

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**Sapphire Crossing LLC,**

Plaintiff,

v.

**WageWorks, Inc.,**

Defendant.

Case No. \_\_\_\_\_

Patent Case

Jury Trial Demanded

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Sapphire Crossing LLC (“Sapphire Crossing”), through its attorney, Isaac Rabicoff, complains against WageWorks, Inc. (“WageWorks”) and alleges the following:

**PARTIES**

1. Plaintiff Sapphire Crossing LLC is a corporation organized and existing under the laws of Texas and maintains its principal place of business at 5570 FM 423 Suite 250, #2008, Frisco, TX 75034.

2. Defendant WageWorks, Inc. is a corporation organized and existing under the laws of Delaware and maintains its principal place of business at 1100 Park Place, 4th Floor, San Mateo, CA 94403.

**JURISDICTION**

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

4. This Court has exclusive subject matter jurisdiction under 28 U.S.C. §§

1331 and 1338(a).

5. This Court has personal jurisdiction over WageWorks because it has engaged in systematic and continuous business activities in this District. Specifically, WageWorks resides because it is incorporated in this District and provides its full range of services to residents in this District. As described below, WageWorks has committed acts of patent infringement giving rise to this action within this District.

#### **VENUE**

6. Venue is proper in this District under 28 U.S.C. § 1400(b) because WageWorks has committed acts of patent infringement in this District and is incorporated in this District. In addition, Sapphire Crossing has suffered harm in this District.

#### **PATENT-IN-SUIT**

7. On May 10, 2005, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 6,891,633 (“the ’633 Patent”) to Xerox Corporation (“Xerox”), naming Ken Hayward, Marc J. Krolczyk, Dawn M. Marchionda, Thomas L. Wolf and James S. Laird as the inventors. The ’633 Patent is titled “Image Transfer System”. A copy of the ’633 Patent is attached to this Complaint as Exhibit A.

8. Claims 19–20 of the ’633 Patent are valid and enforceable. The Patent Trial and Appeal Board denied institution of claims 19-20 and further denied Petitioner’s request for a rehearing.

9. On November 25, 2015, Xerox assigned all right, title, and interest in and to the ’633 Patent to Ruby Sands LLC, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the ’633 Patent.

10. On March 26, 2018, Ruby Sands LLC assigned all right, title, and interest in and to the '633 Patent to Sapphire Crossing LLC, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the '633 Patent. Accordingly, Sapphire Crossing possesses the exclusive right and standing to prosecute the present action for infringement of the '633 Patent by WageWorks.

11. The '633 Patent is directed to a novel image transfer system comprising a transfer device which can be operably connected to a computer. The system includes a reader for reading an image on a first medium, and a display for displaying an image transfer menu for effecting transfer of the image to perform a selected function. For example, the reader can be a mobile electronic device used to take a photograph of a first medium (for example, a receipt), and then offer on the display of the mobile electronic device a menu of different actions that can be selected to accomplish a particular task: for example, uploading scanned receipts to create an expense report or verify transactions. A downloadable app can transform the mobile device into the claimed image transfer device. Without the app, the mobile device cannot display the first type of menu, read the receipt, establish a connection with a computer, transfer the image to the computer, or display the second type of menu.

12. Claim 19 of the '633 patent is directed to a method for transferring information from a first medium wherein the method provides an image transfer device having a scanner for reading an image on the first medium (for example a smartphone); the image transfer device reads the image on the first medium with the scanner (for example taking a picture with the smartphone); the image transfer device then uploads

the electronic data including at least a portion of an image transfer menu to be displayed by the image transfer device to the transfer device from a computer connected to the transfer device; and a processor of the image transfer device automatically merges the electronic data with the image read by the scanner and transfers the merged image by the transfer device to a second medium (for example servers).

**WAGeworks's INFRINGING SYSTEM AND METHOD**

13. Sapphire Crossing incorporates the above paragraphs herein by reference.

14. WageWorks performs the steps of the method found in the preamble of claim 19: "transferring information from a first medium." For example, WageWorks' EX Receipts Mobile App ("Accused Instrumentality") uses a reader for reading an image on a first medium, and a display for displaying an image transfer menu to perform a selected function. *See* <https://www.wageworks.com/employees/account-management/wageworks-ez-receipts-mobile-app/>; Figure 1.

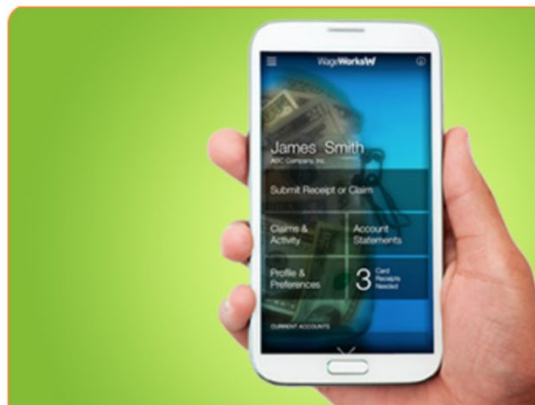
# WageWorks EZ Receipts Mobile App

You'll love the convenience of the WageWorks® EZ Receipts® mobile app. This handy free app is the quick and easy way to manage your WageWorks benefits. It puts the power of the WageWorks [web portal](#) in the palm of your hand. Download this free app to your iPhone or Android mobile device, log in to your WageWorks account, and check your balances, submit claims, snap and submit photos of receipts—all on the go!

## Manage Your WageWorks Account Any Time, Anywhere

Why use the WageWorks EZ Receipts mobile app?

- Snap and submit photos of your receipt each time you use your card to make it easy to verify card transactions later
- File claims, view transactions, and check account balances on the go
- Sign up for email and text alerts for the ultimate mobile convenience



*"I absolutely love the WageWorks EZ Receipts mobile app. It makes using my WageWorks benefits so simple.*

*I just snap a photo of my receipt with my smartphone and submit my claim for reimbursement. I signed up for text alerts recently, and now I check my account and card balances when I'm on the go. It couldn't be easier!"*

- A happy WageWorks EZ Receipts mobile app user

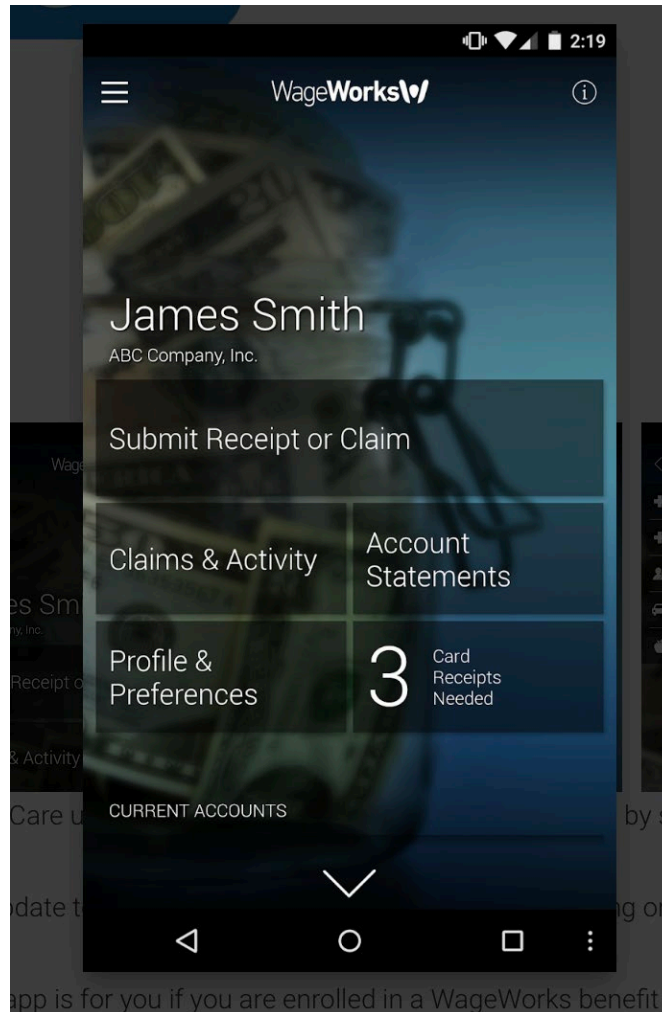
*Figure 1. WageWorks provides a downloadable app for use on mobile devices that transforms such devices into the Accused Instrumentality.*

See also <https://play.google.com/store/apps/details?id=com.wageworks.ezreceipts>, Figure 2.



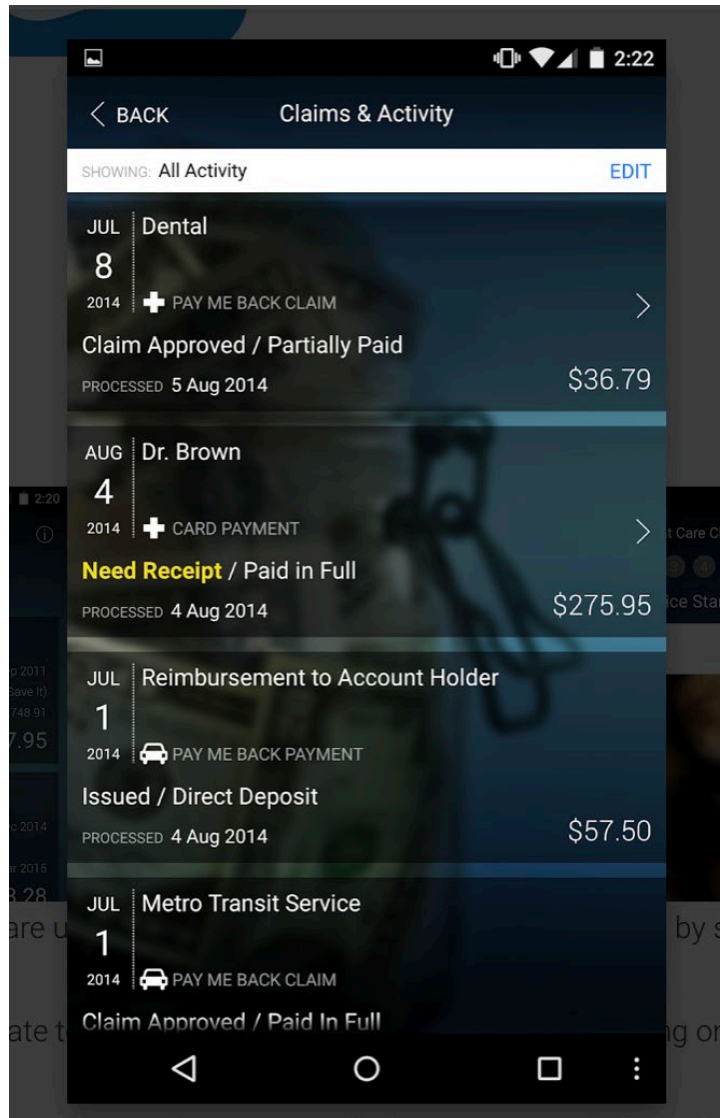
*Figure 2. WageWorks' Accused Instrumentality uses the camera on the user's smartphone to capture receipts for management on the smartphone.*

15. WageWorks' Accused Instrumentality performs the steps found in claim 19(a): "providing an image transfer device having a scanner for reading an image on the first medium." For example, WageWorks' Accused Instrumentality scans an image on a first medium, such as the barcode on a paper receipt through a camera. *See* Fig. 2; *also* <https://play.google.com/store/apps/details?id=com.wageworks.ezreceipts>, Figure 3.



*Figure 3. The Accused Instrumentality uses the camera on the user's smartphone to scan an image on a first medium.*

16. WageWorks' Accused Instrumentality performs the steps found in claim 19(b): "reading the image on the first medium with the scanner." For example, WageWorks' Accused Instrumentality uses the camera on the user's smartphone to read an image of a receipt. *See* Figs. 1, 3; <https://play.google.com/store/apps/details?id=com.wageworks.ezreceipts>, Figure 4.



*Figure 4. WageWorks' Accused Instrumentality uses the camera on the user's smartphone to read an image on a first medium and then uploads the receipt to the WageWorks servers.*

17. WageWorks' Accused Instrumentality performs the steps of claim 19(c): "automatically uploading electronic data including at least a portion of an image transfer menu to be displayed by the image transfer device to the transfer device from a computer connected to the transfer device." For example, WageWorks' Accused Instrumentality uploads and displays an image transfer validation menu from the communication channels found in WageWorks' computers and gives users the option to deposit the



receipt. *See* Figs. 1, 3-4.

18. WageWorks' Accused Instrumentality performs the steps of claim 19(d): "with a processor of the image transfer device, automatically merging the electronic data with the image read by the scanner." For example, WageWorks' Accused Instrumentality merges the data found in the electronic image of the scanned receipt that can be stored on WageWorks' servers. *See* Figs. 3-4.

19. WageWorks's Accused Instrumentality performs the steps of claim 19(e): "transferring the merged image by the transfer device to a second medium." For example, WageWorks's Accused Instrumentality transfers the merged image to its server(s). *See* Figs. 3-4.

20. On its website, WageWorks specifically instructs its customers to use the Accused Instrumentality in a way that infringes at least Claim 19 of the '633 Patent. *See* <https://www.wageworks.com/employees/account-management/wageworks-ez-receipts-mobile-app/>.

#### **COUNT I: DIRECT INFRINGEMENT**

21. Sapphire Crossing incorporates the above paragraphs herein by reference.

22. As a result of making, using (including having its employees internally test and use the Accused Instrumentality as alleged below), marketing, and providing the Accused Instrumentality, WageWorks has and continues to directly infringe at least Claim 19 of the '633 Patent literally or under the doctrine of equivalents.

23. As set forth above, the Accused Instrumentality is specifically designed to perform every step of at least Claim 19 of the '633 Patent, and each use of the Accused Instrumentality will result in infringement of at least that claim.

24. Upon information and belief, WageWorks has and continues to directly infringe at least Claim 19 of the '633 Patent when it internally tested and used the Accused Instrumentality.

25. Upon information and belief, WageWorks's employees or individuals under WageWorks's control use the Accused Instrumentality to test the operation of the Accused Instrumentality and its various functions, in the infringing manner described here, and thereby infringes at least Claim 19 of the '633 Patent. Sapphire Crossing therefore alleges that WageWorks has and continues to directly infringe the '633 Patent by using the Accused Instrumentality to perform at least the method of Claim 19.

26. Upon information and belief, WageWorks also has and continues to directly infringe at least Claim 19 of the '633 Patent when its employees use the Accused Instrumentality. Upon information and belief, WageWorks's employees or individuals under WageWorks's control use the Accused Instrumentality in an infringing manner and described in detail in the above section (INFRINGING SYSTEM AND METHOD). Sapphire Crossing therefore alleges that WageWorks directly infringes the '633 Patent by using the Accused Instrumentality to perform the method of at least Claim 19.

27. Since at least the date that this Complaint was filed, WageWorks has willfully infringed at least Claim 19 of the '633 Patent by directly infringing the patent with knowledge of the patent and despite an objectively high likelihood that its actions constituted infringement of the '633 Patent.

28. Sapphire Crossing has suffered damages as a result of WageWorks's direct infringement of the '633 Patent.

29. Sapphire Crossing is entitled to recover damages adequate to compensate

it for such infringement in an amount no less than a reasonable royalty under 35 U.S.C. § 284.

30. Sapphire Crossing will continue to be injured, and thereby caused irreparable harm, unless and until this Court enters an injunction prohibiting further infringement.

#### **COUNT II: INDIRECT INFRINGEMENT**

31. Sapphire Crossing incorporates the above paragraphs herein by reference.

32. **Contributory Infringement.** WageWorks has also contributed to the infringement of at least Claim 19 of the '633 Patent by providing the Accused Instrumentality to, among others, its customers, and by advertising, promoting, encouraging, instructing and aiding others to use the Accused Instrumentality in an infringing manner.

33. WageWorks has engaged in these activities knowing that the Accused Instrumentality is especially made and adapted for use, and is in fact used, in a manner that constitutes infringement of at least Claim 19 of the '633 Patent. The Accused Instrumentality is not a staple article or commodity of commerce that is suitable for substantial non-infringing uses.

34. Since at least the filing date of this Complaint, WageWorks has known that the use of the Accused Instrumentality infringes the '633 Patent, and that such combination of components has no substantial non-infringing use.

35. Sapphire Crossing has suffered damages as a result of WageWorks's indirect infringement of the '633 Patent.

36. Sapphire Crossing is entitled to recover damages adequate to compensate

it for such infringement in an amount no less than a reasonable royalty under 35 U.S.C. § 284.

37. Sapphire Crossing will continue to be injured, and thereby caused irreparable harm, unless and until this Court enters an injunction prohibiting further infringement.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Sapphire Crossing prays for judgment against WageWorks on all the counts and for the following relief:

- A. A declaration that Sapphire Crossing is the owner of the right to sue and to recover for infringement of the '633 Patent being asserted in this action;
- B. A declaration that WageWorks has directly infringed, actively induced the infringement of, or contributorily infringed the '633 Patent;
- C. A declaration that WageWorks and its customers are jointly or severally responsible for the damages from infringement of the '633 Patent through the use of the SAP WageWorks mobile app;
- D. A declaration that WageWorks is responsible jointly or severally with its customers for the damages caused by the infringement of the '633 Patent through the use of the SAP WageWorks mobile app by WageWorks's customers;
- E. An accounting for damages under 35 U.S.C. § 284 for infringement of the '633 Patent by WageWorks, and the award of damages so ascertained to Sapphire Crossing together with interest as provided by law;
- F. An accounting of all damages not presented at trial;

- G. An award of Sapphire Crossing's costs and expenses;
- H. A declaration that WageWorks's actions constitute as exceptional conduct in bad faith, and an award of Sapphire Crossing's attorney fees; and
- I. Such other and further relief as this Court may deem proper, just and equitable.

Dated: February 28, 2019

Respectfully submitted,

/s/ Timothy Devlin

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