

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

ADP Dealer Services, Inc.,	)	
	)	Civil Action No. 14-631
Plaintiff,	)	
	)	
v.	)	
	)	JURY TRIAL DEMANDED
Robert W. Suggs, Sr.,	)	
	)	
Defendant.	)	
_____	)	

**COMPLAINT**

ADP Dealer Services, Inc. (“Dealer Services”), for its complaint against Robert W. Suggs, Sr. (“Suggs”), by and through its undersigned attorneys, states and alleges as follows:

**INTRODUCTION**

1. Dealer Services brings this suit to defend against allegations of patent infringement involving products and services it sells to its clients for maintaining their automobile inventories (“Inventory Service”). Thirteen of Dealer Services’ automobile dealer clients received letters from Mr. Christopher Joe (the “Infringement Letters”), an attorney with the law firm of Buether Joe & Carpenter, LLC, alleging that Suggs is the owner of United States Patent No. 8,548,672 (the “’672 patent” or the “patent-in-suit”) and alleging that, *inter alia*, Dealer Services’ clients’ websites, using Dealer Services’ Inventory Service, infringe at least claim 3 of the ‘672 patent owned by Suggs.

2. Suggs’ allegations have no merit and Dealer Services brings this declaratory judgment action against Suggs for a declaration that Dealer Services’ Inventory Service does not

infringe any valid and enforceable claim of the '672 patent, and to recover damages from Suggs for causing Dealer Services to defend itself against a meritless patent infringement allegation.

### **PARTIES**

3. Plaintiff ADP Dealer Services, Inc. is a corporation organized under the laws of the State of Delaware and has a principal place of business at 1950 Hassell Road, Hoffman Estates, Illinois 60195.

4. Upon information and belief, Defendant Robert W. Suggs, Sr. is an individual residing within this district, in Austin, Texas.

### **NATURE OF THE ACTION**

5. This is an action for declaratory judgment that Dealer Services' Inventory Service does not infringe any valid and enforceable claim of the '672 patent, and that the claims of the '672 patent are invalid and unenforceable. A true and correct copy of the '672 patent is attached hereto as Exhibit A.

6. Upon information and belief, Suggs is the lawful owner of all right, title and interest in the patent-in-suit.

7. This is an actual and justiciable controversy, as alleged herein.

### **JURISDICTION AND VENUE**

8. These claims arise under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and the Patent laws of the United States, 35 U.S.C. §100 *et seq.*

9. Subject matter jurisdiction is proper in this court under 28 U.S.C. §§ 1331, 1338, 2201, and 2202.

10. This Court has personal jurisdiction over Defendant Suggs because, upon information and belief, he resides in this district, and does business as President and CEO of

Amerisale, Inc., a business in this district, located at 4111 Medical Parkway, Austin, Texas 78756, which allegedly offers a software product covered by the patent-in-suit.

11. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b) because, upon information and belief, Suggs is a resident of this district and is doing business in this district and allegedly offering for sale in this district a software product covered by the patent-in-suit.

### **BACKGROUND OF THE CONTROVERSY**

12. Dealer Services owns and operates its Inventory Service, which it sells to its clients, typically automobile dealers.

13. Dealer Services' Inventory Service is used by its client automobile dealers to assist with inventory control of automobiles for sale.

14. On June 19, 23-25, and July 1 and 3, 2014, the Infringement Letters were received by thirteen Dealer Services' clients alleging that, *inter alia*, Dealer Services' clients' use of Dealer Service Inventory Service infringe the patent-in-suit. True and correct copies of the Infringement Letters are attached hereto as Exhibit B.

15. The Infringement Letters are each five pages in length, authored by Suggs' counsel, Christopher Joe, and each contain claim charts purporting to show that Dealer Services' clients' use of Dealer Services' Inventory Service infringe at least claim 3 of the '672 patent.

16. The penultimate paragraph of each of the Infringement Letters explicitly demands a response or "[Suggs' counsel] will assume that [Dealer Services' client(s)] prefers to resolve this dispute in Federal Court and will so advise Mr. Suggs."

17. The Infringement Letters are clear and unambiguous, and evidence a dispute of sufficient immediacy and reality.

**COUNT I**

**DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '672 PATENT**

18. Dealer Services repeats and incorporates by reference each of the foregoing paragraphs of its Complaint.

19. An actual and justiciable case or controversy exists between Plaintiff Dealer Services and Defendant Suggs concerning non-infringement of the patent-in-suit by Dealer Services' Inventory Service which requires a declaration of rights by this Court.

20. Dealer Services' Inventory Service does not, and will not, infringe any valid and enforceable claim of the patent-in-suit.

21. Dealer Services is entitled to a declaratory judgment that its manufacture, use, offer for sale, or sale in the United States or importation into the United States of its Inventory Service does not infringe any valid and enforceable claim of the patent-in-suit.

**COUNT II**

**DECLARATORY JUDGMENT OF INVALIDITY OF THE '672 PATENT**

22. Dealer Services repeats and incorporates by reference each of the foregoing paragraphs of its Complaint.

23. An actual and justiciable case or controversy exists between Plaintiff Dealer Services and Defendant Suggs concerning the invalidity of the patent-in-suit which requires a declaration of rights by this Court.

24. One or more of the claims of the patent-in-suit is invalid or unenforceable for failure to meet the requirements of patentability under at least 35 U.S.C. §§ 101, 102, 103, and / or 112.

25. Dealer Services is entitled to a declaratory judgment that the claims of the patent-in-suit are invalid or unenforceable.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Dealer Services requests the following relief, and prays that the Court:

- A. Declare that Plaintiff Dealer Services' Inventory Service has not infringed, and will not infringe, any valid and enforceable claim of the patent-in-suit;
- B. Declare that the claims of the patent-in-suit are invalid or unenforceable;
- C. Enjoin Defendant Suggs, and his agents, counsel, servants, and all persons in active concert or participation with him, from attempting to enforce the patent-in-suit against Dealer Services by reason of its Inventory Service or against any Dealer Services client by reason of that clients' use of Dealer Services' Inventory Service;
- D. Award Plaintiff Dealer Services its costs;
- E. Find this case exceptional under 35 U.S.C. § 285, and award Plaintiff Dealer Services its fees and expenses; and
- F. Grant such other and further relief as the Court deems just and proper.

**JURY DEMAND**

Plaintiff Dealer Services demands a trial by jury as to all matters triable to a jury.

Dated: July 8, 2014

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