

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SENSUS USA INC.,

Plaintiff,

v.

**NXEGEN, LLC AND NXEGEN
HOLDINGS, INC.,**

Defendants.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT

The Plaintiff, Sensus USA Inc. (“Sensus”), files this complaint against Defendants Nxegen, LLC and Nxegen Holdings, Inc. (collectively, “Nxegen” or “Defendants”) and alleges as follows:

1. The Plaintiff, Sensus, is a Delaware corporation with a principal place of business at 8601 Six Forks Road, Suite 700, Raleigh, North Carolina 27615.
2. Sensus is a global leader in utility infrastructure systems and resource conservation. Specifically, Sensus products and solutions provide advanced measurement, data collection, analysis and control capabilities that help its customers improve operational efficiency while reducing their environmental impact.
3. Upon information and belief, Defendant Nxegen, LLC is a limited liability company organized under the laws of Delaware with a principal place of business at 362 Industrial Park Road, Middletown, Connecticut 06457.
4. Upon information and belief, Defendant Nxegen Holdings, Inc. is a Delaware corporation with a principal place of business at 362 Industrial Park Road,

Middletown, Connecticut 06457. Upon information and belief, Nxegen Holdings, Inc. was formerly named Nxegen, Inc.

5. The Defendants may be served with process through their registered agent for service, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

JURISDICTION AND VENUE

6. These claims arise under the United States patent laws, 35 U.S.C. § 1, et seq., including 35 U.S.C. § 271. Subject matter jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §§ 1331, 1338 in that this is a civil action arising out of the patent laws of the United States.

7. This Court has personal jurisdiction over the Defendants because, on information and belief, the Defendants are Delaware companies. Accordingly, the Defendants have purposely availed themselves of the privilege of conducting business in Delaware and the exercise of jurisdiction over the Defendants would not offend traditional notions of fair play and substantial justice.

8. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391, 1400(b) because the Defendants are subject to personal jurisdiction in this District.

COUNT I – PATENT INFRINGEMENT: U.S. PATENT NO. 5,438,329

9. Sensus incorporates the foregoing allegations in Paragraphs 1 through 8 as if set forth in full herein.

10. Sensus is the owner of all right, title, and interest in and to United States Patent No. 5,438,329 (“the ‘329 patent”) entitled “Duplex Bi-directional Multi-mode Remote Instrument Reading and Telemetry System,” which duly and legally issued to M&FC Holding Company, Inc. (“M&FC”) on August 1, 1995 as assignee of the ‘329

patent. By assignment, Sensus is the owner of all right, title and interest in the '329 patent and has full rights to sue and recover damages for infringement of the '329 patent. A copy of the '329 patent is attached to this Complaint as Exhibit A.

11. The '329 patent is valid and enforceable.

12. Upon information and belief, discovery will establish that Defendants, without authority, have made, used, offered to sell, sold and/or imported into the United States energy monitoring and control products, services, systems and/or methods embodying one or more of the inventions of the '329 patent.

13. The Defendants' activities have been without express or implied license from Sensus.

14. Upon information and belief, the Defendants' infringement of the '329 patent will continue unless enjoined by this Court.

15. Upon information and belief, the Defendants' infringement of the '329 patent has been willful.

16. As a direct and proximate consequence of the Defendants' infringement of the '329 patent, Sensus has suffered and will continue to suffer irreparable injury and damages in an amount not yet determined for which Sensus is entitled to relief.

COUNT II – PATENT INFRINGEMENT: U.S. PATENT NO. 7,012,546

17. Sensus incorporates the foregoing allegations in Paragraphs 1 through 8 as if set forth in full herein.

18. Sensus is the owner of all right, title, and interest in and to United States Patent No. 7,012,546 ("the '546 patent") entitled "Modular Wireless Fixed Network for Wide-area Metering Data Collection and Meter Module Apparatus," which duly and legally issued to M&FC on March 14, 2006 as assignee of the '546 patent. By

assignment, Sensus is the owner in all right, title and interest in the '546 patent and has full rights to sue and recover damages for infringement of the '546 patent. A copy of the '546 patent is attached to this Complaint as Exhibit B.

19. The '546 patent is valid and enforceable.

20. Upon information and belief, discovery will establish that Defendants, without authority, have made, used, offered to sell, sold and/or imported into the United States energy monitoring and control products, services, systems and/or methods embodying one or more of the inventions of the '546 patent.

21. The Defendants' activities have been without express or implied license from Sensus.

22. Upon information and belief, the Defendants' infringement of the '546 patent will continue unless enjoined by this Court.

23. Upon information and belief, the Defendants' infringement of the '546 patent has been willful.

24. As a direct and proximate consequence of the Defendants' infringement of the '546 patent, Sensus has suffered and will continue to suffer irreparable injury and damages in an amount not yet determined for which Sensus is entitled to relief.

PRAYER FOR RELIEF

WHEREFORE, Sensus respectfully requests entry of judgment in its favor and against the Defendants as follows:

- a) Enter Judgment that the Defendants have infringed the '329 patent and the '546 patent;
- b) Enter a temporary, preliminary and permanent injunction restraining the Defendants, their agents, officers, directors, assigns and others acting in

- concert with any of them from infringing, inducing the infringement of and/or contributing to the infringement of the '329 patent and the '546 patent;
- c) Award damages adequate to compensate Sensus for the Defendants' infringement of the '329 patent and the '546 patent pursuant to 35 U.S.C. § 284;
 - d) Award prejudgment interest and post-judgment interest on the damages awarded for the Defendants' infringement of the '329 patent and the '546 patent;
 - e) Determine that the Defendants have willfully infringed the '329 patent and the '546 patent, and that treble damages should be awarded pursuant to 35 U.S.C. § 284.
 - f) Declare that this case is exceptional under 35 U.S.C. § 285 and awarding Sensus its reasonable attorneys' fees, costs and expenses; and
 - g) Grant Sensus any further relief that the Court deems appropriate.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Sensus demands a trial by jury on all issues triable to a jury.

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/s/ C. Malcolm Cochran, IV
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