

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

LT TECH, LLC

Plaintiff,

v.

DELL INC.

Defendant.

Case No. 4:13-cv-98

**COMPLAINT
FOR PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff LT TECH, LLC (“LTT”) hereby alleges for its Complaint against defendant Dell Inc. (“Defendant”), as follows:

PARTIES

1. Plaintiff LTT is a Texas limited liability company with its principal place of business at 300 S. Watters Rd #1028, Allen, TX 75013.

2. On information and belief, Defendant Dell Inc. (“Dell”) is a Delaware corporation with its principal place of business at 1 Dell Way, Round Rock, TX 78682-7000.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. Personal jurisdiction and venue are proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). On information and belief, Defendant has transacted business in

this district, and/or has committed, contributed to, and/or induced acts of patent infringement in this district.

5. On information and belief, Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this judicial district.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 6,177,932

6. LTT is the owner by assignment of United States Patent No. 6,177,932 ("the '932 Patent") entitled "Method and Apparatus for Network Based Customer Service." The '932 Patent originally issued on January 23, 2001 and a re-examination certificate issued on September 14, 2010. A true and correct copy of the '932 Patent is attached as Exhibit A and the re-examination certificate is attached as Exhibit B.

7. Messrs. Frank A. Galdes and Mark A. Ericson are listed as the inventors on the '932 Patent.

8. Upon information and belief, Defendant has been and now is directly, literally, and/or upon information and belief, jointly, equivalently, and/or indirectly infringing (by way of inducing infringement by others, and/or contributing to the infringement by others) the '932 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, operating, offering to sell, and/or selling customer service, customer support, and/or customer care systems that provide remote access and support for consumers and

businesses, examples of which are described online at <http://www.kace.com/products/systems-management-appliance/features/help-desk>, that are covered by one or more claims of the '932 Patent, to the injury of LTT. Defendant is thus liable for infringement of the '932 Patent pursuant to 35 U.S.C. § 271.

9. Defendant has been and now is indirectly infringing by way of inducing infringement by others of the '932 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without a license or authority, products for use in systems (“The Accused Products”) that infringe the '932 Patent. The Accused Products include, without limitation, Defendant’s KACE K1000 Systems Management Appliance and associated software. Defendant’s K1000 product falls within the scope of at least claim 21 of the '932 Patent, as evidenced by Defendant’s K1000 product descriptions. For example, Defendant’s K1000 product “includes the ability to ... configure process-based rules to govern the flow of tickets.” See <http://www.kace.com/products/systems-management-appliance/features/help-desk>. It also allows for “Effective Remote Repair for Administrators” so they can “perform remote repair on problems without requiring travel ... to service each affected system.” See <http://www.kace.com/products/systems-management-appliance/features/remote-control>.

10. Those whom Defendant induces to infringe are end users of the Accused Products. Defendant identifies the users of its products at <http://www.kace.com/customers/overview>. The customers include entities that transact business in and/or have their principal place of business in this District.

11. On information and belief, Defendant had knowledge of the '932 Patent on or around the filing of Case No. 4:12-CV-591, captioned LT Tech, LLC v. Quest Software, Inc. On

information and belief, Quest Software is a wholly owned subsidiary of Defendant. From that time forward, Defendant had specific intent to induce infringement by others of the '932 Patent. By making, using, importing, offering for sale, and/or selling such products, Defendant induces end users to infringe at least the aforementioned claims of the '932 Patent. By so doing, Defendant has injured LTT and is thus liable to LTT for indirect infringement of the '932 Patent under 35 U.S.C. § 271.

12. Defendant has been and now is indirectly infringing by way of contributing to the infringement by others of the '932 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without a license or authority, components (“The Accused Components”) especially designed for use in a patented invention, which are not staple articles of commerce suitable for substantial noninfringing use. The Accused Components include, without limitation, the components of Defendant’s KACE K1000 Systems Management Appliance identified at the following product descriptions: <http://www.kace.com/products/systems-management-appliance/features/help-desk>; <http://www.kace.com/products/systems-management-appliance/screenshots/Service-Desk/Overview>; <http://www.kace.com/products/systems-management-appliance/features/remote-control>; <http://www.kace.com/products/systems-management-appliance/screenshots/Service-Desk/Incident-Hierarchy>; <http://www.kace.com/products/systems-management-appliance/screenshots/Service-Desk/Process-Automation>. These components are especially designed for use in systems which implement the method of at least claim 21 of the '932 Patent, as evidenced in Defendant’s product descriptions. For example, Defendant’s K1000 product “includes the ability to ... configure process-based rules to govern the flow of tickets.” See

<http://www.kace.com/products/systems-management-appliance/features/help-desk>. It also allows for “Effective Remote Repair for Administrators” so they can “perform remote repair on problems without requiring travel ... to service each affected system.” See <http://www.kace.com/products/systems-management-appliance/features/remote-control>.

13. Defendant contributes to infringement of the '932 Patent by end users of the Accused Components. Defendant identifies the users of its products at <http://www.kace.com/customers/overview>. The customers include entities that transact business in and/or have their principal place of business in this District.

14. On information and belief, Defendant had knowledge of the '932 Patent on or around the filing of Case No. 4:12-CV-591, captioned LT Tech, LLC v. Quest Software, Inc. On information and belief, Quest Software is a wholly owned subsidiary of Defendant. From that time forward, Defendant had specific intent to contribute to the infringement by others of the '932 Patent. The Accused Components have no substantial non-infringing uses aside from use in systems that infringe '932 Patent. By making, using, importing, offering for sale, and/or selling such products, Defendant contributes to end users infringement of at least the aforementioned claims of the '932 Patent. *See id.* By so doing, Defendant has injured LTT and is thus liable to LTT for indirect infringement of the '932 Patent under 35 U.S.C. § 271.

15. On information and belief, to the extent any marking was required by 35 U.S.C. § 287, predecessors in interest to the '932 Patent complied with such requirements.

16. As a result of Defendant's infringement of the '932 Patent, LTT has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court. Defendant's infringement is willful and deliberate, including because Defendant became aware of the

infringing nature of its products and services, on information and belief, on or around the filing of Case No. 4:12-CV-591, captioned LT Tech, LLC v. Quest Software, Inc., entitling LTT 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.

17. Unless a permanent injunction is issued enjoining Defendant and its agents, servants, employees, attorneys, representatives, affiliates, and all others acting on their behalf from infringing the '932 Patent, LTT will be greatly and irreparably harmed.

PRAYER

WHEREFORE, LTT incorporates each of the allegations in paragraphs 1 through 17 above and respectfully requests that this Court enter:

1. A judgment in favor of LTT that Defendant has infringed, directly, jointly, and/or indirectly (by way of inducing and/or contributing to the infringement) the '932 Patent;

2. A permanent injunction enjoining Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert or privity, with any of them, from infringing, directly, jointly, and/or indirectly (by way of inducing and/or contributing to the infringement) the '932 Patent;

3. A judgment and order requiring Defendant to pay LTT its damages, costs, expenses, and prejudgment and post-judgment interest for Defendants' infringement of the '932 Patent as provided under 35 U.S.C. § 284;

4. A judgment finding defendant's infringement to be willful from the time that defendant became aware of the infringing nature of its products and services, and awarding treble damages to LTT for the period of such willful infringement pursuant to 35 U.S.C. § 284;

5. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285, and awarding to LTT its reasonable attorney fees; and

6. Any and all other relief to which LTT may show itself to be entitled.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: February 22, 2013

Respectfully submitted,

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