

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

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

Plaintiffs,

v.

**CVS HEALTH CORPORATION; AND  
CVS PHARMACY, INC.,**

Defendants.

**Civil Action No. 2:15-cv-1196**

**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 CVS Health Corporation and CVS Pharmacy, Inc. (collective “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 CVS Health Corporation is a corporation organized under the laws of the State of Delaware, with its principal place at One CVS Drive, Woonsocket, Rhode Island 02895. CVS Health Corporation 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 CVS Pharmacy, Inc. is a corporation organized under the laws of the State of Rhode Island, with its principal place of business at One

CVS Drive, Woonsocket, Rhode Island 02895. CVS Pharmacy, Inc. may be served via its registered agent for service of process: CT Corporation System, 450 Veterans Memorial Parkway, Suite 7A, East Providence, Rhode Island, 02914.

### **JURISDICTION AND VENUE**

5. 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).

6. 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.

7. 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**

8. 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.

9. 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.

10. 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, myCVS Pharmacy) 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.

11. 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.

12. 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.

13. 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**

14. 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.

15. 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.

16. 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, myCVS Pharmacy). 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.

17. 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.

18. 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.

19. 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**

20. 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.

21. 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.

22. 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, myCVS Pharmacy). 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.

23. 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.

24. As a result of Defendants’ infringement of the ’333 Patent, Plaintiffs have suffered monetary damages and is 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.

25. 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 Plaintiff may show itself 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,

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