

ESTTA Tracking number: **ESTTA28911**

Filing date: **03/23/2005**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92040515
Party	Plaintiff Dell Computer Corporation ,
Correspondence Address	Daniel D. Frohling Pattishall McAuliffe Newbury Hilliard 311 South Wacker Drive, Suite 5000 Chicago, IL 60606
Submission	Motion to Dismiss - Rule 12(b)
Filer's Name	Daniel D. Frohling
Filer's e-mail	dfrohling@loeb.com
Signature	/daniel d frohling/
Date	03/23/2005
Attachments	Motion.tif (4 pages)

**UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

DELL COMPUTER CORPORATION)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92040515
)	
DELCOMP, INCORPORATED.)	
)	
Registrant.)	

TO: Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

MOTION TO DISMISS AS MOOT

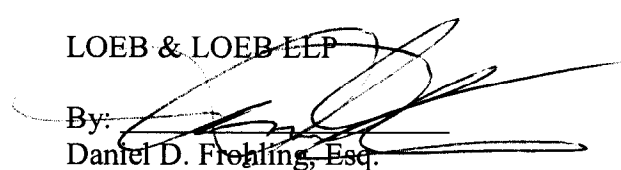
Petitioner, Dell Inc. f/k/a Dell Computer Corporation ("Dell") hereby moves to dismiss this Cancellation proceeding as moot. The parties settled the proceeding pursuant to an agreement under which Delcomp, Incorporated assigned the trademark and registration at issue, Reg. No. 2,465,762, to Dell. A copy of the Assignment is attached hereto as Exhibit A. The Assignment has been recorded with the Assignment Branch of the United States Patent and Trademark Office at Reel/ Frame No. 2867/0744.

Accordingly, Petitioner requests that this Motion to Dismiss as Moot be granted.

Date: 3/23/05

Respectfully Submitted:

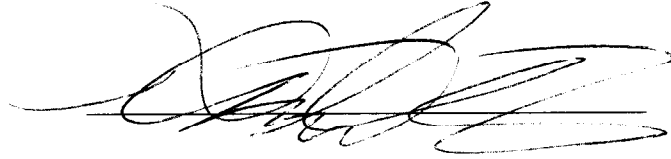
LOEB & LOEB LLP

By: 
Daniel D. Frehling, Esq.
321 North Clark Street, Suite 2300
Chicago, Illinois 60606

Attorneys for Dell, Inc.,
f/k/a Dell Computer Corporation

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **MOTION TO DISMISS AS MOOT** has been served upon Raman N. Dewan, Baker Botts LLP, 98 San Jacinto Blvd., 1500 San Jacinto Center, Austin, Texas 78701 this 23rd day of March, 2005 by first class mail, postage prepaid.

A handwritten signature in black ink, appearing to be "R. Dewan", written over a horizontal line.

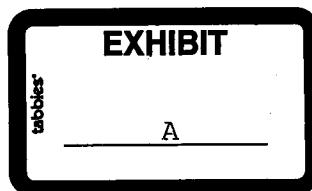
ASSIGNMENT

WHEREAS, Delcomp, Inc., d/b/a Delcomp/SOFTEK (“Delcomp”), a Michigan corporation with a principal place of business at 1431 North 26th Street, Escanaba, Michigan 49829, has been using and owns the tradename, trademark and service mark DELCOMP, and all uses thereof including, but not limited to DELCOMP/SOFTEK, (“Trademark”), together with the goodwill symbolized by and associated with the Trademark, including United States Federal Registration Nos. 2,465,762; 2,473,566; and 2,473,567, for and in connection with its business, products and services;

WHEREAS, Delcomp has used the Trademark as follows: (a) as, or as part of its trade name and corporate name since 1976; (b) in connection with its data processing services since 1976; (c) for computer peripherals sales and rental services since 1979 (d) for software since 1979; (e) for computer rental services since 1979; (f) for hardware and software installation and support services since 1979; (g) for computer networking and integration service since 1979; (h) for computer training services since 1979; (i) for software programming and development services since 1976; (j) for computer sales services since 1979 (k) for consulting services since 1976; and (l) for computers since 1979.

WHEREAS, Delcomp has been using the domain names www.delcomp.net and www.delcompsofttek.com and e-mail addresses that include “delcomp” since 1999 (“Domain Names”), has registered the domain names with Network Solutions, Inc. (“NSI”) and claims rights in the Domain Names, including the goodwill symbolized by the Domain Names;

WHEREAS, Dell Inc., a Delaware corporation located and doing business at One Dell Way, Round Rock, Texas 78682 U.S.A. (“Dell”), desires to acquire all of Delcomp’s above rights; and



WHEREAS, Delcomp desires to assign to Dell all of its rights in and to the Trademark and the Domain Names, including U.S. Trademark Registration Nos. 2,465,762; 2,473,566; and 2,473,567; and Delcomp's registration of the Domain Names with NSI.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, Delcomp hereby assigns and transfers to Dell all of Delcomp's right, title, and interest in and to the Trademark and the Domain Names throughout the world, together with the goodwill symbolized by and associated with the Trademark and the Domain Names, including U.S. Trademark Reg. Nos. 2,465,762; 2,473,566; and 2,473,567; and Delcomp's NSI registrations.

The undersigned warrants that he or she has the authority to execute this Assignment on behalf of Delcomp.

DELCOMP, INC.

By: Joe B Kraul
Title: President
Date: 4/19/2004