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FILED  
U.S. DISTRICT COURT  
SAN FRANCISCO, CALIFORNIA  
APR 11 2011

E-Filed

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5 Attorneys for Plaintiff  
THINKEQUITY PARTNERS LLC

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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN FRANCISCO DIVISION**

11 THINKEQUITY PARTNERS, LLC, a  
12 Delaware limited liability company,

13 Plaintiff,

14 v.

15 DATATEL, INC., a Virginia Corporation,

16 Defendant.  
17

1 C 05 8810

Case No.

SBA

**COMPLAINT FOR DAMAGES;  
BREACH OF CONTRACT**

18  
19 Plaintiff alleges:

20 **JURISDICTION**

21 1. Plaintiff THINKEQUITY PARTNERS LLC is, and at all times herein mentioned was,  
22 a limited liability company organized and existing under and by virtue of the laws of the State of  
23 Delaware. Plaintiff has offices in the City and County of San Francisco, State of California.

24 2. Plaintiff is informed and believes and thereon alleges that Defendant DATATEL, INC.  
25 is a corporation organized and existing under and by virtue of the laws of the State of Virginia, with  
26 its corporate headquarters in the State of Virginia. Plaintiff is informed and believes that DATATEL,  
27 INC. conducts business on a systematic and regular basis in the State of California, and has offices in  
28 the City and County of San Francisco, State of California.

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1 ¾ percent of Consideration payable in connection with any Sale Transaction consummated during the  
2 term of the Agreement, or within 18 months thereafter. "Sale Transaction" was defined as "Any sale,  
3 merger, joint venture, lease, license or other transaction in which 50% or more of the voting power of  
4 the Company or all or a substantial portion of its business or assets are combined with or transferred  
5 to another company." "Consideration" was defined as "the gross value of all cash, securities and  
6 other properties paid directly or indirectly by an acquirer to the Company or its security holders in  
7 connection with the Sale Transaction (including without limitation all amounts paid or distributed by  
8 the Company to the holders of capital stock of the Company and all amounts paid, distributed or  
9 issued to the holders of options, warrants, stock appreciation rights or similar rights or securities in  
10 the Company in connection with the Sale Transaction.")

11 10. Plaintiff performed all terms and conditions required of it under the Agreement.  
12 Plaintiff performed valuation analyses, prepared information materials to be distributed to potential  
13 buyers, and conducted and shared alternative analyses for potential acquisitions. Plaintiff performed  
14 surveys to determine the interest in an acquisition among financial investors, and reported to  
15 DATATEL with various strategies designed to effect a sale. Plaintiff invested significant sums of  
16 time and money in performing its obligations under the Agreement.

17 11. Plaintiff is informed and believes and thereon alleges that DATATEL consummated a  
18 Sale Transaction as defined by the Agreement on or about March 18, 2005, which was within 18  
19 months of the conclusion of THINKEQUITY's engagement.

20 12. DATATEL breached the Agreement, by failing to pay THINKEQUITY's fee as  
21 required thereunder.

22 13. Plaintiff is informed and believes and thereon alleges that the Consideration in  
23 connection with the Sale Transaction, as defined by the Agreement, was the sum of Two Hundred  
24 Sixty-Five Million Dollars (\$265,000,000), and that THINKEQUITY's fee thereon was the sum of  
25 One Million Nine Hundred Forty-Three Thousand, Five Hundred Ninety-Four Dollars and Forty-  
26 Four Cents (\$1,943,594.44).

27 14. On or about April 28, 2005, and thereafter, plaintiff made written demand on  
28 defendant for payment of the fee due it under the Agreement. Payment was to be made to

1 THINKEQUITY at its offices in San Francisco, California. Despite repeated written demands  
2 therefor, defendant has failed and refused, and continues to fail and refuse, to pay any amounts  
3 outstanding.

4 15. As a direct and proximate result of the breach of contract of defendant as alleged  
5 herein, plaintiff has been damaged in the sum of no less than One Million Nine Hundred Forty-Three  
6 Thousand, Five Hundred Ninety-Four Dollars and Forty-Four Cents (\$1,943,594.44), plus pre-  
7 judgment interest thereon from and after April 28, 2005.

8 WHEREFORE, plaintiff prays for judgment against defendant as follows:

- 9 1. For actual damages according to proof, in no event less than One Million Nine  
10 Hundred Forty-Three Thousand, Five Hundred Ninety-Four Dollars and Forty-Four  
11 Cents (\$1,943,594.44);
- 12 2. For pre-judgment interest on the above-described sum at the maximum allowable legal  
13 rate, from and after April 28, 2005;
- 14 3. For costs of suit; and
- 15 4. For such other and further relief as the Court deems just and proper.

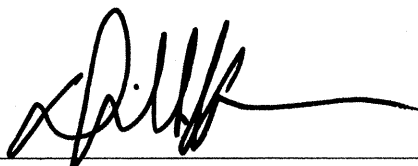
16 **CERTIFICATION OF INTERESTED ENTITIES OR PERSONS**

17 Pursuant to Civil Local Rule 3-16, the undersigned certifies that as of this date, other than the  
18 named parties and agents, there is no such interest to report.

19 DATED: July 8, 2005

MBV LAW LLP

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21  
22 By:



23 DWIGHT C. DONOVAN  
24 Attorneys for Plaintiff  
25 THINKEQUITY PARTNERS LLC  
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28

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