

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

EMPLOYMENT LAW COMPLIANCE, INC.,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	Case No. _____
	§	
EMPOWER SOFTWARE SOLUTIONS, INC.,	§	Jury Trial Demanded
	§	
Defendant.	§	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Employment Law Compliance, Inc. (“ELC”) files this Complaint for Patent Infringement against Empower Software Solutions, Inc. (“ESSI” or “Defendant”), for infringement of United States Patent Number 7,330,817 (“the ‘817 Patent”) pursuant to 35 U.S.C. § 271.

NATURE OF THE ACTION

1. This is an action for patent infringement under Title 35 of the United States Code.
2. On information and belief, Defendant ESSI makes, uses, sells, offers for sale, and/or imports into the United States products and/or services that infringe one or more claims of the ‘817 Patent.
3. ELC seeks damages pursuant to 35 U.S.C. § 284 and injunctive relief, among other relief, for Defendant’s infringement of the ‘817 Patent.

THE PARTIES

4. Plaintiff ELC is a corporation organized and existing under the laws of the State of Georgia with its principal place of business in Atlanta, Georgia. ELC does business with clients in Texas and, more specifically, in the Northern District of Texas.
5. On information and belief, ESSI is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Texas is located at 2360 Campbell Creek Boulevard, Richardson, Dallas County, Texas 75082.
6. ESSI may be served through its registered agent for service of process National Corporate Research Ltd., 800 Brazos, Suite 400, Austin, Texas 78701.
7. On information and belief, ESSI is doing business in the United States and, more particularly, in the Northern District of Texas by designing, marketing, manufacturing, using, importing, selling and/or offering for sale products and/or services that infringe one or more claims of the '817 Patent.

JURISDICTION AND VENUE

8. This is a civil action for patent infringement arising under the patent laws of the United States, Title 35, United States Code, including 35 U.S.C. §§ 271 and 281-285. Subject matter jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331 and 1338(a).
9. Venue is proper in the Dallas Division of the Northern District of Texas under 28 U.S.C. §§ 1391(b)-(d) and 1400(b). On information and belief, Defendant ESSI maintains an office for employee compliance matters in the Northern District of Texas. ELC has customers located in the Northern District of Texas.
10. This court has personal jurisdiction over ESSI. ESSI has purposefully established minimum contacts with the State of Texas, and has an office located within the

boundaries of the Northern District of Texas. On information and belief, ESSI, directly and/or through third-party intermediaries and networks creates, manufactures, assembles and/or provides products and/or services that are and have been marketed, offered for sale, sold, purchased, and used by consumers within the Northern District of Texas. On information and belief, ESSI directly and/or through its distribution intermediaries and networks, regularly places infringing products and/or services within the stream of commerce, with the knowledge and/or understanding that such products and/or services will be sold in the Northern District of Texas. On information and belief, ESSI has purposefully and voluntarily marketed and/or sold one or more infringing products and/or services to consumers in the Northern District of Texas. On information and belief, ESSI's infringing products and/or services have been and continue to be purchased by consumers in the Northern District of Texas. On information and belief, ESSI has committed acts of patent infringement within the State of Texas and, more particularly, within the Northern District of Texas. As such, ESSI has purposefully availed itself of the benefits of the State of Texas and the exercise of jurisdiction over ESSI would not offend traditional notions of fair play and substantial justice.

COUNT 1
PATENT INFRINGEMENT

11. ELC incorporates by reference the paragraphs 1 – 10 above as if fully set forth herein.
12. On February 12, 2008, the United States Patent and Trademark Office (“USPTO”) duly and legally issued the ‘817 Patent, entitled “System and methods for employment law compliance, establishment, evaluation and review”. A true and correct copy of the ‘817 Patent is attached as Exhibit A. ELC is the assignee of all rights, title, and interest in

and to the '817 Patent and possesses all rights of recovery under the '817 Patent, including the right to recover damages for past infringement.

13. The '817 Patent is valid and enforceable.
14. Plaintiff ELC makes, uses, sells, and/or offers to sell its computerized employment compliance products and/or services related to compensation compliance, hiring compliance, promotion compliance, termination compliance, and affirmative action plans.
15. On information and belief, Defendant ESSI makes, uses, sells, and/or offers to sell computerized employment compliance products and/or services in competition with ELC, and has been and is now continuing to infringe, directly and indirectly, the '817 Patent by making, using, selling, marketing, offering for sale, and/or importing into the United States products and/or services that infringe on the '817 Patent. These products include, without limitation, EmpowerTime, EmpowerPay and EmpowerMe.
16. ESSI has infringed, literally and/or under the doctrine of equivalents, and continues to directly and indirectly infringe one or more claims of the '817 Patent as described herein.

REMEDIES

17. As a direct and proximate consequence of the acts and practices of ESSI in infringing and/or inducing the infringement of one or more claims of the '817 Patent, ELC has been damaged in an amount to be determined at trial and will continue to be damaged in its business and property rights as a result of Defendant ESSI's infringing activities, unless such activities are enjoined by this Court. Pursuant to 35

U.S.C. § 284, ELC is entitled to damages adequate to compensate for the infringement, including, *inter alia*, lost profits and/or a reasonable royalty.

18. In the alternative, by reason of its infringing acts and practices, Defendant ESSI is causing, and, unless such acts and practices are enjoined by the Court, will continue to cause immediate and irreparable harm to ELC for which there is no adequate remedy at law, and for which ELC is entitled to injunctive relief under 35 U.S.C. § 283. ELC, therefore, requests a permanent injunction prohibiting Defendant ESSI, its directors, officers, employees, agents, parents, subsidiaries, affiliates, and anyone else in active concert or participation with it from infringement, inducement to infringe, or contributory infringement of the '817 Patent, including the making, manufacture, use, sale, offer for sale, distribution, or promotion of products and/or services falling within the scope of the claims of the '817 Patent, including, without limitation, EmpowerTime, EmpowerPay and EmpowerMe.

19. To the extent that facts learned during the pendency of this case show that Defendant ESSI's infringement is willful and deliberate, ELC reserves the right to amend this complaint and request such a finding and seek appropriate relief at time of trial.

COSTS, INTEREST AND ATTORNEY'S FEES

20. If it be determined that this case presents exceptional circumstances within the meaning of 35 U.S.C. § 285, ELC requests the Court award it all reasonable attorney's fees and costs incurred in this litigation and pre-judgment and post-judgment interest pursuant to 35 U.S.C. §§ 284 and 285.

DEMAND FOR A JURY TRIAL

21. ELC hereby demands a trial by jury, under Rule 38 of the Federal Rules of Civil Procedure, for all issues triable of right by a jury.

PRAYER

WHEREFORE, Plaintiff ELC respectfully requests the following relief:

- a. A judgment that Defendant ESSI has infringed, directly and/or indirectly, the '817 Patent;
- b. A judgment and order permanently enjoining Defendant ESSI and its directors, officers, employees, agents, parents, subsidiaries, affiliates, and all persons in active concert or participation with it from infringement, inducement to infringe, or contributory infringement of the '817 Patent, including the making, manufacture, use, sale, offer for sale, distribution, or promotion of products and/or services falling within the scope of the claims of the '817 Patent pursuant to 35 U.S.C. § 283, including, without limitation, ESSI's products EmpowerTime, EmpowerPay and EmpowerMe;
- c. A judgment and order requiring Defendant ESSI to pay ELC damages sufficient to compensate them for the infringement of the '817 Patent, in an amount not less than ELC's lost profits and/or a reasonable royalty and interest and costs, pursuant to 35 U.S.C. § 284, and supplemental damages for any continuing post-verdict infringement up until entry of final judgment with an accounting, as

needed;

- d. A judgment and order awarding enhanced damages, pursuant to 35 U.S.C. § 284, to the extent that Defendant ESS I's acts of infringement of the '817 Patent are determined to be willful;
- e. An award of prejudgment interest, pursuant to 35 U.S.C. § 284, from the date of each act of infringement of the '817 Patent by Defendant ESS I to the day on which judgment for damages is entered, and a further award of post-judgment interest, pursuant to 28 U.S.C. § 1961, continuing until such judgment is paid;
- f. An award of all costs and reasonable attorney's fees against Defendant ESS I, pursuant to 35 U.S.C. §§ 284 and 285, based on its infringement of the '817 Patent; and
- g. Such other and further relief to which ELC may be entitled.

Dated: October 17, 2013.

Respectfully submitted,

/s/ John Reenan

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