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CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
SANTA ANA

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9  
10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA  
12 SOUTHERN DIVISION

13 NQUEUE, INC.,

14 Plaintiff,

15 vs.

16 CONTROL SYSTEMS (USA), INC.,

17 Defendant.

Case No. 8:12-cv-01365-JST-RNB  
**FIRST AMENDED COMPLAINT  
FOR PATENT INFRINGEMENT  
DEMAND FOR JURY TRIAL**

18  
19 Plaintiff, NQUEUE, INC. ("nQueue"), an Arizona corporation, brings this  
20 action against CONTROL SYSTEMS (USA), INC., ("Copitrak") a Delaware  
21 corporation, and for its cause of action alleges:

22 **JURISDICTION**

23 1. This is an action for patent infringement in violation of the patent  
24 laws of the United States, 35 U.S.C. § 1, et seq. This Court has jurisdiction under  
25 28 U.S.C. §§ 1331 and 1338(a).

26 2. Venue is proper under 28 U.S.C. §§ 1391(b) and (c) and 1400 (b) in  
27 that Defendant offers for sale, and has sold infringing products in this judicial  
28 district, and has offered infringing products to others for resale within this judicial

1 district.

2 **PARTIES**

3 3. Plaintiff nQueue, Inc. is a corporation organized and existing under  
4 the laws of the State of Arizona, having a principal place of business at 7890 S.  
5 Hardy Drive, Suite 105, Tempe, Arizona, 85284.

6 4. On information and belief, Defendant Control Systems (USA), Inc.  
7 is a corporation organized and existing under the laws of the State of Delaware,  
8 having a principal place of business located at 2424 North Federal Highway,  
9 Suite 164, Boca Raton, Florida, 33431, and doing business as "Copitrak." In  
10 addition, Copitrak has a regular and established place of business located at 900  
11 Wilshire Blvd., Suite 1214, Los Angeles, California, 90017.

12  
13 **FACTUAL BACKGROUND**

14 5. nQueue is the owner of U.S. Pat. No. 7,076,184 entitled "Expense  
15 Recovery System for Copier" (a copy of which is attached as Exhibit A) ("the  
16 '184 patent") and holds all rights under the patent, including the right to sue for  
17 past and present infringement.

18 6. nQueue is the owner of U.S. Pat. No. 7,526,212 entitled "Expense  
19 Recovery System for Multi-function Device with Smart Data Entry" (a copy of  
20 which is attached as Exhibit B) ("the '212 patent") and holds all rights under the  
21 patent, including the right to sue for past and present infringement.

22 7. nQueue is the owner of U.S. Pat. No. 7,526,213 entitled "Expense  
23 Recovery System for Multi-function Device with Smart Data Entry" (a copy of  
24 which is attached as Exhibit C) ("the '213 patent") and holds all rights under the  
25 patent, including the right to sue for past and present infringement.

26 8. nQueue is the owner of U.S. Pat. No. 7,751,727 entitled "Expense  
27 Recovery System for Multi-function Device with Smart Data Entry" (a copy of  
28 which is attached as Exhibit D) ("the '727 patent") and holds all rights under the

1 patent, including the right to sue for past and present infringement.

2 9. The above-referenced patents are collectively the “patents-in-suit.”

3 10. nQueue has become aware that Copitrak is selling systems that  
4 infringe one or more claims of each of the patents-in-suit. On information and  
5 belief, Copitrak is also providing hardware, and giving instructions to users, to  
6 allow users to practice methods that infringe one or more claims of each of the  
7 patents-in-suit within this judicial district.

8  
9 **TORTIOUS ACTIVITIES OF DEFENDANTS**

10 11. Defendant Copitrak has made, used, offered for sale, sold, and  
11 continues to sell products that infringe, either directly, or indirectly through  
12 inducing infringement or contributory infringement, one or more claims of each  
13 of the patents-in-suit, including without limitation its “Copitrak Embedded” and  
14 “Copitrak ES” cost recovery systems.

15 12. On information and belief, Copitrak is aware of the patents-in-suit,  
16 and has knowingly induced others to infringe the patents-in-suit, providing  
17 hardware and instruction to others knowing that their usage of the hardware as  
18 instructed constitutes patent infringement.

19 13. On information and belief, Copitrak is aware of the patents-in-suit,  
20 and has contributed to the infringement of the patents-in-suit by others by selling  
21 and/or offering to sell a component for use in practicing a patented process, and  
22 that component is material to practicing the invention, and has no substantial non-  
23 infringing uses, and is known by Copitrak to be especially made or especially  
24 adapted for use in an infringement of such patent.

25 14. Defendant Copitrak’s “Copitrak ES” and “Copitrak Embedded”  
26 products allows users to enter and search for client related information directly at  
27 the control panel of a copier or multifunction device, with no external terminal  
28 needed.



1           22. On information and belief, the acts of infringement of Defendant will  
2 continue unless enjoined by this Court.

3           23. Plaintiff is being damaged by Defendant's infringement of the  
4 patents-in-suit, and is being, and will continue to be irreparably damaged unless  
5 Defendant's infringement is enjoined by this Court. Plaintiff, therefore, does not  
6 have an adequate remedy at law.

7           24. This is an "exceptional case" within the meaning of 35 U.S.C. § 285.  
8

9                                   **SECOND CAUSE OF ACTION**  
10                               **CONTRIBUTORY/INDUCING PATENT INFRINGEMENT IN**  
11                               **VIOLATION OF 35 U.S.C. §271**

12           25. Plaintiff refers to and incorporates in this Cause, Paragraphs 1  
13 through 24, above, as though restated herein in full.

14           26. On information and belief, Defendant Copitrak has in the past, and  
15 continues to presently sell or offer for sale its Copitrak ES and Copitrak  
16 Embedded products for use in practicing a patented process, and these products  
17 are material to practicing the invention, have no substantial non-infringing uses,  
18 and are known by Copitrak be especially made or especially adapted for use in an  
19 infringement of the patents-in-suit.

20           27. The Copitrak ES and Copitrak Embedded products are used to  
21 directly infringe the patents-in-suit.

22           28. Through such activities, Defendant is liable for contributory  
23 infringement of the patents-in-suit.

24           29. On information and belief, Defendant Copitrak has in the past, and  
25 continues to presently sell or offer for sale its Copitrak ES and Copitrak  
26 Embedded products to enable users to practice a patented process or use a  
27 patented system with the knowledge that such acts constitute patent infringement  
28 of the patents-in-suit.

1           30. The Copitrak ES and Copitrak Embedded products are used to  
2 practice a patented process, or use a patented system, thereby directly infringing  
3 the patents-in-suit.

4           31. Through such activities, Defendant is inducing infringement of the  
5 patents-in-suit.

6           32. On information and belief, Defendant's inducement of infringement  
7 and contributory infringement of the patents-in-suit, both presently, and in the  
8 past, has been willful.

9           33. On information and belief, the acts of inducement of infringement  
10 and contributory infringement of Defendants will continue unless enjoined by this  
11 Court.

12           34. Plaintiff is being damaged by Defendant's inducement of  
13 infringement and contributory infringement of the patents-in-suit, and is currently  
14 being, and will continue to be irreparably damaged unless Defendant's actions are  
15 enjoined by this Court. Plaintiff, therefore, does not have an adequate remedy at  
16 law.

17           35. This is an "exceptional case" within the meaning of 35 U.S.C. § 285.

### 18 19 RELIEF REQUESTED

20           WHEREFORE, Plaintiff nQueue demands judgment against Defendant  
21 Copitrak as follows:

22           1. That this Court adjudge and declare:

23               a. That it has jurisdiction of the parties and of the subject matter  
24 of this action;

25               b. That United States Patent No. 7,076,184 ("the '184 patent) is  
26 valid;

27               c. That United States Patent No. 7,526,212 ("the '212 patent) is  
28 valid;

1                   d.     That United States Patent No. 7,526,213 (“the ‘213 patent) is  
2                   valid;

3                   e.     That United States Patent No. 7,751,727 (“the ‘727 patent) is  
4                   valid;

5  
6                   f.     That Defendant Copitrak has committed acts of patent  
7                   infringement by its manufacture, use, offer for sale, and sale of products and/or  
8                   systems which infringe the patents-in-suit;

9                   g.     That Defendant Copitrak has induced infringement of the  
10                  patents-in-suit;

11                  h.     That Defendant Copitrak has contributorily infringed the  
12                  patents-in-suit;

13                  i.     That Defendant Copitrak’s infringement has been willful.

14                2.     That Defendant Copitrak, its officers, directors, owners, agents,  
15                representatives, employees, assigns and suppliers, and all persons acting in  
16                concert or privity with any of them be preliminarily and permanently enjoined  
17                from making, using, importing, offering for sale or selling any device and/or  
18                system which infringes, either directly or indirectly through inducement or  
19                contributorily, the patents-in-suit;

20                3.     That Plaintiff be awarded damages covered by the acts of patent  
21                infringement of Defendant in the amount of Plaintiff’s lost profits to be  
22                determined at trial, but in any event, an amount not less than a reasonable royalty  
23                pursuant to 25 U.S.C. § 284;

24                4.     That the damage award be trebled due to Defendant’s willful  
25                infringement;

26                5.     That Defendant pay Plaintiff prejudgment interest;

27                6.     That Plaintiff have and recover its costs in this action, including  
28                attorneys’ fees; and

1           7. That Plaintiff have such other and further relief as the court may  
2 deem just and proper.

3  
4 DATED: February 15, 2013

Respectfully submitted,

KAUTH, POMEROY, PECK & BAILEY LLP

5  
6  
7 By



Joel A. Kauth

8  
9 Attorneys for Plaintiff, NQUEUE, INC.



**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure Rule 38(b), Plaintiff NQUEUE, INC., hereby demands a trial by jury of all issues in its Complaint so triable.

DATED: February 15, 2013

Respectfully submitted,

KAUTH, POMEROY, PECK & BAILEY LLP

By



Joel A. Kauth

Attorneys for Plaintiff, NQUEUE, INC.