

PEROT SYSTEMS CORP  
Form SC 14D9/A  
October 08, 2009

**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**

**SCHEDULE 14D-9**  
**(RULE 14d-101)**  
**SOLICITATION/RECOMMENDATION STATEMENT**  
**UNDER SECTION 14(d)(4)**  
**OF THE SECURITIES EXCHANGE ACT OF 1934**  
**(Amendment No. 1)**

**PEROT SYSTEMS CORPORATION**  
*(Name of Subject Company)*

**PEROT SYSTEMS CORPORATION**  
*(Name of Person Filing Statement)*

**CLASS A COMMON STOCK, PAR VALUE \$0.01 PER SHARE**  
*(Title of Class of Securities)*

**714265105**  
*(CUSIP Number of Class of Securities)*

**THOMAS D. WILLIAMS**  
**VICE PRESIDENT, SECRETARY AND GENERAL COUNSEL**  
**PEROT SYSTEMS CORPORATION**  
**2300 West Plano Parkway**  
**Plano, Texas 75075**  
**(972) 577-0000**

*(Name, Address and Telephone Number of Person Authorized to  
Receive Notice and Communications on Behalf of the Person(s) Filing Statement)*

*With copies to:*

**JOHN W. MARTIN**  
**SOREN LINDSTROM**  
**BAKER BOTTS L.L.P.**  
**2001 Ross Avenue, Suite 600**  
**Dallas, Texas 75201**  
**(214) 953-6500**

**J. DAVID KIRKLAND, JR.**  
**BAKER BOTTS L.L.P.**  
**910 Louisiana Street, Suite 3200**  
**Houston, Texas 77002**  
**(713) 229-1234**

- Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

This Amendment No. 1 (together with the exhibit hereto, this Amendment ) amends and supplements the Solicitation/Recommendation Statement on Schedule 14D-9 (together with the exhibits and annexes thereto, the Schedule 14D-9 ), originally filed with the Securities and Exchange Commission on October 2, 2009, by Perot Systems Corporation, a Delaware corporation ( Perot Systems ). The Schedule 14D-9 relates to the offer by DII Holdings Inc. ( Purchaser ), a Delaware corporation and an indirect, wholly-owned subsidiary of Dell Inc., a Delaware corporation ( Dell ), to purchase all of the issued and outstanding shares of Class A Common Stock, par value \$0.01 per share (each, a Share ), for \$30.00 per Share, in cash to the seller without interest and less any applicable withholding taxes, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated October 2, 2009 and in the related Letter of Transmittal, copies of which were filed with the Schedule 14D-9 as Exhibits (a)(2) and (a)(3), respectively. Capitalized terms used and not otherwise defined in this Amendment have the meanings assigned to such terms in the Schedule 14D-9.

Except as otherwise set forth below, the information set forth in the Schedule 14D-9 remains unchanged and is incorporated herein by reference as relevant to the items in this Amendment.

**Item 8. Additional Information.**

Item 8 of the Schedule 14D-9 is hereby amended and supplemented by adding the following text thereto:

**Litigation**

On October 5, 2009, a lawsuit related to the Offer and the Merger was filed in the District Court of the State of Texas, County of Dallas, *The Booth Family Trust v. Perot Systems Corporation, et al.* (Cause No. 09-13538). The action is brought by The Booth Family Trust, which claims to be a stockholder of Perot Systems, on its own behalf and on behalf of all others similarly situated, and seeks certification as a class action on behalf of all Perot Systems stockholders, except the defendants and their affiliates. The lawsuit names Perot Systems, each of Perot Systems directors and Dell as defendants. The lawsuit alleges, among other things, that Perot Systems directors breached their fiduciary duties by (i) failing to maximize shareholder value; (ii) securing benefits for certain officers and directors of Perot Systems in the Merger at the expense of Perot Systems public shareholders; (iii) discouraging and/or inhibiting alternative offers to purchase control of the corporation or its assets; and (iv) failing to provide to Perot Systems shareholders material information so that they can make an informed decision as to whether to tender their shares. The lawsuit alleges that, as a result of the foregoing, the Offer and the Merger are the result of an unfair process resulting in an unfair price of \$30.00 per share. In addition, the lawsuit alleges that Perot Systems and Dell aided and abetted such alleged breaches of fiduciary duties by Perot Systems directors. Based on these allegations, the lawsuit seeks, among other relief, injunctive relief enjoining the defendants from consummating the Offer and the Merger. It also purports to seek recovery of the costs of the action, including reasonable attorney's fees. A copy of the Complaint is filed as Exhibit (a)(12) to this Statement and is incorporated herein by reference.

**Item 9. Material to be Filed as Exhibits.**

Item 12 of the Schedule 14D-9 is hereby amended and supplemented by adding the following text thereto:

- (a)(12) Complaint captioned *The Booth Family Trust v. Perot Systems Corporation, et al.*, filed on October 5, 2009, in the District Court of the State of Texas, County of Dallas.

**SIGNATURE**

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this Statement is true, complete and correct.

PEROT SYSTEMS CORPORATION

Date: October 8, 2009

By: /s/ Thomas D. Williams

Name: Thomas D. Williams

Title: Vice President, Secretary & General  
Counsel

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**EXHIBIT INDEX**

**Exhibit  
Number**

**Description**

(a)(12) Complaint captioned *The Booth Family Trust v. Perot Systems Corporation, et al.*, filed on October 5, 2009, in the District Court of the State of Texas, County of Dallas.