

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

NICE SYSTEMS LTD. and )  
NICE SYSTEMS, INC., )  
 )  
Plaintiffs, )  
 )  
v. ) C.A. No. 15-743 (RGA)  
 )  
CLICKFOX, INC., ) **DEMAND FOR JURY TRIAL**  
 )  
Defendant. )

**AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiffs NICE Systems, Ltd. and NICE Systems, Inc. (“NICE” or “Plaintiffs”), for their Amended Complaint of patent infringement against Defendant ClickFox, Inc. (“ClickFox” or “Defendant”), do hereby assert and allege:

**PARTIES**

1. Plaintiff, NICE Systems Ltd., is a company organized and existing under the laws of the State of Israel, having an address at 22 Zarhin Street, P.O. Box 690, 4310602 Ra'anana ISRAEL.

2. Plaintiff, NICE Systems, Inc., is a company organized and existing under the laws of the State of Delaware, having its principal place of business at 461 From Rd., Paramus, NJ 07652.

3. Plaintiff NICE Systems, Inc. is a wholly owned subsidiary of Plaintiff NICE Systems Ltd.

4. On information and belief, Defendant ClickFox, is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business at 2000 S.

Colorado Blvd, Tower 1, Suite 2300, Denver, Colorado 80222, and offices at 3445 Peachtree Road, Suite 450, Atlanta, Georgia 30326.

5. On information and belief, ClickFox has a registered agent for service of process in the State of Delaware at The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

### **JURISDICTION AND VENUE**

6. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code, including 35 U.S.C. §§ 271 and 281-285. This Court has original jurisdiction over the subject matter of this claim pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over ClickFox which, on information and belief, is a Delaware corporation with a registered agent for service of process in this State. On information and belief, this Court also has personal jurisdiction over ClickFox as a result of ClickFox's acting directly to sell and offer for sale to Delaware residents infringing products that practice, embody, and/or facilitate unauthorized use of the claimed inventions of the patent-in-suit. By virtue of its above-described actions, ClickFox has transacted business, performed services, contracted to supply services, caused tortious injury, regularly done or solicited business, engaged in a persistent course of conduct, and/or derived substantial revenues from infringing products and services used in Delaware. In light of ClickFox's aforementioned contacts with the State of Delaware and its purposeful availment of the rights and benefits of Delaware law, maintenance of this suit in Delaware would not offend traditional notions of fair play and substantial justice.

8. Venue with respect to ClickFox is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

### **FACTS**

#### **NICE SYSTEMS**

9. NICE is a worldwide leader of intent-based solutions that capture and analyze interactions and transactions, realize intent, and extract and leverage insights to deliver impact in real time.

10. NICE serves tens of thousands organizations in the enterprise and public safety sectors, representing a variety of sizes and industries in almost every country including Fortune 100 companies.

11. Driven by cross-channel analytics, NICE solutions enable organizations to improve business performance and increase operational efficiency.

12. Among other things, NICE solutions capture interactions from multiple sources, including telephones, emergency services radio communications, emails, chat, social media, and others, to provide valuable insight about business situations by applying real-time, cross-channel analytics to realize the intent of customers, thereby enabling proactive response for real-time impact.

#### **U.S. Patent No. 8,976,955**

13. NICE Systems Ltd. is the owner by assignment of all right, title, and interest in and to United States Patent No. 8,976,955 (“the ‘955 patent”), entitled “System and method for tracking web interactions with real time analytics,” issued by the United States Patent and Trademark Office on March 10, 2015. A copy of the ‘955 patent is attached hereto as **Exhibit A**.

14. NICE Systems Ltd. has owned the '955 patent throughout the period of ClickFox's infringing acts, and continues to own the '955 patent.

15. NICE Systems Ltd. sells and offers for sale products and systems that incorporate the technology of the '955 Patent, including at least NICE's Engage product for Real-Time Web Engagement Analytics.<sup>1</sup>

16. NICE Systems, Inc. is the exclusive distributor in the United States of NICE products covered by the '955 Patent, including NICE's Engage product for Real-Time Web Engagement Analytics.

### **ClickFox's Patent Infringement**

17. On information and belief, ClickFox markets, produces, distributes, sells, imports into and/or offers to sell in the United States, including in this jurisdiction, large data platforms and solutions that enable enterprises to maximize the value from customer interactions across all channels.

18. According to ClickFox's marketing materials, ClickFox is a leader of customer experience analytics solutions, which capture and aggregate customer interactions across retail stores, websites, call centers, chat rooms, mobile applications, and other channels.

19. According to ClickFox's advertising materials, the ClickFox Experience Analytics ("CEA") Platform connects all customer touch point data across enterprise systems to create transparency on the end-to-end Customer Journeys.

20. According to ClickFox's advertising materials, the CEA Platform provides teams with the data and tools required to surface tangible opportunities rapidly, track impact and integrate journey data seamlessly into existing client business intelligence systems.

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<sup>1</sup> See, e.g., <http://www.nice.com/engage/sales-optimization/web-engage>.

21. According to ClickFox's advertising materials, the CEA Platform offers a scalable analytics application that connects cross-channel interaction data into meaningful end-to-end journeys to best understand the entire, cumulative experience.

22. Upon information and belief, ClickFox has made, used, offered to sell, sold, and/or imported into the United States its CEA Platform integrated with Next Product To Buy (NPTB) algorithms.

23. ClickFox's CEA Platform integrated with Next Product To Buy (NPTB) algorithms infringes at least claims 1, 3-5, 8, 10-12, 14, 17, 19, 20, 25, and 27-29 of the '955 Patent.

**COUNT I**  
**PATENT INFRINGEMENT**

24. NICE repeats and re-alleges the allegations set forth in Paragraphs 1-23 of this Complaint, as though fully set forth herein.

25. ClickFox has made, used, offered to sell, sold, and/or imported into the United States, and continues to make, use, offer to sell, sell, and/or import into the United States, systems for monitoring a user's interactions with Internet-based programs or documents that practice the inventions of at least claims 1, 3-5, 8, 10-12, 14, 17, 19, 20, 25, and 27-29 of the '955 patent, including at least ClickFox's CEA Platform integrating Next Product To Buy (NPTB) algorithms.

26. ClickFox has infringed and continues to directly or indirectly infringe at least claims 1, 3-5, 8, 10-12, 14, 17, 19, 20, 25, and 27-29 of the '955 patent in violation of 35 U.S.C. § 271.

27. Upon information and belief, customers of Clickfox's CEA Platform integrating Next Product To Buy (NPTB) algorithms directly infringe at least claims 1, 3-5, 8, 10-12, 14, 17, 19, 20, 25, and 27-29 of the '955 Patent.

28. Upon information and belief, at least as of August 27, 2015, the date of the filing of the original complaint, Clickfox has known or been willfully blind to the fact that its CEA Platform integrating Next Product To Buy (NPTB) algorithms, and use thereof, infringes the '955 Patent.

29. Upon information and belief, after becoming aware of the '955 Patent, Clickfox has not made changes to the operation of its CEA Platform integrating Next Product To Buy (NPTB) algorithms to avoid infringement of the '955 Patent.

30. Upon information and belief, Clickfox has not disabled the infringing functionality in its CEA Platform integrating Next Product To Buy (NPTB) algorithms after becoming aware of the '955 Patent.

31. Upon information and belief, Clickfox has not provided users and/or customers of its CEA Platform integrating Next Product To Buy (NPTB) algorithms with instructions on how to avoid infringement of the '955 Patent after becoming aware of the '955 Patent.

32. Therefore, upon information and belief, Clickfox has actively induced, and continues to actively induce customers of its CEA Platform integrating Next Product To Buy (NPTB) algorithms to infringe the '955 Patent. Clickfox is doing so with specific intent to infringe the '955 Patent.

33. ClickFox's acts of infringement have caused damage to NICE, and NICE is entitled to recover from ClickFox the damages sustained by NICE as a result of ClickFox's wrongful acts.

34. ClickFox's acts of infringement will continue to damage NICE, causing irreparable harm, for which there is no adequate remedy at law, unless enjoined by the Court.

**JURY TRIAL DEMAND**

35. Pursuant to Rule 38, Fed. R. Civ. P. NICE hereby demands a trial by jury on all issues set forth herein that are properly triable to a jury.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs, NICE Systems Ltd. and NICE Systems, Inc. respectfully request that the Court grant the following relief and to enter judgment in favor of NICE as follows:

- A. A judgment that ClickFox has infringed the '955 patent;
- B. An injunction permanently restraining and enjoining ClickFox (and any of ClickFox's officers, directors, employees, agents, servants, successors, assigns, and any and all persons in privity or in concert with ClickFox, directly or indirectly) from infringing the '955 patent in any manner;
- C. An award to NICE of damages, including but not limited to lost profits, or any other suitable damages to fully and adequately compensate NICE for the infringement by ClickFox, but in no event less than a reasonable royalty for the use made of the inventions of the '955 patent by ClickFox, together with costs, and interest thereon;
- D. An order that this case is exceptional and an award of reasonable attorney fees and costs to NICE pursuant to 35 U.S.C. § 285;
- E. An order requiring ClickFox to pay NICE prejudgment and post-judgment interest on the damages awarded; and
- F. Such other and further relief as the Court deems just and proper.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

*/s/ Jack B. Blumenfeld*

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November 16, 2015



**CERTIFICATE OF SERVICE**

I hereby certify that on November 16, 2015, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on November 16, 2015, upon the following in the manner indicated:

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