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Attorneys for Cross-Defendants
6x7 Networks, LLC and Benjamin Cannon

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

6x7 NETWORKS, LLC, a Delaware limited liability company,

Plaintiff,

vs.

SUDO SECURITY GROUP, INC., a Delaware corporation doing business as Guardian; STEVE RUSSELL, an individual; SEAN SNYDER, an individual, and DOES 1 through 100, inclusive,

Defendants.

SUDO SECURITY GROUP, INC., a Delaware corporation,

Cross-Complainant,

vs.

6x7 NETWORKS, LLC, a Delaware limited liability company, and BENJAMIN CANNON, an individual,

Cross-Defendants.

Case No. CGC-19-581498

CROSS-DEFENDANTS 6X7 NETWORKS, LLC AND BENJAMIN CANNON'S SEPARATE STATEMENT IN SUPPORT OF MOTION TO QUASH DEPOSITION SUBPOENA OF SUDO SECURITY GROUP, INC. TO ANDREW WATTERS AND/OR FOR A PROTECTIVE ORDER

Date: February 26, 2021
Time: 9:00 am
Dept.: 301

Action Filed: December 13, 2019
Trial Date: None Set

Plaintiff and Cross-Defendants 6x7 Networks, LLC and Benjamin Cannon's ("6x7") submit this Separate Statement in support of its motion to quash a deposition subpoena for production of documents issued by Defendant and Cross-Complainant Sudo Security Group ("Sudo") to Andrew Watters and/or for a protective order, pursuant to California Rules of Court, Rule 3.1345.

SEPARATE STATEMENT IN SUPPORT OF MOTION TO QUASH

I. SUBPOENA LANGUAGE

The Subpoena contains the following language:

"1. You are ordered to produce the business records described in item 3, as follows:

To (name of deposition officer): Nationwide Legal LLC

On (date): January 6, 2021

At (time): Before 4:00 PM

Location (address): 859 Harrison Street, Suite A, San Francisco, CA 94107

by delivering a true, legible, and durable copy of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.

2. The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.

3. The records to be produced are described as follows (if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified): See Attachment A."

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II. ATTACHMENT A

A. Sudo's "Attachment A" offers the following definitions:

DEFINITIONS

A. The term "documents" means all "writings" as that term is defined in California Evidence Code section 250, and include the original or a copy of handwriting, typewriting, printing, photostating, photocopying, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, including without limitation, correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, charts, maps, inter-office and intra-office communications, electronic mail (E-mail), notations of any sort of conversation, bulletins, printed matter, computer printouts, teletypes, telefax, worksheets and drafts, alterations, modifications, changes or amendments of any of the foregoing, graphic or aural records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, videotape, recordings, motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation: tapes, cassettes, mag cards, discs and recordings). The term "documents" does not include consumer or employee records, and no such records are requested.

B. Sudo's "Attachment A" sets forth the following "DOCUMENTS TO BE PRODUCED", followed by 6x7's response to each category of documents:

SUDO'S REQUEST:

1. All documents relating to Benjamin Cannon's and/or 6x7 Networks LLC's access to or ownership of rights to "dark fiber" or rooftops to provide internet or data services.

6x7'S RESPONSE:

6x7, a data services provider, has sued Sudo for breach of contract and related claims based on Sudo's failure to pay for agreed-upon data services. Sudo cross-complained alleging

fraud-related claims regarding the formation of the parties' agreement(s) and whether 6x7 was capable of providing the agreed-upon services.

The subject of the subpoena at issue, Andrew Watters, is former general counsel for 6x7. Sudo, which 6x7's opponent in this litigation, has subpoenaed records from 6x7's former attorney with knowledge that Andrew Watters has initiated his own civil action now pending against 6x7 based on claims similar to those raised in the above-captioned action, and therefore Sudo knows that Andrew Watters' interests are adverse to those of 6x7. Sudo has issued a subpoena to 6x7's former legal counsel contrary to the general reluctance of California courts to allow depositions of opposing counsel. Additionally, this category of records sought by the subpoena is overbroad and encompasses irrelevant, privileged, non-discoverable information. The documents sought include documents containing trade secrets. (Evid. Code § 1060.) The documents sought encompass confidential and/or attorney-client privileged information. (Evid. Code § 954; B&P Code § 6068, subd. (e)(1).) The Discovery Act explicitly restricts this type of discovery.

SUDO'S REQUEST:

2. All documents relating to Benjamin Cannon's and/or 6x7 Networks LLC's account and amounts owed to Wave Broadband from January 1, 2019, to October 31, 2019, including, without limitation, Wave Broadband's notice of amounts outstanding and termination of services.

6x7'S RESPONSE:

6x7, a data services provider, has sued Sudo for breach of contract and related claims based on Sudo's failure to pay for agreed-upon data services. Sudo cross-complained alleging fraud-related claims regarding the formation of the parties' agreement(s) and whether 6x7 was capable of providing the agreed-upon services.

The subject of the subpoena at issue, Andrew Watters, is former general counsel for 6x7. Sudo, which 6x7's opponent in this litigation, has subpoenaed records from 6x7's former attorney with knowledge that Andrew Watters has initiated his own civil action now pending against 6x7 based on claims similar to those raised in the above-captioned action, and therefore Sudo knows that Andrew Watters' interests are adverse to those of 6x7. Sudo has issued a subpoena to 6x7's former legal counsel contrary to the general reluctance of California courts to allow depositions of

opposing counsel. Additionally, this category of records sought by the subpoena is overbroad and encompasses irrelevant, privileged, non-discoverable information. The documents sought include documents containing trade secrets. (Evid. Code § 1060.) The documents sought encompass confidential and/or attorney-client privileged information. (Evid. Code § 954; B&P Code § 6068, subd. (e)(1).) The Discovery Act explicitly restricts this type of discovery.

SUDO'S REQUEST:

3. All documents relating to Benjamin Cannon's and/or 6x7 Networks LLC's account and amounts owed to Cogent from July 1, 2019, to October 31, 2019.

6x7'S RESPONSE:

6x7, a data services provider, has sued Sudo for breach of contract and related claims based on Sudo's failure to pay for agreed-upon data services. Sudo cross-complained alleging fraud-related claims regarding the formation of the parties' agreement(s) and whether 6x7 was capable of providing the agreed-upon services.

The subject of the subpoena at issue, Andrew Watters, is former general counsel for 6x7. Sudo, which 6x7's opponent in this litigation, has subpoenaed records from 6x7's former attorney with knowledge that Andrew Watters has initiated his own civil action now pending against 6x7 based on claims similar to those raised in the above-captioned action, and therefore Sudo knows that Andrew Watters' interests are adverse to those of 6x7. Sudo has issued a subpoena to 6x7's former legal counsel contrary to the general reluctance of California courts to allow depositions of opposing counsel. Additionally, this category of records sought by the subpoena is overbroad and encompasses irrelevant, privileged, non-discoverable information. The documents sought include documents containing trade secrets. (Evid. Code § 1060.) The documents sought encompass confidential and/or attorney-client privileged information. (Evid. Code § 954; B&P Code § 6068, subd. (e)(1).) The Discovery Act explicitly restricts this type of discovery.

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SUDO'S REQUEST:

4. All documents relating to Benjamin Cannon's and/or 6x7 Networks LLC's purchase of electronic equipment from April to August 2019.

6x7'S RESPONSE:

6x7, a data services provider, has sued Sudo for breach of contract and related claims based on Sudo's failure to pay for agreed-upon data services. Sudo cross-complained alleging fraud-related claims regarding the formation of the parties' agreement(s) and whether 6x7 was capable of providing the agreed-upon services.

The subject of the subpoena at issue, Andrew Watters, is former general counsel for 6x7. Sudo, which 6x7's opponent in this litigation, has subpoenaed records from 6x7's former attorney with knowledge that Andrew Watters has initiated his own civil action now pending against 6x7 based on claims similar to those raised in the above-captioned action, and therefore Sudo knows that Andrew Watters' interests are adverse to those of 6x7. Sudo has issued a subpoena to 6x7's former legal counsel contrary to the general reluctance of California courts to allow depositions of opposing counsel. Additionally, this category of records sought by the subpoena is overbroad and encompasses irrelevant, privileged, non-discoverable information. The documents sought include documents containing trade secrets. (Evid. Code § 1060.) The documents sought encompass confidential and/or attorney-client privileged information. (Evid. Code § 954; B&P Code § 6068, subd. (e)(1).) The Discovery Act explicitly restricts this type of discovery.

SUDO'S REQUEST:

5. All documents reflecting contract counterparties and/or potential clients of 6x7 Networks LLC from January 2019 to present.

6x7'S RESPONSE:

6x7, a data services provider, has sued Sudo for breach of contract and related claims based on Sudo's failure to pay for agreed-upon data services. Sudo cross-complained alleging fraud-related claims regarding the formation of the parties' agreement(s) and whether 6x7 was capable of providing the agreed-upon services.

The subject of the subpoena at issue, Andrew Watters, is former general counsel for 6x7.

Sudo, which 6x7's opponent in this litigation, has subpoenaed records from 6x7's former attorney with knowledge that Andrew Watters has initiated his own civil action now pending against 6x7 based on claims similar to those raised in the above-captioned action, and therefore Sudo knows that Andrew Watters' interests are adverse to those of 6x7. Sudo has issued a subpoena to 6x7's former legal counsel contrary to the general reluctance of California courts to allow depositions of opposing counsel. Additionally, this category of records sought by the subpoena is overbroad and encompasses irrelevant, privileged, non-discoverable information. The documents sought include documents containing trade secrets. (Evid. Code § 1060.) The documents sought encompass confidential and/or attorney-client privileged information. (Evid. Code § 954; B&P Code § 6068, subd. (e)(1).) The Discovery Act explicitly restricts this type of discovery.

SUDO'S REQUEST:

6. Any list of names of employees of 6x7 Networks LLC.

6x7'S RESPONSE:

6x7, a data services provider, has sued Sudo for breach of contract and related claims based on Sudo's failure to pay for agreed-upon data services. Sudo cross-complained alleging fraud-related claims regarding the formation of the parties' agreement(s) and whether 6x7 was capable of providing the agreed-upon services.

The subject of the subpoena at issue, Andrew Watters, is former general counsel for 6x7. Sudo, which 6x7's opponent in this litigation, has subpoenaed records from 6x7's former attorney with knowledge that Andrew Watters has initiated his own civil action now pending against 6x7 based on claims similar to those raised in the above-captioned action, and therefore Sudo knows that Andrew Watters' interests are adverse to those of 6x7. Sudo has issued a subpoena to 6x7's former legal counsel contrary to the general reluctance of California courts to allow depositions of opposing counsel. Additionally, this category of records sought by the subpoena is overbroad and encompasses irrelevant, privileged, non-discoverable information. The documents sought include documents containing trade secrets. (Evid. Code § 1060.) The documents sought encompass confidential and/or attorney-client privileged information. (Evid. Code § 954; B&P Code § 6068, subd. (e)(1).) The Discovery Act explicitly restricts this type of discovery.

SUDO'S REQUEST:

7. All documents relating to the presence of security personnel at 6x7 Networks LLC's location(s) from March 1, 2019 to October 31, 2019 (not including employee personnel files).

6x7'S RESPONSE:

6x7, a data services provider, has sued Sudo for breach of contract and related claims based on Sudo's failure to pay for agreed-upon data services. Sudo cross-complained alleging fraud-related claims regarding the formation of the parties' agreement(s) and whether 6x7 was capable of providing the agreed-upon services.

The subject of the subpoena at issue, Andrew Watters, is former general counsel for 6x7. Sudo, which 6x7's opponent in this litigation, has subpoenaed records from 6x7's former attorney with knowledge that Andrew Watters has initiated his own civil action now pending against 6x7 based on claims similar to those raised in the above-captioned action, and therefore Sudo knows that Andrew Watters' interests are adverse to those of 6x7. Sudo has issued a subpoena to 6x7's former legal counsel contrary to the general reluctance of California courts to allow depositions of opposing counsel. Additionally, this category of records sought by the subpoena is overbroad and encompasses irrelevant, privileged, non-discoverable information. The documents sought include documents containing trade secrets. (Evid. Code § 1060.) The documents sought encompass confidential and/or attorney-client privileged information. (Evid. Code § 954; B&P Code § 6068, subd. (e)(1).) The Discovery Act explicitly restricts this type of discovery.

SUDO'S REQUEST:

8. All documents relating to the creation and/or content of 6x7 Networks LLC's website from January 2019 to present.

6x7'S RESPONSE:

6x7, a data services provider, has sued Sudo for breach of contract and related claims based on Sudo's failure to pay for agreed-upon data services. Sudo cross-complained alleging fraud-related claims regarding the formation of the parties' agreement(s) and whether 6x7 was capable of providing the agreed-upon services.

The subject of the subpoena at issue, Andrew Watters, is former general counsel for 6x7. Sudo, which 6x7's opponent in this litigation, has subpoenaed records from 6x7's former attorney with knowledge that Andrew Watters has initiated his own civil action now pending against 6x7 based on claims similar to those raised in the above-captioned action, and therefore Sudo knows that Andrew Watters' interests are adverse to those of 6x7. Sudo has issued a subpoena to 6x7's former legal counsel contrary to the general reluctance of California courts to allow depositions of opposing counsel. Additionally, this category of records sought by the subpoena is overbroad and encompasses irrelevant, privileged, non-discoverable information. The documents sought include documents containing trade secrets. (Evid. Code § 1060.) The documents sought encompass confidential and/or attorney-client privileged information. (Evid. Code § 954; B&P Code § 6068, subd. (e)(1).) The Discovery Act explicitly restricts this type of discovery.

SUDO'S REQUEST:

9. All documents relating to the unlawful detainer lawsuit filed against 6x7 Networks LLC in or about 2019.

6x7'S RESPONSE:

6x7, a data services provider, has sued Sudo for breach of contract and related claims based on Sudo's failure to pay for agreed-upon data services. Sudo cross-complained alleging fraud-related claims regarding the formation of the parties' agreement(s) and whether 6x7 was capable of providing the agreed-upon services.

The subject of the subpoena at issue, Andrew Watters, is former general counsel for 6x7. Sudo, which 6x7's opponent in this litigation, has subpoenaed records from 6x7's former attorney with knowledge that Andrew Watters has initiated his own civil action now pending against 6x7 based on claims similar to those raised in the above-captioned action, and therefore Sudo knows that Andrew Watters' interests are adverse to those of 6x7. Sudo has issued a subpoena to 6x7's former legal counsel contrary to the general reluctance of California courts to allow depositions of opposing counsel. Additionally, this category of records sought by the subpoena is overbroad and encompasses irrelevant, privileged, non-discoverable information. The documents sought include documents containing trade secrets. (Evid. Code § 1060.) The documents sought encompass

confidential and/or attorney-client privileged information. (Evid. Code § 954; B&P Code § 6068, subd. (e)(1).) The Discovery Act explicitly restricts this type of discovery.

SUDO'S REQUEST:

10. All documents relating to Sudo Security Group and/or Guardian, Steven Russell, and/or Sean Snyder.

6x7'S RESPONSE:

6x7, a data services provider, has sued Sudo for breach of contract and related claims based on Sudo's failure to pay for agreed-upon data services. Sudo cross-complained alleging fraud-related claims regarding the formation of the parties' agreement(s) and whether 6x7 was capable of providing the agreed-upon services.

The subject of the subpoena at issue, Andrew Watters, is former general counsel for 6x7. Sudo, which 6x7's opponent in this litigation, has subpoenaed records from 6x7's former attorney with knowledge that Andrew Watters has initiated his own civil action now pending against 6x7 based on claims similar to those raised in the above-captioned action, and therefore Sudo knows that Andrew Watters' interests are adverse to those of 6x7. Sudo has issued a subpoena to 6x7's former legal counsel contrary to the general reluctance of California courts to allow depositions of opposing counsel. Additionally, this category of records sought by the subpoena is overbroad and encompasses irrelevant, privileged, non-discoverable information. The documents sought include documents containing trade secrets. (Evid. Code § 1060.) The documents sought encompass confidential and/or attorney-client privileged information. (Evid. Code § 954; B&P Code § 6068, subd. (e)(1).) The Discovery Act explicitly restricts this type of discovery.

SUDO'S REQUEST:

11. All documents reflecting or relating to statements by Benjamin Cannon and/or 6x7 Networks LLC to existing and/or prospective customers (including you) regarding 6x7 Networks LLC's data center operations, including, without limitation, copies of sales packets distributed to prospective customers and email correspondence between 6x7 Networks LLC's employees and prospective customers.

6x7'S RESPONSE:

6x7, a data services provider, has sued Sudo for breach of contract and related claims based on Sudo's failure to pay for agreed-upon data services. Sudo cross-complained alleging fraud-related claims regarding the formation of the parties' agreement(s) and whether 6x7 was capable of providing the agreed-upon services.

The subject of the subpoena at issue, Andrew Watters, is former general counsel for 6x7. Sudo, which 6x7's opponent in this litigation, has subpoenaed records from 6x7's former attorney with knowledge that Andrew Watters has initiated his own civil action now pending against 6x7 based on claims similar to those raised in the above-captioned action, and therefore Sudo knows that Andrew Watters' interests are adverse to those of 6x7. Sudo has issued a subpoena to 6x7's former legal counsel contrary to the general reluctance of California courts to allow depositions of opposing counsel. Additionally, this category of records sought by the subpoena is overbroad and encompasses irrelevant, privileged, non-discoverable information. The documents sought include documents containing trade secrets. (Evid. Code § 1060.) The documents sought encompass confidential and/or attorney-client privileged information. (Evid. Code § 954; B&P Code § 6068, subd. (e)(1).) The Discovery Act explicitly restricts this type of discovery.

SUDO'S REQUEST:

12. All photographs of 6x7 Networks LLC's datacenter location(s).

6x7'S RESPONSE:

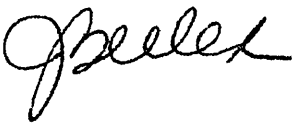
6x7, a data services provider, has sued Sudo for breach of contract and related claims based on Sudo's failure to pay for agreed-upon data services. Sudo cross-complained alleging fraud-related claims regarding the formation of the parties' agreement(s) and whether 6x7 was capable of providing the agreed-upon services.

The subject of the subpoena at issue, Andrew Watters, is former general counsel for 6x7. Sudo, which 6x7's opponent in this litigation, has subpoenaed records from 6x7's former attorney with knowledge that Andrew Watters has initiated his own civil action now pending against 6x7 based on claims similar to those raised in the above-captioned action, and therefore Sudo knows that Andrew Watters' interests are adverse to those of 6x7. Sudo has issued a subpoena to 6x7's

former legal counsel contrary to the general reluctance of California courts to allow depositions of opposing counsel. Additionally, this category of records sought by the subpoena is overbroad and encompasses irrelevant, privileged, non-discoverable information. The documents sought include documents containing trade secrets. (Evid. Code § 1060.) The documents sought encompass confidential and/or attorney-client privileged information. (Evid. Code § 954; B&P Code § 6068, subd. (e)(1).) The Discovery Act explicitly restricts this type of discovery.

DATED: January 27, 2021

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: 

BRIAN SLOME
JESSICA L. BEELER
Attorneys for Cross-Defendants
6x7 Networks, LLC and Benjamin Cannon

CALIFORNIA STATE COURT PROOF OF SERVICE
6x7 Networks, LLC v. Sudo Security Group, Inc., et al.
San Francisco County Superior Court, Case No. CGC-19-581498

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

At the time of service, I was over 18 years of age and not a party to this action. My business address is 333 Bush Street, Suite 1100, San Francisco, CA 94104-2872.

On January 27, 2021, I served true copies of the following document(s):

CROSS-DEFENDANTS 6X7 NETWORKS, LLC AND BENJAMIN CANNON'S SEPARATE STATEMENT IN SUPPORT OF MOTION TO QUASH DEPOSITION SUBPOENA OF SUDO SECURITY GROUP, INC. TO ANDREW WATTERS AND/OR FOR A PROTECTIVE ORDER

I served the documents on the following persons at the following addresses (including fax numbers and e-mail addresses, if applicable):

Attorneys for Plaintiff, 6x7 Networks, LLC Marc A. Indeglia Indeglia PC 13274 Fiji Way, Suite 250 Marina del Rey, California 90292 Tel.: (310) 982-2720 Email: marc@indegliapc.com	**Attorneys for Defendant/Cross-Complainant Sudo Security Group** Richard D. Lutkus M. Ryan Pinkston Seyfarth Shaw LLP 560 Mission Street, 31st Floor San Francisco, California 94105 Tel.: (415) 397-2823 Fax: (415) 397-8549 Email: rlutkus@seyfarth.com Email: rpinkston@seyfarth.com
Andrew G. Watters 118 South Blvd. San Mateo, CA 94402 ***Via U.S. Mail***	Nationwide Legal LLC 859 Harrison Street Suite A San Francisco, CA 94107 ***Via U.S. Mail***

The documents were served by the following means:

☒ (BY U.S. MAIL) I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed above (TO ANDREW G. WATTERS and NATIONWIDE LEGAL only) and:

☐ Deposited the sealed envelope or package with the U.S. Postal Service, with the postage fully prepaid.

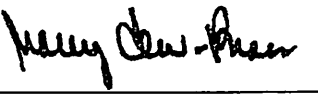
☒ Placed the envelope or package for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice for collection and processing correspondence for mailing. Under that practice, on the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service, in a sealed envelope or package with the postage fully prepaid.

☒ (BY ELECTRONIC SERVICE VIA FIRST LEGAL) Based on a court order, I caused the above-entitled document to be served through First Legal at https://firstlegal.com addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the First Legal Filing Receipt Page/Confirmation will be filed, deposited, or maintained with the original document in this office.

☒ (BY E-MAIL OR ELECTRONIC TRANSMISSION) Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent from e-mail address Nancy.Lew-Pham@lewisbrisbois.com to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 27, 2021, at San Francisco, California.



Nancy Lew-Pham