

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. _____

KW-2, LLC,

Plaintiff,

v.

DELL INC.,

Defendants.

COMPLAINT FOR PATENT INFRINGEMENT AND JURY DEMAND

Plaintiff KW-2, LLC, by counsel Ridley, McGreevy & Winocur P.C. and Prebeg, Faucett & Abbott PLLC, for its Complaint against Dell Inc., alleges as follows:

THE PARTIES

1. Plaintiff KW-2, LLC (hereinafter "KW-2") is a Colorado Limited Liability Company with its principal place of business at 885 Arapahoe Avenue, Boulder, Colorado 80302. KW-2 developed and builds a battery monitor system for interface and control of lithium-ion batteries useable in micro-grids and other applications.

2. Upon information and belief, Dell Inc. is a Delaware corporation, with its principal place of business at 1 Dell Way; Round Rock, TX 78664. Dell Inc. may be served with process by serving its registered agent, Corporation Service Company, located at 211 E. 7th Street, Suite 620 Austin, TX.

3. Throughout this pleading, and unless specifically noted otherwise, Defendant Dell Inc. will be referenced as “Dell” or “Defendant.” The terms “Dell” and “Defendant” also includes the Defendant’s employees, agents, and all other persons or entities that the Defendant directs and/or controls that are acting on behalf of the Defendant.

THE PATENT

U.S. Patent No. 6,027,835

4. On February 22, 2000, United States Patent No. 6,027,835, entitled “Cell Electrode Sheet with Displaced Electrode Depolarizing Mixes” (the “‘835 patent”) was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ‘835 patent is attached as Exhibit A.

5. Pursuant to 35 U.S.C. § 282, the ‘835 patent is presumed valid.

6. KW-2 has marked KW-2’s own products, if any, in accordance with 35 U.S.C. § 287 and is thus entitled to past damages.

7. KW-2 is the exclusive licensee of the ‘835 patent, and has the sole right to sue for and recover the damages for past, present, and future infringement sought in this lawsuit.

JURISDICTION AND VENUE

8. This action arises under the patent laws of the United States, Title 35 United States Code, particularly §§ 271 and 281. This Court has jurisdiction over a claim for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

9. Personal jurisdiction exists generally over the Defendant because the Defendant has sufficient minimum contacts with the forum as a result of business conducted within the State of Colorado and within the District of Colorado. Personal jurisdiction also exists specifically over the Defendant because the Defendant, directly or through subsidiaries or

intermediaries, imports, makes, uses, offers for sale, or sells products or services within the State of Colorado and within the District of Colorado, that infringe the patents-in-suit.

10. On information and belief, the Defendant derives substantial revenue from the sale of the Dell Li-ion Batteries referenced below in paragraph 15, et seq., to individuals in Colorado and/or companies organized and existing under the laws of the State of Colorado, and/or the Defendant derives substantial revenue from products sold or distributed within this District.

11. On information and belief, the Defendant derives substantial revenue from interstate and international commerce.

12. On information and belief, the Defendant expects or should reasonably expect its actions to have consequences within this District.

13. The above acts caused and continue to cause injury to KW-2 within this District.

14. Venue is proper in this Court under Title 28 United States Code §§ 1391(b)–(c) and 1400(b).

ACCUSED PRODUCTS

15. The Defendant has been and/or is now making, using, selling, offering for sale within the United States, or importing into the United States, at least the Dell VJXMC lithium-ion battery pack, part number 0AANJ1, and other similarly manufactured lithium-ion battery packs such as those designated 0M7T5F, OFT6D9, 0K8HC, 1N9C0, 7W6K0, CXF66, F49WX, NVWGM, VJXMC, VVONG, and WGCW6, for use in the Dell Latitude E5540 and Dell Latitude E5440 products and other products using similar battery packs, and other lithium-ion battery packs featuring similarly manufactured cells for use with other Dell products (hereinafter the “Dell Li-ion Batteries”).

INFRINGEMENT OF U.S. PATENT NO. 6,027,835

16. Plaintiff incorporates by reference all of its previous allegations.

Direct Infringement of the '835 Patent

17. By making, using, selling, offering for sale within the United States, or importing into the United States, the Dell Li-ion Batteries, and other lithium-ion batteries featuring cells made in accordance with the '835 patent, the Defendant has directly infringed at least Claim 1 of the '835 patent, either literally or by equivalents.

Damages

18. The Defendant's acts of infringement of the '835 patent as alleged above have injured KW-2 and thus KW-2 is entitled to recover damages adequate to compensate it for that infringement, which in no event can be less than a reasonable royalty.

DEMAND FOR JURY TRIAL

19. KW-2 hereby demands a jury trial on all claims and issues triable of right by a jury, including Defendant's affirmative defenses and counterclaims, if any.

PRAYER FOR RELIEF

WHEREFORE, KW-2 prays for entry of judgment in its favor and against Dell Inc. declaring:

- A. That the Defendant has infringed one or more claims of the '835 patent.
- B. That the Defendant account for and pay to KW-2 all damages caused by the infringement of the '835 patent, which by statute can be no less than a reasonable royalty;
- C. That KW-2 be granted pre-judgment and post-judgment interest on the

damages caused to it by reason of the Defendant's infringement of the
'835 patent;

- D. That KW-2 be granted such other and further relief that is just and proper
under the circumstances.

Date: May 13, 2015

Respectfully submitted,

/s/ David M. Tenner

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