

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**MIAMI DIVISION**

ESYS LATIN AMERICA, INC. and  
ESYS TECHNOLOGIES Pte. LTD.

Plaintiffs,

vs.

AUTOMATTIC, INC.,

Defendant.

CIVIL ACTION  
CASE NO.  
JUDGE:

MAGISTRATE:

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**COMPLAINT**

The plaintiffs, eSys Latin America, Inc. and eSys Technologies Pte, Ltd. sue the defendant, Automattic, Inc., for permanent injunction enjoining the defendant from publishing false, libelous and defamatory statements and damages for libel, slander, defamation and business disparagement in excess of \$75,000 and allege:

**PARTIES**

1. Plaintiff, eSys Latin America, Inc. is a Florida corporation with its principal place of business in Miami Dade County, Florida.
2. Plaintiff, eSys Technologies Pte, Ltd. is a private limited company, organized under and subject to the laws of Singapore and conducts business in Florida through its affiliate eSys Latin America, Inc.
3. Defendant, Automattic, Inc., is a California corporation with offices in San Francisco,

California and Registered Agent in Dover, Delaware.

### **JURISDICTION AND VENUE**

4. The Court has jurisdiction over this action pursuant to 28 U.S.C. §1332 as the matter in controversy exceeds \$75,000, and there is complete diversity of citizenship. This Court has jurisdiction less than 28 U.S.C. 1367 as these claims for relief arise out of a common set of facts and form part of the same case in controversy.

5. Venue is proper in this district, pursuant to 28 USC1391(b)(2) in that a substantial part of the events, acts or omissions giving rise to the claim occurred in the Southern District of Florida and defendant committed direct acts against the Plaintiffs in the Southern District of Florida.

6. Service of Process has been obtained over Automatic, Inc. pursuant to Florida Statutes sec. 48.193(1)(b) for the defendants committing tortuous acts against the Plaintiffs in Florida as hereinafter alleged.

### **FACTS**

7. Plaintiffs are in the business of purchasing and selling computer components to customers worldwide. All of the sales and distribution for Esys Technologies Pte, Ltd's in the United States is conducted by its affiliated company, eSys Latin America, Inc. whose office is in Miami Dade County, Florida. Any publication on the internet regarding eSys is directed against a Florida corporation and was accessed and accessible in Florida.

8. Defendant, Automatic, Inc., owns and operates an open source blog publishing application on the internet under the name "WordPress." WordPress is considered one of the most popular blog software in use today. WordPress is an extremely sophisticated system for the posting of blogs and indexing them for retrieval. Automatic/WordPress is not an internet service provider

(ISP). It is a website (the URL for WordPress is “wordpress.com.”) maintained for representatives of WordPress or others to publish commentary or news of a particular subject. Anyone can start a blog on WordPress in seconds without any technical knowledge that is viewed worldwide and in Florida.

9. The blogs published by WordPress are either written by employees, agents or representatives of WordPress or others using either false or fictitious identification making it virtually impossible to identify the actual writer of the blog. Because of this anonymity, Defendant, Automattic/WordPress is responsible for the defamatory publication. In addition, the Defendant has a duty to use reasonable care in ascertaining that the contents of the blogs are not false or defamatory.

10. On or about April 6, 2009, WordPress posted a blog entitled “Justice for Teledata Investor’s Forum” with a sub title “this forum is about presenting 100% facts about the fraudulent activities of promoters of Teledata and Esys.” (the “Teledata blog”). The Teledata blog published, *inter alia*, statements that the eSys group of companies and their principals were engaged in fraudulent activities and that certain websites were shut down because of the alleged fraud. The statement further published:

“The website of the Esys Group and related companies were shut down since last week when some of the investors reported that another big fraud has been found were the promoters of Esys namely. [sic] Vikas Goel and Niraj Goel have listed a fake company on the London Stock Exchange.”

11. On or about August 17, 2009, WordPress posted a blog entitled “Vikas Goel desperately inviting people to his new house in Dubai” and published the following statement: (the “Dubai blog”)

“Vikas Goel of fraud company Esys has recently been found in Singapore from his hiding and desperately inviting people to see his house in Dubai. After doing frauds of billions of dollars [sic] with Seagate and State Bank of India Vikas Goel was found in Singapore boasting about his ill-gotten fortune by doing fraud with Seagate and State Bank in India.”

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“The investigation are [sic] on and more money laundering transactions have been reported from far east which have been reported to the concerned authorities.”

12. On or about April 30, 2009, WordPress posted a blog entitled “No Twisted fact all real facts, etc. (the “Esys Global” blog). The eSys Global blog posted published the following statement:

“After a lot of hard work we have been able to find lots of evidence which cannot be disputed by any sane person. It would be the first time in the corporate history of the world where promoters of Teledata, Esys Singapore, tradelabs and Esys Global Holdings Dubai are so blatantly committing corporate frauds which involves billions of dollars [sic].”

13. Each of the statements contained in the blogs published by Defendant, Automatic, Inc. on its WordPress website are defamatory and contain serious false allegations against Esys Latin America, Inc. and its officers and directors as well as employees and injuring its goodwill and reputation.

14. Each of the statements contained in the blogs published by Defendant, Automatic, Inc. on its WordPress web site are defamatory and contain serious false allegations against Esys

Technologies Pte. Ltd. and its officers and directors as well as employees and injuring its goodwill and reputation.

15. Each of the statements published by WordPress on its website is false and malicious and made with the intent of willfully damaging the Plaintiffs.

16. Plaintiffs gave Defendant, Automattic, Inc., notice that the statements published on WordPress are false, defamatory and libelous. Defendant, Automattic, Inc. ignored all such notice; failed to verify the accuracy of the information and knew that the information was, in fact, false, libelous and defamatory.

17. Defendant, Automattic, Inc. policy for WordPress regarding libel and defamation is to do nothing. According to its website (<http://en.wordpress.com/abuse/>), WordPress will suspend blogs or blog posts only where there are personal threats and lies; calls for violence or impersonation of a private person. WordPress “. . . [W]ill not suspend blogs for other reasons you might find objectionable.” (emphasis in original).

18. The publication of each of the false and malicious statements about the Plaintiffs has damaged the Plaintiffs.

19. Each of the published statements alleging that the Plaintiffs engaged in criminal conduct is actionable *per se* because the published statements impugn the Plaintiffs’ ability to do business, and its methods of doing business.

20. At all time, Defendant, Automattic, Inc./WordPress retained editorial control over each of the above described statements and refused to remove the libelous and defamatory statements from its webpage.

21. The false and malicious statements have been published against the Plaintiffs, and

the Plaintiffs' principals, employees and representatives for the purpose of causing damages to the Plaintiffs.

22. Because of the continued publication of such false, defamatory and malicious statements concerning the Plaintiffs, the Plaintiffs have been and will continue to be adversely affected in the business world. Plaintiffs have suffered and will continue to suffer special damages in that they have lost customers and sources of products from suppliers with whom they had previously done business and had excellent business relationships.

23. By posting the defamatory material on its website about a Florida resident, defendant, Automatic/WordPress, has directed communications about a Florida resident to readers worldwide, including potential and actual readers within Florida. The posting, when accessed by third parties, is published in Florida and is a tortuous act of defamation within Florida.

24. All conditions precedent have been performed, have occurred, or have been waived

**COUNT I  
ACTION FOR INJUNCTION**

25. Plaintiffs incorporate the allegations of paragraphs 1 through 24.

26. Defendant, Automattic, Inc./WordPress, by the continued publication of false and defamatory statements, has engaged in a deliberate plan to adversely affect and destroy the business reputation of the Plaintiffs.

27. Plaintiffs' legal remedy against the continuous publication of the libelous and defamatory blogs, is inadequate.

28. Unless Automattic, Inc. is enjoined from continually publishing the false, libelous and defamatory statements, Plaintiffs will suffer damages for which there is no adequate remedy at law

Wherefore Plaintiffs pray that this court will take jurisdiction of this action and grant Plaintiffs a permanent injunction to enjoin Defendant, Automattic, Inc. from publishing the above described false libelous, defamatory and statements and any other false statements on its WordPress website and award attorneys fees and costs of this action.

**COUNT II  
DEFAMATION PER SE**

29. Plaintiffs incorporate the allegations of paragraphs 1 through 28.

30. The meanings of the defamatory publications are clear and unambiguous and affect the credit, property and business reputation of the plaintiff and tend to prejudice the plaintiff in the conduct of its trade and business and its dealing with third parties.

31. By reason of the libel and defamation actions of Defendant, Automattic, Inc. the plaintiffs have been damaged.

32. In addition to the damages caused by the defendant's libelous and defamatory *per se* publications, plaintiffs have suffered exemplary and special damages. Defendants libel and defamations have prevented the Plaintiff is securing products; affected its credit worthiness and relationships with its shareholders, creditors and lenders. Damages include loss of business relationships that could result in new business for its operations. the acts of Automattic have totuisly interfered with these relationships in an attempt to harm Plaintiffs and Plaintiff's business operation.

Wherefore plaintiffs demand judgment against the defendant, Automattic, Inc. for actual and special damages, including costs, interest and attorneys fees.

**COUNT III  
DEFAMATION AND SLANDER**

33. Plaintiffs incorporate the allegations of paragraphs 1 through 32.

34. The Defendant, Automattic, Inc., published and continued to publish false statements purporting to be facts about the Plaintiffs to third persons via its WordPress web site. No privilege, absolute or condition attaches to these statements. Defendant's false and defamatory statements have caused damages suffered by the Plaintiffs.

Wherefore plaintiffs demand judgment against the defendant, Automattic, Inc. for actual and special damages, including costs, interest and attorneys fees.

**COUNT IV  
BUSINESS DISPARAGEMENT**

35. Plaintiffs incorporate the allegations of paragraphs 1 through 34.

36. The publication of the false, libelous and defamatory words about the Plaintiffs economic interests has caused the Plaintiffs special damages, including but not limited to, loss of business relationships that could result in new business for its operations, preventing the Plaintiff in securing products; affecting its credit worthiness and its relationships with its shareholders, creditors and lenders.

Wherefore plaintiffs demand judgment against the defendant, Automattic, Inc. for actual and special damages, including costs, interest and attorneys fees

**DEMAND FOR TRIAL BY JURY**

37. Plaintiffs demand trial by jury of all issues so triable.

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*s/Bennett G. Feldman*

BENNETT G. FELDMAN (Fla.Bar No.024106)

Email address: [benfeld@bellsouth.net](mailto:benfeld@bellsouth.net)

2655 Lejeune Road

Suite 514

Coral Gables, Fla. 33134

Tel. 305 445-9909 Fax 305 461-5088

Attorney for Plaintiffs