

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

**BESSETTE INTELLECTUAL
PROPERTY, LLC; AND
LUC BESSETTE**

Plaintiffs,

v.

**WAL-MART STORES, INC.,
WAL-MART.COM, INC., AND
WAL-MART.COM USA, LLC,**

Defendants.

Civil Action No. 2:15-cv-1198

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement in which Bessette Intellectual Property, LLC (“BIP”) and Luc Bessette (collectively “Plaintiffs”) make the following allegations against Wal-Mart Stores, Inc., Wal-Mart.com, Inc. and Wal-Mart.com USA, LLC (collective “Wal-Mart” or “Defendants”):

PARTIES

1. Plaintiff Bessette Intellectual Property, LLC is a Texas limited liability company, having a principal place of business of 800 Brazos, Suite 400, Austin, Texas 78701.
2. Plaintiff Luc Bessette is an individual residing in Quebec, Canada.
3. Upon information and belief, Defendant Wal-Mart Stores, Inc., is a corporation established under the laws of the State of Delaware, with its principal place of business at 702 Southwest 8th Street, Bentonville, AR 72716. Wal-Mart Stores, Inc. may be served via its registered agent for service of process: The Corporation Trust Company, Corporation Trust Center, 1209 Orange St., Wilmington, Delaware, 19801.

4. Upon information and belief, Defendant Wal-Mart.com, Inc., is a corporation established under the laws of the State of Delaware, with its principal place of business at 7000 Marina Boulevard, Brisbane, California 94005. Wal-Mart.com, Inc. may be served via its registered agent for service of process: The Corporation Trust Company, Corporation Trust Center, 1209 Orange St., Wilmington, Delaware, 19801.

5. Upon information and belief, Defendant Wal-Mart.com USA, LLC, is a limited liability company established under the laws of the State of California, with its principal place of business at 7000 Marina Boulevard, Brisbane, California 94005. Wal-Mart.com USA, LLC may be served via its registered agent for service of process: Corporation Service Company, 2711 Centerville Rd. Suite 400, Wilmington, DE 19808

JURISDICTION AND VENUE

6. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendants have transacted business in this district, and have committed and/or induced acts of patent infringement in this district.

8. On information and belief, Defendants are subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this Judicial District.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 6,775,670

9. Luc Besette is the inventor and sole owner of United States Patent No. 6,775,670 (“the ’670 Patent”) titled “Method and Apparatus for the Management of Data Files.” The ’670 Patent issued on August 10, 2004. A true and correct copy of the ’670 Patent is attached as Exhibit A.

10. BIP is the exclusive licensee of the ’670 Patent with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the ’670 Patent against infringers, and to collect damages for all relevant times.

11. Upon information and belief, Defendants have been and are now infringing the ’670 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, directly or through intermediaries, making, using, importing, providing, supplying, distributing, selling, and/or offering methods and systems for accessing a network system managing medical information (including, without limitation, Wal-Mart Pharmacy and associated app) Defendants are directly infringing, literally infringing, and/or infringing the ’670 Patent under the doctrine of equivalents. Defendants are thus liable for infringement of the ’670 Patent pursuant to 35 U.S.C. § 271.

12. On information and belief, to the extent any marking was required by 35 U.S.C. § 287, all predecessors in interest to the ’670 Patent complied with any such requirements.

13. As a result of Defendants’ infringement of the ’670 Patent, Plaintiffs have suffered monetary damages and are entitled to a money judgment in an amount adequate to compensate for Defendants’ infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendants, together with interest and costs as fixed by the court,

and Plaintiffs will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court.

14. Unless a permanent injunction is issued enjoining Defendants and their agents, servants, employees, representatives, affiliates, and all others acting on in active concert therewith from infringing the '670 Patent, Plaintiffs will be greatly and irreparably harmed.

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 7,856,456

15. Luc Besette is the inventor and sole owner of United States Patent No. 7,856,456 ("the '456 Patent") titled "System and Method for Electronically Managing Medical Data Files." The '456 Patent issued on December 21, 2010. A true and correct copy of the '456 Patent is attached as Exhibit B.

16. BIP is the exclusive licensee of the '456 Patent with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the '456 Patent against infringers, and to collect damages for all relevant times.

17. Upon information and belief, Defendants have been and are now infringing the '456 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, directly or through intermediaries, making, using, importing, providing, supplying, distributing, selling, and/or offering for sale a network server for accessing a medical record for an individual (including without limitation, Wal-Mart Pharmacy and associated app). Defendants are directly infringing, literally infringing, and/or infringing the '456 Patent under the doctrine of equivalents. Defendants are thus liable for infringement of the '456 Patent pursuant to 35 U.S.C. § 271.

18. On information and belief, to the extent any marking was required by 35 U.S.C. § 287, all predecessors in interest to the '456 Patent complied with any such requirements.

19. As a result of Defendants' infringement of the '456 Patent, Plaintiffs have suffered monetary damages and are entitled to a money judgment in an amount adequate to compensate for Defendants' infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendants, together with interest and costs as fixed by the court, and Plaintiffs will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court.

20. Unless a permanent injunction is issued enjoining Defendants and their agents, servants, employees, representatives, affiliates, and all others acting on in active concert therewith from infringing the '456 Patent, Plaintiffs will be greatly and irreparably harmed.

COUNT III
INFRINGEMENT OF U.S. PATENT NO. 8,296,333

21. Luc Besette is the inventor and sole owner of United States Patent No. 8,296,333 ("the '333 Patent") titled "Microorganism Neutralization Device and Method." The '333 Patent issued on October 23, 2012. A true and correct copy of the '333 Patent is attached as Exhibit C.

22. BIP is the exclusive licensee of the '333 Patent with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the '333 Patent against infringers, and to collect damages for all relevant times.

23. Upon information and belief, Defendants have been and are now infringing the '333 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, directly or through intermediaries, making, using, importing, providing, supplying, distributing, selling, and/or offering for sale a network server for performing an update of a particular medical record when new medical information becomes available for an individual (including without limitation, Wal-Mart Pharmacy and associated app). Defendants are directly infringing, literally infringing, and/or infringing the '333 Patent under the doctrine of

equivalents. Defendants are thus liable for infringement of the '333 Patent pursuant to 35 U.S.C. § 271.

24. On information and belief, to the extent any marking was required by 35 U.S.C. § 287, all predecessors in interest to the '333 Patent complied with any such requirements.

25. As a result of Defendants' infringement of the '333 Patent, Plaintiffs have suffered monetary damages and are entitled to a money judgment in an amount adequate to compensate for Defendants' infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendants, together with interest and costs as fixed by the court, and Plaintiffs will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court.

26. Unless a permanent injunction is issued enjoining Defendants and their agents, servants, employees, representatives, affiliates, and all others acting on in active concert therewith from infringing the '333 Patent, Plaintiffs will be greatly and irreparably harmed.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully requests that this Court enter:

1. A judgment in favor of Plaintiffs that Defendants have infringed the '670, '456 and '333 Patents;

2. A permanent injunction enjoining Defendants and their officers, directors, agents servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement, inducing the infringement of, or contributing to the infringement of the '670, '456 and '333 Patents, or such other equitable relief the Court determines is warranted;

3. A judgment and order requiring Defendants pay to Plaintiffs their damages, costs, expenses, and prejudgment and post-judgment interest for Defendants' infringement of the '670, '456 and '333 Patents as provided under 35 U.S.C. § 284, and an accounting of ongoing post-judgment infringement; and

4. Any and all other relief, at law or equity, to which Plaintiffs may show themselves to be entitled.

DEMAND FOR JURY TRIAL

Plaintiffs, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

DATED June 30, 2015.

Respectfully submitted,

By: /s/ Hao Ni

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