

RETURN DATE: OCTOBER 2, 2018 : SUPERIOR COURT  
PAVONIX (MASSACHUSETTS), INC. : J.D. OF HARTFORD  
f/k/a SOFTSCAPE, INC.  
V. : AT HARTFORD  
STATE OF CONNECTICUT,  
JUDICIAL BRANCH : AUGUST 10, 2018

**COMPLAINT**

**FIRST COUNT (BREACH OF LICENSING AGREEMENT)**

1. On or about June 20, 2000, Pavonix, Inc., (“Pavonix”) entered into a Software Development and License Agreement (“the Agreement”) with the State of Connecticut, Judicial Branch (“Connecticut Judicial”) for the development and maintenance of a relational database information system known as the Case Management Information System (“CMIS”) for use by Connecticut Judicial’s Court Support Services Division (“the “Licensed Program”).

2. The Agreement, was signed by Henry Watkins, then-CEO of Pavonix, and by Cortez White, Director of Materials Management for Connecticut Judicial.

3. The Agreement further provided that upon the completion of the development and implementation of the CMIS, Pavonix would provide maintenance and support services during an initial 360 day Support Period and subsequent extended Support Periods having an initial term of 24 months and successive terms of 12 months thereafter.

5. Pursuant to Paragraph 3(a) of the Agreement, granted Connecticut Judicial a “perpetual, non-exclusive, non-transferable, Enterprise-wide license to use a specific language version ... of the Licensed Program .... solely for its internal data processing operations.”

7. Pavonix at all times relevant herein has owned all copies and versions of the Licensed Program, source code, product documentation, and procedures for building source code and executables licensed to Connecticut Judicial.

8. Specifically, pursuant to Paragraph 3(b) of the Agreement, Pavonix retained “all rights in the Licensed Program and Documentation developed by [Pavonix], and any inventions, creations and improvement whether or not patentable or copyrighted, conceived or made in connection with the use of the licensed software.”

8. Between August 2000 and December 2005, Pavonix committed substantial time and resources to the development, implementation and refinement of CMIS and to the provision of ongoing support and maintenance of the Licensed Program in accordance with its obligations under the Agreement.

9. Pavonix at all times relevant herein took reasonable steps to protect and safeguard from disclosure its propriety information used in the development and implementation of the Licensed Program, including but not limited to its source code and did not disclose that source code to any unauthorized third party.

10. Pursuant to § 7(a) of the Agreement, Connecticut Judicial expressly agreed it would “treat the Licensed Program as confidential, shall not use the Licensed Program except as

contemplated under this Agreement, and shall not disclose the Licensed Program to any third party to the extent permitted by law.”

11. Pursuant to § 7(b) of the Agreement, Connecticut Judicial expressly agreed that “neither party shall use any of the other party’s Confidential Information [as defined therein] except as contemplated under this Agreement.”

12. Pursuant to § 23 of the Agreement, Connecticut Judicial expressly agreed that it was prohibited from, inter alia, copying, distributing, disclosing, transferring or modifying the Licensed Program, as defined therein.

13. At some time prior to March 28, 2007, Connecticut Judicial failed to pay Pavonix for services rendered under the Agreement in breach of the Agreement.

14. On or about March 28, 2007, Pavonix notified Connecticut Judicial that it was terminating its extended support services and would not perform further development work in the projects based on Connecticut Judicial’s failure to pay Pavonix what was owed in breach of the Agreement.

15. At some time prior to October of 2007, Connecticut Judicial, unbeknownst to Pavonix, had wrongfully taken Pavonix’s source code, in contravention of Pavonix’s ownership rights in that source code and Connecticut Judicial’s express obligations under the Agreement, and wrongfully utilized that source code to develop Judicial Electronic Bridge (“JEB”), a program designed to replace the Licensed Program

16. JEB is derived from and makes direct, repeated and extensive use of the CMIS database organization and design developed and owned by Pavonix.

17. Connecticut Judicial improperly created derivate works from the Licensed Program and Pavonix's propriety and confidential information, including the CMIS source code.

18. Connecticut Judicial has breached the Agreement in one or more of the following ways:

- (a) copying Pavonix's Licensed Program without authorization;
- (b) improperly using Pavonix's Licensed Program and proprietary and confidential information in ways not authorized under the agreement;
- (c) disclosing and/or distributing the Licensed Program to third parties;
- (d) modifying the Licensed Program, and:
- (e) secretly using Pavonix's source code to develop its own competing program in violation of Pavonix's ownership rights in that source code.

19. Connecticut Judicial, in developing and implementing the JEB system, significantly expanded the number of users of the CMIS system beyond Connecticut Judicial's Court Support Services Division in violation of the enterprise-wide license granted by Pavonix in the Agreement.

20. As a result of the foregoing, Pavonix has suffered damages.

**SECOND COUNT (MISAPPROPRIATION OF TRADE SECRETS IN VIOLATION OF  
THE CONNECTICUT UNIFORM TRADE SECRET ACT: Conn. Gen. State. §35-51 et  
seq.)**

21. Pavonix repeats and realleges each and every allegation set forth in Paragraphs 1-20 above as if fully set forth herein.

22. In connection with their contractual relationship, Connecticut Judicial gained access to confidential and proprietary information owned by Pavonix, including the Licensed Program and its source code.

23. The Licensed Program and its source code was not made available to the public by Pavonix and allowed Pavonix to derive independent economic value from the Licensed Program and source code.

24. Pavonix's Licensed Program is not readily ascertainable by proper means of third parties and is kept secret by Pavonix to maintain a competitive advantage in the marketplace.

25. Pavonix's Licensed Program contains highly confidential and proprietary information that is extremely valuable to Pavonix's business and at all relevant times was highly guarded by Pavonix.

26. Connecticut Judicial had an obligation to protect and not misappropriate Pavonix's Licensed Program and source code.

27. Connecticut Judicial knowingly and improperly used Pavonix's confidential and proprietary Licensed Program and source code in connection with the development of the JEB software, in violation of Conn. Gen. State. §35-51(b).

29. Judicial benefited from the unauthorized use of Pavonix's Licensed Program and

source code through the development and use of the JEB system.

30. Connecticut Judicial benefited from the unauthorized use of Pavonix's Licensed Program and source code by saving time and money associated with the development of the JEB system on its own as well as the ongoing costs associated with continued use of Pavonix's Licensed Program.

31. As a direct and proximate result of the Connecticut Judicial's unauthorized use of Pavonix's Licensed Program and source code, Pavonix has sustained irreparable damage and injury and continues to cause Pavonix irreparable injury that cannot be fully compensated for or measured by money damages alone.

**THIRD COUNT (VIOLATION OF THE CONNECTICUT UNFAIR TRADE  
PRACTICES ACT)**

32. Pavonix repeats and realleges each and every allegation set forth in Paragraphs 1-31 above as if fully set forth herein.

33. The negotiations, management and payment for services under the Agreement involves "trade or commerce" as those terms are used in General Statutes § 42-110b, et. Seq.

34. Sometime after entering into the Agreement, Connecticut Judicial engaged in unfair and deceptive acts or practices in the conduct of trade or commerce in violation of the Connecticut Unfair Trade Practices Act, general § 42-110b(a) by improperly taking and using, without authorization, Pavonix's Licensed Program and source code, in violation of the Agreement.

35. Connecticut Judicial's aforesaid conduct is immoral, unethical, oppressive and/or

unscrupulous.

25. As a result of Connecticut Judicial's unfair and deceptive acts and practice in violation of General Statutes § 42-110b, Pavonix suffered economic damages and irreparable harm in the market place.

WHEREFORE, the Plaintiff claims seeks:

1. Fair, just and reasonable money damages and such other relief as this Court deems fair and equitable;
2. Costs of this action;
3. An injunction and order of specific performance that Judicial, its agents and employees, and those acting on its behalf, cease copying Pavonix's Licensed Program; cease use of Pavonix's Licensed Program and proprietary and confidential information, Trade Secrets or any derivative works, or works that replicate the Licensed Program; cease disclosing and/or distributing the Licensed Program; and cease use of the CMIS system outside the scope of and in violation of the Agreement's enterprise-wide license;
4. Punitive damages;
5. Attorneys' fees.

THE PLAINTIFF,  
PAVONIX (MASSACHUSETTS), INC.  
f/k/a SOFTSCAPE, INC.

/s/ Young B. Han

Young B. Han, Juris No. 434975

yhan@davids-cohen.com

**DAVIDS & COHEN, P.C.**

40 Washington Street, Suite 20

Wellesley, MA 02481

Tel. No. (781) 416-5055

Hereof, fail not, but make due service and return according to law.

Dated at Hartford, Connecticut, this \_\_\_\_\_ day of \_\_\_\_\_ 2018.



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**STATEMENT OF AMOUNT IN DEMAND**

The amount, legal interest or property in demand for each count is not less than FIFTEEN THOUSAND DOLLARS (\$15,000.00), exclusive of interest or costs.

THE PLAINTIFF,  
PAVONIX (MASSACHUSETTS), INC.  
f/k/a SOFTSCAPE, INC.

/s/ Young B. Han  
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