

FILED

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

APR 04 2001

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY CLERK

HEWLETT-PACKARD COMPANY, a
Delaware corporation,

Plaintiff,

v.

PITNEY BOWES, INC., a Delaware
corporation,

Defendant.

CASE NO.

A 01 CA 211 SS

DEMAND FOR JURY TRIAL

ORIGINAL COMPLAINT

JURISDICTION

1. This is an action for patent infringement. This Court has jurisdiction under 28 U.S.C. Section 1338, and pursuant to the Patent Laws of the United States of America, 35 U.S.C. Section 101, *et seq.*

VENUE

2. Venue properly lies within the Western District of Texas pursuant to 28 U.S.C. Sections 1391(c) and 1400(b).

THE PARTIES

3. HEWLETT-PACKARD COMPANY ("Hewlett-Packard") is a corporation incorporated under the laws of the State of Delaware and has its principal place of business at 3000 Hanover Street, Palo Alto, California.

4. PITNEY BOWES, INC., ("Pitney Bowes") on information and belief, is a corporation incorporated under the laws of Delaware and has its principal place of business at Stamford, Connecticut.

5. Upon information and belief, Pitney Bowes transacts business in this judicial district, including the sale and the offering for sale of its products, and Pitney

Bowes has sufficient contacts with this judicial district to subject Pitney Bowes to the jurisdiction of this Court.

FACTUAL BACKGROUND

6. Hewlett-Packard engineers, designs, develops and markets a broad offering of computer equipment and systems, networking products, printers, scanners, and enabling technologies. Having invested substantial resources in the development of these technologies, Hewlett-Packard maintains a portfolio of patents covering its inventions, including the patents at issue.

7. On May 16, 2000, United States Letters Patent No. 6,065,051 (“the ‘051 Patent”) was duly and legally issued. A true and correct copy of the ‘051 Patent is attached hereto as Exhibit A.

8. Hewlett-Packard is the assignee and owner of all right, title and interest in and to the ‘051 Patent. Accordingly, Hewlett-Packard has the right to bring this suit for damages and injunctive relief.

9. On June 13, 2000, United States Letters Patent No. 6,076,105 (“the ‘105 Patent”) was duly and legally issued. A true and correct copy of the ‘105 Patent is attached hereto as Exhibit B.

10. Hewlett-Packard is the assignee and owner of all right, title and interest in and to the ‘105 Patent. Accordingly, Hewlett-Packard has the right to bring this suit for damages and injunctive relief.

11. On March 28, 2000, United States Letters Patent No. 6,044,372 (“the ‘372 Patent”) was duly and legally issued. A true and correct copy of the ‘372 Patent is attached hereto as Exhibit C.

12. Hewlett-Packard is the assignee and owner of all right, title and interest in and to the ‘372 Patent. Accordingly, Hewlett-Packard has the right to bring this suit for damages and injunctive relief.

13. On December 12, 2000, United States Letters Patent No. 6,160,554 (“the ‘554 Patent”) was duly and legally issued. A true and correct copy of the ‘554 Patent is attached hereto as Exhibit D.

14. Hewlett-Packard is the assignee and owner of all right, title and interest in and to the ‘554 Patent. Accordingly, Hewlett-Packard has the right to bring this suit for damages and injunctive relief.

15. On February 2, 1999, United States Letters Patent No. 5,867,633 (“the ‘633 Patent”) was duly and legally issued. A true and correct copy of the ‘633 Patent is attached hereto as Exhibit E.

16. Hewlett-Packard is the assignee and owner of all right, title and interest in and to the ‘633 Patent. Accordingly, Hewlett-Packard has the right to bring this suit for damages and injunctive relief.

COUNT I
(PATENT INFRINGEMENT)
‘051 Patent

17. Hewlett-Packard incorporates by reference the allegations set forth in paragraphs 1 through 16.

18. Hewlett-Packard is informed and believes, and on that basis alleges, that Pitney Bowes is infringing the ‘051 Patent by making, using, offering for sale, and/or selling within the United States products that embody the inventions disclosed and claimed in the ‘051 Patent, and/or by importing such products into the United States, which products include at least the Pitney Bowes “Cypress”, “iSend” and “SMART Online” products.

19. In addition to direct infringement, Hewlett-Packard is informed and believes, and on that basis alleges, that Pitney Bowes has induced and contributed to infringement by others of the ‘051 Patent.

20. Hewlett-Packard is informed and believes, and on that basis alleges, that Pitney Bowes is aware of the '051 Patent. Despite such awareness, Pitney Bowes has continued to willfully infringe the '051 Patent by making, using, offering to sell, and/or selling within the United States products that embody the inventions disclosed and claimed in the '051 Patent, and/or by importing such products into the United States.

21. Hewlett-Packard has been damaged and has been irreparably harmed by Pitney Bowes' acts of infringement, and will continue to be damaged and irreparably harmed unless and until Pitney Bowes' acts of infringement are enjoined and restrained by order of this Court. Hewlett-Packard has no adequate remedy at law.

COUNT II

(PATENT INFRINGEMENT) '105 Patent

22. Hewlett-Packard incorporates by reference the allegations set forth in paragraphs 1 through 16.

23. Hewlett-Packard is informed and believes, and on that basis alleges, that Pitney Bowes is infringing the '105 Patent by making, using, offering for sale, and/or selling within the United States products that embody the inventions disclosed and claimed in the '105 Patent, and/or by importing such products into the United States, which products include at least the Pitney Bowes "docSense" and "Cypress" products.

24. In addition to direct infringement, Hewlett-Packard is informed and believes, and on that basis alleges, that Pitney Bowes has induced and contributed to infringement by others of the '105 Patent.

25. Hewlett-Packard is informed and believes, and on that basis alleges, that Pitney Bowes is aware of the '105 Patent. Despite such awareness, Pitney Bowes has continued to willfully infringe the '105 Patent by making, using, offering to sell, and/or selling within the United States products that embody the inventions disclosed and claimed in the '105 Patent, and/or by importing such products into the United States.

26. Hewlett-Packard has been damaged and has been irreparably harmed by Pitney Bowes' acts of infringement, and will continue to be damaged and irreparably harmed unless and until Pitney Bowes' acts of infringement are enjoined and restrained by order of this Court. Hewlett-Packard has no adequate remedy at law.

COUNT III
(PATENT INFRINGEMENT)
'372 Patent

27. Hewlett-Packard incorporates by reference the allegations set forth in paragraphs 1 through 16.

28. Hewlett-Packard is informed and believes, and on that basis alleges, that Pitney Bowes is infringing the '372 Patent by making, using, offering for sale, and/or selling within the United States products that embody the inventions disclosed and claimed in the '372 Patent, and/or by importing such products into the United States, which products include at least the Pitney Bowes "Cypress" and "iSend" products.

29. In addition to direct infringement, Hewlett-Packard is informed and believes, and on that basis alleges, that Pitney Bowes has induced and contributed to infringement by others of the '372 Patent.

30. Hewlett-Packard is informed and believes, and on that basis alleges, that Pitney Bowes is aware of the '372 Patent. Despite such awareness, Pitney Bowes has continued to willfully infringe the '372 Patent by making, using, offering to sell, and/or selling within the United States products that embody the inventions disclosed and claimed in the '372 Patent, and/or by importing such products into the United States.

31. Hewlett-Packard has been damaged and has been irreparably harmed by Pitney Bowes' acts of infringement, and will continue to be damaged and irreparably harmed unless and until Pitney Bowes' acts of infringement are enjoined and restrained by order of this Court. Hewlett-Packard has no adequate remedy at law.

COUNT IV
(PATENT INFRINGEMENT)
‘554 Patent

32. Hewlett-Packard incorporates by reference the allegations set forth in paragraphs 1 through 16.

33. Hewlett-Packard is informed and believes, and on that basis alleges, that Pitney Bowes is infringing the ‘554 patent by making, using, offering for sale, and/or selling within the United States products that embody the inventions disclosed and claimed in the ‘554 Patent, and/or by importing such products into the United States, which products include at least the Pitney Bowes “iSend” and “ClickStamp” products.

34. In addition to direct infringement, Hewlett-Packard is informed and believes, and on that basis alleges, that Pitney Bowes has induced and contributed to infringement by others of the ‘554 Patent.

35. Hewlett-Packard is informed and believes, and on that basis alleges, that Pitney Bowes is aware of the ‘554 Patent. Despite such awareness, Pitney Bowes has continued to willfully infringe the ‘554 Patent by making, using, offering to sell, and/or selling within the United States products that embody the inventions disclosed and claimed in the ‘554 Patent, and/or by importing such products into the United States.

36. Hewlett-Packard has been damaged and has been irreparably harmed by Pitney Bowes’ acts of infringement, and will continue to be damaged and irreparably harmed unless and until Pitney Bowes’ acts of infringement are enjoined and restrained by order of this Court. Hewlett-Packard has no adequate remedy at law.

COUNT V
(PATENT INFRINGEMENT)
‘633 Patent

37. Hewlett-Packard incorporates by reference the allegations set forth in paragraphs 1-16.

38. Hewlett-Packard is informed and believes, and on that basis alleges, that Pitney Bowes is infringing the ‘633 Patent by making, using, offering to sell and/or selling within the United States products that embody the inventions disclosed and claimed in the ‘633 Patent, and/or by importing such products into the United States, which products include at least the Pitney Bowes “Cypress” and “docSense” products.

39. In addition to direct infringement, Hewlett-Packard is informed and believes, and on that basis alleges, that Pitney Bowes has induced and contributed to infringement by others of the ‘633 Patent.

40. Hewlett-Packard is informed and believes that Pitney Bowes is aware of the ‘633 Patent. Despite such awareness, Pitney Bowes has continued to willfully infringe the ‘633 Patent by making, using, offering to sell, and/or selling within the United States products that embody the inventions disclosed and claimed in the ‘633 Patent, and/or by importing such products into the United States.

41. Hewlett-Packard has been damaged and has been irreparably harmed by Pitney Bowes’ acts of infringement, and will continue to be damaged and irreparably harmed unless and until Pitney Bowes’ acts of infringement are enjoined and restrained by order of this Court. Hewlett-Packard has no adequate remedy at law.

WHEREFORE, Hewlett-Packard prays:

1. That Pitney Bowes be adjudged to have infringed the ‘051, ‘105, ‘372, ‘554, and ‘633 Patents;

2. That Pitney Bowes, its officers, principals, agents, attorneys, servants, employees and all others acting by or under their direction and authority, and their successors and assigns, be enjoined by permanent injunction from making, using, offering to sell or selling in the United States or importing into the United States any infringing products or any other product substantially equivalent thereto which is also within the scope of any claim of the '051, '105, '372, '554, and '633 Patents;

3. That Hewlett-Packard be awarded an accounting for and recovery of damages adequate to fully compensate for infringement by Pitney Bowes of the '051, '105, '372, '554, and '633 Patents;

4. That Hewlett-Packard be awarded treble damages in view of the reckless, willful and deliberate nature of Pitney Bowes' infringement, pursuant to 35 U.S.C. Section 284;

5. That this case be adjudged an exceptional case and that Hewlett-Packard be awarded its attorneys' fees pursuant to 35 U.S.C. Section 285;

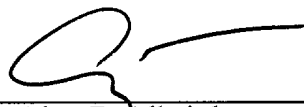
6. For interest thereon at the legal rate; and

7. For such other and further relief as the Court may deem just and proper.

Dated: April 4th, 2001

Respectfully submitted,

GRAY CARY WARE & FREIDENRICH LLP

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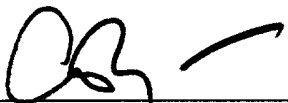
DEMAND FOR JURY TRIAL

Plaintiff Hewlett-Packard Company hereby demands a jury trial.

Dated: April 4th, 2001

Respectfully submitted,

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