

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE**

CSI Technology, Inc., &)	
)	
Computational Systems, Inc.,)	Case No. 3:08-CV-419
)	
Plaintiffs,)	(Varlan / Shirley)
)	
v.)	
)	Jury Trial Demanded
Commtest Instruments Ltd., &)	
)	
Commtest Instruments, Inc.,)	
)	
Defendants.)	
)	

FIRST AMENDED COMPLAINT

Plaintiffs, CSI Technology, Inc. and Computational Systems, Inc., for their Complaint,
state as follows:

The Parties

1. Plaintiff CSI Technology, Inc. is a corporation organized and existing under the laws of Delaware and has a principal place of business at 300 Delaware Avenue, Suite 366, Wilmington, Delaware 19801. CSI Technology, Inc. is engaged in managing and licensing intellectual property rights, including patent rights.

2. Plaintiff Computational Systems, Inc. is a corporation organized and existing under the Laws of Tennessee and has a principal place of business at 835 Innovation Drive, Knoxville, Tennessee 37932. Computational Systems, Inc. is engaged in manufacturing and selling, *inter alia*, vibration analyzer equipment.

3. Upon information and belief, Defendant Commtest Instruments Ltd. ("Commtest NZ") is a New Zealand company having a principal place of business at 22 Moorhouse Avenue, Christchurch, New Zealand.

4. Upon information and belief, Defendant Commtest Instruments, Inc. (“Commtest TN”) is a Tennessee corporation having a principal place of business at 6700 Baum Drive, Suite 12, Knoxville, Tennessee 37919. Upon information and belief, Defendant Commtest Instruments, Inc. is a wholly owned subsidiary of Commtest Instruments Ltd. and is doing business as “Commtest, Inc.”

Jurisdiction

5. This action includes counts for patent infringement under the patent laws of the United States, 35 U.S.C. § 271 et seq.

6. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

Count I

Claim for Patent Infringement of U.S. Patent No. 6,192,325

7. Paragraphs 1–6 are incorporated into this count by reference.

8. United States Patent No. 6,192,325 (“the '325 patent”) duly and legally issued on February 20, 2001.

9. At the time this action was commenced, CSI Technology, Inc. owned the '325 patent. Subsequently, on October 22, 2008, CSI Technology, Inc. assigned the '325 patent to Computational Systems, Inc. CSI Technology, Inc., however, retained its rights to pursue past damage claims.

10. Until the assignment, Computational Systems, Inc. was an exclusive licensee under the '325 patent.

11. Plaintiffs have satisfied the notice and/or marking provisions of 35 U.S.C. § 287.

12. Defendants Commtest NZ and Commtest TN (collectively, “the Defendants”) are involved in making, importing, selling, using, and/or offering for sale, either directly or through intermediaries, software for predictive maintenance databases, including without limitation software marketed under the **Ascent®** mark.

13. The Defendants’ software for predictive maintenance databases, including without limitation the **Ascent®** software and/or the use thereof, is covered by at least one claim of the '325 patent.

14. By their actions relating to such software, Defendants have infringed and continue to infringe the '325 patent, directly and/or indirectly, and will continue to do so unless enjoined by this Court.

15. Plaintiffs have been damaged by the Defendants’ infringement of the '325 patent and will continue to be damaged in the future unless Defendants are enjoined from infringing the '325 patent.

16. Upon information and belief, Defendants’ infringement of the '325 patent is willful.

Count II
Claim for Patent Infringement of U.S. Patent No. 5,633,811

17. Paragraphs 1–6 are incorporated into this count by reference.

18. United States Patent No. 5,633,811 (“the '811 patent”) duly and legally issued on May 27, 1997.

19. At the time this action was commenced, CSI Technology, Inc. owned the '811 patent. Subsequently, on October 22, 2008, CSI Technology, Inc. assigned the '811 patent to Computational Systems, Inc. CSI Technology, Inc. however, retained its rights to pursue past damages.

20. Until the assignment, Computational Systems, Inc. was an exclusive licensee under the '811 patent.

21. Plaintiffs have satisfied the notice and/or marking provisions of 35 U.S.C. § 287.

22. Defendants are involved in making, importing, selling, using, and/or offering for sale, either directly or through intermediaries, vibration analyzer equipment, including without limitation vibration analyzers under the **vbSeries™** mark.

23. Defendants' vibration sensing equipment, including without limitation vibration analyzers sold under the **vbSeries™** mark, are covered by at least one claim of the '811 patent.

24. By their actions relating to such equipment, Defendants have infringed, and continue to infringe, the '811 patent, directly and/or indirectly, and will continue to do so unless enjoined by this Court.

25. Plaintiffs have been damaged by Defendants' infringement of the '811 patent and will continue to be damaged in the future unless Defendants are enjoined from infringing the '811 patent.

26. Upon information and belief, Defendants' infringement of the '811 patent is willful.

Demand for Relief

Plaintiffs, CSI Technology, Inc. and Computational Systems, Inc., respectfully demand the following relief:

a. A judgment that Defendants Commtest NZ and Commtest TN have infringed the '325 patent;

b. Both preliminary and permanent injunctions enjoining and restraining Defendants Commtest NZ and Commtest TN, their officers, directors, agents, servants, employees, attorneys and all others acting under or through them, directly or indirectly, from infringing the '325 patent;

c. A judgment that Defendants Commtest NZ and Commtest TN have infringed the '811 patent;

d. Both preliminary and permanent injunctions enjoining and restraining Defendants Commtest NZ and Commtest TN, their officers, directors, agents, servants, employees, attorneys and all others acting under or through them, directly or indirectly, from infringing the '811 patent;

e. A judgment that Defendants Commtest NZ and Commtest TN have willfully infringed the '325 and '811 patents.

f. A judgment and order requiring Defendants Commtest NZ and Commtest TN to pay all appropriate damages under 35 U.S.C. § 284, including treble damages if any of the infringements is determined to be willful;

g. A judgment and order requiring Defendants Commtest NZ and Commtest TN to pay the costs of this action, including all disbursements and attorney fees, if this case is exceptional as provided by 35 U.S.C. § 285; and

h. Such other and further relief that this Court may deem just and equitable.

Demand for Jury Trial

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury of all issues so triable.

**CSI Technology, Inc. and Computational
Systems, Inc.,**

By their attorneys,

Dated: **December 12, 2008**

s/W. Kyle Carpenter

Alan G. Carlson (MN Bar No. 14,801)
Philip P. Caspers (MN Bar No. 192,569)
Samuel A. Hamer (MN Bar No. 294,469)
James R. Hietala (MN Bar No. 386,755)
CARLSON, CASPERS, VANDENBURGH &
LINDQUIST, P.A.
225 South Sixth Street
Suite 3200
Minneapolis, MN 55402
Phone: 612-436-9600
Fax: 612-436-9605
E-mail: SHamer@ccvl.com

W. Kyle Carpenter (BPR #005332)
WOOLF, McCLANE, BRIGHT, ALLEN &
CARPENTER
Post Office Box 900
Knoxville, Tennessee 37901-0900
Phone: 865-215-1000
Fax: 865-215-1001
E-mail: kcarpenter@woolfmcclane.com

CERTIFICATE OF SERVICE

I hereby certify that on a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

This the 12th day of December, 2008.

s/W. Kyle Carpenter

W. Kyle Carpenter, BPR #005332

WOOLF, McCLANE, BRIGHT,
ALLEN & CARPENTER PLLC

Post Office Box 900
Knoxville, Tennessee 37901-0900
(865) 215-1000