

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PRAGMATUS MOBILE, LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. _____
)	
DELL INC.)	JURY TRIAL DEMANDED
)	
)	
Defendants)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Pragmatius Mobile, LLC ("Pragmatius") complains and alleges as follows against Defendant Dell Inc. ("Dell"):

THE PARTIES

1. Pragmatius is a limited liability company organized and existing under the laws of the Commonwealth of Virginia with its principal place of business at 601 North King Street, Alexandria, Virginia 22314.

2. Pragmatius is informed and believes that Dell is a corporation organized under the laws of Delaware and its principal place of business is One Dell Way, Round Rock, Texas 78682.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, United States Code, 35 U.S.C. § 271 et seq. This Court has subject matter jurisdiction over this action under Tide 28 United States Code, §§ 1331 and 1338.

4. Pragmatius is informed and believes that this Court has personal jurisdiction over Dell because Dell is incorporated within this district, and/or because Dell has committed, and

continues to commit, acts of infringement in Delaware. Pragmatus is informed and believes that Dell also maintains a registered agent in Delaware, namely Corporation Service Company, 2711 Centerville Rd, Suite 400, Wilmington, Delaware 19808.

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

THE PATENTS-IN-SUIT

6. On April 3, 2012, the United States Patent and Trademark Office ("USPTO") duly and legally issued United States Patent No. 8,149,124 ("the '124 Patent"), entitled "Personal Security And Tracking System." Pragmatus holds all right, title and interest in and to the '124 Patent. A true and correct copy of the '124 Patent is attached as Exhibit A.

7. On June 18, 2013, the United States Patent and Trademark Office ("USPTO") duly and legally issued United States Patent No. 8,466,795 ("the '795 Patent"), entitled "Personal Security And Tracking System." Pragmatus holds all right, title and interest in and to the '795 Patent. A true and correct copy of the '795 Patent is attached as Exhibit B.

8. On information and belief, Dell had knowledge of at least the '124 Patent and the '795 Patent no later than October 8, 2013 by virtue of a letter sent by Pragmatus to Dell's CEO, Michael Dell.

COUNT I

(INFRINGEMENT OF THE '124 PATENT)

9. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 8 above.

10. Dell has and continues to infringe directly one or more claims of the '124 Patent by making, using, offering for sale, selling and/or practicing the inventions covered by at least claim 1 of the '124 Patent, at least by providing the Dell Latitude 10 tablet.

11. Dell has and continues to infringe indirectly one or more claims of the '124 Patent by inducing others to infringe at least claim 1 of the '124 Patent by knowingly and intentionally encouraging or aiding third parties (e.g., Dell's users) to use, *inter alia*, the Dell Latitude 10 tablet in a way that infringes and will continue to infringe the '124 Patent. Dell, through at least its online user manuals, marketing materials and help materials actively induced and continues to induce its users of , *inter alia*, the Dell Latitude 10 tablet to infringe the '124 Patent.

12. Dell has and continues to contributorily infringe one or more claims of the '124 Patent, including at least claim 1, by offering to users of, *inter alia*, the Dell Latitude 10 tablet components that embody a material part of the inventions described in the '124 Patent that are known by Dell to be especially made or especially adapted for use in infringement of the '124 Patent and are not staple articles or commodities suitable for substantial, non-infringing use. Pragmatus is informed and believes that the third party users of, *inter alia*, the Dell Latitude 10 tablet have infringed and will continue to infringe the '124 Patent by using the Dell Latitude 10 tablet.

13. Pragmatus has provided Dell written notice of Dell's infringement prior to the filing of this suit, and Dell also has written notice of its infringement by virtue of the filing and service of this Complaint. Pragmatus is informed and believes that from the time that Dell received notice of its infringement of the '124 patent on or about October 9, 2013 in a letter from William Marino to Michael Dell, Dell knew that users of, *inter alia*, the Dell Latitude 10 tablet infringed the '124 patent and knew that it facilitated infringement by providing the Dell Latitude 10 tablet to end users and encouraged infringement by providing online user manuals, marketing materials and help materials that explain how to infringe the '124 Patent. In addition to

identifying the '124 Patent in the October 8, 2013 letter, Mr. Marino also included representative claim comparisons showing how the '124 Patent reads on the Dell Latitude 10 tablet.

14. Pragmatus is informed and believes that following notice Dell did nothing to remedy its infringement and continues to infringe to this day. Dell has continued to infringe despite an objectively high likelihood that its, *inter alia*, Dell Latitude 10 tablet infringes the '124 Patent. Moreover, this risk was either known or so obvious that it should have been known to Dell. Accordingly, Dell has willfully infringed the '124 Patent.

15. As a result of Dell's acts of infringement, Pragmatus has suffered and will continue to suffer damages in an amount to be proved at trial.

COUNT II

(INFRINGEMENT OF THE '795 PATENT)

16. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 8 above.

17. Dell has and continues to infringe directly one or more claims of the '795 Patent by making, using, offering for sale, selling and/or practicing the inventions covered by at least claim 27 of the '795 Patent, at least by providing the Dell Latitude 10 tablet.

18. Dell has and continues to infringe indirectly one or more claims of the '795 Patent by inducing others to infringe at least claim 27 of the '795 Patent by knowingly and intentionally encouraging or aiding third parties (e.g., Dell's users) to use, *inter alia*, the Dell Latitude 10 tablet in a way that infringes and will continue to infringe the '795 Patent. Dell, through at least its online user manuals, marketing materials and help materials actively induced and continues to induce its users of, *inter alia*, the Dell Latitude 10 tablet to infringe the '795 Patent.

19. Dell has and continues to contributorily infringe one or more claims of the '795 Patent, including at least claim 27, by offering to users of, *inter alia*, the Dell Latitude 10 tablet

components that embody a material part of the inventions described in the '795 Patent that are known by Dell to be especially made or especially adapted for use in infringement of the '795 Patent and are not staple articles or commodities suitable for substantial, non-infringing use. Pragmatus is informed and believes that the third party users of, *inter alia*, the Dell Latitude 10 tablet have infringed and will continue to infringe the '795 Patent by using the Dell Latitude 10 tablet.

20. Pragmatus has provided Dell written notice of Dell's infringement prior to the filing of this suit, and Dell also has written notice of its infringement by virtue of the filing and service of this Complaint. Pragmatus is informed and believes that from the time that Dell received notice of its infringement of the '795 patent on or about October 9, 2013 in a letter from William Marino to Michael Dell, Dell knew that users of, *inter alia*, the Dell Latitude 10 tablet infringed the '795 patent and knew that it facilitated infringement by providing the Dell Latitude 10 tablet to end users and encouraged infringement by providing online user manuals, marketing materials and help materials that explain how to infringe the '795 Patent. In addition to identifying the '795 Patent in the October 8, 2013 letter, Mr. Marino also included representative claim comparisons showing how the '795 Patent reads on the Dell Latitude 10 tablet.

21. Pragmatus is informed and believes that following notice Dell did nothing to remedy its infringement and continues to infringe to this day. Dell has continued to infringe despite an objectively high likelihood that its, *inter alia*, Dell Latitude 10 tablet infringes the '795 Patent. Moreover, this risk was either known or so obvious that it should have been known to Dell. Accordingly, Dell has willfully infringed the '795 Patent.

22. As a result of Dell's acts of infringement, Pragmatus has suffered and will continue to suffer damages in an amount to be proved at trial.

PRAYER FOR RELIEF

WHEREFORE, Pragmatus respectfully requests the following relief:

- a) A judgment that Dell has infringed one or more claims of United States Patent Nos. 8,149,124 and 8,466,795;
- b) A judgment that United States Patent Nos. 8,149,124 and 8,466,795 are valid and enforceable;
- c) Pragmatus be awarded damages adequate to compensate Pragmatus for Dell's infringement of United States Patent Nos. 8,149,124 and 8,466,795 up until the date such judgment is entered, including prejudgment and post-judgment interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary, to adequately compensate Pragmatus for Dell's infringement, an accounting;
- d) A judgment that Pragmatus be awarded attorney fees, costs, and expenses incurred in prosecuting this action;
- e) A judgment that Pragmatus be awarded such further relief at law or in equity as the Court deems just and proper; and
- f) A judgment permanently enjoining Dell from further infringement of each of United States Patent Nos. 8,149,124 and 8,466,795.
- g) A judgment that Dell's infringement of United States Patent Nos. 8,149,124 and 8,466,795 was willful and enhancing Pragmatus' damages to three times its actual damages as a result.

DEMAND FOR JURY TRIAL

Pragmatus hereby demands trial by jury on all claims and issues so triable.

Dated: October 10, 2013

Respectfully submitted,

FARNAN LLP

By: /s/ Brian E. Farnan

Brian E. Farnan (Bar No. 4089)
919 North Market Street, 12th Floor
Wilmington, Delaware 19801
(302) 777-0300
(302) 777-0301 (Fax)
bfarnan@farnanlaw.com

Attorneys for Plaintiff
PRAGMATUS MOBILE, LLC

Of Counsel:

Anthony Grillo
MARINO AND GRILLO
437 Midland Avenue
Wayne, PA 19087
Telephone: (610) 989-0143
Fax: (610) 549-2385
agrillo@marinogrillo.com