

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SRI INTERNATIONAL, INC., a California Corporation,

Plaintiff,

v.

DELL INC., a Delaware Corporation, DELL SECUREWORKS, INC., a Georgia Corporation, SECUREWORKS INC., a Georgia Corporation,

Defendants.

C. A. No. _____

JURY TRIAL DEMANDED

**COMPLAINT FOR PATENT INFRINGEMENT
AND DEMAND FOR JURY TRIAL**

Plaintiff SRI International, Inc. hereby alleges as follows:

THE PARTIES

1. SRI International, Inc. (“SRI”) is an independent, not-for-profit research institute incorporated under the laws of California, and has a regular and established place of business at 333 Ravenswood Avenue, Menlo Park, California, 94025.

2. Defendant Dell Inc. (“Dell”) is incorporated under the laws of Delaware, with its principal place of business at One Dell Way, Round Rock, Texas, 78682.

3. Defendant Dell SecureWorks, Inc. is incorporated under the laws of Georgia, with its principal place of business at One Concourse Parkway, Suite 500, Atlanta, GA 30328.

4. Defendant SecureWorks Inc. is incorporated under the laws of Georgia, with its principal place of business at One Concourse Parkway, Suite 500, Atlanta, GA 30328.

JURISDICTION AND VENUE

5. This action arises under the patent laws of the United States, Title 35 U.S.C. § 1 *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

6. Upon information and belief, this Court has personal jurisdiction over Dell because it is incorporated in this judicial district.

7. Upon information and belief, Defendants are subject to this Court's general jurisdiction because Defendants have minimum contacts within the State and District of Delaware (including via their website and via sales of their products and services), pursuant to due process and/or the Delaware Long Arm Statute, because Defendants personally availed themselves of the privileges of conducting business in the State and District of Delaware, and because Defendants regularly conduct and solicit business within the State and District of Delaware.

8. Upon information and belief, venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), (c) and/or 28 U.S.C. § 1400 because, *inter alia*, the Defendants are subject to personal jurisdiction in this judicial district.

GENERAL ALLEGATIONS

9. SRI is an independent, not-for-profit research institute that conducts client-supported research and development for government agencies, commercial businesses, foundations, and other organizations. Among its many areas of research, SRI has engaged in fundamental research related to computer security and, more specifically, to large computer network intrusion detection systems and methods, for which SRI has received approximately nine U.S. patents.

10. Each of the patents at issue here, United States Patent No. 6,711,615 ("the '615 patent") and United States Patent No. 6,484,203 ("the '203 patent") has been the subject of two

reexamination proceedings in the U.S. Patent and Trademark Office. (*See* Reexamination Control Nos. 90/008,125 & 90/009,126 (regarding the '203 patent); 90/008,113 & 90/009,127 (regarding the '615 patent).) On September 29, 2010 and September 30, 2010, the Patent Office confirmed the patentability of all claims of the SRI '203 and '615 patents, respectively, over the prior art cited in the reexamination proceedings.

11. On August 26, 2004, SRI brought suit against, *inter alia*, Symantec Corp. for infringement of the '615 and '203 patents in the District of Delaware. *See SRI International, Inc. v. Internet Sec. Sys., Inc. & Symantec Corp.*, Civ. No. 04-1199-SLR (D. Del. Aug. 26, 2004). On September 18, 2008, a Delaware jury found that Symantec infringed the '615 patent and the '203 patent.

12. The Delaware jury in the Symantec litigation also found that the asserted claims of the SRI patents were not proven invalid in view of the prior art and arguments presented at the trial.

13. Among other issues, Symantec appealed the jury's verdict that the SRI patents were not invalid. On November 5, 2010, the U.S. Court of Appeals for the Federal Circuit affirmed the jury verdict that the SRI patents were not proven invalid. *SRI Int'l, Inc. v. Internet Sec. Sys.*, 401 Fed. Appx. 530 (Fed. Cir. 2010).

14. On November 3, 2011, SRI and Symantec settled the litigation on confidential terms. *SRI Int'l, Inc. v. Internet Sec. Sys., Inc.*, Civ. No. 04-1199-SLR, D722 (D. Del. Nov. 14, 2011).

15. On April 23, 2012, SRI and Symantec settled a subsequent litigation asserting the same patents against other Symantec products. *SRI Int'l, Inc. v. Symantec Corp.*, Civ. No. 11-131-SLR-MPT, D152 (D. Del. Apr 27, 2012).

16. On March 14, 2013, SRI and IBM entered into a license agreement regarding SRI's "EMERALD" network intrusion patents which includes the '605 and '203 patents. The terms of this agreement are confidential.

17. On February 8, 2011, Dell announced that it closed its acquisition of SecureWorks Inc. Prior to its acquisition, SecureWorks stated that it “is one of the top information security service providers protecting over 2,900 clients worldwide.” SecureWorks stated that “[o]rganizations of all sizes, including more than 15 percent of the Fortune 500, rely on SecureWorks to protect their assets, improve compliance and reduce costs.”

18. Defendants provide Dell SecureWorks Managed Security Services (“MSS”) and related products and services to their customers, and directly and through their affiliates, sell, and offer to sell those services throughout the United States and elsewhere. On their website, Defendants advertise customer testimonials for customers using their MSS. Defendants include network intrusion detection capabilities as part of those services and products.

19. On information and belief, Defendants use the MSS line of services and products and/or the intrusion detection technology underlying the MSS line of services and products to provide infringing Managed Security Services and related products and services.

FIRST CAUSE OF ACTION

I. INFRINGEMENT OF U.S. PATENT NO. 6,711,615 AND REEXAMINATION CERTIFICATE U.S. 6,711,615 C1

20. The allegations of paragraphs 1-19 are incorporated for this First Cause of Action as though fully set forth herein.

21. SRI is now, and has been since its issuance, the assignee and sole owner of all right, title, and interest in United States Patent No. 6,711,615, entitled “Network Surveillance” (“the ’615 patent”), which was duly and legally issued on March 23, 2004. On January 18, 2011, the Patent Office issued a reexamination certificate confirming the patentability of the claims of the ’615 patent. A true and correct copy of the ’615 patent is attached hereto as Exhibit A. A true and correct copy of the ’615 patent’s reexamination certificate is attached hereto as Exhibit B.

22. Defendants have, and have had since at least May 9, 2012, actual knowledge of the '615 patent.

23. Upon information and belief, Defendants have been and are now infringing the '615 patent and associated reexamination certificate in this District and elsewhere by using, selling, and/or offering to sell, intrusion detection products and services to others, including intrusion detection products and services employing systems and methods covered by one or more claims of the '615 patent. Defendants' infringing acts include, but are not limited to, providing and offering to provide "Dell SecureWorks Managed Security Services" and related products and services to customers, using systems and methods covered by the '615 patent claims.

24. Upon information and belief, Defendants have induced infringement of the '615 patent and its associated reexamination certificate by Defendants' customers who use Dell SecureWorks Managed Security Services and related products and services. Upon information and belief, Defendants have known and now know that the induced use of Dell SecureWorks Managed Security Services and related products and services infringes the '615 patent. Upon information and belief, Defendants knew or should have known their actions would induce actual infringement. Upon information and belief, Defendants specifically intended users of Dell SecureWorks Managed Security Services and related products and services to infringe the '615 patent and knew that the users' acts constituted infringement.

25. Defendants' acts of infringement have injured and damaged SRI.

26. Defendants have, and have had, actual knowledge of the '615 patent and their infringement has been and continues to be willful. In particular, Defendants were aware that they had and have no substantive non-infringement defense, yet continued to infringe even after a jury, the Court of Appeals for the Federal Circuit, and now the Patent Office have all confirmed the validity of the '615 patent claims. Defendants' willful infringement makes this case exceptional.

SECOND CAUSE OF ACTION

II. INFRINGEMENT OF U.S. PATENT NO. 6,484,203 AND REEXAMINATION CERTIFICATE U.S. 6,484,203 C1

27. The allegations of paragraphs 1-26 are incorporated for this Second Cause of Action as though fully set forth herein.

28. SRI is now, and has been since its issuance, the assignee and sole owner of all right, title, and interest in United States Patent No. 6,484,203, entitled “Hierarchical Event Monitoring and Analysis” (“the ’203 patent”), which was duly and legally issued on November 19, 2002. On January 11, 2011, the Patent Office issued a reexamination certificate confirming the patentability of the claims of the ’203 patent. A true and correct copy of the ’203 patent is attached hereto as Exhibit C. A true and correct copy of the ’203 patent’s reexamination certificate is attached hereto as Exhibit D.

29. Defendants have, and have had since at least May 9, 2012, actual knowledge of the ’203 patent.

30. Upon information and belief, Defendants have been and are now infringing the ’203 patent and associated reexamination certificate in this District and elsewhere by using, selling, and/or offering to sell, intrusion detection products and services to others, including intrusion detection products and services employing systems and methods covered by one or more claims of the ’203 patent. Defendants’ infringing acts include, but are not limited to, providing and offering to provide “Dell SecureWorks Managed Security Services” and related products and services to customers, using systems and methods covered by the ’203 patent claims.

31. Upon information and belief, Defendants have induced infringement of the ’203 patent and its associated reexamination certificate by Defendants’ customers who use Dell SecureWorks Managed Security Services and related products and services. Upon information and belief, Defendants have known and now know that the induced use of Dell SecureWorks

Managed Security Services and related products and services infringes the '203 patent. Upon information and belief, Defendants knew or should have known their actions would induce actual infringement. Upon information and belief, Defendants specifically intended users of Dell SecureWorks Managed Security Services and related products and services to infringe the '203 patent and knew that the users' acts constituted infringement.

32. Defendants' acts of infringement have injured and damaged SRI.

33. Defendants have, and have had, actual knowledge of the '203 patent and their infringement has been and continues to be willful. In particular, Defendants were aware that they had and have no substantive non-infringement defense, yet continued to infringe even after a jury, the Court of Appeals for the Federal Circuit, and now the Patent Office have all confirmed the validity of the '203 patent claims. Defendants' willful infringement makes this case exceptional.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following relief:

- (a) damages in an amount to be determined at trial;
- (b) an accounting for infringing use and sales or offers for sale of products and services not presented at trial, and an award by the Court of additional damages for any such infringing activities;
- (c) enhanced damages pursuant to 35 U.S.C. § 284;
- (d) costs and reasonable attorney fees incurred in connection with this action pursuant to 35 U.S.C. § 285; and
- (e) such other and further relief as the Court deems appropriate.

A JURY TRIAL IS DEMANDED BY PLAINTIFF.

Dated: April 26, 2013

FISH & RICHARDSON P.C.

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