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Attorneys for Plaintiff COMTECH EF DATA	CORP.
UNITED STATES	S DISTRICT COURT
DISTRICT	OF ARIZONA
DIVISION ONE	
COMTECH EF DATA CORP.	Civil Action No
Plaintiff,	COMPLAINT FOR DECLARATORY
VS.	JUDGMENT OF NON-
	INFRINGEMENT OF U.S. PATENT
SCIENTIFIC TELECOMMUNICATIONS,	NOS. 7,222,188; 6,058,429; 6,546,424 AND 6,519,259
INC.	
Defendant.	JURY TRIAL DEMANDED
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Plaintiff Comtech EF Data Corp. ("Comtech"), hereby demands a jury trial, and for its Complaint for Declaratory Judgment against Defendant Scientific Telecommunications LLC ("SciTel"), alleges as follows:

PARTIES

Comtech is a Delaware corporation having its principal place of business at 2114 1. West 7th Street, Tempe, AZ 85281. Comtech offers a broad line of products that include components for transmitting data to and from satellites.

2. Upon information and belief, SciTel is a Delaware Limited Liability Company operating out of a virtual office at 913 North Market Street, Suite 200, Wilmington, Delaware 19801, and was founded on September 8, 2014. Upon information and belief, SciTel has not practiced its patents since its entity was formed. Instead, Comtech is informed and believes that SciTel operates primarily as a non-practicing patent licensing entity.

JURISDICTION AND VENUE

3. Upon information and belief, SciTel purports to be the assignee of all rights and title to various United States patents, including: U.S. Patent Nos. 7,222,188 ("the '188 Patent"); 6,546,424 ("the '424 Patent"); 6,058,429 ("the '429 Patent") and 6,519,259 ("the '259 Patent"). True and accurate copies of the '188, '424, '429 and '259 Patents (collectively, "the SciTel Patents") are attached to this Complaint for Declaratory Judgment as **Exhibits A-D**.

4. As detailed below, there is an actual justiciable case or controversy pursuant to 28 U.S.C. § 2201 regarding infringement of the SciTel Patents. A judicial declaration that Plaintiff has not infringed any valid claim of the SciTel Patents is necessary and appropriate at this time so that the Plaintiff may ascertain its rights and duties with respect to the SciTel Patents.

5. This Court has subject matter jurisdiction over this Complaint under 28 U.S.C. §§ 2201, 2202, and 1338 as a declaratory judgment action arising under the patent laws, Title 35 of the United States Code.

6. This Court has personal jurisdiction over the Defendant by virtue of the Defendant's conduct within the State of Arizona and within this judicial district. The Defendant has issued letters threatening legal action to Plaintiff at its offices in Tempe, Arizona, within this judicial district, which invokes personal jurisdiction in the District of Arizona.

7. Venue is proper in the District of Arizona pursuant to 28 U.S.C. §§ 1391 and 1400.

FACTUAL ALLEGATIONS

8. As set forth herein, subject matter jurisdiction, personal jurisdiction and venue are proper in this Court and supported by the following factual allegations.

9. Most of the party witnesses are located in the District of Arizona. Comtech was founded in Tempe, Arizona, and has remained in the same location since the company's inception. Comtech's executive leadership and its design and engineering staff are predominantly located in the greater Phoenix area of Arizona.

10. Upon information and belief, SciTel acquired the SciTel Patents from a portfolio owned by Trident IP Solutions LLC ("Trident"). In a press release dated March 31, 2014, the SciTel Patents were among six separate patent portfolios offered for sale by Trident.

11. Upon information and belief, SciTel asserted, and continues to assert, the SciTel Patents against technology companies. For example, and without limitation, SciTel brought suit for three of the SciTel Patents against Brocade Communications Systems, Inc. ("Brocade") in Delaware. Brocade's headquarters are believed to be within the Northern District of California. Brocade moved to transfer the case to Northern California, arguing that Northern California was the appropriate venue. The case settled prior to resolution of the motion. SciTel also brought suit for the '188 and '429 Patents against Juniper Networks, Inc. ("Juniper") in Delaware. Juniper's world headquarters are also believed to be within the Northern District of California. Juniper moved to transfer the case to Northern California. The motion was not ruled upon, as the parties appear to have settled. SciTel also brought suit for the '259 Patent against VT iDirect, Inc. ("VT iDirect") in Delaware. Though VT iDirect is a Delaware corporation, its headquarters are believed to be in Herndon, VA. The case against VT iDirect settled in September 2016 prior to service of the complaint.

12. Upon information and belief, SciTel retained Capital Legal Group PLLC ("Capital"), a Washington D.C. law firm, as counsel for this and other matters pertaining to enforcement of SciTel's patent portfolio.

13. Since being approached by SciTel in September 2015, SciTel and Comtech have engaged in discussion concerning SciTel's demand that Comtech enter into a license agreement under one or more of the SciTel Patents. SciTel and Comtech have been unable to resolve their positions concerning the need for a license under the SciTel Patents and, in light of the litigation history of SciTel, Comtech is in immediate apprehension of being sued for infringement of one

or more of the SciTel Patents. Because of a non-disclosure agreement entered into by the parties, Comtech is unable to provide the Court in this Complaint with specifics of the discussion and the ultimate disagreement between SciTel and Comtech concerning the need for a license to the SciTel Patents, but is prepared to do so under seal if necessary.

As a result of SciTel's demand that Comtech enter into a license agreement 14. concerning the SciTel Patents and Comtech's belief in its right to engage in business without a license to the SciTel Patents, an actual controversy has arisen and now exists between the parties as to whether Comtech infringes, contributes to the infringement of, or induces the infringement of any valid claim of each of the SciTel Patents.

<u>COUNT ONE – DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF U.S.</u> **PATENT NO. 7,222,188**

15. Comtech repeats and incorporates by reference its allegations in the foregoing paragraphs. 12

16. An actual controversy has arisen and now exists between the parties as to whether Comtech infringes, contributes to the infringement of, or induces infringement of any valid claim of the '188 Patent.

17. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 et seq., Comtech requests a declaration from the Court that Comtech has not infringed any valid claim of the '188 Patent, either directly, contributorily, or by inducement or either literally under the doctrine of equivalents.

COUNT TWO – DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF U.S. PATENT NO. 6,546,424

18. Comtech repeats and incorporates by reference its allegations in the foregoing paragraphs.

19. An actual controversy has arisen and now exists between the parties as to whether Comtech infringes, contributes to the infringement of, or induces infringement of any valid claim of the '424 Patent.

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20. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 et seq., Comtech requests a declaration from the Court that Comtech has not infringed any valid claim of the '424 Patent, either directly, contributorily, or by inducement or either literally under the doctrine of equivalents.

<u>COUNT THREE – DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF U.S.</u> PATENT NO. 6,058,429

21. Comtech repeats and incorporates by reference its allegations in the foregoing paragraphs.

22. An actual controversy has arisen and now exists between the parties as to whether Comtech infringes, contributes to the infringement of, or induces infringement of any valid claim of the '429 Patent.

23. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 et seq., Comtech requests a declaration from the Court that Comtech has not infringed any valid claim of the '429 Patent, either directly, contributorily, or by inducement or either literally under the doctrine of equivalents.

<u>COUNT FOUR – DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF U.S.</u> PATENT NO. 6,519,259

24. Comtech repeats and incorporates by reference its allegations in the foregoing paragraphs.

25. An actual controversy has arisen and now exists between the parties as to whether Comtech infringes, contributes to the infringement of, or induces infringement of any valid claim of the '259 Patent.

26. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 et seq., Comtech requests a declaration from the Court that Comtech has not infringed any valid claim of the '259 Patent, either directly, contributorily, or by inducement or either literally under the doctrine of equivalents.

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1	RESERVATION OF RIGHTS
2	27. Comtech hereby reserves its right to supplement this complaint with additional
2	defenses as discovery proceeds in this matter.
4	PRAYER FOR RELIEF
5	WHEREFORE, Comtech prays for judgment as follows:
6	1. A declaration that Comtech has not infringed, either directly or indirectly,
7	any valid and enforceable claim of the '188, '424, '429 and '259 Patents;
	2. A declaration that this case be considered exceptional under 25 U.S.C. §
8	285, and that Comtech be awarded its costs and attorney's fees to be paid by SciTel;
9	3. An award of any and all equitable relief to which Comtech is entitled; and
10	4. Such other and further relief as the Court may deem proper.
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12	DEMAND FOR JURY TRIAL
13	Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff Comtech hereby
14	demands a trial by jury on all issues so triable.
15	RESPECTFULLY SUBMITTED this 14th day of September, 2016.
16	SANDERS & PARKS, P.C.
17	
18	By <u>/s/ Rick N. Bryson</u>
19	Rick N. Bryson Edward R. Glady, Jr.
20	3030 North Third Street, Suite 1300
21	Phoenix, Arizona 85012-3099 Attorneys for Plaintiff Comtech EF Data Corp.
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1	CERTIFICATE OF SERVICE
2	I hereby certify that on September 14, 2016, I electronically transmitted the attached
3	document to the Clerk's Office using the ECF System for filing:
4	United States District Court
5	Sandra Day O'Connor U.S. Courthouse 401 West Washington Street,
6	Phoenix, AZ 85003-2154
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9	By: <u>/s/ Lisa Franceschi</u>
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