

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Northern Division**

CAM TECHNOLOGIES, INC., et al.

*

Plaintiffs

*

v.

*

CIVIL NO. 1:10-cv-00664-CCB

*

COMPRESSED AIR NETWORK,
LTD, et al.

*

Defendants

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* * * * *

ANSWER OF DEFENDANT KEVIN SILATE

Defendant Kevin Silate, by his undersigned attorneys, files this answer to the complaint in this action, and says:

Answers to Individually Numbered Paragraphs of Complaint

With respect to the individually numbered paragraphs of the complaint, defendant Silate states as follows:

1. Defendant denies the third sentence of paragraph 1, lacks knowledge or information sufficient to form a belief as to the truth of that portion of the second sentence of paragraph 1 which characterizes the business described in such sentence as CAM's "core business," and admits the remaining allegations in paragraph 1.

2. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2.

3. Defendant denies that portion of the second sentence of paragraph 3 which states or implies that software was “proprietary” to CAM, admits that portion of paragraph 3 which alleges that he traveled to various part of the United States on behalf of CAM, and lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 3.

4. Defendant denies the allegations in paragraph 4.

5. Defendant admits that portion of paragraph 5 which alleges that Caldwell and he resigned CAM’s employ in April 2009, but denies the remaining allegations in paragraph 5.

6. Defendant denies the allegations in paragraphs 6 through 8.

7. Defendant denies the second sentence of paragraph 9, and lacks knowledge or information sufficient to form a belief as the truth of the remaining allegations in paragraph 9.

8. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 10 through 12.

9. Defendant admits the allegations in paragraphs 13 and 14.

10. Paragraph 15 sets forth a statement of law as to which no answer is required, but, to the extent an answer is required to paragraph 15, defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 15.

11. Defendant admits the allegations in paragraph 16.

12. Paragraph 17 sets forth a statement of law as to which no answer is required, but, to the extent an answer is required to paragraph 17, defendant denies that

portion of paragraph 17 that states or implies that Caldwell or he engaged in tortious activity, a civil conspiracy, and/or wrongful acts and lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 17.

13. Defendant admits that portion of paragraph 18 which alleges that he is a Maryland resident and that he performed and continues to perform work and services on behalf of CAN, denies that portion of paragraph 18 which states or implies that Caldwell and he are co-conspirators, and lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 18.

14. Paragraph 19 sets forth a statement of law as to which no answer is required, but, to the extent an answer is required to paragraph 19, defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 19.

15. Defendant lacks knowledge or information sufficient to form a belief as to the truth of those portions of paragraph 20 which characterize time spent as substantial and a technical plan as “comprehensive,” but admits the remaining allegations in paragraph 20.

16. Defendant admits that portion of paragraph 21 which alleges that CAM identifies the compressed air management solution that it sells as “CAMLink” or some variant of that name, but denies those portions of paragraph 21 which state or imply that the solution is owned by CAM and that CAM owns a trademark as to the name “CAMLink.”

17. Defendant denies those portions of paragraph 22 which state or imply that CAM owns a trademark as to the name “CAMLink” and that the compressed air

management software referenced therein is proprietary to CAM, but admits the remaining allegations in paragraph 22.

18. Defendant denies those portions of paragraphs 23 and 24 which state or imply that CAM owns a trademark as to the name "CAMLink," but admits the remaining allegations in paragraph 23.

19. Defendant denies those portions of paragraph 25 which state or imply that software referenced therein is proprietary to CAM, that CAM owns a trademark as to the name "CAMLink," that the "PLC" was written by Chris Wagner, and that Chris Wagner is CAM's only owner, but admits the remaining allegations in paragraph 25.

20. Defendants denies those portions of paragraph 26 which state or imply that CAM owns a trademark as to the name "CAMLink," lacks knowledge or information sufficient to form a belief as to the truth of that portion of paragraph 26 which characterizes the PLC Code as the "brains" of the compressed air solution, and admits the remaining allegations in paragraph 26.

21. Defendant denies those portions of paragraphs 27 and 28 which state or imply that CAM legally could or does own copyright in the modules referenced therein and lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 27.

22. Defendant denies the allegations in paragraph 29.

23. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 30.

24. Defendant admits those portions of paragraph 31 which allege that, while a CAM employee, he knew the password necessary to access the PLC and the PLC Code

and that he was permitted to use the password to perform work on behalf of CAM for CAM's clients, but lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 31.

25. Defendant admits that portion of paragraph 32 which alleges that he and Caldwell learned certain client User Interface Software passwords during their employment with CAM, but lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 32.

26. Defendant denies the allegations in paragraph 33.

27. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 34 through 42.

28. Defendant admits that portion of paragraph 43 which alleges that he joined C. Wagner Enterprises as an employee in or about January 2005, but lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 43.

29. Defendant denies those portions of paragraphs 44 through 46 which state or imply that CAM owns a trademark as to the name "CAMLink," and admits the remaining allegations in paragraphs 44 through 46.

30. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 47.

31. Defendant admits the allegations in paragraph 48.

32. Defendant admits that portion of paragraph 49 which alleges that CAM Client Files access was necessary for Caldwell and Silate to perform certain maintenance

or update services for CAM's clients, but denies the remaining allegations in paragraph 49.

33. Defendant denies that portion of paragraph 50 which states or implies that the PLC Code and/or Key Files are or were proprietary to CAM, but admits the remaining allegations in paragraph 50.

34. Defendant admits the allegations in paragraph 51.

35. Defendant denies the allegations in paragraph 52.

36. Defendant denies those portions of paragraph 53 which state or imply that CAM owned or had proprietary rights in software or information referenced therein and that such software and information was confidential, but admits the remaining allegations in paragraph 53.

37. Defendant lacks knowledge or information sufficient to form a belief as to those portions of paragraph 54 which state or imply that Caldwell and Silate were trusted to be the face of CAM in the field with respect to many CAM customers and characterize knowledge acquired by Caldwell and defendant as intimate, but admits the remaining allegations in paragraph 54.

38. Defendant admits that portion of paragraph 55 which alleges that, in or about April of 2009, after he was requested to sign an agreement with restrictive covenants, he resigned CAM's employ, but lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 55.

39. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 56 and 57.

40. Defendant admits that portion of paragraph 58 which alleges that after he informed CAM that he was resigning, he continued to work for CAM to assist with completing an ongoing project, but denies the remaining allegations in paragraph 58.

41. Defendant denies the allegations in paragraph 59.

42. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 60 through 63.

43. Defendant admits that portion of paragraph 64 which alleges that he has performed work with CAN and Caldwell, but denies the remaining allegations in paragraph 64.

44. Defendant denies the allegations in paragraphs 65 through 80.

45. In answer to paragraph 81, defendant incorporates by reference his answers to paragraphs 1 through 80.

46. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 82.

47. Defendant denies the allegations in paragraphs 83 through 90.

48. In answer to paragraph 91, defendant incorporates by reference his answers to paragraphs 1 through 90.

49. Defendant denies the allegations in paragraphs 92 through 96.

50. In answer to paragraph 97, defendant incorporates by reference his answers to paragraphs 1 through 96.

51. Paragraph 98 sets forth a statement of law as to which no answer is required, but, to the extent an answer is required to paragraph 98, defendant denies the allegations in paragraph 98.

52. Defendant denies those portions of paragraph 99 which state or imply that CAM and its predecessor entities have owned any proprietary or other rights in information referenced therein, and lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 99.

53. Defendant denies the allegations in paragraphs 100 through 109.

54. In answer to paragraph 110, defendant incorporates by reference his answers to paragraphs 1 through 109.

55. Paragraph 111 sets forth a statement of law as to which no answer is required, but, to the extent an answer is required to paragraph 111, defendant denies the allegations in paragraph 111.

56. Defendant denies the allegations in paragraphs 112 through 115.

57. In answer to paragraph 116, defendant incorporates by reference his answers to paragraphs 1 through 115.

58. Defendant denies the allegations in paragraphs 117 through 122.

59. In answer to paragraph 123, defendant incorporates by reference his answers to paragraphs 1 through 122.

60. Defendant denies the allegations in paragraphs 124 through 126.

61. In answer to paragraph 127, defendant incorporates by reference his answers to paragraphs 1 through 126.

62. Defendant denies the allegations in paragraphs 128 through 133.

63. In answer to paragraph 134, defendant incorporates by reference his answers to paragraphs 1 through 133.

64. Paragraph 135 and 136 set forth statements of law as to which no answer is required, but, to the extent an answer is required to paragraphs 135 and 136, defendant denies the allegations in paragraphs 135 and 136.

65. Defendant denies the allegations in paragraphs 137 through 142.

Defenses

As defenses, defendant states as follows:

1. The complaint fails to state a claim upon which relief can be granted.
2. Plaintiffs lack standing to assert the claims alleged in the complaint.
3. Plaintiffs do not own the code, software, information, materials, and items referenced in the complaint.
4. Plaintiffs' claims are barred by laches.
5. Plaintiffs' claims are barred by the doctrines of unclean hands and *in pari delicto*.
6. Plaintiffs' claims are barred by estoppel and waiver.
7. Plaintiffs have failed to join necessary parties.
8. Defendant is entitled to assert an ownership interest in plaintiffs.
9. The code, software, information, materials, and items as to which plaintiffs claim trade secret protection are not trade secrets.
10. The names or marks as to which plaintiffs claim trademark protection are not subject to trademark protection.
11. The code, software, information, materials, and items as to which plaintiffs claim copyright protection are not subject to copyright protection.
12. Plaintiffs' alleged copyrights are invalid or unenforceable.

13. Defendant is protected from liability under the fair use doctrine.
14. Plaintiffs' claims are barred by the copyright misuse doctrine.
15. The damages claimed by plaintiffs are not a result of the acts or omissions of defendant.
16. Plaintiffs suffered no damages as a result of the act and omissions alleged in the complaint.
17. Plaintiffs have failed to mitigate damages.

WHEREFORE, having fully answered the complaint, defendant Silate requests that this Court dismiss the complaint, deny the relief requested by plaintiffs, and assess all costs, including attorneys' fees, against plaintiffs.

Respectfully submitted,

/s/
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