

NETSCOUT Challenges Baseless Patent Claims From Packet Intelligence

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NetScout Developed the Technology in Question, Acting to Invalidate Patents

WESTFORD, Mass.--(BUSINESS WIRE)--Apr. 5, 2017-- **NetScout Systems, Inc.**, (NASDAQ: NTCT), a leading provider of business assurance, a powerful combination of service assurance, cybersecurity, and business intelligence solutions, recently appeared before a Federal Court in Texas in support of its arguments challenging baseless claims brought last year by a non-practicing entity known as Packet Intelligence LLC ("PI"). PI is a shell company that makes no products, and its only assets are a portfolio of patents that it has asserted against NetScout. The products it has accused (the GeoProbe line of products acquired with Tektronix Communications), are based on technology NetScout developed and sold decades ago and that use networking standards created decades ago. NetScout has already informed PI about the clear record of prior art, by NetScout and others, and has notified PI of its improper assertion of the patents. Due to PI's failure to withdraw its frivolous claims, NetScout intends to invalidate PI's entire patent portfolio and seek reimbursement of its own legal expenses as well as any other penalties the court may order.

Several years before the asserted patents were even filed, NetScout had already developed, marketed, and sold remote monitoring (RMON) probes that used the same standard features and techniques described by the asserted patents. "It is absurd that the so-called inventors applied for patents on technology they did not invent," said Anil Singhal, co-founder, chief executive officer and president, NetScout. "What is worse is that the technology covered by those patents was well known years before they were even filed – NetScout had been selling RMON probes employing that technology for more than a decade before those filings. For Packet Intelligence to turn around and try to enforce those patents against us on this technology is an outrage."

NetScout has uncovered additional evidence that at least one of the inventors of the asserted patents may have

improperly based his filings on contributions of members of a Working Group of the Internet Engineering Task Force (IETF) that created the first RMON standards and many proprietary extensions, and those inventors may have committed inequitable conduct by withholding this critical information from the United States Patent and Trademark Office in breach of their legal duty of disclosure. “When I first learned about this lawsuit, I was surprised to learn that the listed primary inventor of these patents was a member of the IETF working group at the same time as several other people and me, and had filed patent applications to cover a network monitoring probe that was actually envisioned by the RMON standards developed by the IETF several years before his patent applications were filed,” Mr. Singhal said.

NetScout has notified PI of both the invalidity and the non-infringement of the patents and cautioned PI against pursuit of specious claims. “Asserting infringement of unenforceable patents, withholding relevant prior art information from the Patent Office, falsely accusing people of infringing, and abusing the court system to try to intimidate companies like NetScout is unconscionable,” said Jeff Levinson, general counsel, NetScout. He continued, “We will devote our efforts to invalidating the patents and demonstrating non-infringement, but more than that, we will ask the Court to hold Packet Intelligence accountable for its improper tactics. The baseless patent claims and the tactics that a shell company like Packet Intelligence uses should be stopped. NetScout will fight against this type of misconduct.”

About NetScout

NetScout Systems, Inc. (NASDAQ: NTCT) is a leading provider of business assurance – a powerful combination of service assurance, cybersecurity, and business intelligence solutions – for today’s most demanding service provider, enterprise and government networks. NetScout’s Adaptive Service Intelligence (ASI) technology continuously monitors the service delivery environment to identify performance issues and provides insight into network-based security threats, helping teams to quickly resolve issues that can cause business disruptions or impact user experience. NetScout delivers unmatched service visibility and protects the digital infrastructure that supports our connected world. To learn more, visit www.netscout.com or follow @NETSCOUT on Twitter, Facebook, or LinkedIn.

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