

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

Desktop Alert, Inc. v. Alertus Technologies, LLC

Desktop Alert · No. Civ. No. MJM-22-3337 · Decided February 4, 2026

SUMMARY

The United States District Court for the District of Maryland denied Alertus Technologies, LLC’s motion for attorneys’ fees under 35 U.S.C. § 285 in a patent infringement action brought by Desktop Alert, Inc. The court concluded that Desktop Alert’s infringement claims were not objectively unreasonable or frivolous and that it litigated the case reasonably and in good faith. The court also found that Desktop Alert promptly dismissed the action after discovery undermined its claims.

CASE DETAILS

COURT	United States District Court for the District of Maryland
WRITING FOR THE COURT	Matthew J. Maddox
JURISDICTION	United States District Court for the District of Maryland
DECIDED	February 4, 2026
DOCKET	Civ. No. MJM-22-3337
DISPOSITION	denied
PROCEDURAL POSTURE	After the plaintiff voluntarily dismissed its patent-infringement action, the defendant moved for attorneys' fees, expenses, and costs under 35 U.S.C. § 285. The district court denied the motion and ordered the Clerk to close the case.
STANDARD OF REVIEW	The court applied the discretionary, totality-of-the-circumstances standard under 35 U.S.C. § 285, considering the substantive strength of the litigating position and the reasonableness of the manner in which the case was litigated.
PRECEDENTIAL VALUE	Unpublished district court memorandum order; persuasive rather than binding outside the case.

TOPICS

- attorney fees
- patent infringement
- patent law
- remedies
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the patent-infringement action was an exceptional case under 35 U.S.C. § 285 warranting an award of attorneys' fees, expenses, and costs to Alertus.
2. Whether Desktop Alert's pre-suit investigation and litigation conduct were objectively unreasonable, frivolous, or undertaken in bad faith.

HOLDINGS

1. The action was not exceptional because Desktop Alert's infringement position was not objectively unreasonable or frivolous and its manner of litigating the case was not exceptionally unreasonable.
2. Desktop Alert's pre-suit investigation and allegations were not unreasonable because they were based on available evidence and plausible inferences about technology that was primarily within Alertus's control.

KEY QUOTATIONS

“An “exceptional” case is “one that stands out from others with respect to the substantive strength of a party’s litigating position (considering both the governing law and the facts of the case) or the unreasonable manner in which the case was litigated.”” (II)

“Based on an analysis of what information was available to Desktop Alert at the time it filed suit, the patent infringement claims set forth in the Amended Complaint are neither objectively unreasonable nor frivolous.” (III)

“Once Desktop Alert obtained evidence in discovery that revealed the weakness of its infringement claims, it promptly took steps to dismiss the suit.” (III)

FACTUAL BACKGROUND

The parties competed in the electronic emergency-notification-services field, and Alertus had previously obtained access to Desktop Alert's code and techniques. Desktop Alert brought a patent-infringement action based on Alertus's marketing statements, testimony from Alertus's former chief technology officer, and other information suggesting that Alertus's product used technology covered by Desktop Alert's patent. After Alertus disputed the allegations and eventually produced its source code for protected expert review, Desktop Alert concluded that its infringement claims were not viable and promptly voluntarily dismissed the action.

PROCEDURAL HISTORY

Desktop Alert filed a patent-infringement action against Alertus. The court denied Alertus's motion to dismiss, which challenged the validity and patent eligibility of the asserted patent. After discovery and an expert review of Alertus's source code revealed that the infringement claims were not viable, Desktop Alert voluntarily dismissed the action. Alertus then sought at least \$350,334 in attorneys' fees and approximately \$4,350 in costs under § 285.

DISPOSITION

denied

CASES CITED

- Alertus Technologies, LLC v. Desktop Alert Inc., Civ. No. PWG-20-154
- Octane Fitness, LLC v. ICON Health & Fitness, Inc., 572 U.S. 545, 554, 557 (2014)
- Eko Brands, LLC v. Adrian Rivera Maynez Enters., Inc., 946 F.3d 1367, 1375 (Fed. Cir. 2020)
- Fogerty v. Fantasy, Inc., 510 U.S. 517 (1994)
- Georgia-Pac. Consumer Prods. LP v. von Drehle Corp., 781 F.3d 710, 720-21 (4th Cir. 2015), as amended (Apr. 15, 2015)
- Prism Techs. LLC v. VeriSign, Inc., 579 F. Supp. 2d 625, 629 (D. Del. 2008)
- Am. Video Graphics, L.P. v. Elec. Arts, Inc., 359 F. Supp. 2d 558, 560-61 (E.D. Tex. 2005)
- Merial Ltd. v. Intervet, Inc., 437 F. Supp. 2d 1332, 1335 (N.D. Ga. 2006)
- Stone v. Trump, 400 F. Supp. 3d 317, 341 (D. Md. 2019)
- Malibu Media, LLC v. Doe, Civ. No. PWG-13-365, 2014 WL 7188822, at *4 (D. Md. Dec. 16, 2014)
- Arista Records, LLC v. Doe 3, 604 F.3d 110, 120 (2d Cir. 2010)