

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

EFFICIENCY SYSTEMS, LLC,

Plaintiff,

v.

DELL, INC.,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Efficiency Systems, LLC (“ES” or “Plaintiff”), by way of Complaint against the above-named defendant (“Defendant”), alleges the following:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

THE PARTIES

2. Plaintiff ES is a limited liability company organized under the laws of the State of Delaware with a place of business at 1220 N. Market St., Suite 806, Wilmington, Delaware 19801.

3. On information and belief, Defendant Dell, Inc. (“Dell”) is a corporation organized under the laws of the State of Delaware with its principal place of business at 1 Dell Way, Round Rock, Texas 78682-7000.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.

6. On information and belief, Dell is subject to the jurisdiction of this Court by virtue of the fact that it is organized under the laws of the State of Delaware. On information and belief, Dell also is subject to jurisdiction of this Court by reason of its acts of patent infringement which have been committed in this Judicial District, and by virtue of its regularly conducted and systematic business contacts in this State. As such, Dell has purposefully availed itself of the privilege of conducting business within this Judicial District; has established sufficient minimum contacts with this Judicial District such that it should reasonably and fairly anticipate being haled into court in this Judicial District; and at least a portion of the patent infringement claims alleged herein arise out of or are related to one or more of the foregoing activities.

7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and 1400(b).

THE PATENT-IN-SUIT

8. On January 10, 2006, United States Patent No. 6,986,069 (“the ‘069 Patent”), entitled “Methods and Apparatus for Static and Dynamic Power Management of Computer Systems,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ‘069 Patent is attached as Exhibit A to this Complaint.

9. ES is the assignee and owner of the right, title and interest in and to the ‘069 Patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,986,069

10. The allegations set forth in the foregoing paragraphs 1 through 9 are hereby realleged and incorporated herein by reference.

11. ES provided actual notice to Dell of Dell's infringement of the '069 Patent in a letter dated June 12, 2013. In that letter, ES informed Dell that Dell was infringing the '069 Patent by making, using, offering for sale, selling, and importing computer systems and components that contain the claimed power management features (the "Accused Instrumentalities"), including but not limited to Dell PowerEdge Servers and Dell OpenManage Power Center. ES's letter further informed Dell that it is infringing at least claim 1 of the '069 patent by making, using, offering for sale, selling, and importing the Accused Instrumentalities which satisfy the limitations of claim 1 in at least the following manner:

(a) The Accused Instrumentalities include a plurality of computer systems, such as Dell 12th Generation PowerEdge rack, tower, and blade servers, each including a memory coupled to a processor. Each computer system has a power consumption level that is a measure of the amount of power consumed by that computer system. The computer systems collectively have an aggregate power consumption level that comprises a combination of the power consumption levels associated with each of the plurality of computer systems.

(b) The Accused Instrumentalities include a power source providing power to the plurality of computer systems.

(c) The Accused Instrumentalities include a power authority subsystem that allows an aggregate power cap to be specified for a group of computer systems. This power authority subsystem includes components such as the baseboard management

controller (the iDRAC7 in the 12th generation PowerEdge servers) in each server, the chassis management controller in each chassis, Dell's customized version of the Intel Node Manager firmware, and the Dell OpenManage Power Center, although not all of these components may be present in all configurations. Once the aggregate power cap is specified, the power authority subsystem then manipulates the aggregate power consumption levels by managing the power consumption levels of the plurality of computer systems. This is accomplished by assigning a power cap to the service processor in each of the computer systems.

12. ES's letter further informed Dell that it is inducing infringement of the '069 Patent by actively aiding and abetting others to engage in the following actions that constitute direct infringement: (1) performing the steps of the method claims in connection with use of the Accused Instrumentalities, (2) using the Accused Instrumentalities, and (3) combining the Accused Instrumentalities to make the claimed inventions. The letter explained that these other entities include Dell's customers and end users of the Accused Instrumentalities. The letter further explained that Dell also actively induces these other entities to engage in these actions by advertising, offering for sale, and selling the Accused Instrumentalities, and by providing user manuals, product documentation, and other instructions regarding the use of the power management features of the Accused Instrumentalities.

13. ES's letter further informed Dell that it is contributing to infringement of the '069 patent by selling the Accused Instrumentalities to its customers and end users because the Accused Instrumentalities constitute a material part of the invention, were especially made or especially adapted for use in an infringement of the patent, and have no substantial non-infringing uses. In particular, the letter explained that the Accused Instrumentalities constitute a

material part of the claimed invention at least because they contain the components that manage power consumption across multiple computer systems as claimed in the '069 Patent. Further, the letter explained, the Accused Instrumentalities were made or especially adapted for use in an infringement of the '069 Patent and have no substantial non-infringing uses at least because they contain components whose only purpose is to manage power consumption across multiple computer systems as claimed in the '069 Patent.

14. Dell has had actual knowledge of the '069 Patent and its infringement of that patent since at least the date Dell received the June 12, 2013 notice letter from ES.

15. In violation of 35 U.S.C. § 271(a), Dell has directly infringed and continues to directly infringe, both literally and under the doctrine of equivalents, the '069 Patent by making, using, offering for sale, selling, and importing the Accused Instrumentalities in the United States without the authorization of ES.

16. Upon information and belief, Dell has induced and continues to induce others to infringe the '069 Patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to engage in the following actions that constitute direct infringement: (1) performing the steps of the method claims in connection with use of the Accused Instrumentalities, (2) using the Accused Instrumentalities, and (3) combining the Accused Instrumentalities with each other and with other components, such as third-party power management software, to make the claimed inventions. These other entities include Dell's customers and end users of the Accused Instrumentalities. Dell actively induces these other entities to engage in these actions by advertising, offering for sale, and selling the Accused Instrumentalities, and by providing user manuals, product documentation, and other instructions regarding the use of the power management features of the Accused

Instrumentalities. On information and belief, Dell has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because Dell has had actual knowledge of the '069 Patent and that its acts were inducing infringement of the '069 Patent since at least the date it received the notice letter from ES.

17. Upon information and belief, Dell has contributed to infringement under 35 U.S.C. § 271(c) by selling the Accused Instrumentalities to its customers and end users because the Accused Instrumentalities constitute a material part of the invention, were especially made or especially adapted for use in an infringement of the patent, and have no substantial non-infringing uses. In particular, the Accused Instrumentalities constitute a material part of the claimed invention at least because they contain the components that manage power consumption across multiple computer systems as claimed in the '069 Patent. Further, the Accused Instrumentalities were made or especially adapted for use in an infringement of the '069 Patent and have no substantial non-infringing uses at least because they contain components whose only purpose is to manage power consumption across multiple computer systems as claimed in the '069 Patent.

18. ES has been harmed by Dell's infringing activities.

19. ES notified Dell of its infringement of the '069 Patent including an identification of the particular infringing products and features, but Dell thereafter continued to infringe the '069 Patent by continuing the activities described in Paragraphs 11-13 above. On information and belief, Dell has not obtained an opinion of counsel regarding infringement or validity with respect to the claims of '069 Patent. Dell's continued infringement has therefore been in reckless disregard of ES's patent rights. On information and belief, Dell's infringement has been and continues to be willful.

JURY DEMAND

ES demands a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, ES respectfully requests that this Court enter judgment for ES and against Dell as follows:

- a. An adjudication that Dell has infringed the '069 Patent;
- b. An award of damages to be paid by Dell adequate to compensate ES for Dell's past infringement of the '069 Patent, and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- c. An injunction ordering Dell to pay an ongoing royalty in an amount to be determined for any continued infringement after the date judgment is entered;
- d. An award of treble damages under 35 U.S.C. § 284;
- e. A declaration finding this to be an exceptional case, and awarding ES attorney fees under 35 U.S.C. § 285; and
- f. For such further relief at law and in equity as the Court may deem just and proper.

Dated: June 28, 2013

STAMOULIS & WEINBLATT LLC

/s/ Richard C. Weinblatt

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