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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

**ABSOLUTE SOFTWARE, INC.**, a  
Washington Corporation, and **ABSOLUTE  
SOFTWARE CORP.**, a Canadian  
Corporation,

Plaintiff,

v.

**STEALTH SIGNAL, INC.**, a Nevada  
Corporation, and **COMPUTER SECURITY  
PRODUCTS, INC.**, a New Hampshire  
Corporation,

Defendant.

Case No.: CV4-2175-JLR

DEFENDANT STEALTH SIGNAL  
INC.'S ANSWER TO COMPLAINT,  
AFFIRMATIVE DEFENSES AND  
COUNTERCLAIMS

***[JURY TRIAL DEMANDED]***

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By way of answer to the numbered paragraphs of the Plaintiffs' Complaint,

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Defendant states:

ANSWER

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1. Defendant admits only that this Court has subject matter jurisdiction

over the matters pleaded herein. Defendant specifically denies the remaining

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allegations of paragraph 1 of the Complaint.

2. Defendant denies the allegations of paragraph 2 of the Complaint.
3. Defendant is without knowledge sufficient to form a belief as to the truth of the allegations in paragraph 3 of the Complaint and therefore denies the same.
4. Defendant is without knowledge sufficient to form a belief as to the truth of the allegations in paragraph 4 of the Complaint and therefore denies the same.
5. Defendant admits paragraph 5 of the Complaint.
6. Defendant admits paragraph 6 of the Complaint.
7. Defendant incorporates its answers to each incorporated paragraph in paragraph 7 of the Complaint as if set forth in full herein.
8. Defendant is without knowledge sufficient to form a belief as to the truth of the allegations in paragraph 8, 9, 10, 11, 12, 13, and 14 of the Complaint and therefore denies the same.
9. Defendant denies paragraphs 15, 16, 17, 18, 19, and 20 of the Complaint.
10. Defendant incorporates its answers to each incorporated paragraph in paragraph 21 of the Complaint as if set forth in full herein.
11. Defendant denies paragraphs 22, 23, 24, 25, 26, and 27 of the Complaint.
12. Defendant denies each and every other allegation of the Complaint not specifically admitted hereinabove.

FIRST AFFIRMATIVE DEFENSE

2           The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

4           The relief sought by Plaintiffs in the Complaint is barred by unclean hands,  
latches, waiver and/or estoppel.

THIRD AFFIRMATIVE DEFENSE

6           The '758, '863, '914, '174, '892, and '392 patents are invalid for failure to  
8 satisfy one or more of the requirements set forth in 35 U.S.C. Sec. 100 et seq.,  
including one or more of the following: 35 U.S.C. Sec. 101, 102, 103, and 112.

FOURTH AFFIRMATIVE DEFENSE

10           The Defendant does not infringe, and has not directly infringed, any claim  
12 of the '758, '863, '914, '174, '892, and '392 patents.

COUNTERCLAIMS

14           For its counterclaims against the Plaintiffs, Defendant states and alleges  
as follows:

16           1. Counterclaim Plaintiff Stealth Signal, Inc. ("Stealth") is a corporation  
organized and existing under the laws of the state of Nevada, with its principle  
18 place of business located at 1525 Lakeville Dr., Houston, Texas 77339.

20           2. Counterclaim defendant Absolute Software, Inc. claims that it is a  
corporation organized and existing under the laws of the state of Washington,  
having an address at 10655 NE 4<sup>th</sup> Street, Suite 400, Bellevue, Washington  
22 98004.

3. Counterclaim defendant Absolute Software Corp. (collectively referred to with Absolute Software, Inc. as “Absolute Software”) claims to be a corporation organized and existing under the laws of the Province of British Columbia, Canada, with its principle place of business at 111 Dunsmuir Street, Vancouver, British Columbia, Canada.

4. Absolute Software Corp. claims to be the owners and/or assignees of, and claim to hold rights and interest in, U. S. Patent Nos. 6,244,758 (“the ‘758 patent), 6,300,863 (“the ‘863 patent”), 6,507,914 (“the ‘914 patent”), 5,715,174 (“the ‘174 patent”), 5,764,892 (“the ‘892 patent”), and 6,269,392 (“the ‘392 patent”).

5. An actual controversy has arisen and now exists between Stealth, on the one hand, and Absolute Software, on the other, over the validity, enforceability, and infringement of the ‘758, ‘863, ‘914, ‘174, ‘892, and ‘392 patents for which Stealth desires a declaration of rights.

### FIRST COUNTERCLAIM

(Declaratory Judgment of Noninfringement)

6. Stealth incorporates by reference the allegations of paragraphs 1 through 5, above, as if set forth in full herein.

7. Stealth has not infringed, contributed to, or induced the infringement of any of the claims of the ‘758, ‘863, ‘914, ‘174, ‘892, and ‘392 patents.

8. Stealth is entitled to a declaratory judgment that the manufacture, use, sale, offer for sale and importation of its accused products are not infringements,

either directly, contributorily, or by inducement, of any claims of the '758, '863,  
2 '914, '174, '892, and '392 patents.

### SECOND COUNTERCLAIM

4 (Declaration of Invalidity)

9. Stealth incorporates by reference the allegations of paragraphs 1  
6 through 5, above, as if set forth in full herein.

10. The '758, '863, '914, '174, '892, and '392 patents are invalid for failure  
8 to satisfy one or more of the requirements set forth in 35 U.S.C. Sec. 100 et seq.,  
including one or more of the following: 35 U.S.C. Sec. 101, 102, 103, and 112.

11. Stealth is entitled to a declaratory judgment that the '758, '863, '914,  
10 '174, '892, and '392 patents are invalid.

### THIRD COUNTERCLAIM

12 (DECLARATION OF UNENFORCEABILITY)

14 12. Stealth incorporates by reference the allegations of paragraphs 1  
through 5, above, as if set forth in full herein.

16 13. Enforcement of the '758, '863, '914, '174, '892, and '392 patents is  
barred by one or more of the following: unclean hands, laches, waiver, and/or  
18 estoppel.

14. Stealth is entitled to a declaratory judgment that the '758, '863, '914,  
20 '174, '892, and '392 patents cannot be enforced against them.

FOURTH COUNTERCLAIM

(Infringement of Counterclaim Plaintiff's Patents)

15. Stealth incorporates by reference the allegations of paragraphs 1 through 5, above, as if set forth in full herein.

16. Stealth is a licensee of U.S. Patent No. 5,406,269 (the '269 Patent), entitled "METHOD AND APPARATUS FOR REMOTE VERIFICATION OF THE OPERATION OF ELECTRONIC DEVICES BY STANDARD TRANSMISSION MEDIUMS," which was duly issued on April 11, 1995 in the name of the inventor David Baran. A copy of the '269 Patent is attached hereto as Exhibit 1.

17. Stealth has the right under its license of the '269 Patent to profit from and pursue all rights, remedies and/or causes of action against Absolute Software for any infringement of the '269 Patent.

18. Absolute Software has infringed and is currently infringing the '269 Patent in violation of 35 U.S.C. Sec. 271 by making, having made, using, selling and/or offering for sale, within the United States, products and processes embodying the inventions claimed in the '269 Patent. Absolute Software's infringing products and services by way of example and without limitation include the product named Computrace, among others.

19. Absolute Software has infringed and is currently infringing the '269 Patent by actively inducing others to make, have made, use, sell and/or offer for sale, within the United States, products or processes embodying the inventions

1 claimed in the '269 Patent, including by way of example and without limitation  
2 include the product named Computrace, among others.

4 20. Absolute Software has infringed and is currently infringing the '269  
Patent by contributing to the infringement of the '269 Patent by others.

6 21. Absolute Software has actual knowledge of the '269 Patent.

8 22. Absolute Software's infringement of the '269 Patent has been and  
continues to be willful and deliberate.

10 23. Stealth has been injured and damaged, and will continue to be injured  
and damaged, by Absolute Software's infringement of the '269 Patent. Absolute  
Software's infringement has caused, and will continue to cause, irreparable harm  
to Stealth unless and until enjoined by this Court.

12 PRAYER FOR RELIEF

14 WHEREFOR, DEFENDANT AND COUNTERCLAIM PLAINTIFF  
STEALTH REQUESTS THAT:

- 16 1. Plaintiffs' Complaint be dismissed with prejudice;
- 18 2. The '758, '863, '914, '174, '892, and '392 patents be declared (a) not  
infringed, (b) invalid, and/or (c) unenforceable;
- 20 3. The Plaintiffs be enjoined and restrained from all further charges of  
infringement and acts of enforcement or suit based on the '758, '863, '914, '174,  
'892, and '392 patents against the Defendant or anyone in privity with them,  
including Defendant's customers and prospective customers;
- 22 4. That Absolute Software has infringed U.S. Patent No. 5,406,269;

2 5. That Absolute Software, and its agents, servants, officers, directors,  
employees, and all persons or entities acting in concert with Absolute Software  
4 directly or indirectly, be enjoined from infringing, inducing the infringement of or  
contributing to the infringement of U.S. Patent 5,406,269.

6 6. That Absolute Software be ordered to account for and pay to Stealth  
the damages to Stealth arising out of Absolute Software's infringing activities,  
together with interest and costs;

8 7. That the infringement of Absolute Software be adjudged willful and that  
the damages to Stealth be increased under 35 U.S.C. Sec. 284 to three times the  
10 amount found or measured;

12 8. That this be adjudged an exceptional case and that Stealth be awarded  
its attorneys' fees pursuant to 35 U.S.C. Sec. 285;

9. That Stealth be awarded the taxable costs incurred by them herein,

14 10. That Stealth be awarded such other and further relief as the Court  
may deem just and proper.

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DATED this 16<sup>th</sup> day of December, 2004.

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s/Ronald Earl Grant  
Ronald Earl Grant, WSBA #24202

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Attorneys for Defendant  
Stealth Signal, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on December 16, 2004, I electronically filed the foregoing DEFENDANT STEALTH SIGNAL'S ANSWER, COUNTERCLAIMS AND AFFIRMATIVE DEFENSES including:

1) Exhibit 1 - United States Patent 5,406,269, Method and apparatus for the remote verification of the operation of electronic devices by standard transmission mediums, issued April 11, 1995

with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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