

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

SOFTEX LLC,

Plaintiffs,

vs.

**DELL TECHNOLOGIES INC. AND DELL
INC.,**

Defendant.

Civil Action No. 1:22-CV-1308-DAE

**THIRD-PARTY MICROSOFT CORPORATION’S RESPONSES AND OBJECTIONS
TO PLAINTIFF’S SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION**

Pursuant to Federal Rule of Civil Procedure 45, third party Microsoft Corporation (“Microsoft”) provides the following responses and objections to the requests for production contained in Exhibit 1 (collectively the “Requests”) and deposition topics contained in Exhibit 2 (collectively the “Topics”) attached to the Subpoena to Testify at a Deposition in a Civil Action (“the Subpoena”) served by Plaintiff Softex LLC (“Plaintiff”) on November 6, 2023, in connection with the above captioned matter.

The following responses are based upon information and documentation that is currently available and specifically known to Microsoft following a reasonable and ongoing investigation. These responses are given without prejudice to Microsoft’s right to produce subsequently discovered, uncovered, or learned information.

**GENERAL OBJECTIONS AND OBJECTIONS
TO DEFINITIONS AND INSTRUCTIONS**

1. Microsoft objects to the Subpoena to the extent it seeks information that is not known or reasonably available to Microsoft or exceeds what is required by the Federal Rules, Local Rules, or Standing Orders of the Court.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

All Documents Concerning agreements, including indemnification agreements, between you and Dell and/or Dell's Customers regarding the Microsoft Functionality or Dell Accused Instrumentalities, or this Action.

RESPONSE:

Microsoft incorporates its "GENERAL OBJECTIONS AND OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS" set forth above.

Microsoft further objects that this Request is unduly burdensome and overbroad based on the definitions of "You," "Dell," "Customers," "Microsoft Functionality," and "Accused Instrumentalities." Microsoft will interpret this Request as seeking information concerning the Accused Windows Functionality as defined in the GENERAL OBJECTIONS AND OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS" set forth above. Microsoft objects that the Request is unduly burdensome and overbroad to the extent it requests "[a]ll Documents Concerning agreements" when a smaller subset would suffice.

Microsoft objects to the extent that this Request seeks Privileged Materials. Privileged Materials (to the extent any exist) will not be produced.

Microsoft objects that this Request is unduly burdensome and overbroad because it seeks information that is irrelevant given that Microsoft is a third party, and as such seeks information not relevant to any claim or defense in this action and would not be proportional to the needs of the case. Microsoft objects that this Request is unduly burdensome and overbroad to the extent it seeks documents that are equally accessible to Plaintiff through discovery propounded on Dell, and as such the burden and expense on Microsoft, a non-party, to collect and produce documents responsive to this Request outweighs any likely benefit.

Subject to its general and specific objections, Microsoft states that it will not produce documents (to the extent any exist) in response to this Request.

REQUEST FOR PRODUCTION NO. 2:

All Documents or Communications Concerning Softex, Softex's employees (past and/or present), Apurva Bhansali, and/or the Patents-in-Suit.

RESPONSE:

Microsoft incorporates its "GENERAL OBJECTIONS AND OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS" set forth above.

Microsoft further objects that this Request is unduly burdensome and overbroad based on the definitions of "Communications" and "Softex." Microsoft objects that this Request is unduly burdensome and overbroad to the extent it requests "[a]ll Documents or Communications Concerning Softex" when a smaller subset would suffice.

Microsoft objects to the extent that this Request seeks Privileged Materials. Privileged Materials (to the extent any exist) will not be produced.

Microsoft objects that this Request is unduly burdensome and overbroad because it seeks information that is irrelevant given that Microsoft is a third party, and as such seeks information not relevant to any claim or defense in this action and would not be proportional to the needs of the case. The burden and expense on Microsoft, a non-party, to collect and produce documents responsive to the Request outweighs any likely benefit.

Subject to its general and specific objections, Microsoft states that it will not produce documents (to the extent any exist) in response to this Request.

REQUEST FOR PRODUCTION NO. 3:

Documents sufficient to show the operation, design, configuration, structure, technical specifications, function, and operation of the Microsoft Functionality.

RESPONSE:

Microsoft incorporates its “GENERAL OBJECTIONS AND OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS” set forth above.

Microsoft incorporates by reference herein the foregoing objections. Microsoft objects that this Topic is unduly burdensome and overbroad because it seeks information that is not relevant to any claim or defense in this action, not necessary to show functionality or operation as identified by the infringement allegations and the claims, and would not be proportional to the needs of the case. The burden and expense on Microsoft, a non-party, to engage in preparation to provide responsive testimony to this Topic outweighs any likely benefit.

Subject to its general and specific objections, Microsoft will provide witnesses as identified in its responses to Topics 1-17.

December 18, 2023

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that counsel of record for Plaintiff are being served with a copy of Third Party Microsoft Corporation's Responses and Objections to Plaintiff's Subpoena to testify at a Deposition in a Civil Action via e-mail on December 18, 2023

/s/ Shelley M. Meyer

Shelley M. Meyer