

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

DISPOSITION SERVICES LLC,

Plaintiff,

v.

ARROW-INTECHRA LLC,

Defendant.

Case No. 6:12-cv-00292

PATENT CASE

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT

Disposition Services LLC (“Disposition Services”) files this Complaint against Arrow-Intechra LLC (“Defendant”) for infringement of United States Patent No. 5,424,944 (hereinafter “the ‘944 Patent”).

THE PARTIES

1. Disposition Services is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business in Highland, New York.

2. Defendant is a Delaware corporation with a principal place of business at 713 S. Pear Orchard Road, Ridgeland, Mississippi 39157. This Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in the state of Texas, has conducted business in the state of Texas, and/or has engaged in continuous and systematic activities in the state of Texas.

JURISDICTION AND VENUE

3. This is an action for patent infringement under Title 35 of the United States Code. Disposition Services 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(c) and 1400(b) because Defendant has committed acts of infringement in this district and/or is deemed to reside 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 and/or have engaged in continuous and systematic activities in the State of Texas, including in this district.

7. Defendant operates nationwide. Defendant's website states that "Intechra's delivery footprint is borderless. We operate as a single-source solution, a nationwide operation with global capabilities." <http://intechra.com/about-intechra/> (attached as Exhibit A).

8. Defendant has four processing centers in the United States at which Defendant performs its asset disposition processes and services. Defendant's four processing centers are located in or near Dallas, TX, Columbus, OH, Hartford, CT, and Reno, NV. <http://intechra.com/contact/locations/> (attached as Exhibit B).

COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 5,424,944)

9. Disposition Services incorporates paragraphs 1 through 6 herein by reference.

10. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

11. Disposition Services is the owner of the '944 Patent, entitled "System and Methods for Controlled Asset Disposition." A true and correct copy of the '944 Patent is attached as Exhibit C.

12. The '944 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

13. Defendant has directly infringed and continues to directly infringe one or more claims of the '944 Patent in this judicial district and elsewhere in Texas, and the United States, including at least claim 1, without the consent or authorization of Disposition Services, by or through its making, having made, offer for sale, sale, and/or use of the patented systems and methods for controlled asset disposition through operation of its asset disposition processes and services.

14. Disposition Services has been damaged as a result of Defendant's infringing conduct described in this Count. Defendant is, thus, liable to Disposition Services in an amount that adequately compensates it for Defendant's infringement, 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.

ADDITIONAL ALLEGATIONS AGAINST DEFENDANT

15. Disposition Services incorporates paragraphs 1 through 12 herein by reference.

16. Defendant has committed direct infringement as alleged in Count I at least through operation of its asset disposition processes and services.

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

18. Defendant's infringement of the '944 Patent, since at least the service of this action, has been and continues to be willful. Defendant has had notice of the '944 Patent since at least the service of this complaint and Defendant has continued to infringe the '944 Patent despite an objectively high likelihood that its actions constitute infringement of the '944 Patent and a subject knowledge or obviousness of such risk.

19. This case is exceptional pursuant to the provisions of 35 U.S.C. § 285.

JURY DEMAND

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

PRAYER FOR RELIEF

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

- a. Enter judgment for Disposition Services on this Complaint;
- b. Enter judgment that one or more claims of the '944 Patent has been infringed by Defendant;
- c. Enter judgment that Defendant accounts for and pays to Disposition Services all damages to and costs incurred by Disposition Services because of Defendant's infringing activities and other conduct complained of herein;
- d. Award Disposition Services damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;
- e. Enter a permanent injunction enjoining Defendant and its offices, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents,

and all others acting in active concert or participation with Defendant, from infringing or inducing infringement of the '944 Patent, or, in the alternative, judgment that Defendant accounts for and pays to Disposition Services 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 Disposition Services be granted pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein;
- g. Judgment that Defendant's infringement was willful;
- h. Treble the damages in accordance with the provisions of 35 U.S.C. § 284;
- i. Find the case to be exceptional under the provisions of 35 U.S.C. § 285 and award Disposition Services its reasonable attorneys' fees and costs;
- j. That Disposition Services be granted such other and further relief as the Court may deem just and proper under the circumstances.

DATED: September 6, 2012

Respectfully submitted,

THE SIMON LAW FIRM, P.C.

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***ATTORNEYS FOR PLAINTIFF
DISPOSITION SERVICES LLC***

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 6, 2012 a copy of the foregoing was served on counsel for all Defendants of record via the Court's CM/ECF System.

/s/ Anthony G. Simon
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