

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

L-3 COMMUNICATIONS SECURITY
AND DETECTION SYSTEMS
CORPORATION DELAWARE,

Plaintiff,

v.

AMERICAN SCIENCE &
ENGINEERING, INC.,

Defendant.

CIVIL ACTION NO. 04-10339-RWZ

**L-3'S LOCAL RULE 56.1 STATEMENT OF FACTS IN SUPPORT OF
ITS MOTION FOR PARTIAL SUMMARY JUDGMENT THAT CERTAIN
CLAIMS OF U.S. PATENT NO. 5,903,623 ARE INVALID UNDER
35 U.S.C. §102(b)**

Pursuant to Local Rule 56.1, plaintiff, L-3 Communications Security and Detection Systems Corporation Delaware, presents the following concise statement of material facts as to which it contends there is no genuine issue to be tried:

1. On October 19, 1994, AS&E entered into contract number DAAB10-95-0001 with the U.S. Army C3I Acquisition Center ("the Army Contract"). (Ex. 1)¹.

2. The Army Contract reflected a commercial sale of a mobile x-ray inspection system ("the Mobile CargoSearch System") prior to February 12, 1995. (Ex. 1).

¹ The exhibits referred to in this document are attached to the Surreply Declaration of Robert M. Abrahamsen in Support of L-3's Opposition to AS&E's Motion for Partial Summary Judgment (D.I. 60).

3. The Mobile CargoSearch System to be delivered pursuant to the Army Contract was ready for patenting prior to February 12, 1995. (Exs. 1-7).

4. All of the limitations of each of claims 1-7, 9, 11-13, 19-21, 23-30, 32, 34-36, 42-48, 50, 52, and 53 of U.S. Patent No. 5,903,623 were met by the Mobile CargoSearch System sold prior to February 12, 1995 pursuant to the Army Contract. (Ex. 1).

Respectfully submitted,

L-3 COMMUNICATIONS SECURITY AND
DETECTION SYSTEMS CORPORATION
DELAWARE

Dated: March 3, 2005

/s/ James J. Foster
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