

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

UNILOC USA, INC. and UNILOC LUXEMBOURG, S.A.,	§ § § § § § § § § § § § § § §	Civil Action No. 2:16-cv-862
Plaintiffs,		
v.		PATENT CASE
NETSUITE, INC.,		
Defendant.		JURY TRIAL DEMANDED

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiffs, Uniloc USA, Inc. and Uniloc Luxembourg, S.A. (together “Uniloc”), as and for their First Amended Complaint against Defendant, Netsuite, Inc. (“Netsuite”), allege as follows:

**THE PARTIES**

1. Uniloc USA, Inc. (“Uniloc USA”) is a Texas corporation having a principal place of business at Legacy Town Center I, Suite 380, 7160 Dallas Parkway, Plano Texas 75024. Uniloc also maintains a place of business at 102 N. College, Suite 603, Tyler, Texas 75702.

2. Uniloc Luxembourg S.A. (“Uniloc Luxembourg”) is a Luxembourg public limited liability company having a principal place of business at 15, Rue Edward Steichen, 4<sup>th</sup> Floor, L-2540, Luxembourg (R.C.S. Luxembourg B159161).

3. Uniloc Luxembourg owns a number of patents in the field of application management in a computer network.

4. Upon information and belief, Netsuite is a California corporation with a principal place of business in San Mateo, California 94403 and offering its products, including those accused herein of infringement, to customers and/or potential customers located in Texas and in the judicial Eastern District of Texas. Netsuite may be served with process through its registered agent: Corporation Service Company d/b/a CSC Lawyers Incorporating Service, 2710 Gateway Oaks Dr., Ste. 150N, Sacramento, California 95833.

#### **JURISDICTION AND VENUE**

5. Uniloc brings this action for patent infringement under the patent laws of the United States, 35 U.S.C. § 271 *et seq.* This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a) and 1367.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b). Upon information and belief, NetSuite is deemed to reside in this judicial district, has committed acts of infringement in this judicial district, and/or has purposely transacted business involving the accused products in this judicial district, including sales to one or more customers in Texas.

7. NetSuite is subject to this Court's jurisdiction pursuant to due process and/or the Texas Long Arm Statute due at least to its substantial business in this State and judicial district, including: (A) at least part of its past infringing activities, (B) regularly doing or soliciting business at 12331-A Riata Trace Parkway, Austin, Texas and/or (C) engaging in persistent conduct and/or deriving substantial revenue from goods and services provided to customers in Texas, including the Texas Office of the Comptroller, the Merchant Bank of Texas, WebySuite, Inc. and/or Bazaarvoice.

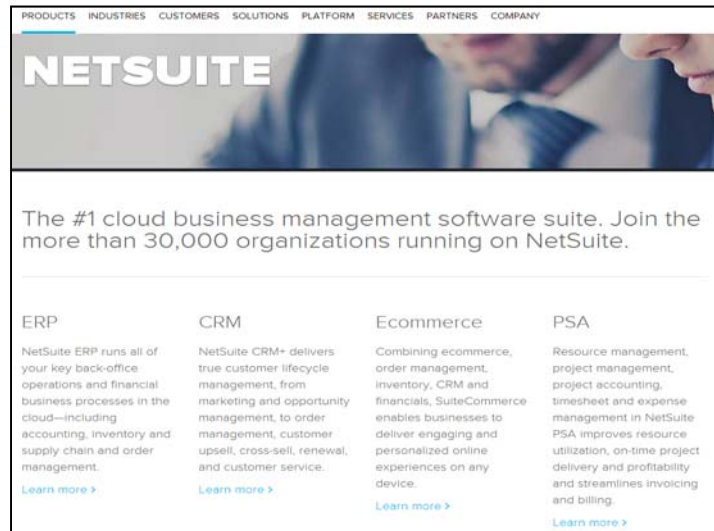
**COUNT I**  
(INFRINGEMENT OF U.S. PATENT NO. 6,510,466)

8. Uniloc incorporates paragraphs 1-7 above by reference.

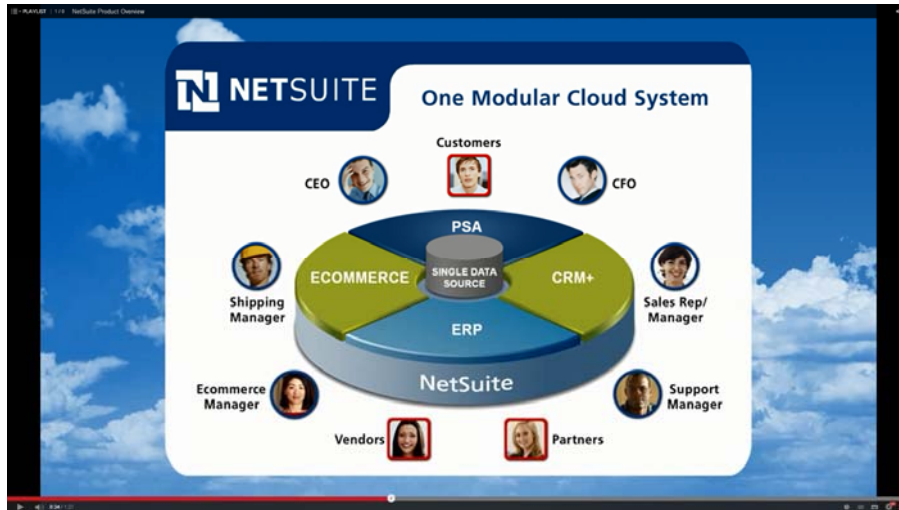
9. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 6,510,466 (“the ’466 Patent”), entitled METHODS, SYSTEMS AND COMPUTER PROGRAM PRODUCTS FOR CENTRALIZED MANAGEMENT OF APPLICATION PROGRAMS ON A NETWORK that issued on January 21, 2003. A true and correct copy of the ’466 Patent is attached as Exhibit A hereto.

10. Uniloc USA is the exclusive licensee of the ’466 Patent with ownership of all substantial rights therein, including the right to grant sublicenses, to exclude others, and to enforce, sue and recover past damages for the infringement thereof.

11. Upon information and belief, the following describes, at least in part, the NetSuite cloud software suite with a plurality of modules and/or functionalities including, at least, the following ERP, CRM, Ecommerce, and PSA:



12. Upon information and belief, the following describes, at least in part, the NetSuite software:



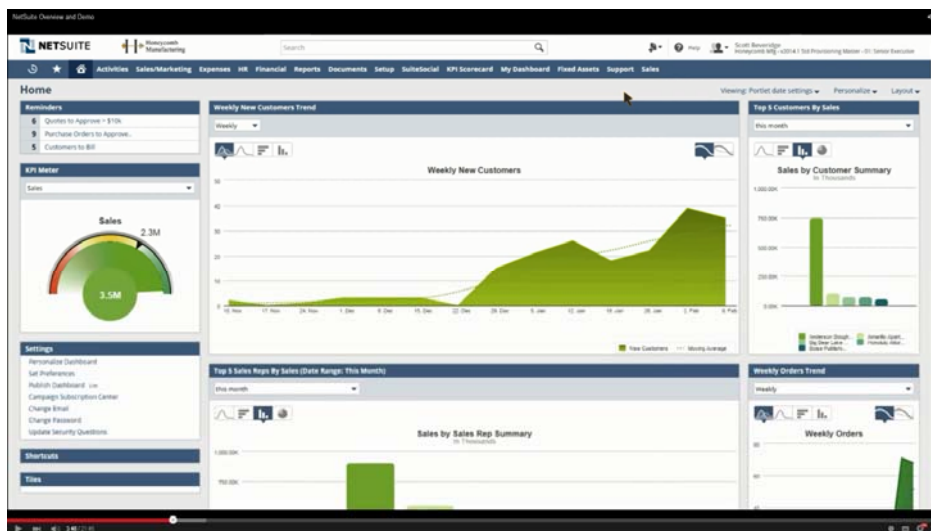
13. Upon information and belief, the following describes, at least in part, the NetSuite software:



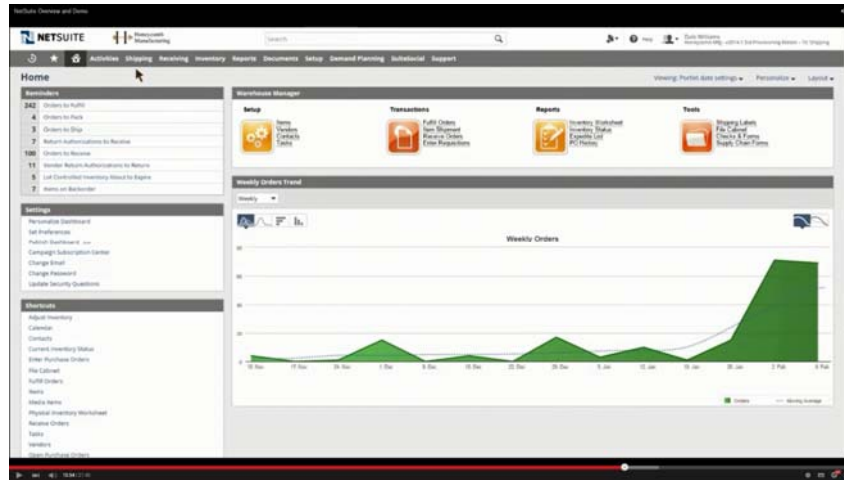
14. Upon information and belief, the following describes, at least in part, the NetSuite software:



15. Upon information and belief, the following describes, at least in part, the NetSuite software:



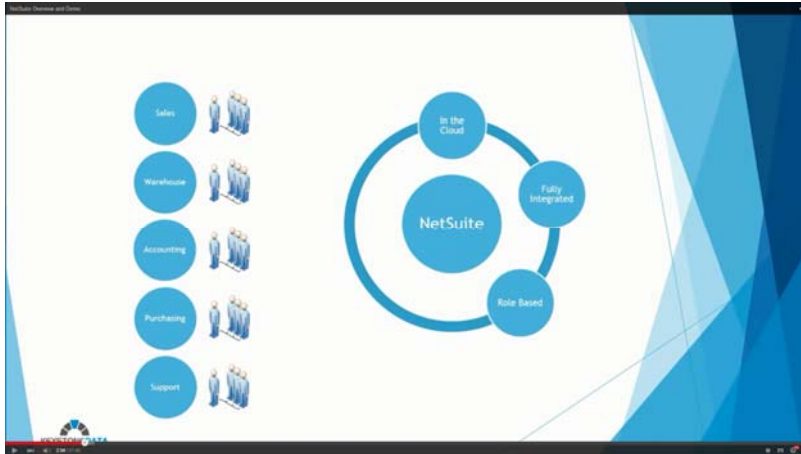
16. Upon information and belief, the following describes, at least in part, the NetSuite software:



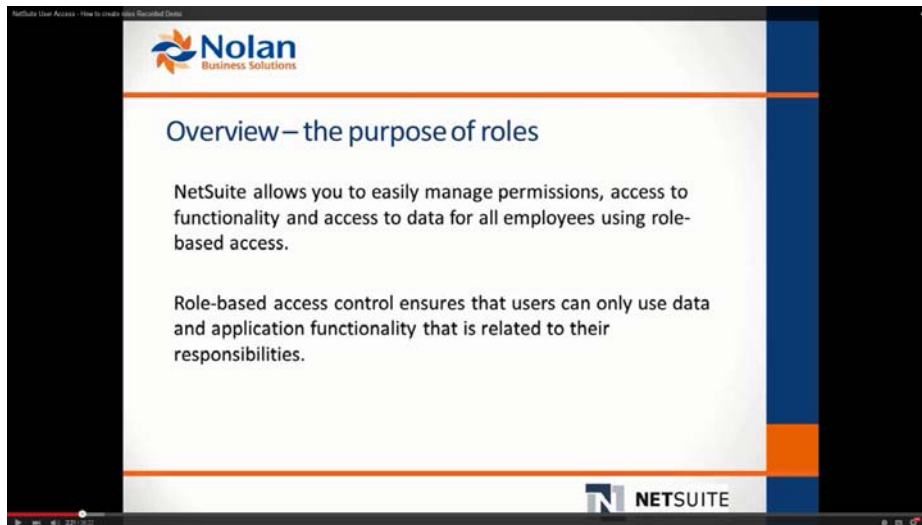
17. Upon information and belief, the following describes, at least in part, the NetSuite software:



18. Upon information and belief, the following describes, at least in part, the NetSuite software:



19. Upon information and belief, the following describes, at least in part, the NetSuite software:



20. Upon information and belief, the following describes, at least in part, the NetSuite software:



**Company**

You'll need to configure NetSuite with information unique to your organization such as the organization name and address, logo, features you need and related information. To do this, you will go to:

Setup > **Company**

The Company submenu will call out several additional menus that will be used in the configuration process. The following Company menu entries are used to update settings.

**Company Information**

Here you will enter your basic company information, upload your logos and set a few basic settings. You will customize your account settings by going to:

Setup > Company > **Company Information**

- To enter your company address
  - Click the **Edit** link next to the Address fields to add your address
  - Click **OK**
- To add your logo for use on Forms
  - Click the **Company Logo (Forms)** dropdown
  - Click **New**
  - Click **Select File** then upload your logo and click **Save**
  - To add your logo to display in NetSuite

**Important:** This is the logo that displays next to the NetSuite logo in the upper left corner when you're logged in. The size of this logo space is 144px x 30px. If you do not have a small logo available, you may come back to this step later.

- Click the **Company Logo (Pages)** dropdown.
- Click **New**
- Upload the Pages version of your logo
- Click **Save**

Update any additional information you would like here or make a note to return and add later. When you are finished adding the information, click the **Save** button.

21. Upon information and belief, the following describes, at least in part, the NetSuite software:

**Day 1 Agenda**

*NetSuite Foundation*

- **Role of the Administrator:** Administrator responsibilities and tasks prior to "go live." Ongoing and post-go live. Phases of an implementation project.
- **How Does NetSuite Fit Your Business:** Review business rules and processes. NetSuite as a Software as a Service (SaaS) model and relational database.
- **Navigate the Application:** Log in to NetSuite. Interface elements. Settings portlet. Personal preferences. Customize your home page. Help options and terminology.
- **Set Up Company Preferences:** Enter company information. Set up subsidiaries. Set general preferences. Introduce enable features. Rename records and transactions. Set auto-generated numbers. Set printing, fax and email.
- **Understand NetSuite Data Model:** Study how NetSuite characterizes and classifies data, defines user access to data and the impact on reports. Major record types and how related records are structured.

*Enterprise Resource Planning*

- **Roles, Permissions and Users:** Standard roles. Create custom roles. Assign permissions to roles. Use global permissions. Add new users to NetSuite application. View audit login trail.

**Day 2 Agenda**

- **Set Up Accounting Management:** Set up accounting preferences. Manage accounting periods. Chart of accounts.
- **Use Multiple Currencies:** Set up multiple currencies to transact business in different currencies
- **Set Up Items:** Review inventory process flow. Set up items. Types of items, kits, groups and assemblies. Auto-calculate inventory levels. Standard reports.
- **Set Up Pricing:** Review pricing process flow. Explore different pricing strategies and features. Standard reports.
- **Set Up Purchasing:** Review purchasing process flows (inventory and non-inventory). Enter a purchase order (PO). Receive items on PO. Partial receipts. Order items (monitoring inventory levels). Standard reports.
- **Set Up Accounts Payable:** Review accounts payable process flow. Set up accounts payable features and preferences. Bill purchase orders. Enter a bill. Pay bills. Print checks. Standard reports.

**Day 3 Agenda**

*User Interface Customization*

- **Customization:** Subtabs, Lists and Fields: Introduction to SuiteFlex. Use SuiteBuilder to create subtabs, lists and fields.
- **Create Custom Forms:** Continue with SuiteBuilder to create custom forms to meet company requirements.
- **Create Custom Records:** Create custom records to meet company requirements.

*Customer Relationship Management*

- **Set Up Sales Force Automation:** Introduce CRM and the sales process flow. Customer statuses (probability for forecasting). Set up sales preferences. Sales teams. Sales rules. Sales territories. Online customer forms. Standard reports.
- **Lead to Customer Management:** Introduce sales lead to quote and estimate to sales order process flows. Enter a lead. Add an opportunity. Lead to prospect to customer lifecycle. Opportunity to estimate. Estimate to sales order. Manage your activities. Standard reports.



22. Upon information and belief, the following describes, at least in part, the NetSuite software:


**Menus**

Menus in NetSuite are based on roles and may vary depending on the user and their role. For example, the standard NetSuite role named "A/P Clerk" features a menu tailored to Entities such as Customers and Vendors, with transaction sub-menus for each.


To provide a consistent user interface among all roles, NetSuite.org recommends enabling the "Classic" interface. To enable the Classic Interface on a non-Administrator role, go to:

Set Preferences > **Appearance**

The Classic Menu (also known as the Classic Center) referenced throughout this guide is:



The menu for the A/P Clerk Role, as referenced above and as an example, is:



**Personal Preferences**

Individual users can personalize certain elements of their NetSuite dashboard. To access and change personal preferences, go to:

Home (the House icon on the main menu) > **Set Preferences**

The General, Transaction and Appearance tabs provide the most options for customization from a personal standpoint. A few important notes are:

- The **Nickname** field is typically the user's name and is the "from" name when the user sends emails from the system. If the user sends emails frequently, they may want to make their Nickname the organization's name rather than their own.
- **Signature** refers to the email signature included on correspondence sent from NetSuite. If it includes more than one line of text, such as an address and phone number, you will need to use HTML formatting to show the data on separate lines or to style the font with bold or italics.
- On the General tab, check the **Show Internal IDs** checkbox. This helps users identify and find recently created records.
- On the Appearance tab, the **Landing Page** dropdown provides the ability to change the default Dashboard to a menu Dashboard if preferred.
- On the Transactions tab, under the Printing section, choose the **PDF** radio button if you prefer to send attachments as PDF instead of HTML.
- On the Analytics tab in the Search section, the option **Show List When Only One Result** ensures that the search results screen is displayed rather than an individual record when only one result matches the search. This is a common option to select.

**Important:** NetSuite.org recommends utilizing the SuiteVolunteer program to assist with further development, customization and publishing of Dashboards for employees. For more information visit <http://www.netsuite.org/pro-bono>.

23. Upon information and belief, the following describes, at least in part, the NetSuite software:

**SuiteTraining™**

**NetSuite Essentials**

**Day 4 Agenda**

- **Set Up Order Management:** Introduce quote to order process and fulfillment flow. Set up sales orders, Transaction types, Sales order forms, Types of fulfillment, Standard reports.

*Setting Up Accounts Receivable and General Ledger*

- **Set Up Accounts Receivable (A/R):** Introduce invoice to payment process flow. Review accounting preferences. Set up A/R features and preferences. Accept customer payments, credit card transactions, issue customer refunds, return authorizations, credit memos, Statements and finance charges, Standard reports.
- **Perform Banking and General Ledger (GL) Tasks:** Write checks, Transfer funds, Use credit card, Reconcile monthly bank and credit card statements in NetSuite, Standard reports.

*Data Migration*

- **Migrate Your Data:** Introduce Import Assistant, Prepare data for import, File formatting guidelines, Data handling options, Migrating customers, vendors and partners.
- **Data Integrity:** Mass updates, Duplicate detection and merge.

**Day 5 Agenda**

*Setting Up Customer Support*

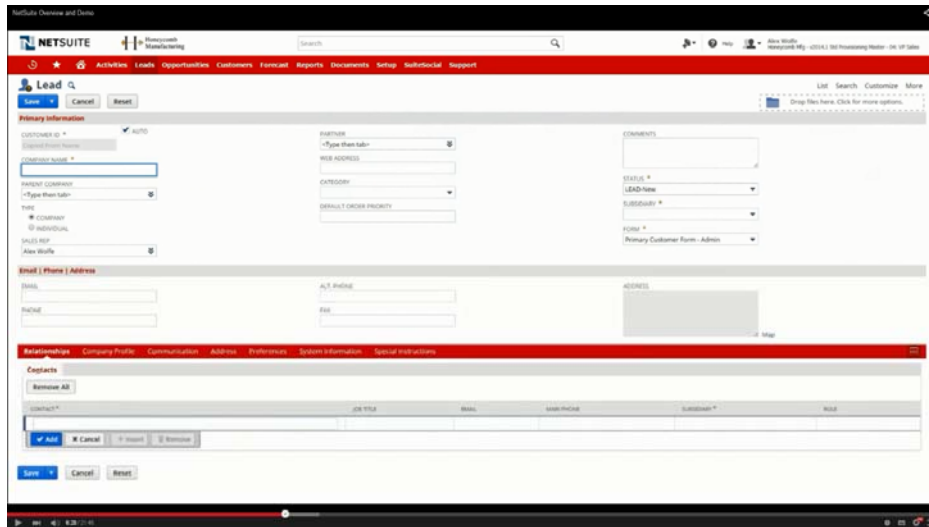
- **Set Up Customer Support and Case Management:** Set up support preferences: Case statuses, Case priorities, Case types, Case origin types, Case rules, Case territories, Online case forms, Standard reports, Introduce standard support process flow, Enter a case, Grab a case, Reassign a case, Escalate a case, Manage activities on your case.

*Next Steps*

- **Reports and Searches:** The report interface, Schedule reports, Customize a report, Create a new report, Search for records, Advanced search for records, Create a saved search, Saved searches on the home dashboard.
- **Design Dashboards:** Dashboard development process, Dashboard layout considerations, Home dashboard considerations.
- **Incorporate Marketing Automation and Ecommerce:** Introduce NetSuite Marketing Automation and Ecommerce features, Identify resources to assist in implementation of marketing and ecommerce.
- **Go Live and Post-Go Live Activities:** Ongoing maintenance activities, NetSuite support and user groups, Considerations around the "go live" event.

NetSuite reserves the right to adjust the stated course content to reflect changes to the NetSuite application and to meet the expressed needs of course attendees.  
Features and functions covered in this course might not reflect those in your purchased NetSuite account.

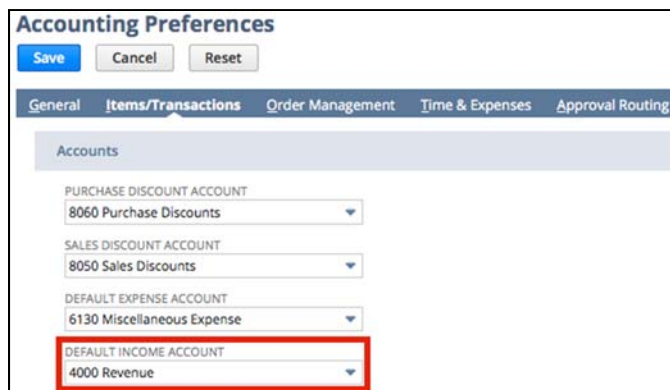
24. Upon information and belief, the following describes, at least in part, the NetSuite software:



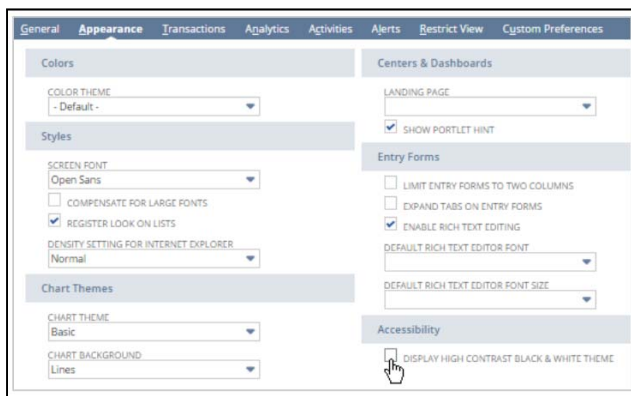
25. Upon information and belief, the following describes, at least in part, the NetSuite software:



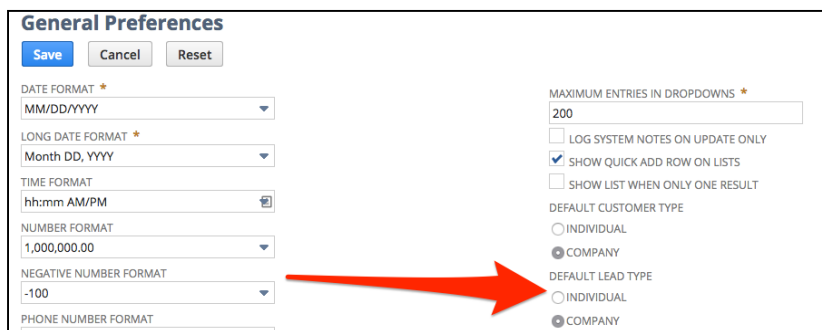
26. Upon information and belief, the following describes, at least in part, the NetSuite software:



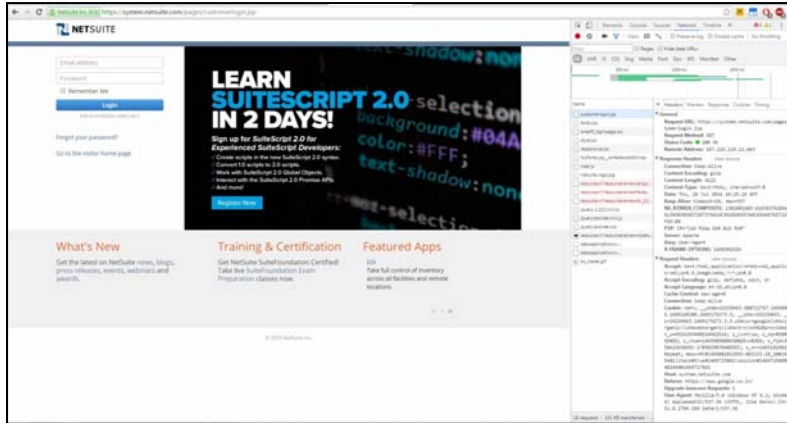
27. Upon information and belief, the following describes, at least in part, the NetSuite software:



28. Upon information and belief, the following describes, at least in part, the NetSuite software:



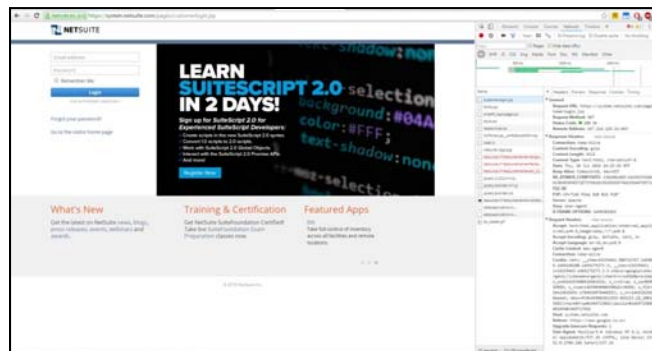
29. Upon information and belief, the following describes, at least in part, the NetSuite software:



30. Upon information and belief, the following describes, at least in part, the NetSuite software:

Site	https://system.netsuite.com	Network Owner	netSuite, Inc.
Domain	netsuite.com	Nameserver	ensd.netsuite.com
IP address	167.216.129.11	DNS admin	tsadmin@netsuite.com
IPK address	Not Present	Reverse DNS	unknown
Domain registrar	fucos.com	Nameserver organisation	whos.fucos.com
Organisation	NetSuite, Inc., 2955 Campus Dr, Suite 100, San Mateo, 94403, US	Hosting company	CenturyLink
Top Level Domain	Commercial entities (.com)	DNS Security Extensions	unknown
Hosting country	US		
<b>SSL/TLS</b>			
SSLv3/POODLE	This site does not support the SSL version 3 protocol. <a href="#">More information about SSL version 3 and the POODLE vulnerability.</a>		
Heartbleed	The site offered the Heartbeat TLS extension prior to the Heartbleed disclosure, but is using a new certificate and no longer offers Heartbeat. <a href="#">This test does not exploit the Heartbleed vulnerability but uses information from conventional HTTB research. More information about Heartbleed detection.</a>		
Assurance	Extended validation		
Organisation	netSuite Inc.	Common name	system.netsuite.com
State	California	Country	US
Organisational unit	Not Present	Subject Alternative Name	system.netsuite.com
Validity period	From Jan 27 2016 to Jan 26 2018 (23 months, 4 weeks, 2 days)	Matches hostname	Yes
Server	Apache	Public key algorithm	rsaEncryption
Protocol version	TLSv1.2	Public key length	2048
Certificate check	OK	Signature algorithm	sha256WithRSAEncryption
Serial number	0x4041485d936c21426968db774ba1	Cipher	ECDHE-RSA-AES128-GCM-SHA256
Version number	0x02	Perfect Forward Secrecy	Yes
Next Protocol Negotiation	Not Present	Supported TLS Extensions	RFC3746 negotiation info, RFC4492 EC point formats
Issuing organisation	Symantec Corporation	Issuer common name	Symantec Class 3 EV SSL CA - G3
Issuer unit	Symantec Trust Network	Issuer location	Not Present
Issuer country	US	Issuer state	Not Present
Certificate Revocation Lists	https://r.symcb.com/rev1 - 100% uptime in the last 24 hours	Certificate Hash	Q27vS4iX8H-ydyvD1B071g
Public Key Hash	475af0b2647a3e7c7b6d3d515af166d7776d6d194583c0fd46d72af5d1d3		
OCSP servers	https://r.symcb.com - 100% uptime in the past 24 hours		
OCSP stapling response	No response received		
Certificate transparency	Signed Certificate Timestamps (SCTs)		

31. Upon information and belief, the following describes, at least in part, the NetSuite software:



32. Upon information and belief, the following describes, at least in part, the NetSuite software:

Automating Business Processes and Customizing		
SuiteCloud: Exploring the NetSuite Platform	2 Days	Course Schedule
SuiteFlow: Workflow Fundamentals	2 Days	Course Schedule
SuiteFlow: Workflows for Developers	3 Days	Course Schedule
SuiteScript 2.0: Extend NetSuite with JavaScript	5 Days	Course Schedule
SuiteScript 2.0 for Experienced SuiteScript Developers	2 Days	Course Schedule
SuiteScript 1.0: Extend NetSuite with JavaScript	5 Days	Course Schedule

33. NetSuite has directly infringed, and continues to directly infringe one or more claims of the '466 Patent in this judicial district and elsewhere in Texas, including at least Claims 1-5, 7-9, 13, 15-20, 22-24, 28-33, 35-37, and 41-42 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling its NetSuite software and distribution management system during the pendency of the '466 Patent which software and associated backend server architecture *inter alia* allows for installing application programs on a server, receiving a login request, establishing a user desktop interface, receiving a selection of one of the programs displayed in the user desktop interface and providing an instance of the selected program for execution.

34. In addition, should NetSuite's software distribution and management system be found to not literally infringe the asserted claims of the '466 Patent, NetSuite's accused products would nevertheless infringe the asserted claims of the '466 Patent. More specifically, the accused Netsuite software performs substantially the same function (selection of an application program), in substantially the same way (via an established user desktop interface), to yield substantially the same result (providing the program for execution). NetSuite would thus be liable for direct infringement under the doctrine of equivalents.

35. NetSuite has indirectly infringed and continues to indirectly infringe at least claims 1-5, 7-9, 13, 15-20, 22-24, 28-33, 35-37, and 41-42 of the '466 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the using, offering for sale, selling, or importing the NetSuite software distribution and management system. NetSuite's customers who use the NetSuite software distribution and management system in accordance with NetSuite's instructions directly infringe one or more of the forgoing claims of the '466 Patent in violation of 35 U.S.C. § 271. NetSuite directly and/or indirectly instructs its customers through training videos, demonstrations, brochures, installation and/or user guides, such as those located at the following:

- [www.netsuite.com](http://www.netsuite.com)
- [www.youtube.com](http://www.youtube.com)

NetSuite is thereby liable for infringement of the '466 Patent under 35 U.S.C. § 271(b).

36. NetSuite has indirectly infringed and continues to indirectly infringe at least claims 1-5, 7-9, 13, 15-20, 22-24, 28-33, 35-37, and 41-42 of the '466 Patent in this judicial district and elsewhere in the United States by, among other things, contributing to the direct infringement by others including, without limitation customers using the NetSuite software distribution and management system, by making, offering to sell, selling and/or importing into the United States, a component of a patented machine, manufacture or combination, or an apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringing the '466 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

37. For example, the NetSuite software distribution and management system is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process. Furthermore, the NetSuite software distribution and management system is a material part of the claimed inventions and upon information and belief is not a staple article or commodity of commerce suitable for substantial non-infringing use. NetSuite is, therefore, liable for infringement under 35 U.S.C. § 271(c).

38. NetSuite will have been on notice of the '466 Patent since, at the latest, the service of the original complaint upon NetSuite. By the time of trial, NetSuite will have known and intended (since receiving such notice) that its continued actions would actively induce, and contribute to, the infringement of one or more of claims 1-5, 7-9, 13, 15-20, 22-24, 28-33, 35-37, and 41-42 of the '466 Patent.

39. NetSuite may have infringed the '466 Patent through other software utilizing the same or reasonably similar functionality, including other versions of NetSuite software. Uniloc reserves the right to discover and pursue all such additional infringing software.

40. Uniloc has been damaged, reparably and irreparably, by NetSuite's infringement of the '466 Patent and such damage will continue unless and until NetSuite is enjoined.

## **COUNT II**

(INFRINGEMENT OF U.S. PATENT NO. 6,324,578)

41. Uniloc incorporates paragraphs 1-40 above by reference.

42. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 6,324,578 ("the '578 Patent"), entitled METHODS, SYSTEMS AND COMPUTER PROGRAM PRODUCTS FOR MANAGEMENT OF CONFIGURABLE APPLICATION PROGRAMS ON A NETWORK that issued on November 27, 2001. A true and correct copy of the '578 Patent is attached as Exhibit B hereto.



43. Uniloc USA is the exclusive licensee of the '578 Patent with ownership of all substantial rights therein, including the right to grant sublicenses, to exclude others, and to enforce, sue and recover past damages for the infringement thereof.

44. NetSuite has directly infringed, and continues to directly infringe one or more claims of the '578 Patent in this judicial district and elsewhere in Texas, including at least claims 1-8, 10-11, 13-39, and 41-46 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling the NetSuite software distribution and management system during the pendency of the '578 Patent which software and associated backend server architecture *inter alia* allows for installing an application program having a plurality of configurable preferences and authorized users on a server coupled to a network, distributing an application launcher program to a client, obtaining a user set of the configurable preferences, obtaining an administrator set of configurable preferences and executing the application program using the user and administrator sets of configurable preferences responsive to a request from a user.

45. In addition, should the NetSuite software distribution and management system be found to not literally infringe the asserted claims of the '578 Patent, the product would nevertheless infringe the asserted claims of the '578 Patent. More specifically, the accused software/system performs substantially the same function (obtaining user and administrator sets of configurable preferences), in substantially the same way (via a user and administrator), to yield substantially the same result (executing an application program using the configurable preferences in response to a request from a user on a network). NetSuite would thus be liable for direct infringement under the doctrine of equivalents.

46. NetSuite has indirectly infringed and continues to indirectly infringe at least claims 1-8, 10-11, 13-39, and 41-46 of the '578 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the using, offering for sale, selling, or importing the NetSuite software distribution and management system. NetSuite's customers who use the NetSuite software distribution and management system in accordance with NetSuite's instructions directly infringe one or more of the forgoing claims of the '578 Patent in violation of 35 U.S.C. § 271. NetSuite directly and/or indirectly instructs its customers through training videos, demonstrations, brochures, installation and/or user guides, such as those located at the following:

- [www.netsuite.com](http://www.netsuite.com)
- [www.youtube.com](http://www.youtube.com)

NetSuite is thereby liable for infringement of the '578 Patent under 35 U.S.C. § 271(b).

47. NetSuite has indirectly infringed and continues to indirectly infringe at least claims 1-8, 10-11, 13-39, and 41-46 of the '578 Patent in this judicial district and elsewhere in the United States by, among other things, contributing to the direct infringement by others including, without limitation customers using the NetSuite software distribution and management system, by making, offering to sell, selling and/or importing into the United States, a component of a patented machine, manufacture or combination, or an apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringing the '578 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

48. For example, the NetSuite software distribution and management system is a component of a patented machine, manufacture, or combination, or an apparatus for use in

practicing a patent process. Furthermore, the NetSuite software distribution and management system is a material part of the claimed inventions and upon information and belief is not a staple article or commodity of commerce suitable for substantial non-infringing use. NetSuite is, therefore, liable for infringement under 35 U.S.C. § 271(c).

49. NetSuite will have been on notice of the '578 Patent since, at the latest, the service of the original complaint upon NetSuite. By the time of trial, NetSuite will have known and intended (since receiving such notice) that its continued actions would actively induce, and contribute to, the infringement of one or more of claims of the '578 Patent.

50. NetSuite may have infringed the '578 Patent through other software utilizing the same or reasonably similar functionality, including other versions of the NetSuite software distribution and management system. Uniloc reserves the right to discover and pursue all such additional infringing software.

51. Uniloc has been damaged, reparably and irreparably, by NetSuite's infringement of the '578 Patent and such damage will continue unless and until NetSuite is enjoined.

**COUNT III**  
(INFRINGEMENT OF U.S. PATENT NO. 7,069,293)

52. Uniloc incorporates paragraphs 1-51 above by reference.

53. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 7,069,293 ("the '293 Patent"), entitled METHODS, SYSTEMS AND COMPUTER PROGRAM PRODUCTS FOR DISTRIBUTION OF APPLICATION PROGRAMS TO A TARGET STATION ON A NETWORK that issued on June 27, 2006. A true and correct copy of the '293 Patent is attached as Exhibit C hereto.

54. Uniloc USA is the exclusive licensee of the '293 Patent with ownership of all substantial rights therein, including the right to grant sublicenses, to exclude others, and to enforce, sue and recover past damages for the infringement thereof.

55. NetSuite has directly infringed, and continues to directly infringe one or more claims of the '293 Patent in this judicial district and elsewhere in Texas, including at least claims 1, 12 and 17 literally and/or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling the NetSuite software distribution and management system during the pendency of the '293 Patent which software and associated backend server architecture *inter alia* allow for providing an application program for distribution to a network server, specifying source and target directories for the program to be distributed, preparing a file packet associated with the program including a segment configured to initiate registration operations for the application program at a target on-demand server and distributing the file packet to the target on-demand server to make the program available for use by a client user.

56. In addition, should the NetSuite software distribution and management system be found to not literally infringe the asserted claims of the '293 Patent, the product would nevertheless infringe the asserted claims of the '293 Patent. More specifically, the accused NetSuite software distribution and management system performs substantially the same function (distributing an application program to a target on-demand server on a network), in substantially the same way (via initiation of registration operations for the application program at the target on-demand server), to yield substantially the same result (making the application program available for use by a user at a client). NetSuite would thus be liable for direct infringement under the doctrine of equivalents.

57. NetSuite has indirectly infringed and continues to indirectly infringe at least claims 1, 12 and 17 of the '293 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the using, offering for sale, selling, or importing the NetSuite software distribution and management system. NetSuite's customers who use the NetSuite software distribution and management system in accordance with NetSuite's instructions directly infringe one or more of the forgoing claims of the '293 Patent in violation of 35 U.S.C. § 271. NetSuite directly and/or indirectly instructs its customers through training videos, demonstrations, brochures, installation and/or user guides, such as those located at the following:

- [www.netsuite.com](http://www.netsuite.com)
- [www.youtube.com](http://www.youtube.com)

NetSuite is thereby liable for infringement of the '293 Patent under 35 U.S.C. § 271(b).

58. NetSuite has indirectly infringed and continues to indirectly infringe at least claims 1, 12 and 17 of the '293 Patent in this judicial district and elsewhere in the United States by, among other things, contributing to the direct infringement by others including, without limitation customers using the NetSuite software distribution and management system, by making, offering to sell, selling and/or importing into the United States, a component of a patented machine, manufacture or combination, or an apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringing the '293 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

59. For example, the NetSuite software distribution and management system is a component of a patented machine, manufacture, or combination, or an apparatus for use in

practicing a patent process. Furthermore, the NetSuite software distribution and management system is a material part of the claimed inventions and upon information and belief is not a staple article or commodity of commerce suitable for substantial non-infringing use. NetSuite is, therefore, liable for infringement under 35 U.S.C. § 271(c).

60. NetSuite will have been on notice of the '293 Patent since, at the latest, the service of the original complaint upon NetSuite. By the time of trial, NetSuite will have known and intended (since receiving such notice) that its continued actions would actively induce, and contribute to, the infringement of one or more of claims of the '293 Patent.

61. NetSuite may have infringed the '293 Patent through other software utilizing the same or reasonably similar functionality, including other versions of the NetSuite software distribution and management system. Uniloc reserves the right to discover and pursue all such additional infringing software.

62. Uniloc has been damaged, reparably and irreparably, by NetSuite's infringement of the '293 Patent and such damage will continue unless and until NetSuite is enjoined.

#### **PRAYER FOR RELIEF**

Uniloc requests that the Court enter judgment against NetSuite as follows:

- (A) that NetSuite has infringed the '466 Patent, the '578 Patent and the '293 Patent;
- (B) awarding Uniloc its damages suffered as a result of NetSuite's infringement of the '466 Patent, the '578 Patent and the '293 Patent pursuant to 35 U.S.C. § 284;
- (C) enjoining NetSuite, its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries and parents, and all others acting in concert or privity with it from infringing the '466 Patent, the '578 Patent and the '293 Patent pursuant to 35 U.S.C. § 283;
- (D) awarding Uniloc its costs, attorneys' fees, expenses and interest, and

(E) granting Uniloc such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Uniloc hereby demands trial by jury on all issues so triable pursuant to Fed. R. Civ. P. 38.

Dated: October 19, 2016

Respectfully submitted,

/s/ Craig Tadlock

Craig Tadlock

Texas State Bar No. 00791766

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**ATTORNEYS FOR THE PLAINTIFFS**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on October 19, 2016.

/s/ Kevin Gannon

Kevin Gannon