

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

SCANNING TECHNOLOGIES
INNOVATIONS LLC

Plaintiff,

vs.

LAVU INCORPORATED

Defendant.

§
§
§
§
§
§
§
§
§
§
§

Case No:

PATENT CASE

ORIGINAL COMPLAINT

Pursuant to F.R.C.P. 15(a)(1)(B), Plaintiff Scanning Technologies Innovations, LLC (“Plaintiff” or “STI”) files this Original Complaint against Lavu Incorporated (“Defendant” or “Lavu”) for infringement of United States Patent No. 9,466,078 (hereinafter “the ‘078 Patent”).

PARTIES AND JURISDICTION

1. This is an action for patent infringement under Title 35 of the United States Code. Plaintiff is seeking injunctive relief as well as damages.

2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.

3. Plaintiff is a Texas limited liability company with its principal office located at 1400 Preston Rd., Plano, TX 75093.

4. On information and belief, Defendant is a Delaware corporation having a place of business at 1951 NW 7th Ave., #600, Miami, FL 33136. On information and belief, Defendant may be served through its agent, The Corporation Trust Company, at Corporation Trust Center,

1209 Orange St., Wilmington, DE 19801.

5. On information and belief, this Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in this District, has conducted business in this District, and/or has engaged in continuous and systematic activities in this District.

6. On information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in this District.

VENUE

7. Venue is proper in this District 28 U.S.C. §1400(b) because Defendant is deemed to reside in this district. Alternatively, acts of infringement are occurring in this District and Defendant has a regular and established place of business in this District. For example, Defendant has a regular and established place of business at 1951 NW 7th Ave., #600, Miami, FL 33136.

COUNT I **(INFRINGEMENT OF UNITED STATES PATENT NO. 9,466,078)**

8. Plaintiff incorporates paragraphs 1 through 7 herein by reference.

9. This cause of action arises under the patent laws of the United States and, in particular, under 35 U.S.C. §§ 271, *et seq.*

10. Plaintiff is the owner by assignment of the '078 Patent with sole rights to enforce the '078 Patent and sue infringers.

11. A copy of the '078 Patent, titled "Systems and Methods for Indicating the Existence of Accessible Information Pertaining to Articles of Commerce," is attached hereto as Exhibit A.

12. The '078 Patent is valid, enforceable, and was duly issued in full compliance with

Title 35 of the United States Code.

13. Upon information and belief, Defendant has infringed and continues to infringe one or more claims, including at least Claim 1, of the '078 Patent by making, using, importing, selling, and/or offering for sale a point of sale system and app covered by one or more claims of the '078 Patent. Defendant has infringed and continues to infringe the '078 Patent directly in violation of 35 U.S.C. § 271.

14. Defendant sells, offers to sell, and/or uses an online ordering system including, without limitation, the LAVU point-of-sale system and app, and any similar products (collectively, "Product"), which infringe at least Claim 1 of the '078 Patent.

15. The Product practices a system (e.g., Lavu POS) for indicating an existence of a link (e.g., indication of existence of a link i.e. obtained by selecting "Display in App" or "Display in Lavu ToGo" or "Include in Quick Item List") to information pertaining to an article of commerce (e.g., description of an item). Certain aspects of this element are illustrated in the screenshots below and/or those provided in connection with other allegations herein.

The First iPad Point of Sale System

Lavu's iPad point of sale system is the world's leading mobile POS for restaurants and bars. With the first iPad POS system in the App Store, Lavu offers premier, proprietary bar and restaurant POS systems, used by thousands of restaurants in over 80 countries.

Source: <https://www.lavu.com/>

4. Click the blue **Details** button for the desired Menu Item.



FIGURE 3

DESCRIPTION:

1. Enter a **Description** into the text field



FIGURE 4

2. Enter a **UPC** (barcode) for use with the Linea Pro Scanner

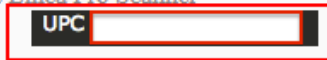


FIGURE 5

DISPLAY IN APP / LAVU TOGO:

1. Select whether the Menu Item will **display in app** from the drop-down menu



FIGURE 6

2. Select whether the Menu Item will **display in Lavu ToGo** from the drop-down menu (Gold and Platinum Licenses only) (Learn how to set up Lavu ToGo)



FIGURE 7

3. Select whether the Menu Item will **include in Quick Item List**

- This is a universal Menu Category in the Lavu POS App populated by Menu Items you select from the Menu. If there are no items included in the **Quick Item List** then it will not display in the Lavu POS App



FIGURE 8

Source: <https://support.lavu.com/hc/en-us/articles/200107725-Section-1-3-Menu-Item-Details>

16. The Product comprises a mobile device (e.g., mobile/wireless technologies) running Lavu POS comprising a portable handheld housing (e.g., integrated scanner as a barcode reader) and a communication interface configured to enable the mobile device to communicate with a communication network (e.g., communication interface of the mobile device enabling communication over Internet). Certain aspects of this element are illustrated in the screenshots

below and/or those provided in connection with other allegations herein.

Using the Integrated Scanner as a Barcode Reader

Packaged merchandise, such as pre-wrapped baked goods, can be marked with a barcode. The integrated scanner allows you to quickly scan barcodes to add these items to an order. The first step in this process is to make sure the scanner can recognize the product by adding a Universal Product Code (UPC) to the menu item in the control panel. The UPC is generally found at the bottom of the bar code.

Source: <https://support.lavu.com/hc/en-us/articles/360002434854-Integrated-Scanner>

The Lavu POS application is all about making it easier to operate your business. In order to speed up the check out process you are able to associate a barcode number with each item in your system so that you can quickly scan that barcode and add it to a new order. This feature is great for retail shops with a large amount of items. Simply scan a barcode with any of the recommended and supported barcode scanners listed below to use this feature.

Source: <https://shop.lavu.com/category-s/137.htm>

Lavu is an iPad POS (point of sale) system designed for small to large businesses within the restaurant industry. Lavu is adaptable to any sort of environment whether it's full-service, quick-service or a franchise. The software is a combination of cloud-based management and mobile/wireless technologies with a modern and intuitive touchscreen interface.

Source: <https://www.getapp.com/customer-management-software/a/lavu/>

NOTE: The POS Lavu App needs a minimum internet speed of 6MB/s down and an upload speed of 2MB/s.

Source: <https://support.lavu.com/hc/en-us/articles/202407144-Offline-Mode>

17. The Product has a signal processing device (e.g., processor of the mobile device) and visual input device (e.g., integrated scanner as barcode reader). Certain aspects of this element are illustrated in the screenshots below and/or those provided in connection with other allegations herein.

| Operating System, Device and Bluetooth Mode Support* | |
|--|--|
| OS | OS Version / Compatible Devices |
| Windows Embedded Handheld | 6.x |
| Windows 8, RT, 7, Vista, XP | 32 bit and 64 bit |
| iOS | <ul style="list-style-type: none"> • iPod touch (4th generation), iPod touch (3rd generation) • iPhone 5, iPhone 4S, iPhone 4, iPhone 3GS (iPhone 3G not supported) • iPad mini • iPad (3rd generation), iPad 2, iPad |

Source: https://shopcdn.textalk.se/shop/ws49/55249/art69/46831769-8c068a-36081272-dbff97-chs-1d-imager-user_s-guide.pdf

Using the Integrated Scanner as a Barcode Reader

Packaged merchandise, such as pre-wrapped baked goods, can be marked with a barcode. The integrated scanner allows you to quickly scan barcodes to add these items to an order. The first step in this process is to make sure the scanner can recognize the product by adding a Universal Product Code (UPC) to the menu item in the control panel. The UPC is generally found at the bottom of the bar code.

Source: <https://support.lavu.com/hc/en-us/articles/360002434854-Integrated-Scanner>

18. The visual input device (e.g., integrated scanner as a barcode reader) supported by Lavu POS is affixed within the portable handheld housing. (e.g., housing of integrated scanner). Certain aspects of this element are illustrated in the screenshots below and/or those provided in connection with other allegations herein.

Using the Integrated Scanner as a Barcode Reader

Packaged merchandise, such as pre-wrapped baked goods, can be marked with a barcode. The integrated scanner allows you to quickly scan barcodes to add these items to an order. The first step in this process is to make sure the scanner can recognize the product by adding a Universal Product Code (UPC) to the menu item in the control panel. The UPC is generally found at the bottom of the bar code.

Source: <https://support.lavu.com/hc/en-us/articles/360002434854-Integrated-Scanner>

The Lavu POS application is all about making it easier to operate your business. In order to speed up the check out process you are able to associate a barcode number with each item in your system so that you can quickly scan that barcode and add it to a new order. This feature is great for retail shops with a large amount of items. Simply scan a barcode with any of the recommended and supported barcode scanners listed below to use this feature.

Source: <https://shop.lavu.com/category-s/137.htm>

19. The Product has digital files (e.g., customized logos, original product images, custom receipts) supported by Lavu POS associated with the mobile device. Certain aspects of this element are illustrated in the screenshots below and/or those provided in connection with other allegations herein.

Restaurants can market their branding by creating customized logos, uploading original product images and designing custom receipts for their customers.

Source: <https://www.getapp.com/customer-management-software/a/lavu/>

20. On information and belief, the Product also includes a server accessed by Lavu POS in communication with the communication network (e.g., Internet), the server comprising a server database (e.g., centralized database that stores information corresponding to items) configured to store a look-up table (e.g., the centralized database) that includes at least a plurality of identification codes (UPC codes) associated with a plurality of articles of commerce (e.g., description of an item). Certain aspects of this element are illustrated in the screenshots below and/or those provided in connection with other allegations herein.

NOTE: The POS Lavu App needs a minimum internet speed of 6MB/s down and an upload speed of 2MB/s.

Source: <https://support.lavu.com/hc/en-us/articles/202407144-Offline-Mode>

sales data, and many other operational headaches. With hundreds of features supported by a cloud-based management system, Lavu POS software delivers a streamlined, intuitive interface and centralized data storage, giving management complete control and staff members an effective and simple tool that allows them to maintain the highest standards of customer service.

Source: <https://www.lavu.com/>

DESCRIPTION:

1. Enter a **Description** into the text field

A screenshot of a software interface showing a text input field. The field is labeled "Description" and is currently empty. The field and its label are highlighted with a red rectangular border.

FIGURE 4

2. Enter a **UPC** (barcode) for use with the Linea Pro Scanner

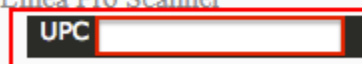
A screenshot of a software interface showing a text input field. The field is labeled "UPC" and is currently empty. The field and its label are highlighted with a red rectangular border.

FIGURE 5

Source: <https://support.lavu.com/hc/en-us/articles/200107725-Section-1-3-Menu-Item-Details>

Add the UPC to the Menu Item

A screenshot of a software interface titled "Details - MatchaItem ID: 969". It shows two text input fields. The first field is labeled "Description" and is empty. The second field is labeled "UPC" and contains the value "00525121". Both fields and their labels are highlighted with a red rectangular border.

Source: <https://support.lavu.com/hc/en-us/articles/360002434854-Integrated-Scanner>

21. The look-up (e.g., the centralized database accessed by Lavu POS) also stores a plurality of information link indicators (e.g., indication of existence of an item obtained by

selecting “Display in App” or “Display in Lavu ToGo” or “Include in Quick Item List”). Certain aspects of this element are illustrated in the screenshots below and/or those provided in connection with other allegations herein.

DISPLAY IN APP / LAVU TOGO:

1. Select whether the Menu Item will **display in app** from the drop-down menu




FIGURE 6

2. Select whether the Menu Item will **display in Lavu ToGo** from the drop-down menu (Gold and Platinum Licenses only) (Learn how to set up Lavu ToGo)

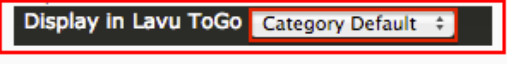


FIGURE 7

3. Select whether the Menu Item will **include in Quick Item List**

- This is a universal Menu Category in the Lavu POS App populated by Menu Items you select from the Menu. If there are no items included in the **Quick Item List** then it will not display in the Lavu POS App

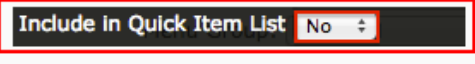


FIGURE 8

Source: <https://support.lavu.com/hc/en-us/articles/200107725-Section-1-3-Menu-Item-Details>

22. Each information link indicator configured in Lavu POS (e.g., indication of existence of an item obtained by selecting “Display in App” or “Display in Lavu ToGo” or “Include in Quick Item List”) is associated with a respective identification code (e.g., UPC code) and article of commerce (e.g., description of an item). Certain aspects of this element are illustrated in the screenshots below and/or those provided in connection with other allegations herein.

DESCRIPTION:

1. Enter a **Description** into the text field

A screenshot of a web form showing a text input field. The field is labeled "Description" and is currently empty. A red rectangular box highlights the entire input area.

FIGURE 4

2. Enter a **UPC** (barcode) for use with the Linea Pro Scanner

A screenshot of a web form showing a text input field. The field is labeled "UPC" and is currently empty. A red rectangular box highlights the entire input area.

FIGURE 5

DISPLAY IN APP / LAVU TOGO:

1. Select whether the Menu Item will **display in app** from the drop-down menu

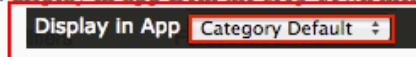
A screenshot of a web form showing a dropdown menu. The menu is labeled "Display in App" and has "Category Default" selected. A red rectangular box highlights the dropdown area.

FIGURE 6

2. Select whether the Menu Item will **display in Lavu ToGo** from the drop-down menu (Gold and Platinum Licenses only) (Learn how to set up Lavu ToGo)

A screenshot of a web form showing a dropdown menu. The menu is labeled "Display in Lavu ToGo" and has "Category Default" selected. A red rectangular box highlights the dropdown area.

FIGURE 7

3. Select whether the Menu Item will **include in Quick Item List**

- This is a universal Menu Category in the Lavu POS App populated by Menu Items you select from the Menu.

If there are no items included in the **Quick Item List** then it will not display in the Lavu POS App

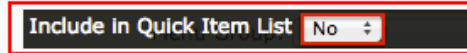
A screenshot of a web form showing a dropdown menu. The menu is labeled "Include in Quick Item List" and has "No" selected. A red rectangular box highlights the dropdown area.

FIGURE 8

Source: <https://support.lavu.com/hc/en-us/articles/200107725-Section-1-3-Menu-Item-Details>

Add the UPC to the Menu Item

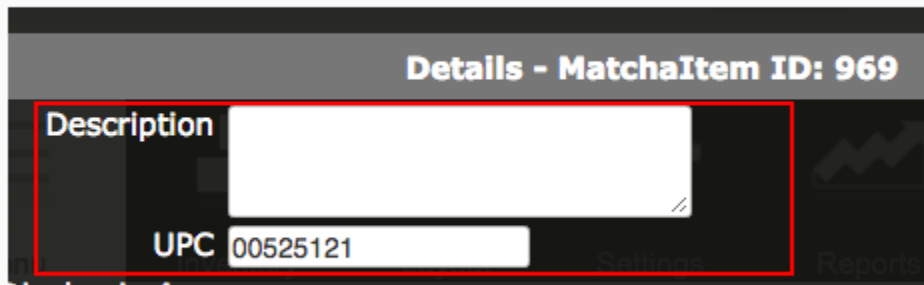
A screenshot of a web form titled "Details - MatchaItem ID: 969". The form has two main input fields: "Description" and "UPC". The "UPC" field contains the value "00525121". A red rectangular box highlights both the "Description" and "UPC" fields.

Source: <https://support.lavu.com/hc/en-us/articles/360002434854-Integrated-Scanner>

23. Each information link indicator (e.g., selecting “Display in App” or “Display in

Lavu ToGo” or “Include in Quick Item List”) in Lavu POS is configured as a status signal indicating the existence or absence of a link to information pertaining to a respective article of commerce (e.g., if there are no items included in the Quick Item List, then it will not display in Lavu POS App). The link is made to the information via the communication network (e.g., Internet). Certain aspects of this element are illustrated in the screenshots below and/or those provided in connection with other allegations herein.

Add the UPC to the Menu Item



Source: <https://support.lavu.com/hc/en-us/articles/360002434854-Integrated-Scanner>

DISPLAY IN APP / LAVU TOGO:

1. Select whether the Menu Item will **display in app** from the drop-down menu



FIGURE 6

2. Select whether the Menu Item will **display in Lavu ToGo** from the drop-down menu (Gold and Platinum Licenses only) (Learn how to set up Lavu ToGo)



FIGURE 7

3. Select whether the Menu Item will **include in Quick Item List**

- This is a universal Menu Category in the Lavu POS App populated by Menu Items you select from the Menu.

If there are no items included in the **Quick Item List** then it will not display in the Lavu POS App



FIGURE 8

Source: <https://support.lavu.com/hc/en-us/articles/200107725-Section-1-3-Menu-Item-Details>

NOTE: The POS Lavu App needs a minimum internet speed of 6MB/s down and an upload speed of 2MB/s.

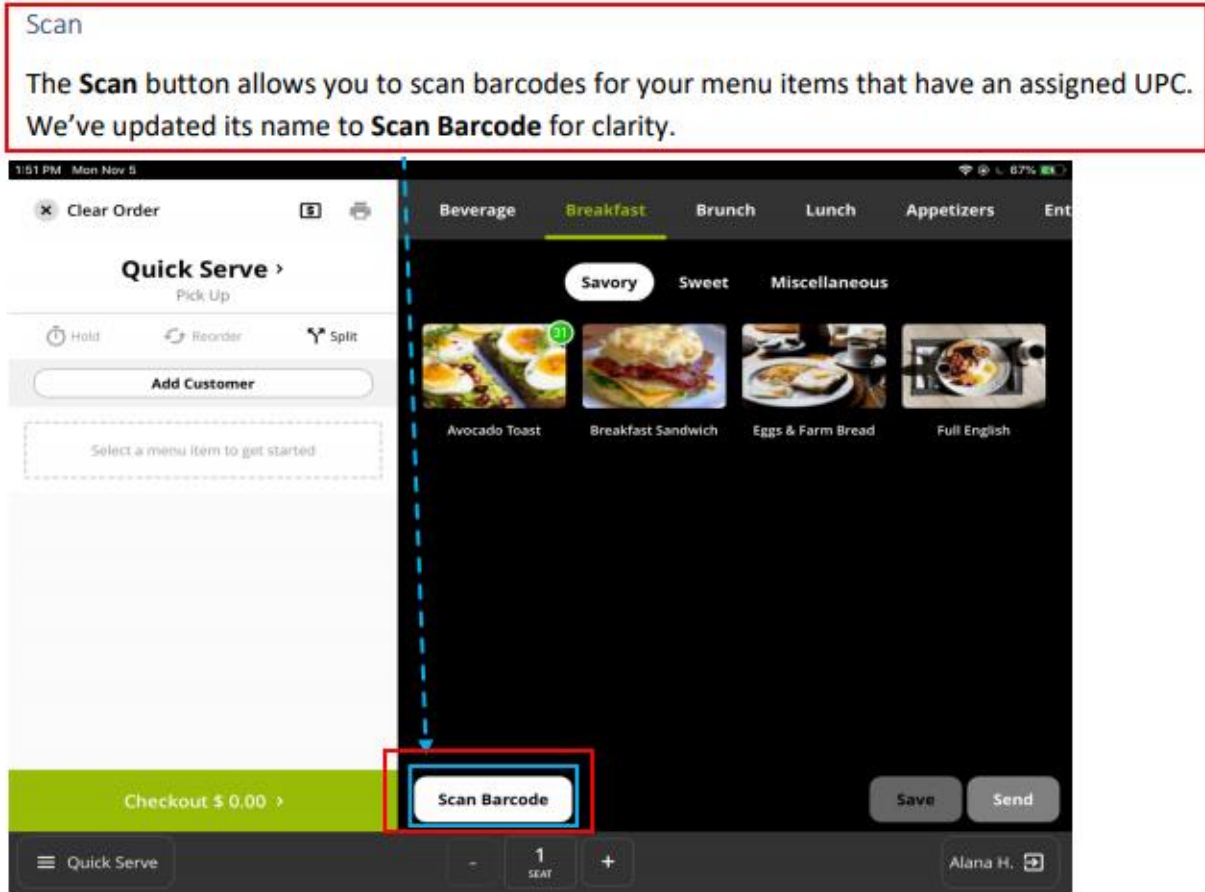
Source: <https://support.lavu.com/hc/en-us/articles/202407144-Offline-Mode>

24. The visual input device (e.g., integrated scanner as a barcode reader) is accessed by Lavu POS is configured to capture an image of an article of commerce (e.g., scan barcode associated with a product) and decode the image to obtain an identification code (e.g., UPC of the product). Certain aspects of this element are illustrated in the screenshots below and/or those provided in connection with other allegations herein.

Using the Integrated Scanner as a Barcode Reader

Packaged merchandise, such as pre-wrapped baked goods, can be marked with a barcode. The integrated scanner allows you to quickly scan barcodes to add these items to an order. The first step in this process is to make sure the scanner can recognize the product by adding a Universal Product Code (UPC) to the menu item in the control panel. The UPC is generally found at the bottom of the bar code.

Source: <https://support.lavu.com/hc/en-us/articles/360002434854-Integrated-Scanner>



Source: https://support.lavu.com/hc/en-us/article_attachments/360029550933/NewRelease.pdf



Source: <https://support.lavu.com/hc/en-us/articles/360002434854-Integrated-Scanner>

25. The signal processing device accessed by Lavu POS, in response to receiving the identification code (e.g., UPC), is configured to look up the identification code in the look-up table (e.g., lookup the UPC in the “local database” present in the device running Lavu POS, which also supports offline mode transaction) to determine from a respective information link

indicator whether or not a link exists for accessing information pertaining to an article of commerce associated with the identification code via the communication network (e.g., information link indicator corresponding to selection of drop-down menu, as “Display in App” or “Display in Lavu ToGo” or “Include in Quick Item List”, is used to determine whether or not a link exists via internet for accessing information pertaining to an article of commerce associated with the UPC). Certain aspects of this element are illustrated in the screenshots below and/or those provided in connection with other allegations herein.

Information about the Lavu Local Server

Lavu Local Server (LLS) is an on-site server designed to help locations continue running when a connection to the cloud server is down. LLS runs special Lavu software using an Apple Mac mini computer.

LLS is recommended for high volume customers and customers who have slow or unreliable internet connections in order to help maximize the uptime of your system.

LLS acts as a “middle-man” between your system and the cloud. If your internet connection is temporarily unavailable, your data will be stored on the LLS until the internet connection is reestablished and the data can be synced to the cloud.

Source: <https://support.lavu.com/hc/en-us/articles/200074006-Information-about-the-Lavu-Local-Server-LLS>

Add the UPC to the Menu Item

Details - MatchaItem ID: 969

| | |
|--------------------|---------------------------------------|
| Description | <input type="text"/> |
| UPC | <input type="text" value="00525121"/> |

Source: <https://support.lavu.com/hc/en-us/articles/360002434854-Integrated-Scanner>

DISPLAY IN APP / LAVU TOGO:

1. Select whether the Menu Item will **display in app** from the drop-down menu



FIGURE 6

2. Select whether the Menu Item will **display in Lavu ToGo** from the drop-down menu (Gold and Platinum Licenses only) (Learn how to set up Lavu ToGo)



FIGURE 7

3. Select whether the Menu Item will **include in Quick Item List**

- This is a universal Menu Category in the Lavu POS App populated by Menu Items you select from the Menu.

If there are no items included in the **Quick Item List** then it will not display in the Lavu POS App



FIGURE 8

Source: <https://support.lavu.com/hc/en-us/articles/200107725-Section-1-3-Menu-Item-Details>

NOTE: The POS Lavu App needs a minimum internet speed of 6MB/s down and an upload speed of 2MB/s.

Source: <https://support.lavu.com/hc/en-us/articles/202407144-Offline-Mode>

26. The signal processing device accessed by Lavu POS determines whether or not the link exists without accessing the communication network (e.g., database in the device running Lavu POS, which enables the device to work in offline mode is accessed, without accessing the Internet, to determines whether or not the link exists using information link indicator corresponding to selection of drop-down menu as “Display in App” or ”Display in Lavu ToGo” or “Include in Quick Item List”). Certain aspects of this element are illustrated in the screenshots below and/or those provided in connection with other allegations herein.

Cloud-Based Or Locally-Installed

Lavu is cloud-based and usually requires an internet connection to operate. In the event of an internet outage, Lavu can be used in offline mode, which allows for offline credit card processing for certain payment processors and platforms. You can contact Lavu to learn more. As I noted above, there is also a Local Server option, which runs on a dedicated Mac Mini installed at the customer's location. The iPads need only connect with the Mini to operate, adding a layer of protection against an Internet outage. The Local Server syncs with the cloud whenever the Internet connection is active. It will cost a little extra but, when installed it provides very strong offline functionality.

- **Lavu Local Server:** This is basically an in-house backup in case you lose your wireless connection to the cloud. Because the LLS connects to your router with an Ethernet cable, you can still operate the POS during an internet outage; you cannot, however, process credit cards, and the system is not designed to handle prolonged usage without a wireless connection. That being said, Lavu's cloud version also offers an offline mode.

Source: <https://www.merchantmaverick.com/reviews/pos-lavu-review/>

DISPLAY IN APP / LAVU TOGO:

1. Select whether the Menu Item will **display in app** from the drop-down menu

Display in App Category Default ▾

FIGURE 6

2. Select whether the Menu Item will **display in Lavu ToGo** from the drop-down menu (Gold and Platinum Licenses only) (Learn how to set up Lavu ToGo)

Display in Lavu ToGo Category Default ▾

FIGURE 7

3. Select whether the Menu Item will **include in Quick Item List**

- This is a universal Menu Category in the Lavu POS App populated by Menu Items you select from the Menu. If there are no items included in the **Quick Item List** then it will not display in the Lavu POS App

Include In Quick Item List No ▾

FIGURE 8

Source: <https://support.lavu.com/hc/en-us/articles/200107725-Section-1-3-Menu-Item-Details>

27. Defendant's actions complained of herein will continue unless Defendant is

enjoined by this court.

28. Defendant's actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

29. Plaintiff is in compliance with 35 U.S.C. § 287.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

(a) Enter judgment for Plaintiff on this Complaint on all causes of action asserted herein;

(b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receive notice of the order from further infringement of United States Patent No. 9,466,078 (or, in the alternative, awarding Plaintiff a running royalty from the time of judgment going forward);

(c) Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;

(d) Award Plaintiff pre-judgment and post-judgment interest and costs; and

(e) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: June 28, 2019

Respectfully submitted,

/s/ Howard L. Wernow

Howard L. Wernow B.C.S. (Trial Counsel)

Florida Bar No.: 107560

Sand, Sebolt & Wernow Co., LPA

4940 Munson Street NW

Aegis Tower - Suite 1100

Canton, OH 44718

330-244-1174

Fax: 330-244-1173

Email: howard.wernow@sswip.com

Board Certified in Intellectual Property Law

By the Florida Bar

ATTORNEY FOR PLAINTIFF