

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

JUXTACOMM TECHNOLOGIES, INC.,

Plaintiff,

v.

ASCENTIAL SOFTWARE CORP., et. al.

Defendants.

Civil Action No. 2:07-CV-00359 LED

DEFENDANT INTERSYSTEMS' ANSWER AND COUNTERCLAIM

Defendant InterSystems Corporation ("InterSystems") answers the numbered paragraphs of the Complaint as follows:

- 1. – 13. Is without knowledge or information sufficient to form a belief.
- 14. Admits.
- 15. – 22. Is without knowledge or information sufficient to form a belief.

JURISDICTION

23. Admits that this Court has subject matter jurisdiction. Admits that this Court has personal jurisdiction over InterSystems. Is without knowledge or information sufficient to form a belief as to personal jurisdiction over other defendants.

VENUE

24. Admits that venue is proper in this district against InterSystems. Is without knowledge or information sufficient to form a belief as to other defendants.

INFRINGEMENT OF U.S. PATENT 6,195,662

25. Is without knowledge or information sufficient to form a belief as to the ownership of U.S. patent No. 6,195,662 (“the ‘662 patent”), admits that the ‘662 patent issued on February 27, 2001 and is attached to the Complaint, but otherwise denies.

26. Denies with respect to InterSystems and is without knowledge or information sufficient to form a belief as to the other defendants.

27. Denies with respect to InterSystems and is without knowledge or information sufficient to form a belief as to the other defendants.

28. Denies with respect to InterSystems and is without knowledge or information sufficient to form a belief as to the other defendants.

AFFIRMATIVE DEFENSES

1. Plaintiff’s claims are barred by estoppel.
2. Plaintiff’s claims are barred by laches.
3. Upon information and belief Plaintiff’s damages are limited by failure to mark goods sold or licensed under the patent.
4. The ‘662 patent is not infringed by InterSystems.
5. Claims of the ‘662 patent are invalid under one or more of 35 U.S.C. §§102, 103, and 112.

COUNTERCLAIM

1. This is a counterclaim for declaratory judgment pursuant to 28 U.S.C. §§2201-02.
2. There is an actual and justiciable controversy between the parties with respect to the validity of claims of the ‘662 patent.

3. Claims of the '662 patent are invalid under one or more of 35 U.S.C. §§102, 103, 112.

4. InterSystems is entitled to a declaratory judgment that the claims of the '662 patent are invalid.

For the above reasons, InterSystems asks for a judgment that the complaint be dismissed, that the claims of the '662 patent are invalid, that this is an exceptional case and InterSystems is entitled to attorneys' fees under 35 U.S.C. §285, and for costs and any other relief this Court feels appropriate.

Respectfully submitted,

INTERSYSTEMS CORPORATION

Dated: September 24, 2007

/s/ James J. Foster
James J. Foster
Lead Attorney
Massachusetts State Bar Number: 553285
jfooster@wolfgreenfield.com
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210
Tel.: (617) 646-8000
Fax: (617) 646-8646

CERTIFICATE OF SERVICE

I certify that all counsel of record who are deemed to have consented to electronic service are being served this 24th day of September, 2007 with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission or first class mail on this same date.

/s/ James J. Foster