

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

CONTENT SQUARE SAS and)	
CONTENT SQUARE ISRAEL)	COMPLAINT
LIMITED (f/k/a CLICKTALE)	
LIMITED))	
)	Civil Action No. _____
Plaintiffs,)	
)	
)	
v.)	JURY TRIAL DEMANDED
)	
DECIBEL INSIGHT LIMITED and)	
DECIBEL INSIGHT, INC.)	
)	
Defendant(s).)	

COMPLAINT

Plaintiffs Content Square SAS and Content Square Israel Limited (formerly known as Clicktale Limited) (“Clicktale”) (collectively, “Plaintiffs” or “ContentSquare”), by and through their counsel, Pepper Hamilton LLP, for their Complaint against Defendants Decibel Insight Limited and Decibel Insight, Inc. (collectively, “Defendants” or “Decibel”), allege as follows:

I. THE PARTIES

1. Plaintiff Content Square SAS is a French company with its principal place of business at 5 Boulevard de la Madeleine, 75001 Paris, France.
2. Plaintiff Clicktale Ltd., which is a wholly-owned subsidiary of Content Square SAS, is an Israeli company with its principal place of business at 2 Jabotinsky Street, Ramat Gan, 5250501, Israel. Clicktale is now known as Content Square Israel Limited.
3. Upon information and belief, Defendant Decibel Insight Limited (“Decibel UK”) is a British company with its principal place of business at 89 Worship Street, London EC2A 2BF, England, United Kingdom.

4. Upon information and belief, Defendant Decibel Insight, Inc. (“Decibel US”) is a corporation organized and existing under the laws of the State of Delaware and has a principal place of business at 501 Boylston Street, Boston, Massachusetts, 02116.

II. NATURE OF THE ACTION

5. This is an action arising under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*, to enjoin infringement and obtain damages resulting from Defendants’ unauthorized manufacture, use, sale, and/or offer to sell within the United States and/or importation into the United States of products that infringe one or more claims of United States Patent Nos. 7,941,525 (“the ’525 Patent”); 9,508,081 (“the ’081 Patent”); 9,792,365 (“the ’365 Patent”); 10,063,645 (“the ’645 Patent”); and 10,079,737 (“the ’737 Patent”) (collectively, “the Asserted Patents”).

6. This action for patent infringement involves Defendants’ manufacture, use, sale, and/or offer to sell within the United States and/or importation into the United States of Decibel’s digital experience analytics platform (“Platform”). The identification of Defendants’ infringing Platform reflects publicly available information and Plaintiffs’ investigations to-date, and there may be additional products and models that perform substantially the same features described herein that also infringe for similar reasons.

7. ContentSquare seeks injunctive relief to prevent Decibel from infringing the Asserted Patents. Additionally, ContentSquare seeks monetary damages, including treble damages, resulting from Decibel’s direct, indirect, and willful infringement of the Asserted Patents.

III. JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. Defendants are subject to personal jurisdiction in this district because Defendant Decibel US has a principal place of business in this district and Defendants regularly conduct business in this district. On information and belief, defendant Decibel UK has purposefully availed itself to the privilege of conducting activities within this forum. Decibel UK's activities in this forum are continuous and systematic and give rise to the liabilities that are the subject of this Complaint. More specifically, on information and belief, Decibel UK's activities include, *inter alia*, developing infringing products that it offers for sale, sells, markets, and advertises through Decibel US, who has its principle place of business in this forum. On information and belief, Decibel UK conducts business with and through Decibel US in the state of Massachusetts related to the infringing products. These activities far exceed the minimum contacts required.

10. This Court also has jurisdiction pursuant to 28 U.S.C. § 1332 as complete diversity among the parties exists and the amount in controversy exceeds \$75,000.

11. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c) and 1400(b) because Decibel has committed acts of infringement and has a regular and established place of business in this district.

IV. FACTUAL ALLEGATIONS

12. ContentSquare is the global leader in digital experience analytics providing its customers with granular understandings of user experience on their websites, mobile sites, and applications. Content Square SAS was founded by Mr. Jonathan Cherki who took his company from a single entrepreneur in 2012 to being a global workforce of over 600 with offices in London, Tel Aviv, Tokyo, Singapore, Munich, New York, and San Francisco that helps over 700 customers in 25 countries provide their customers with superior digital experiences.

13. In July of 2019, Content Square SAS acquired Israel-based experience analytics company Clicktale. ContentSquare integrated Clicktale's key capabilities into its single

expanded SaaS (Software as a Service) platform, also called ContentSquare. This platform empowers brands to create better experiences by tracking and analyzing customer behavior through billions of anonymous web, mobile and app interactions.

14. Defendant Decibel also appears to have recognized the benefits and value of these ContentSquare features. Decibel offers for sale a platform for monitoring user interaction with websites, including identification of behaviors that may indicate frustration, such as multiclick behavior, birdsnest behavior, or rapid screen rotation. Decibel acknowledges that its Platform competes with ContentSquare's technology, stating that "[y]ou don't have time to analyze every session replay. Decibel's AI does. Go beyond Content Square's manual analysis. See how Decibel's AI pinpoints exactly where, why, and how to improve digital experiences on your website." *See* Exhibit K.

15. Clicktale owns and possesses the right, title, and interest in and to the Asserted Patents. The Asserted Patents claim Clicktale's inventions for collecting, analyzing, and displaying information about user experiences on websites, mobile sites, and applications.

16. The U.S. Patent Office duly and legally issued the Asserted Patents. As such, the Asserted Patents are presumed to be valid.

The Patents

The '525 Patent

17. On March 18, 2007, Arik Yavilevich, co-founder and former CTO of Clicktale, filed United States Patent Application No. 11/687,652, entitled "Method and System for Monitoring an Activity of a User." The '525 Patent issued from this application on May 10, 2011. A true and correct copy of the '525 Patent is attached as Exhibit A. The '525 Patent is assigned to Clicktale and Clicktale owns all right, title, and interest in this Patent. *Id.*

18. Application No. 11/687,652 claims priority to Provisional Application No. 60/767,481, filed on April 1, 2006 and Provisional Application No. 60/767,570, filed on August 24, 2006.

19. The '525 Patent is a valid and enforceable United States Patent.

The '081 Patent

20. On March 21, 2011, Arik Yavilevich filed United States Patent Application No. 13/052,729, entitled "Method and System for Monitoring an Activity of a User." The '081 Patent issued from this application on November 29, 2016. A true and correct copy of the '081 Patent is attached as Exhibit B. The '081 Patent is assigned to Clicktale and Clicktale owns all right, title, and interest in this Patent. *Id.*

21. Application No. 13/052,729 was a divisional of application No. 11/687,652, filed on March 18, 2007 (and which issued as the '081 Patent), and claims priority to Provisional Application Nos. 60/767,481, filed on April 1, 2006, and 60/767,570, filed on August 24, 2006.

22. The '081 Patent is a valid and enforceable United States Patent.

The '365 Patent

23. On December 29, 2014, Arik Yavilevich filed United States Patent Application No. 14/584,384, entitled "A Method and System for Tracking and Gathering Multivariate Testing Data." The '365 Patent issued from this application on October 17, 2017. A true and correct copy of the '365 Patent is attached as Exhibit C. The '365 Patent is assigned to Clicktale and Clicktale owns all right, title, and interest in this Patent. *Id.*

24. Application No. 14/584,384 claims priority to Provisional Application No. 61/922,343, filed on December 31, 2013.

25. The '365 Patent is a valid and enforceable United States Patent.

The '645 Patent

26. On May 7, 2013, Arik Yavilevich and Yevgeny Kurliandchick filed United States Patent Application No. 13/888,942, entitled “A Method and System for Monitoring and Tracking Browsing Activity on Handled Devices.” The ’645 Patent issued from this application on August 28, 2018. A true and correct copy of the ’645 Patent is attached as Exhibit D. The ’645 Patent is assigned to Clicktale and Clicktale owns all right, title, and interest in this Patent. *Id.*

27. Application No. 13/888,942 claims priority to Provisional Application No. 61/645,331, filed on May 10, 2012.

28. The ’645 Patent is a valid and enforceable United States Patent.

The ’737 Patent

29. On September 12, 2014, Mark Nati Schlesinger and Arik Yavilevich filed United States Patent Application No. 14/484,726, entitled “A Method and System for Generating Comparable Visual Maps for Browsing Activity Analysis.” The ’737 Patent issued from this application on September 18, 2018. A true and correct copy of the ’737 Patent is attached as Exhibit E. The ’737 Patent is assigned to Clicktale and Clicktale owns all right, title, and interest in this Patent. *Id.*

30. Application No. 14/484,726 claims priority to Provisional Application No. 61/877,452, filed on September 13, 2013.

31. The ’737 Patent is a valid and enforceable United States Patent.

V. COUNT I

Patent Infringement under 35 U.S.C. § 271 of the ’525 Patent

32. Plaintiffs hereby re-allege and incorporate by reference the foregoing paragraphs of the Complaint as if fully set forth herein.

33. Upon information and belief and in violation of 35 U.S.C. § 271, Defendants and their subsidiaries have directly infringed and continue to directly infringe, both literally and

under the doctrine of equivalents, one or more claims of the '525 Patent by, without limitation, making, using, importing, selling, and/or offering for sale its Platform that includes all of the limitations of one or more claims of the '525 Patent, within the District of Massachusetts and elsewhere within the United States.

34. Exhibit F attached hereto compares Decibel's Platform to the independent claims of the '525 Patent.

35. From at least as early as the filing of this complaint, Decibel has induced others to make, use, sell, offer to sell, and/or import its infringing Platform with knowledge of and/or willful blindness as to the existence of the '525 Patent. Upon information and belief and as shown in Exhibit F, Decibel knows that its Platform will be used in an infringing manner and actively induces others to use its Platform in that infringing manner, including, for example, through its website, user guides, and instruction manuals.

36. From at least as early as the filing of this complaint, Decibel has contributed to the infringement by others with knowledge of and/or willful blindness as to the existence of the '525 Patent. As shown in Exhibit F, Decibel's Platform is a non-staple article of commerce designed to be used to infringe the claims of the '525 Patent when combined in systems that are made, used, offered for sale, or sold in the United States, or imported into the United States by Decibel and/or its agents. Decibel knows that its Platform will be used in an infringing manner and actively promotes that infringing use, including for example, through its website, user guides, and instruction manuals.

37. Upon information and belief, in developing its Platform, Decibel emulated and copied features of ContentSquare's platform, including those features claimed by the '525 Patent. Upon information and belief, Decibel knew that ContentSquare had patents covering its

Platform and either learned of the '525 Patent or subjectively believed there was a high probability that ContentSquare had patents covering features of its Platform but took deliberate actions to avoid learning of that fact and which features were patented. Despite knowing of the '525 Patent or being willfully blind to the '525 Patent, Decibel continued to make, use, sell, and offer to sell infringing products.

38. Decibel's acts of infringement have caused damage to ContentSquare, and ContentSquare is entitled to recover damages in an amount subject to proof at trial, including damages sufficient to compensate for reasonable royalties, lost sales, lost market share, and/or lost good will as a result of Decibel's infringement, and/or treble damages under 35 U.S.C. § 284 for Decibel's willful and deliberate infringement.

39. Plaintiffs have been, and continue to be, damaged and irreparably harmed by Decibel's infringement, which will continue unless Decibel and all subsidiaries and agents acting in concert with them or on their behalf are enjoined by this Court.

VI. COUNT II

Patent Infringement under 35 U.S.C. § 271 of the '081 Patent

40. Plaintiffs hereby re-allege and incorporate by reference the foregoing paragraphs of the Complaint as if fully set forth herein.

41. Upon information and belief and in violation of 35 U.S.C. § 271, Defendants and their subsidiaries have directly infringed and continue to directly infringe, both literally and under the doctrine of equivalents, one or more claims of the '081 Patent by, without limitation, making, using, importing, selling, and/or offering for sale its Platform that includes all of the limitations of one or more claims of the '081 Patent, within the District of Massachusetts and elsewhere within the United States.

42. Exhibit G attached hereto compares Decibel's Platform to the independent claims of the '081 Patent.

43. From at least as early as the filing of this complaint, Decibel has induced others to make, use, sell, offer to sell, and/or import its infringing Platform with knowledge of and/or willful blindness as to the existence of the '081 Patent. Upon information and belief and as shown in Exhibit G, Decibel knows that its Platform will be used in an infringing manner and actively induces others to use its Platform in that infringing manner, including for example, through its website, user guides, and instruction manuals.

44. From at least as early as the filing of this complaint, Decibel has contributed to the infringement by others with knowledge of and/or willful blindness as to the existence of the '081 Patent. As shown in Exhibit G, Decibel's Platform is a non-staple article of commerce designed to be used to infringe the claims of the '081 Patent when combined in systems that are made, used, offered for sale, or sold in the United States, or imported into the United States by Decibel and/or its agents. Decibel knows that its Platform will be used in an infringing manner and actively promotes that infringing use, including, for example, through its website, user guides, and instruction manuals.

45. Upon information and belief, in developing its Platform, Decibel emulated and copied features of ContentSquare's platform, including those features claimed by the '081 Patent. Upon information and belief, Decibel knew that ContentSquare had patents covering its Platform and either learned of the '081 Patent or subjectively believed there was a high probability that ContentSquare had patents covering features of its Platform but took deliberate actions to avoid learning of that fact and which features were patented. Despite knowing of the

'081 Patent or being willfully blind to the '081 Patent, Decibel continued to make, use, sell, and offer to sell infringing products.

46. Decibel's acts of infringement have caused damage to ContentSquare, and ContentSquare is entitled to recover damages in an amount subject to proof at trial, including damages sufficient to compensate for reasonable royalties, lost sales, lost market share, and/or lost good will as a result of Decibel's infringement, and/or treble damages under 35 U.S.C. § 284 for Decibel's willful and deliberate infringement.

47. Plaintiffs have been, and continue to be, damaged and irreparably harmed by Decibel's infringement, which will continue unless Decibel and all subsidiaries and agents acting in concert with them or on their behalf are enjoined by this Court.

VII. COUNT III

Patent Infringement under 35 U.S.C. § 271 of the '365 Patent

48. Plaintiffs hereby re-allege and incorporate by reference the foregoing paragraphs of the Complaint as if fully set forth herein.

49. Upon information and belief and in violation of 35 U.S.C. § 271, Defendants and their subsidiaries have directly infringed and continue to directly infringe, both literally and under the doctrine of equivalents, one or more claims of the '365 Patent by, without limitation, making, using, importing, selling, and/or offering for sale its Platform that includes all of the limitations of one or more claims of the '365 Patent, within the District of Massachusetts and elsewhere within the United States.

50. Exhibit H attached hereto compares Decibel's Platform to the independent claims of the '365 Patent.

51. From at least as early as the filing of this complaint, Decibel has induced others to make, use, sell, offer to sell, and/or import its infringing Platform with knowledge of and/or

willful blindness as to the existence of the '365 Patent. Upon information and belief and as shown in Exhibit H, Decibel knows that its Platform will be used in an infringing manner and actively induces others to use its Platform in that infringing manner, including, for example, through its website, user guides, and instruction manuals.

52. From at least as early as the filing of this complaint, Decibel has contributed to the infringement by others with knowledge of and/or willful blindness as to the existence of the '365 Patent. As shown in Exhibit H, Decibel's Platform is a non-staple article of commerce designed to be used to infringe the claims of the '365 Patent when combined in systems that are made, used, offered for sale, or sold in the United States, or imported into the United States by Decibel and/or its agents. Decibel knows that its Platform will be used in an infringing manner and actively promotes that infringing use, including, for example, through its website, user guides, instruction manuals.

53. Upon information and belief, in developing its Platform, Decibel emulated and copied features of ContentSquare's platform, including those features claimed by the '365 Patent. Upon information and belief, Decibel knew that ContentSquare had patents covering its Platform and either learned of the '365 Patent or subjectively believed there was a high probability that ContentSquare had patents covering features of its Platform but took deliberate actions to avoid learning of that fact and which features were patented. Despite knowing of the '365 Patent or being willfully blind to the '365 Patent, Decibel continued to make, use, sell, and offer to sell infringing products.

54. Decibel's acts of infringement have caused damage to ContentSquare, and ContentSquare is entitled to recover damages in an amount subject to proof at trial, including damages sufficient to compensate for reasonable royalties, lost sales, lost market share, and/or

lost good will as a result of Decibel's infringement, and/or treble damages under 35 U.S.C. § 284 for Decibel's willful and deliberate infringement.

55. Plaintiffs have been, and continue to be, damaged and irreparably harmed by Decibel's infringement, which will continue unless Decibel and all subsidiaries and agents acting in concert with them or on their behalf are enjoined by this Court.

VIII. COUNT IV

Patent Infringement under 35 U.S.C. § 271 of the '645 Patent

56. Plaintiffs hereby re-allege and incorporate by reference the foregoing paragraphs of the Complaint as if fully set forth herein.

57. Upon information and belief and in violation of 35 U.S.C. § 271, Defendants and their subsidiaries have directly infringed and continue to directly infringe, both literally and under the doctrine of equivalents, one or more claims of the '645 Patent by, without limitation, making, using, importing, selling, and/or offering for sale its Platform that includes all of the limitations of one or more claims of the '645 Patent, within the District of Massachusetts and elsewhere within the United States.

58. Exhibit I attached hereto compares Decibel's Platform to the independent claims of the '645 Patent.

59. From at least as early as the filing of this complaint, Decibel has induced others to make, use, sell, offer to sell, and/or import its infringing Platform with knowledge of and/or willful blindness as to the existence of the '645 Patent. Upon information and belief and as shown in Exhibit I, Decibel knows that its Platform will be used in an infringing manner and actively induces others to use its Platform in that infringing manner, including, for example, through its website, user guides, and instruction manuals.

60. From at least as early as the filing of this complaint, Decibel has contributed to the infringement by others with knowledge of and/or willful blindness as to the existence of the '645 Patent. As shown in Exhibit I, Decibel's Platform is a non-staple article of commerce designed to be used to infringe the claims of the '645 Patent when combined in systems that are made, used, offered for sale, or sold in the United States, or imported into the United States by Decibel and/or its agents. Decibel knows that its Platform will be used in an infringing manner and actively promotes that infringing use, including, for example, through its website, user guides, instruction manuals.

61. Upon information and belief, in developing its Platform, Decibel emulated and copied features of ContentSquare's platform, including those features claimed by the '645 Patent. Upon information and belief, Decibel knew that ContentSquare had patents covering its Platform and either learned of the '645 Patent or subjectively believed there was a high probability that ContentSquare had patents covering features of its Platform but took deliberate actions to avoid learning of that fact and which features were patented. Despite knowing of the '645 Patent or being willfully blind to the '645 Patent, Decibel continued to make, use, sell, and offer to sell infringing products.

62. Decibel's acts of infringement have caused damage to ContentSquare, and ContentSquare is entitled to recover damages in an amount subject to proof at trial, including damages sufficient to compensate for reasonable royalties, lost sales, lost market share, and/or lost good will as a result of Decibel's infringement, and/or treble damages under 35 U.S.C. § 284 for Decibel's willful and deliberate infringement.

63. Plaintiffs have been, and continue to be, damaged and irreparably harmed by Decibel's infringement, which will continue unless Decibel and all subsidiaries and agents acting in concert with them or on their behalf are enjoined by this Court.

IX. COUNT V

Patent Infringement under 35 U.S.C. § 271 of the '737 Patent

64. Plaintiffs hereby re-allege and incorporate by reference the foregoing paragraphs of the Complaint as if fully set forth herein.

65. Upon information and belief and in violation of 35 U.S.C. § 271, Defendants and their subsidiaries have directly infringed and continue to directly infringe, both literally and under the doctrine of equivalents, one or more claims of the '737 Patent by, without limitation, making, using, importing, selling, and/or offering for sale its Platform that includes all of the limitations of one or more claims of the '737 Patent, within the District of Massachusetts and elsewhere within the United States.

66. Exhibit J attached hereto compares Decibel's Platform to the independent claims of the '737 Patent.

67. From at least as early as the filing of this complaint, Decibel has induced others to make, use, sell, offer to sell, and/or import its infringing Platform with knowledge of and/or willful blindness as to the existence of the '737 Patent. Upon information and belief and as shown in Exhibit J, Decibel knows that its Platform will be used in an infringing manner and actively induces others to use its Platform in that infringing manner, including, for example, through its website, user guides, and instruction manuals.

68. From at least as early as the filing of this complaint, Decibel has contributed to the infringement by others with knowledge of and/or willful blindness as to the existence of the '737 Patent. As shown in Exhibit J, Decibel's Platform is a non-staple article of commerce

designed to be used to infringe the claims of the '737 Patent when combined in systems that are made, used, offered for sale, or sold in the United States, or imported into the United States by Decibel and/or its agents. Decibel knows that its Platform will be used in an infringing manner and actively promotes that infringing use, including, for example, through its website, user guides, and instruction manuals.

69. Upon information and belief, in developing its Platform, Decibel emulated and copied features of ContentSquare's platform, including those features claimed by the '737 Patent. Upon information and belief, Decibel knew that ContentSquare had patents covering its Platform and either learned of the '737 Patent or subjectively believed there was a high probability that ContentSquare had patents covering features of its Platform but took deliberate actions to avoid learning of that fact and which features were patented. Despite knowing of the '737 Patent or being willfully blind to the '737 Patent, Decibel continued to make, use, sell, and offer to sell infringing products.

70. Decibel's acts of infringement have caused damage to ContentSquare, and ContentSquare is entitled to recover damages in an amount subject to proof at trial, including damages sufficient to compensate for reasonable royalties, lost sales, lost market share, and/or lost good will as a result of Decibel's infringement, and/or treble damages under 35 U.S.C. § 284 for Decibel's willful and deliberate infringement.

71. Plaintiffs have been, and continue to be, damaged and irreparably harmed by Decibel's infringement, which will continue unless Decibel and all subsidiaries and agents acting in concert with them or on their behalf are enjoined by this Court.

X. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief and judgment against Defendants as follows:

A. A judgment holding Defendants liable for direct infringement of one or more of the claims of the '525, '081, '365, '645, and '737 Patents either literally or under the doctrine of equivalents;

B. A judgment that Defendants willfully infringe the '525, '081, '365, '645, and '737 Patents;

C. A judgment that Defendants indirectly infringe the '525, '081, '365, '645, and '737 Patents either by contributing to or inducing direct infringement by another, either literally or under the doctrine of equivalents;

D. A permanent injunction against Defendants and their officers, directors, employees, agents, consultants, contractors, suppliers, distributors, all parent and subsidiary entities, all assignees and successors in interest, and all others acting in concert or privity with Defendants from further infringement of the '525, '081, '365, '645, and '737 Patents;

E. An award to ContentSquare of damages under 35 U.S.C. § 284 for the infringement of the '525, '081, '365, '645, and '737 Patents by Defendants, together with pre-judgment and post-judgment interest and costs;

F. An award to ContentSquare of treble damages 35 U.S.C. § 284 for the willful infringement of the '525, '081, '365, '645, and '737 Patents by Defendants;

G. A judgment that, with respect to Defendants, this case is exceptional and awarding to ContentSquare its reasonable attorney fees under 35 U.S.C. § 285;

H. An accounting for damages resulting from Defendants' infringement of the '525, '081, '365, '645, and '737 Patents.

I. A judgment that the '525, '081, '365, '645, and '737 Patents are valid and enforceable, in response to invalidity or unenforceability defenses raised by Defendants, if any.

J. Judgment against Defendants on all counts of this Complaint; and

K. Such other relief for ContentSquare that the Court sees as just.

XI. DEMAND FOR JURY TRIAL

72. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, ContentSquare demands trial by jury in this action of all issues so triable.

Dated: June 22, 2020

Respectfully submitted,



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Square Israel Limited***