

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

CYPRESS LAKE SOFTWARE, INC.,

Plaintiff,

v.

DELL INC.,

Defendant.

Case No. 6:15-cv-01107

PATENT CASE

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Cypress Lake Software, Inc., (“Plaintiff”) files this Complaint against Defendant Dell Inc. (“Defendant” or “Dell”) for infringement of United States Patent No. 8,780,130 (the “130 patent”).

THE PARTIES

PLAINTIFF

1. Cypress Lake Software, Inc., is a Texas company with its principal place of business at 318 W. Dogwood Street, Woodville, TX 75979.

DEFENDANT

2. On information and belief, Dell Inc. is a corporation organized and existing under the laws of Delaware with its principal place of business at One Dell Way, Round Rock, TX 78682.

JURISDICTION AND VENUE

3. This is an action for patent infringement under Title 35 of the United States Code. Plaintiff is seeking injunctive relief as well as damages.

4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States' patent statutes, 35 U.S.C. § 101 *et seq.*

5. Venue is proper under 28 U.S.C. §§ 1391(b)(1), 1391(c) and 1400(b) because Defendant has committed acts of infringement in this district.

6. This Court has personal jurisdiction over Defendant and venue is proper in this district because Defendant has committed, and continues to commit, acts of infringement in the state of Texas, including in this district, has conducted business in the state of Texas, including in this district, and/or has engaged in continuous and systematic activities in the state of Texas.

COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 8,780,130)

7. Plaintiff incorporates paragraphs 1 through 6 herein by reference.

8. Plaintiff is the owner and assignee of the '130 patent, entitled "Methods, Systems, and Computer Program Products for Binding Attributes Between Visual Components," with ownership of all substantial rights in the '130 patent, including the right to exclude others and to enforce, sue and recover damages for past and future infringement. A true and correct copy of the '130 patent is attached as Exhibit A.

9. The '130 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

10. Plaintiff has been damaged as a result of Dell's infringing conduct described in this Count. Dell is thus liable to Plaintiff in an amount that adequately compensates it for its infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

Direct Infringement

11. On information and belief, Dell has and continues to directly infringe one or more claims of the '130 patent in this judicial district and/or elsewhere in Texas and the United States, including at least claim 22, by, among other things, making, using, offering for sale, selling and/or importing infringing devices, including but not limited to the Venue 10 Pro 5000 Series, by practicing infringing methods by way of Dell's devices, including but not limited to the Venue 10 Pro 5000 Series, and/or by directing or controlling the performance of infringing methods, including by customers and/or end-users of Dell's devices, including but not limited to the Venue 10 Pro 5000 Series. Dell is thereby liable for infringement of the '130 patent pursuant to 35 U.S.C. § 271.

Indirect Infringement – Inducement

12. Based on the information presently available to Plaintiff, absent discovery, and in addition or in the alternative to direct infringement, Plaintiff contends that Dell indirectly infringes one or more claims of the '130 patent, including at least claim 22, by inducing others, including customers and/or end-users of Dell's devices, including but not limited to the Venue 10 Pro 5000 Series, to make, use, sell, offer for sale, and/or import devices and/or to practice infringing methods in violation of one or more claims of the '130 patent, including at least claim 22.

13. On information and belief, Defendant Dell has been on notice of the '130 patent since at least service of this action, or before, but has continued since that time to cause others to directly infringe the '130 patent as alleged herein. In accordance with Fed. R. Civ. P. 11(b)(3), Plaintiff will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

14. On information and belief, since Dell has been on notice of the '130 patent, Dell has knowingly induced infringement of the '130 patent, including at least claim 22 of the '130 patent, and possessed specific intent to encourage others' infringement.

15. On information and belief, since Dell has been on notice of the '130 patent, Dell knew or should have known that its actions would induce actual infringement of the '130 patent, including at least claim 22 of the '130 patent, by customers and/or end-users of Dell's devices, including but not limited to the Venue 10 Pro 5000 Series.

16. On information and belief, for example, since Dell has been on notice of the '130 patent, Dell has purposefully and voluntarily made available devices, including but not limited to the Venue 10 Pro 5000 Series, with the expectation that they would be utilized by customers and/or end-users in the United States in a way that infringes at least claim 22 of the '130 patent.

17. On information and belief, since Dell has been on notice of the '130 patent, Dell has also instructed and/or encouraged customers and/or end-users of Dell's devices, including but not limited to the Venue 10 Pro 5000 Series, to utilize such devices in a way that results in the infringement of at least claim 22 of the '130 patent and has provided support to such customers and/or end-users.

ADDITIONAL ALLEGATIONS

18. Plaintiff has been damaged as a result of Defendant's infringing conduct described herein. Dell is thus liable to Plaintiff in an amount that adequately compensates Plaintiff for Defendant's infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by the Court under 35 U.S.C. § 284.

19. Defendant's actions complained of herein will continue unless Defendant is enjoined by this Court.

20. Plaintiff has complied with 35 U.S.C. § 287.

21. Defendant's actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

JURY DEMAND

Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

Plaintiff requests that this Court find in its favor and against Defendant, and that this Court grant Plaintiff the following relief:

- a. Enter judgment for Plaintiff on this Complaint;
- b. Enter judgment that one or more claims of the '130 patent have been infringed, either directly or indirectly by Defendant;
- c. Enter judgment that Defendant account for and pay to Plaintiff all damages to and costs incurred by Plaintiff because of Defendant's infringing activities and other conduct complained of herein;
- d. Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;
- e. Enter a permanent injunction enjoining Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or participation with them, from infringing or inducing infringement of the '130 patent, or, in the alternative, judgment that Defendant account for and pay to Plaintiff a

reasonable royalty and an ongoing post-judgment royalty because of Defendant's past, present and future infringing activities and other conduct complained of herein;

f. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein;

g. Find the case to be exceptional under the provisions of 35 U.S.C. § 285;

h. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

DATED: November 30, 2015

Respectfully submitted,

THE SIMON LAW FIRM, P.C.

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