959
4.	7,246,351	https://image-ppubs.uspto.gov/dirsearch-public/print/downloadPdf/7246351 https://patents.google.com/patent/US7246351B2/en?oq=7246351
5.	8,156,499	https://image-ppubs.uspto.gov/dirsearch-public/print/downloadPdf/8156499 https://patents.google.com/patent/US8156499B2/en?oq=8%2c156%2c499

2.   Plaintiff seeks monetary damages and injunctive relief.

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, HP is a corporation organized under the laws of the state of Delaware.

5.   Based upon public information, HP has its principal place of business at 1501 Page Mill Road, Palo Alto, California, 94304.

6.   Based upon public information, HP may be served through its registered agent, The Corporation Trust Company located at Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware, 19801.

JURISDICTION AND VENUE

7.   Plaintiff repeats and re-alleges the allegations in the Paragraphs above as though fully set forth in their entirety.

8.   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).

9.   HP is subject to this Court's specific and general personal jurisdiction under due process because of its substantial business in this Judicial District, in the State of Delaware, and in the United States, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, or deriving substantial revenue from goods and services provided to individuals in this state, in this District, and in the United States.

10.   Specifically, HP intends to do and does business in, has committed acts of infringement in, and continues to commit acts of infringement in this District, in the State of Delaware, and in the United States, directly, through intermediaries, by contributing to and through the inducement of third parties, and offers and sends its products and services, including those accused of infringement here, to customers and potential customers located in this state, including

in this District, and in the United States.

11.   More specifically, HP 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.

12.   Specifically, HP 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.

13.   On information and belief, HP has significant ties to, and presence in, the State of Delaware and this District, making venue in this Judicial District both proper and convenient for this action.

14.   Therefore, venue is proper in this District pursuant to 28 U.S.C. §1400(b).

THE ACCUSED PRODUCTS

15.   Based upon public information, Defendant owns, operates, advertises, and/or controls the website www.hp.com through which it advertises, sells, offers to sell, provides and/or educates customers about its website hosting platforms.[1]

16.   Based upon public information, Defendant offers at least the following products (hereinafter, the "Accused Products") that infringe one or more claims of the Asserted Patents:[2]

- o   HP Android App;
- o   HP Web Jetadmin;
- o   HP website infrastructure supporting multiple domains; and

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[1] *See* https://www.hp.com/us-en/home.html (last visited January 15, 2024)
[2] *See* https://www.hp.com/us-en/solutions/business-solutions.html (last visited January 15, 2024)

o   HP Chromebooks that operate with JVM/Kotlin for Android apps;

17.   Based upon public information, Defendant provides support to its customers for its products and services.[3]

18.   By emails dated October 3 and 24, 2023, Defendant was informed of DataCloud's patent portfolio, including the Asserted Patents.

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

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

20.   U.S. Patent No. 6,651,063 (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. The '063 patent is entitled "Data Organization And Management System And Method." *See* '063 patent at p. 1. A Certificate of Correction was issued on February 3, 2004. *See* '063 patent at p. 20.

21.   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.

22.   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

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[3] *See* https://support.hp.com/us-en (last visited January 15, 2024)

of the invention.

23.   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.

24.   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.

25.   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 the HP Android App.[4]

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

27.   Based upon public information, Defendant's provision of the HP 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 (HP). 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

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[4] *See* https://play.google.com/store/apps/details?id=com.hp.printercontrol (last visited January 15, 2024).

folder in the HP Android App is reserved for information), and a custom category identifier (*e.g.*, custom category identifier can be the digital signature for either of the HP Android App) 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.

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

29.   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 II: <u>INFRINGEMENT OF U.S. PATENT NO. 7,139,780</u>

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

31.   U.S. Patent No. 7,139,780 (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* '780 patent at p. 1. The '780 patent is entitled "System And Method For Synchronizing Files In Multiple Nodes."

32.   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.

33.   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.

34.   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.

35.   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.

36.   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 HP Web Jetadmin, through which firmware transfers and updates are remotely managed.[5]

37.   Upon information and belief, HP Web Jetadmin meets each and every step of at least Claim 1 of the '780 Patent, either literally or equivalently.

38.   Based upon public information, HP Web Jetadmin has infringed and continues to infringe one or more claims of the '780 patent, including Claim 1, because it provides a method

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[5] *See* https://kaas.hpcloud.hp.com/pdf-public/pdf_6892769_en-US-1.pdf (last visited January 15, 2024)

for synchronizing files between a central node (*e.g.*, , HP Web Jetadmin server) and local nodes (*e.g.*, network-attached devices), each of which consists of a file server with a database and an application to allow for automatic updates using HP Web Jetadmin, which method includes (a) storing one copy of each file (*e.g.,* HP Web Jetadmin images) that is shared between the local nodes (*e.g.,* network-attached devices); (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.*, an HP device); (c) creating a second table in the central database to record all update information on copies of files in all the devices (*e.g.*, on the HP Web Jetadmin server); (d) updating a copy of a file in one of the devices (*e.g.,* the network-attached devices using HP Web Jetadmin); (e) adding a new item of update information on the file in the second table (*e.g.,* updating the HP Web Jetadmin server database); (f) downloading the updated copy of the file from said one of the local file servers (*e.g.,* the images from one network-attached device), 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 the files); (g) determining whether a required copy of the file in another of the local file servers needs to be updated (*e.g.*, by communicating with the HP Web Jetadmin server); 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 (*e.g.,* updating another network-attached device).

39.   Based upon public information, Defendant's customers use its HP Web Jetadmin in such a way that infringes one or more claims of the '780 patent.

40.   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 HP Web Jetadmin in an

infringing manner.

41.   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 HP Web Jetadmin in ways that infringe

one or more claims of the '780 patent through its support and sales activities.[6]

42.   Despite knowledge of the '780 patent since as early as October 3, 2023[7] (or at the

latest, upon service of the Complaint), 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 HP Web Jetadmin is a source of revenue and a business focus for

Defendant.

43.   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 HP Web Jetadmin 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.[8]

44.   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 HP Web Jetadmin.

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

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[6] *See* https://kaas.hpcloud.hp.com/pdf-public/pdf_6892769_en-US-1.pdf (last visited January 15, 2024)
[7] *See* Paragraph 18.
[8] *See* https://kaas.hpcloud.hp.com/pdf-public/pdf_6892769_en-US-1.pdf (last visited January 15, 2024)

Plaintiff.

46.   Defendant's actions are at least objectively reckless as to the risk of infringing a valid patent and this objective risk was either known or should have been known by Defendant.

47.   Since at least the filing of the original complaint in this matter, Defendant's direct and indirect infringement of the '780 patent has been and continues to be willful, intentional, deliberate, or in conscious disregard of Plaintiff's rights under the patent.

48.   DataCloud has satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '780 patent.

49.   DataCloud has been damaged and continues to be damaged as a result of the infringing conduct by Defendant alleged above. Thus, Defendant is liable to DataCloud in an amount that compensates it for such infringement, 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.

50.   DataCloud has suffered and continues to suffer irreparable harm, through its loss of market share and goodwill, for which there is no adequate remedy at law. DataCloud has and will continue to suffer this harm by virtue of Defendant's infringement of one or more claims of the '780 patent. Defendant's actions have interfered with and will interfere with DataCloud's ability to license technology. The balance of hardships favors DataCloud's ability to commercialize its own ideas and technology. The public interest in allowing DataCloud to enforce its right to exclude outweighs other public interests, which supports injunctive relief in this case.

COUNT III: <u>INFRINGEMENT OF U.S. PATENT NO. 7,209,959</u>

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

52.   U.S. Patent No. 7,209,959 (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* '959 patent at p. 1. The '959 patent is entitled "Apparatus, System, And Method For Communicating To A Network Through A Virtual Domain Providing Anonymity To A Client Communicating On The Network."

53.   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.

54.   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.

55.   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.

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 '959 patent.

57.   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 HP website infrastructure supporting multiple domains ("HP website infrastructure").[9]

58.   Upon information and belief, HP website infrastructure meets each and every step of at least Claim 1 of the '959 Patent, either literally or equivalently.

59.   Based upon public information, Defendant has infringed one or more claims of the '959 Patent, including Claim 1, because HP website infrastructure provides a method of, in response to a request (*e.g.,* "Client Hello") by a client to initiate communication with a destination website (*e.g.,* hp.com, www.hpcloud.com, hpcloud.hp.com, support.hp.com, store.hp.com, *etc.*), 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, each being different; 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.,* www.hpcloud.com, hpcloud.hp.com, support.hp.com, store.hp.com) associated with

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[9] *See* https://www.hp.com/us-en/home.html (last visited January 15, 2024)

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.*, www.hpcloud.com, hpcloud.hp.com, support.hp.com, store.hp.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.

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.

COUNT IV: <u>INFRINGEMENT OF U.S. PATENT NO. 7,246,351</u>

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

63.   U.S. Patent No. 7,246,351 (the "'351 patent") was issued on July 17, 2007 after full and fair examination by the USPTO of Application No. 10/081,921 which was filed on February

20, 2002. *See* Ex. B at B-1. A Certificate of Correction was issued on November 20, 2007. *See* id. at B-25.

64.   The claims of the '351 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 '351 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 '351 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 '351 patent.

68.   Based upon public information, Plaintiff is informed and believes that Defendant has infringed one or more claims of the '351 patent, either literally or under the doctrine of equivalents, because it ships, distributes, makes, uses, imports, offers for sale, sells, and/or advertises its HP Chromebooks that operate with JVM/Kotlin for Android apps ("HP

Chromebooks with JVM/Kotlin apps").[10]

69.   Upon information and belief, the HP Chromebooks with JVM/Kotlin apps meet each and every element of at least Claim 1 of the '351 patent, either literally or equivalently.

70.   Based upon public information, the HP Chromebooks with JVM/Kotlin apps have infringed, and continue to infringe, one or more claims of the '351 patent, including Claim 1, because it provides a system for deploying applications over a distributed network to an Internet-enabled device for interacting with a server (*e.g.,* at hp.com), the server being in communication with the distributed network and having text files containing program logic, the system comprising: an application assembler for storing on and running on the Internet-enabled device, the application assembler for downloading one or more text files (e.g., the text file is encrypted and transferred in application data within the TLS session) from the server, retrieving the program logic from each of the downloaded text files, and assembling the retrieved program logic into a functioning application (*e.g.,* a website application) and running the functioning application on the Internet-enabled device (*e.g.,* running the website application), wherein the functioning application provides a graphical user interface for receiving and interpreting user inputs to the Internet-enabled device (*e.g.,* Defendant provides a graphical user interface for receiving and interpreting user inputs).

71.   Based upon public information, Defendant's customers use its HP Chromebooks with JVM/Kotlin apps in such a way that infringes one or more claims of the '351 patent.

72.   Based upon public information, Defendant has intentionally induced and continues to induce infringement of one or more claims of the '351 patent in this District and elsewhere in

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[10] *See* https://www.hp.com/us-en/chrome/chromebook.html and https://www.zdnet.com/home-and-office/work-life/how-to-add-android-apps-to-your-chromebook/ (last visited January 15, 2024)

the United States, by its intentional acts which have successfully, among other things, encouraged, instructed, enabled, and otherwise caused Defendant's customers to use HP Chromebooks with JVM/Kotlin apps in an infringing manner.

73.   To the extent that Defendant is not the only direct infringer of one or more claims of the '351 Patent, it instructs its customers on how to use HP Chromebooks with JVM/Kotlin app in ways that infringe one or more claims of the '351 patent through its support and sales activities.[11]

74.   Despite knowledge of the '351 patent since as early as October 3, 2023[12] (or at the latest, upon service of the Complaint), 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 '351 patent. Based upon public information, the provision of and sale of HP Chromebooks with JVM/Kotlin apps is a source of revenue and a business focus for Defendant.

75.   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 '351 patent by, at a minimum, providing and supporting HP Chromebooks with JVM/Kotlin apps 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.[13]

76.   Based upon public information, Defendant knew that its actions, including, but not

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[11] *See* https://www.hp.com/us-en/chrome/chromebook.html and https://www.zdnet.com/home-and-office/work-life/how-to-add-android-apps-to-your-chromebook/ (last visited January 15, 2024)

[12] *See* Paragraph 18.

[13] *See* https://www.hp.com/us-en/chrome/chromebook.html and https://www.zdnet.com/home-and-office/work-life/how-to-add-android-apps-to-your-chromebook/ (last visited January 15, 2024)

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 HP Chromebooks with JVM/Kotlin apps.

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

78.   Defendant's actions are at least objectively reckless as to the risk of infringing a valid patent and this objective risk was either known or should have been known by Defendant.

79.   Since at least the filing of the original complaint in this matter, Defendant's direct and indirect infringement of the '351 patent has been and continues to be willful, intentional, deliberate, or in conscious disregard of Plaintiff's rights under the patent.

80.   DataCloud has satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '351 patent.

81.   DataCloud has been damaged and continues to be damaged as a result of the infringing conduct by Defendant alleged above. Thus, Defendant is liable to DataCloud in an amount that compensates it for such infringement, 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.

82.   DataCloud has suffered and continues to suffer irreparable harm, through its loss of market share and goodwill, for which there is no adequate remedy at law. DataCloud has and will continue to suffer this harm by virtue of Defendant's infringement of one or more claims of the '351 patent. Defendant's actions have interfered with and will interfere with DataCloud's ability to license technology.   The balance of hardships favors DataCloud's ability to commercialize its own ideas and technology. The public interest in allowing DataCloud to enforce its right to exclude outweighs other public interests, which supports injunctive relief in this case.

COUNT V: <u>INFRINGEMENT OF U.S. PATENT NO. 8,156,499</u>

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

84.   U.S. Patent No. 8,156,499 (the "'499 patent") was issued on April 10, 2012 after full and fair examination by the USPTO of Application No. 12/331,980 which was filed on December 10, 2008. *See* '499 patent at p.1. A Certificate of Correction was issued on September 25, 2012. *See id.* at pp. 18-19. The '499 patent is entitled "Methods, Systems And Articles Of Manufacture For Scheduling Execution Of Programs On Computers Having Different Operating Systems."

85.   The claims of the '499 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.

86.   The written description of the '499 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.

87.   DataCloud owns all substantial rights, interest, and title in and to the '499 patent, including the sole and exclusive right to prosecute this action and enforce it against infringers and to collect damages for all relevant times.

88.   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 '499 patent.

89.   Based upon public information, Plaintiff is informed and believes that Defendant has infringed one or more claims of the '499 patent, either literally or under the doctrine of equivalents, because it ships, distributes, makes, uses, imports, offers for sale, sells, and/or advertises HP Web Jetadmin scheduling and executing remote firmware updates ("HP Web Jetadmin").[14]

90.   Based upon public information, HP Web Jetadmin's provision of firmware updates has infringed one or more claims of the '499 Patent, including Claim 1, because it provides a method scheduling a first computer (*e.g.*, a network-attached device) communicatively coupled with the scheduling computer (*e.g.*, HP Web Jetadmin) to execute a first program (*e.g.*, a schedule to update firmware via HP Web Jetadmin) wherein the first computer has a first operating system (*e.g.*, on a first network-attached device); receiving at the scheduling computer a result from the first computer (*e.g.*, whether an update is necessary or has occurred), wherein the result from the first computer is based at least in part upon the execution of the first program by the first computer (*e.g.*, a firmware update schedule from HP Web Jetadmin); and scheduling a second computer (*e.g.*, a second network-attached device) communicatively coupled with the scheduling computer to execute a second program in response to a determination that the result from the first computer meets a criterion (*e.g.*, firmware needs to be or was updated) wherein the second computer has a second operating system and the second operating system is different from the first operating system (*e.g.*, the operating system on the second network-attached device is different from the operating system on the first network-attached device).

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

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[14] *See* https://kaas.hpcloud.hp.com/pdf-public/pdf_6892769_en-US-1.pdf (last visited January 15, 2024)

Plaintiff.

92.   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

93.   Plaintiff demands a trial by jury on all issues so triable by right.

PRAYER FOR RELIEF

94.   Plaintiff respectfully requests the following relief:

A.   An adjudication that one or more claims of the Asserted Patents has been infringed, either literally and/or under the doctrine of equivalents, by Defendant;

B.   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;

C.   A permanent injunction enjoining Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert therewith from infringement of the '780 patent and/or '351 patent; or, in the alternative, an award of a reasonable ongoing royalty for future infringement of said patent by such entities;

D.   Judgment that Defendant's infringements be found willful as to '780 patent and/or '351 patent; and that the Court award treble damages for the period of

such willful infringement pursuant to 35 U.S.C. § 284;

E.   Pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein;

F.   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,

G.   Any further relief that this Court deems just and proper.

Dated: <u>January 17, 2024</u>

Respectfully submitted,

STAMOULIS & WEINBLATT, LLC

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

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