

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

DISPOSITION SERVICES LLC,

Plaintiff,

v.

DELL INC.,

Defendant.

Case No. 2:13-cv-282

PATENT CASE

JURY TRIAL DEMANDED

COMPLAINT

Disposition Services LLC (“Disposition Services”) files this Complaint against Dell Inc. (“Defendant”) for infringement of United States Patent No. 5,424,944 (hereinafter “the ‘944 Patent”).

THE PARTIES

1. Disposition Services is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business in Highland, New York.

2. Defendant is a Delaware corporation with a principal place of business at One Dell Way, Round Rock, Texas 78682. This Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in the state of Texas, has conducted business in the state of Texas, and/or has engaged in continuous and systematic activities in the state of Texas.

JURISDICTION AND VENUE

3. This is an action for patent infringement under Title 35 of the United States Code. Disposition Services is seeking injunctive relief as well as damages.

DELL EXHIBIT 1002

4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes, 35 U.S.C. § 101 *et seq.*

5. Venue is proper under 28 U.S.C. §§ 1391(c) and 1400(b) because Defendant has committed acts of infringement in this district and/or is deemed to reside in this district.

6. This Court has personal jurisdiction over Defendant and venue is proper in this district because Defendant has committed, and continues to commit, acts of infringement in the state of Texas, including in this district and/or have engaged in continuous and systematic activities in the state of Texas, including in this district.

7. Dell provides and performs its asset disposition processes and services globally, including nationally and in this district.

COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 5,424,944)

8. Disposition Services incorporates paragraphs 1 through 7 herein by reference.

9. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

10. Disposition Services is the owner of the '944 Patent, entitled "System and Methods for Controlled Asset Disposition," with ownership of all substantial rights in the '944 Patent, including the right to exclude others and to enforce, sue and recover damages for past and future infringement. A true and correct copy of the '944 Patent is attached as Exhibit A.

11. The '944 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

12. Defendant has directly infringed and continues to directly infringe one or more claims of the '944 Patent in this judicial district and elsewhere in Texas and the United States, including at least claim 1, without the consent or authorization of Disposition Services, by or through its making, having made, offer for sale, sale, and/or use of the patented systems and methods for controlled asset disposition through operation of its asset disposition processes and services.

13. Defendant is liable for joint infringement of one or more claims of the '944 Patent in this judicial district and elsewhere in Texas and the United States, including at least claim 1, because it exercises control or direction over its asset disposition processes and services including acts committed by another party that are required to complete the performance of patented method for controlled asset disposition, making every step of the patented method attributable to Defendant. To the extent Defendant does not perform any step of the claimed method itself, Defendant directs or controls another entity or entities to perform that step or steps of the claimed method.

14. Disposition Services has been damaged as a result of Defendant's infringing conduct described in this Count. Defendant is, thus, liable to Disposition Services in an amount that adequately compensates it for Defendant's infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

15. Defendant's actions complained of herein will continue unless Defendant is enjoined by this Court.

JURY DEMAND

Disposition Services hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

Disposition Services requests that this Court find in its favor and against Defendant, and that this Court grant Disposition Services the following relief:

- a. Enter judgment for Disposition Services on this Complaint;
- b. Enter judgment that one or more claims of the '944 Patent has been infringed by Defendant;
- c. Enter judgment that Defendant is liable for joint infringement of one or more claims of the '944 Patent;
- d. Enter judgment that Defendant accounts for and pays to Disposition Services all damages to and costs incurred by Disposition Services because of Defendant's infringing activities and other conduct complained of herein;
- e. Award Disposition Services damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;
- f. Enter a permanent injunction enjoining Defendant and its offices, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or participation with Defendant, from infringing the '944 Patent, or, in the alternative, judgment that Defendant accounts for and pays to Disposition Services a reasonable royalty and an ongoing

post judgment royalty because of Defendant's past, present and future infringing activities and other conduct complained of herein;

- g. That Disposition Services be granted pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein;
- h. That Disposition Services be granted such other and further relief as the Court may deem just and proper under the circumstances.

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