

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

LODSYS GROUP, LLC,

Plaintiff,

v.

DELL, INC.;

Defendants.

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CIVIL ACTION NO. 2:12-cv-289

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Lodsys Group, LLC (“Lodsys”), for its complaint against the above-named defendants, alleges as follows:

THE PARTIES

1. Lodsys is a Texas limited liability company with its principal place of business in Marshall, Texas.
2. Defendant Dell, Inc. (“Dell”) is a Delaware corporation with its principal place of business in Round Rock, Texas.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a), because this action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* Venue is proper in this federal district pursuant to 28 U.S.C. §§1391(b)-(c) and 1400(b) in that defendant resides in this district, a substantial part of the events giving rise to the claims occurred in this district, and/or the defendant has a regular and established practice of business in this district and have committed acts of infringement in this district.

4. This Court has general and specific personal jurisdiction over defendant, because defendant has substantial contacts with the forum as a result of conducting substantial business in the State of Texas and within this district. Upon information and belief, defendant regularly solicits business in the State of Texas and this district; derives revenue from products and/or

services provided to individuals residing the State of Texas and this district; conducts business utilizing the claimed systems and methods with and for customers residing in the State of Texas and this district; and provides and/or markets products and services directly to consumers in the State of Texas and this district.

INFRINGEMENT OF U.S. PATENT NO. 7,620,565 B2

5. On November 17, 2009, U.S. Patent No. 7,620,565 (the “‘565 patent”) was duly and legally issued for a “Customer-Based Product Design Module.” A true and correct copy of the ‘565 patent is attached hereto as Exhibit A. Lodsys is the owner by assignment of all rights, title, and interest in and to the ‘565 patent.

6. Defendant Dell has infringed and continues to infringe, directly, indirectly, literally, under the doctrine of equivalents, contributorily, and/or through the inducement of others, one or more of the claims of the ‘565 patent. Dell manufactures, uses, sells, imports, and/or offers to sell infringing printers and other products and/or services, including but not limited to the Dell 715w All-In-One Printer and other Dell printers with Dell Ink Management System, which infringe at least claims 1, 3, 4, 15, 22, and 30 of the ‘565 patent under 35 U.S.C. § 271.

7. Defendant Dell’s acts of infringement have caused damage to Lodsys, and Lodsys is entitled to recover from defendant the damages sustained by Lodsys as a result of defendant’s wrongful acts in an amount subject to proof at trial. Defendant’s infringement of Lodsys’ exclusive rights under the ‘565 patent will continue to damage Lodsys, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court. Defendant’s infringement is willful and deliberate, including because defendant became aware of the infringing nature of its respective products and services at the latest when they received a notice letter from Lodsys and/or the filing of Lodsys’ complaint, entitling Lodsys to increased damages under 35 U.S.C. § 284 and to attorneys’ fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

INFRINGEMENT OF U.S. PATENT NO. 7,222,078 B2

8. On May 22, 2007, U.S. Patent No. 7,222,078 (the “‘078 patent”) was duly and legally issued for “Methods and Systems for Gathering Information from Units of a Commodity Across a Network.” A true and correct copy of the ‘078 patent is attached hereto as Exhibit B. Lodsys is the owner by assignment of all rights, title, and interest in and to the ‘078 patent.

9. Defendant Dell has infringed and continues to infringe, directly, indirectly, literally, under the doctrine of equivalents, contributorily, and/or through the inducement of others, one or more of the claims of the ‘078 patent. Dell manufactures, uses, sells, imports, and/or offers to sell infringing printers and other products and/or services, including but not limited to the Dell 715w All-In-One Printer, and computer server(s) in conjunction with such products to manage user interactions and to collect data, and infringing website(s) with live interactive chat, including but not limited to live interactive chat on www.dell.com, which infringe at least claims 1, 2, 3, 4, 5, 7, 13, 16, 22, 24, 30, 31, 32, 40, 46, 47, 48, and 69 of the ‘078 patent under 35 U.S.C. § 271.

10. Defendant Dell’s acts of infringement have caused damage to Lodsys, and Lodsys is entitled to recover from defendant the damages sustained by Lodsys as a result of defendant’s wrongful acts in an amount subject to proof at trial. Defendant’s infringement of Lodsys’ exclusive rights under the ‘078 patent will continue to damage Lodsys, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court. Defendant’s infringement is willful and deliberate, including because defendant became aware of the infringing nature of its respective products and services at the latest when it received a notice letter from Lodsys and/or the filing of Lodsys’ complaint, entitling Lodsys to increased damages under 35 U.S.C. § 284 and to attorneys’ fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Lodsys respectfully requests a trial by jury on all issues.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Lodsys Group, LLC, respectfully requests entry of judgment in its favor and against defendant as follows:

(a) Declaration that (1) Defendant Dell has infringed U.S. Patent No. 7,620,565; and (2) Defendant Dell has infringed U.S. Patent No. 7,222,078;

(b) Awarding the damages arising out of (1) Defendant Dell's infringement of U.S. Patent No. 7,620,565; and (2) Defendant Dell's infringement of U.S. Patent No. 7,222,078 to Lodsys, together with pre-judgment and post-judgment interest, in an amount according to proof;

(c) Finding defendant's infringement to be willful from the time that defendant became aware of the infringing nature of its respective products and services, which is the time of receiving a notice letter from Lodsys or the filing of Lodsys' complaint at the latest, and awarding treble damages to Lodsys for the period of such willful infringement pursuant to 35 U.S.C. § 284;

(d) Permanently enjoining defendant and its respective officers, agents, employees, and those acting in privity with them, from further infringement, including contributory infringement and/or inducing infringement, of U.S. Patent No. 7,620,565 and U.S. Patent No. 7,222,078 or in the alternative, awarding a royalty for post-judgment infringement;

(e) Awarding attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law; and

(f) Awarding such other costs and further relief as the Court may deem just and proper.

Dated: May 10, 2012

Respectfully Submitted,

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