

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

_____)	
)	
ANDREA ELECTRONICS)	
CORPORATION,)	
)	
)	Civil Action No. 2:15-cv-209
Plaintiff,)	
)	
)	COMPLAINT
v.)	
)	
)	JURY TRIAL DEMANDED
DELL INC.)	
)	
)	
Defendant.)	
_____)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Andrea Electronics Corporation (“Andrea” or “Plaintiff”), by and through its counsel, Pepper Hamilton LLP, for its Complaint against defendant Dell Inc. (“Dell” or “Defendant”) alleges as follows:

NATURE OF ACTION

1. This is an action for patent infringement under the patent laws of the United States, 35 U.S.C. §§ 271, *et seq.*, to enjoin infringement and obtain damages resulting from Defendant’s unauthorized and ongoing actions, in the state of New York and elsewhere, of making, having made, using, selling, having sold, offering to sell, and/or importing or having imported into the United States, certain personal computer products that infringe one or more claims in Andrea’s U.S. Patent No. 5,825,898 (the “’898 Patent”), U.S. Patent No. 6,049,607 (the

“’607 Patent”), U.S. Patent No. 6,363,345 (the “’345 Patent”), U.S. Patent No. 6,377,637 (the “’637 Patent”), and U.S. Patent No. 6,483,923 (the “’923 Patent”) (collectively, the “Asserted Patents”).

2. This is an action for direct infringement. Upon information and belief, Defendant makes, has made, uses, sells, offers to sell, and/or imports or has imported into the United States certain personal computer products including, but not limited to, desktops, notebooks, laptops, all-in-ones, Chromebooks, and tablets that infringe one or more of the Asserted Patents, either literally or under the doctrine of equivalents.

3. In addition, this is an action for indirect infringement. Upon information and belief, Defendant contributes to or induces the direct infringement, either literally or under the doctrine of equivalents, of one or more claims in the ’898, ’607, ’637, ’345, and ’923 Patents.

THE PARTIES

4. Plaintiff Andrea is a corporation organized and existing under the laws of the state of New York with its principal place of business at 65 Orville Drive, Suite One, Bohemia, New York 11716.

5. Upon information and belief, Dell Inc. is a corporation organized and existing under the laws of Delaware, headquartered at 1 Dell Way, Round Rock, Texas 78682-7000. Dell Inc. may be served through its registered agent for service of process, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

JURISDICTION AND VENUE

6. Upon information and belief, Defendant is subject to personal jurisdiction in the Eastern District of New York because it regularly transacts business in this judicial district by, among other things, offering products to customers, business affiliates, and/or partners located in this judicial district. In addition, Defendant has committed acts of infringement of one or more

claims of each of the Asserted Patents in this judicial district. Infringing products made and sold by Defendant including, but not limited to, desktops, notebooks, laptops, all-in-ones, Chromebooks, and tablets are widely advertised in New York and are readily available at numerous retail locations throughout the state, including within the Eastern District of New York. Upon information and belief, Defendant makes ongoing and continuous shipments of infringing products into the Eastern District of New York and maintains an established distribution network that encompasses New York. Infringing products are manufactured by Defendant, or at its direction, and are used or consumed within this State in the ordinary course of trade.

7. Venue is proper in the Eastern District of New York under 28 U.S.C. §§ 1391(b) and (c) as well as 28 U.S.C. § 1400(b) because Defendant is subject to personal jurisdiction in this district and has committed acts of infringement in this district. Additionally, Plaintiff's principal place of business is located in this judicial district.

BACKGROUND AND FACTS RELATED TO THIS ACTION

8. Andrea is a leading industry developer of product solutions which optimize the performance of voice user interfaces and has a decorated history deeply rooted in the state of New York. Its technology has been applied to products related to, among other things, voice over internet protocol ("VoIP") telephone, VoIP teleconferencing, video conferencing, speech recognition, computer gaming, in-car computing, and 3D audio recording.

9. The leadership of Andrea has spanned three familial generations over 80 years, and the company has been headquartered in the Long Island community since 1934. Andrea's products are featured in the Henry Ford Museum and Smithsonian National Museum of American History.

10. In the early 1900s, Frank Andrea, an Italian immigrant, started his business career. He began as an electroplater for I.P. Frink manufacturing company and studied at night as a tool maker and machinist at the Mechanics Institute in New York City. In 1913 he joined the Frederick Pierce Company and, after the outbreak of World War I, worked to design tools to manufacture parts for a new aircraft radio receiver that he had built. Mr. Andrea soon thereafter started his own company, FADA.

11. As founder of FADA, Mr. Andrea employed his family members, including his 16 year-old brother, John. FADA picked up momentum when Mr. Andrea convinced Marconi, the predecessor of RCA, to place an order for radio parts. FADA began manufacturing parts for crystal sets and “Do It Yourself” kits. FADA also soon began manufacturing parts such as sockets and rheostats for tube type radios.

12. After selling his controlling interest in FADA, Mr. Andrea founded the Andrea Radio Corporation (“Andrea Radio”). Andrea Radio’s offerings evolved over time. In 1939, Andrea Radio developed and produced one of the first television sets, which was displayed at the World’s Fair in Queens, New York. Andrea Radio sold TV kits and the first television console models that also housed a radio and phonograph. In 1954, Andrea Radio began developing a color television and introduced a set in 1957.

13. During the Second World War, the firm engaged in the production of military electronics. In 1942, Andrea Radio was presented with the prestigious high honors Navy E Award for manufacturing excellence and providing military audio communications equipment. In the early 1960s, Andrea Radio developed and produced several types of high reliability intercommunication systems for installation in various military and commercial aircraft. Indeed,

Andrea Radio produced the audio intercom system for Project Mercury's first manned spacecraft.

14. Mr. Andrea passed away in 1965, leaving his son, Frank Jr., to continue the Andrea business.

15. In the 1970s and 1980s, Andrea Radio became a premier supplier of high performance avionic intercom equipment for defense industry manufacturers like Bell Helicopter, Boeing, Sikorsky, and Lockheed, prompting Andrea Radio to change its name to Andrea Electronics Corporation. Andrea produced microphone audio pre-amplifiers for Navy aviators' oxygen mask helmet systems. The experience gained from producing audio intercom systems for high noise environments paved the way for Andrea's emphasis on active noise cancellation.

16. Product development continued in the 1990s with Andrea producing the first Active Noise Canceling ("ANC") boom microphone computer headset for deployment with computer speech recognition. Andrea shipped millions of headsets and microphone products to software OEMs. In 1998, Andrea developed and produced the first digital array microphone for commercial use, providing hands-free voice command and control functionality. In 1999, Andrea developed and produced the first USB headset as well as the first desktop digital array microphone.

17. In the 2000s, Andrea broadened the application of its product offerings. In 2001, it developed and produced digital noise canceling array microphones for speech control systems in police cruisers. In 2002, Andrea revolutionized PC audio input by introducing the first stereo array microphone interface for integrated audio coder/decoders ("CODECs"). By the late 2000s,

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