

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

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STS SOFTWARE SYSTEMS, LTD.	:	
and NICE SYSTEMS, LTD.,	:	
	:	
Plaintiff,	:	Civil Action No. 1:04-CV-2111-RWS
	:	
v.	:	
	:	
WITNESS SYSTEMS, INC.,	:	
	:	
Defendant.	:	
-----	X	

SECOND SUPPLEMENTAL COMPLAINT

Plaintiffs STS Software Systems and NICE Systems Ltd. (“Plaintiffs”) assert the following:

NATURE OF THIS ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101 *et seq.*, including 35 U.S.C. § § 271 and 281-285.

THE PARTIES

2. STS Software Systems, Ltd. (“STS Software”) is a corporation organized under the laws of Israel with its principal place of business at 8 Hapnina Drive, Ra’anana 43107 Israel.

3. NICE Systems Ltd. (“NICE Ltd.”) is an Israeli corporation with its principal place of business at 8 Hapnina Drive, Ra’anana 43107, Israel.

4. On information and belief, defendant Witness Systems, Inc. (“Witness”) is a Delaware corporation having a principal place of business at 300 Colonial Center Parkway #600, Roswell, Georgia 30076.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. § § 1331 and 1338(a).

6. This Court has personal jurisdiction over Witness because, *inter alia*, Witness conducts business in this judicial district. Venue is proper in this judicial district pursuant to 28 U.S.C. § § 1391 and 1400.

THE PATENTS-IN-SUIT

7. STS Software is the owner by assignment of all right, title and interest in and to U. S. Patent No. 6,865,604 (“the ’604 Patent”) entitled “Method For Extracting A Computer Network-Based Telephone Session Performed Through A Computer Network.” The ’604 Patent issued on March 8, 2005 and is currently valid and enforceable. STS Software has the right to sue and recover for past, present and future infringement of the ’604 Patent and to obtain the relief sought herein. A copy of the ’604 Patent is attached as Exhibit A.

8. STS Software is the owner by assignment of all right, title and interest in and to U.S. Patent No. 6,871,229 (“the ’229 Patent”) entitled “Method For Storing On A Computer Network A Portion Of A Communication Session Between A Packet Source And A Packet Destination.” The ’229 Patent issued on March 22, 2005 and is currently valid and enforceable. STS Software has the right to sue and recover for past, present and future infringement of the ’229 Patent and to obtain the relief sought herein. A copy of the ’229 Patent is attached as Exhibit B.

9. STS Software is the owner by assignment of all right, title and interest in and to U.S. Patent No. 6,880,004 (“the ’004 Patent”) entitled “Method For Restoring A Portion of A Communication Session Transmitted Over A Computer Network.” The ’004 Patent issued on April 12, 2005 and is currently valid and enforceable. STS Software has the right to sue and recover for past, present and future infringement of the ’004 Patent and to obtain the relief sought herein. A copy of the ’004 Patent is attached as Exhibit C.

10. On December 20, 2006, STS Software and NICE Ltd. entered into a License Agreement. Under the License Agreement NICE Ltd. is granted an exclusive license to “develop, make, have made, use, export, import, market or sell

products that, in the absence of this exclusive license, would infringe” one or more of the ’604, ’229 or ’004 patents.

11. As an exclusive licensee, NICE Ltd. has the right to sue and recover for past, present and future infringement of the ’604, ’229, and ’004 Patents and to obtain the relief sought herein.

COUNT I
(Patent Infringement)

12. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 11 as though fully set forth herein.

13. The ’604 Patent describes a system and method for recording, storing, and playing back a telephone communication session performed on a computer network.

14. On information and belief, Witness, by itself, and in concert with nonparties Cisco Systems, Inc. and Avaya, Inc. as well as other nonparties, has been and continues to make, use, and sell products including, but not limited to, eQuality Contact Store for IP, Contact Store for IP, Witness Contact Store for Communications Manager, Witness Quality for Communication Manger, Witness Contact Store Business Edition, and Witness Contact Store Enterprise Edition, that

incorporate systems and methods recording, storing, and playing back a telephone communication session performed on a computer network.

15. Witness's acts and acts in concert with nonparties alleged herein constitute infringement of the '604 Patent in violation of the patent laws of the United States, 35 U.S.C. § § 271 and 281-285.

16. By reason of Witness's acts alleged herein, Plaintiffs have suffered, are suffering, and will continue to suffer irreparable damage, and unless Witness is restrained from continuing its wrongful acts, the damage to Plaintiffs will continue.

17. On information and belief, Witness's infringing activities are deliberate and willful.

18. Plaintiffs have no adequate remedy at law.

COUNT II

(For Patent Infringement)

19. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 18 as though fully set forth herein.

20. The '229 Patent describes a system and method for recording, storing, and playing back a telephone communication session performed on a computer network.

21. On information and belief, Witness, by itself, and in concert with nonparties Cisco Systems, Inc. and Avaya, Inc. as well as other nonparties, has been and continues to make, use, and sell products including, but not limited to, eQuality Contact Store for IP, Contact Store for IP, Witness Contact Store for Communications Manager, Witness Quality for Communication Manger, Witness Contact Store Business Edition, and Witness Contact Store Enterprise Edition, that incorporate systems and methods recording, storing, and playing back a telephone communication session performed on a computer network.

22. Witness's acts and acts in concert with nonparties alleged herein constitute infringement of the '229 Patent in violation of the patent laws of the United States, 35 U.S.C. § § 271 and 281-285.

23. By reason of Witness's acts alleged herein, Plaintiffs have suffered, are suffering, and will continue to suffer irreparable damage, and unless Witness is restrained from continuing its wrongful acts, the damage to Plaintiffs will continue.

24. On information and belief, Witness's infringing activities are deliberate and willful.

25. Plaintiffs have no adequate remedy at law.

COUNT III

(For Patent Infringement)

26. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 25 as though fully set forth herein.

27. The '004 Patent describes a system and method for recording, storing, and playing back a telephone communication session performed on a computer network.

28. On information and belief, Witness, by itself, and in concert with nonparties Cisco Systems, Inc. and Avaya, Inc. as well as other nonparties, has been and continues to make, use, and sell products including, but not limited to, eQuality Contact Store for IP, Contact Store for IP, Witness Contact Store for Communications Manager, Witness Quality for Communication Manger, Witness Contact Store Business Edition, and Witness Contact Store Enterprise Edition, that incorporate systems and methods recording, storing, and playing back a telephone communication session performed on a computer network.

29. Witness's acts and acts in concert with nonparties alleged herein constitute infringement of the '004 Patent in violation of the patent laws of the United States, 35 U.S.C. § § 271 and 281-285.

30. By reason of Witness's acts alleged herein, Plaintiffs have suffered, are suffering, and will continue to suffer irreparable damage, and unless Witness is restrained from continuing its wrongful acts, the damage to Plaintiffs will continue.

31. On information and belief, Witness's infringing activities are deliberate and willful.

32. Plaintiffs have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand Judgment and seeks an Order:

- (a) Declaring that defendant Witness has infringed the '604 Patent;
- (b) Declaring that defendant Witness has infringed the '229 Patent;
- (c) Declaring that defendant Witness has infringed the '004 Patent;
- (d) Permanently enjoining and restraining defendant Witness and its agents, attorneys, servants, successors, assigns, employees and all those in privy or in active concert and participation with them, or any of them, from infringing the '604 Patent;
- (e) Permanently enjoining and restraining defendant Witness and its agents, attorneys, servants, successors, assigns, employees and all those in privy or in active concert and participation with them, or any of them, from infringing the '229 Patent;

(f) Permanently enjoining and restraining defendant Witness and its agents, attorneys, servants, successors, assigns, employees and all those in privy or in active concert and participation with them, or any of them, from infringing the '004 Patent;

(g) Holding that Witness's conduct was willful and awarding plaintiff STS Software its reasonable attorney's fees and expenses pursuant to 35 U.S.C. § 284;

(h) Holding that this case is exceptional and awarding Plaintiffs its reasonable attorneys' fees and expenses against Witness pursuant to 35 U.S.C. § 285; and

(i) Assessing costs, other expenses and such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiffs hereby demand a trial by jury of its claims set forth herein as provided under Federal Rules of Civil Procedure 38(b).

Dated: June 27, 2007

Respectfully submitted,

s/ Angela S. Blackwell

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STS Software Systems, Ltd. and

NICE Systems, Ltd.

CERTIFICATE OF SERVICE

I, Angela Blackwell, hereby certify that on June 27, 2007 I caused a true and complete copy of the foregoing **SECOND SUPPLEMENTAL COMPLAINT** to be served upon the parties to this action as shown on the attached Service List.

Dated: June 27, 2007

s/ Angela S. Blackwell

CERTIFICATE OF COMPLIANCE

This foregoing **SECOND SUPPLEMENTAL COMPLAINT** complies with Local Rule 5.1B regarding typeface and font size.

Dated: June 27, 2007

s/ Angela S. Blackwell

SERVICE LIST
STS SOFTWARE SYSTEMS, LTD. V. WITNESS SYSTEMS, INC.
Case No. 1:04-CV-2111-RWS

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