

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

DATREC, LLC,)	
Plaintiff,)	
)	Civil Action No. 2:20-cv-00514-DBP
v.)	
)	
MYHERITAGE (USA), INC.; AND)	
MYHERITAGE LTD CORPORATION,)	JURY TRIAL DEMANDED
Defendants.)	

PLAINTIFF’S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

DatRec, LLC (“DatRec”) files this Original Complaint and demand for jury trial seeking relief from patent infringement of the claims of U.S. Patent No. 8,156,158 (“the ‘158 patent”) and 8,381,309 (“the ‘309 patent”) (collectively, referred to as the “Patents-in-Suit”) by MyHeritage (USA), Inc. and MyHeritage LTD Corporation.

I. THE PARTIES

1. Plaintiff DatRec is a Texas Limited Liability Company with its principal place of business located in Harris County, Texas.

2. On information and belief, MYHERITAGE (USA), INC. (“MYHERITAGE USA”) is a corporation organized and existing under the laws of Utah, with a principal place of business located 2975 Executive Parkway, Suite 310, Lehi, UT 84043. On information and belief, MYHERITAGE USA sells and offers to sell products and services throughout Utah, including in this judicial district, and introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in Utah and this judicial district.

3. On information and belief, MYHERITAGE LTD CORPORATION (“MYHERITAGE LTD.”) (collectively, MYHERITAGE USA and MYHERITAGE LTD are referred to as “MYHERITAGE”) is a corporation organized and existing under the laws of Utah, with a principal place of business located 2975 Executive Parkway, Suite 310, Lehi, UT 84043. On information and belief, MyHeritage sells and offers to sell products and services throughout Utah, including in this judicial district, and introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in Utah and this judicial district.

II. JURISDICTION AND VENUE

4. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff’s claim arises under an Act of Congress relating to patents, namely, 35 U.S.C. § 271.

5. This Court also has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. § 1332(a)(1) because Plaintiff is a limited liability company organized under the laws of the State of Texas and Defendants are Utah LLC and Corporations with a principal, physical place of business at 2975 Executive Parkway, Suite 310, Lehi, UT 84043. The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

6. This Court has personal jurisdiction over Defendant because: (i) Defendant is present within or has minimum contacts within the State of Utah and this judicial district; (ii) Defendant has purposefully availed itself of the privileges of conducting business in the State of Utah and in this judicial district; and (iii) Plaintiff’s cause of action arises directly from Defendant’s business contacts and other activities in the State of Utah and in this judicial district.

7. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b). Defendant has committed acts of infringement and has a regular and established place of business in this District. Further, venue is proper because Defendant conducts substantial business in this forum, directly or through intermediaries, 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 New York and this District.

III. INFRINGEMENT


A. Infringement of the '158 Patent

8. On April 10, 2012, U.S. Patent No. 8,156,158 (“the '158 patent”, attached as Exhibit A) entitled “Method and System for Use of a Database of Personal Data Records” was duly and legally issued by the U.S. Patent and Trademark Office. DatRec, LLC owns the '158 patent by assignment.

9. The '158 patent relates to a novel and improved manner of constructing a verified database of identified individuals capable of processing with a subgroup of at least one medical application.

10. MyHeritage maintains, operates, and administers a website at www.MyHeritage.com that infringes one or more claims of the '158 patent, including one or more of claims 1-23, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the '158 Patent into service (i.e., used them); but for Defendant's actions, the claimed-inventions embodiments involving Defendant's products and services would never have been put into service. Defendant's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant's procurement of monetary and commercial benefit from it.

11. Support for the allegations of infringement may be found in the following preliminary table:

US8156158 B2	MyHeritage
<p>A method for using and managing a database, the method comprising:</p>	<p>Build your family tree to make fascinating Discoveries</p> <p>Tell us what you know about your parents and grandparents, and we'll instantly start matching your tree with over 6.3 billion historical records.</p> <p>Create tree Import GEDCOM</p>  <p>Copyright © 2018 MyHeritage Ltd.</p> <p>https://www.myheritage.com/discovery-hub/556987041/main</p> <p>MyHeritage has a method for using and managing a database.</p> <p>The reference includes subject matter disclosed by the claims of the patent after the priority date.</p>

US8156158 B2

MyHeritage

providing a verified database of a plurality of identified individuals, the verified database comprising a plurality of individual-identifier data sets (IDSs) and relationship data; and

What is Smart Matching™?



Smart Matching™ is a specialized powerful genealogy technology that matches people that you have defined in your family tree with people in other family trees that members all over the world have created on MyHeritage.com.

It works by comparing names, facts, and connections intelligently to the millions of family trees contributed by other users, to find out if your family tree intersects with any other trees and indicates matches. The sophisticated technology behind Smart Matches™ bridges across differences in spelling, phonetics, and relationships that may exist between the trees to offer a large quantity of highly accurate matches.

With billions of family tree profiles on MyHeritage, you have an excellent chance of getting Smart Matches™ that reveal valuable new information about your family.

When two family trees are connected, both their owners are informed about individuals matching in their trees, and they benefit from the opportunity to collaborate and learn from each other.

You can then review and save new information to your family tree as well as contact other family tree owners to find more connections and discover new relatives.

To view your matches, hover over the 'Discoveries' tab on your family site. You can select either 'Matches by people' or 'Matches by source' to review Smart Matches found for your family tree.

<https://faq.myheritage.com/Discoveries-Research/Smart-Matching/951695941/What-is-Smart-Matching.htm>

The reference describes providing a verified database of a plurality of identified individuals, the verified database comprising a plurality of individual-identifier data sets (IDSs) and relationship data [Smart Matching™ is a specialized powerful genealogy technology that matches people that you have defined in your family tree with people in other family trees that members all over the world have created on [MyHeritage.com](https://www.myheritage.com) + comparing names, facts, and connections intelligently + highly accurate matches].

US8156158 B2

MyHeritage

processing said verified database in accordance with one or more parameters or conditions selected in accordance with at least one medical application and creating a sub-group database including data records of the individuals from the verified database having said one or more selected parameters or conditions, thereby allowing collection of data comprising one or more selected parameters or conditions and delivery of at least part of the collected data to one or more users and enable to apply data from said verified database to provide personalized medicine service to at least one of said identified individuals;

How do I assign a condition to someone in the Health Family Tree?

The screenshot shows the 'Health Family Tree' interface for 11 people. A profile for Andrew Smith (Me, Dec 21, 1979, 38 years old) is open. The 'Conditions' section has a red box around the 'Add +' button. An arrow points from this button to a dropdown menu that is open, showing a search bar 'Type a condition name' and a list of categories: Blood & Immune system, Brain & Nerves, Digestive & Hormonal systems, Face & Sensory organs, Heart, Kidneys & Urinary system, Respiratory system, Reproductive system, Cancers, and Other. The background shows a family tree with members Brian Smith, Debra Smith (born Anthony), Shelly Tepper (born Smith), and Sam Tepper.

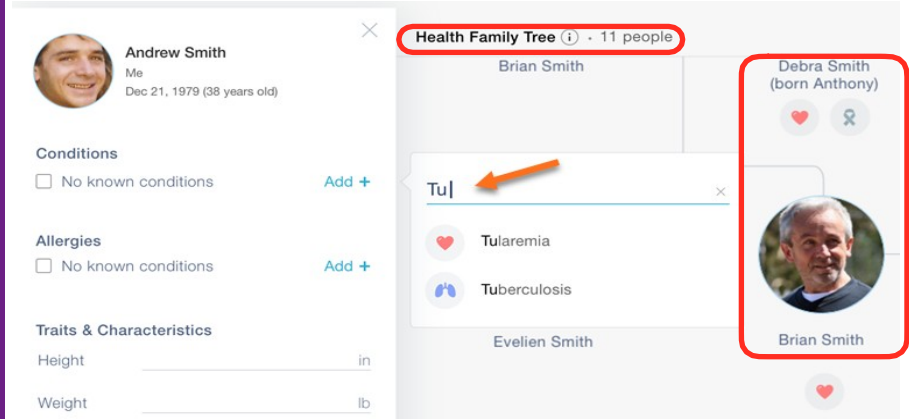
<https://faq.myheritage.com/Family-Site/Health-Family-Tree/1074027601/How-do-I-assign-a-condition-to-someone-in-the-Health-Family-Tree.htm>

The reference describes processing said verified database in accordance with one or more parameters or conditions selected in accordance with at least one medical application and creating a sub-group database including data records of the individuals from the verified database having said one or more selected parameters or conditions [assign a condition to someone in the Health Family Tree], thereby allowing collection of data comprising one or more selected parameters or conditions and delivery of at least part of the collected data to one or more users and enable to apply data from said verified database to provide personalized medicine service to at least one of said identified individuals

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MyHeritage

wherein said providing of the verified database comprises: permitting a plurality of individuals to enter individual-associated data bits (IDBs) into a computerized system, each of the IDBs comprising at least one personal identifier relating to the individual and relationship data comprising data on one or more related individuals and the nature of relationship;



<https://faq.myheritage.com/Family-Site/Health-Family-Tree/1074027601/How-do-I-assign-a-condition-to-someone-in-the-Health-Family-Tree.htm>

processing the entered IDBs to generate the IDS, one for each identified individual, being either said individual who has entered the individual-associated data bits or one of the related individuals and construct the verified database comprising IDSs of identified individuals.

The reference states that said providing of the verified database comprises: permitting a plurality of individuals to enter individual-associated data bits (IDBS) into a computerized system, each of the IDBs comprising at least one personal identifier relating to the individual and relationship data comprising data on one or more related individuals and the nature of relationship [Health Family Tree | Debra Smith (born Anthony) + Brian Smith].

The reference describes processing the entered IDBs to generate the IDS, one for each identified individual, being either said individual who has entered the individual-associated data bits or one of the related individuals and construct the verified database comprising IDSs of identified individuals [Andrew Smith | Me].

These allegations of infringement are preliminary and are therefore subject to change.

12. MyHeritage has and continues to induce infringement. MyHeritage has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., question and answer services on the Internet] and related services that provide question and answer services across the Internet such as to cause infringement of one or more of claims 1–23 of the '158 patent, literally or under the doctrine of equivalents. Moreover, MyHeritage has known of the '158 patent and the technology underlying it from at least the date of issuance of the patent.

13. MyHeritage has and continues to contributorily infringe. MyHeritage has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., question and answer services on the Internet] and related services that provide question and answer services across the Internet such as to cause infringement of one or more of claims 1–23 of the '158 patent, literally or under

the doctrine of equivalents. Moreover, MyHeritage has known of the '158 patent and the technology underlying it from at least the date of issuance of the patent.

14. MyHeritage has caused and will continue to cause DatRec damage by direct and indirect infringement of (including inducing infringement of) the claims of the '158 patent.

B. Infringement of the '309 Patent

15. On February 9, 2013, U.S. Patent No. 8,381,309 (“the '309 patent”, attached as Exhibit B) entitled “Method and System for Ecure Communiocation Over a Public Network” was duly and legally issued by the U.S. Patent and Trademark Office. DatRec, LLC owns the '309 patent by assignment.

16. The '309 patent relates to a novel and improved system for secure communication over a public network.

17. MyHeritage maintains, operates, and administers a website at www.MyHeritage.com that infringes one or more claims of the '309 patent, including one or more of claims 1-17, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the '309 Patent into service (i.e., used them); but for Defendant’s actions, the claimed-inventions embodiments involving Defendant’s products and services would never have been put into service. Defendant’s acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant’s procurement of monetary and commercial benefit from it.

18. Support for the allegations of infringement may be found in the following preliminary table:

US8381309 B2

MyHeritage

A system for enabling communication between users over a communication network, the system comprising;

Build your family tree to make fascinating Discoveries

Tell us what you know about your parents and grandparents, and we'll instantly start matching your tree with over 6.3 billion historical records.

Create tree

Import GEDCOM



Copyright © 2018 MyHeritage Ltd.

<https://www.myheritage.com/discovery-hub/556987041/main>

MyHeritage has a system for enabling communication between users over a communication network.

The reference includes subject matter disclosed by the claims of the patent after the priority date.

US8381309 B2

MyHeritage

a server system associated with a database comprising verified data relating an individual, said server system being configured and operable to verify at least some of the data so as to authenticate an identity of the individual;

What is Search Connect™?



Search Connect™ is a unique feature that allows you to connect with other MyHeritage members who are searching for the same ancestors and people as you. Collaboration through Search Connect™ can open new doors, and provide exciting discoveries about your family history.

Search Connect™ includes millions of searches made by MyHeritage members. It allows you to find other users who searched for the people you are looking for, and to view the full data of their search (such as dates, places, relatives and more), as well as similar searches they've made.

Search Connect™ results are included in SuperSearch™, MyHeritage's powerful search engine for historical records. It is a new collection, located in the Family Trees category, and you can also search it on its own. Initially containing more than 30 million entries of unique searches by MyHeritage members, for rare names, Search Connect™ will continue to grow every week as more users conduct new searches.

A Search Connect™ result includes basic information about the MyHeritage member who made the search (first name initial and last name, gender, country) and a list of their family sites on MyHeritage. The details of the search made by the user are then elaborated.

If you find a result that seems relevant or useful, you can contact the person who conducted the search and get in touch to exchange more information.

<https://faq.myheritage.com/Discoveries-Research/Search-Connect/951689331/What-is-Search-Connect.htm>

The reference describes a server system associated with a database comprising verified data relating an individual, said server system being configured and operable to verify at least some of the data so as to authenticate an identity of the individual [Search Connect™ includes millions of searches made by MyHeritage members. It allows you to find other users who searched for the people you are looking for, and to view the full data of their search (such as dates, places, relatives and more)].

determining a level of reliability in authenticity based on correspondence between data on said individual entered by a plurality of related individuals; and

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Search Connect™ includes millions of searches made by MyHeritage members. It allows you to find other users who searched for the people you are looking for, and to view the full data of their search (such as dates, places, relatives and more), as well as similar searches they've made.

Search Connect™ results are included in **SuperSearch™**, MyHeritage's powerful search engine for historical records. It is a new collection, located in the Family Trees category, and you can also search it on its own. Initially containing more than 30 million entries of unique searches by MyHeritage members, for rare names, Search Connect™ will continue to grow every week as more users conduct new searches.

A Search Connect™ result includes basic information about the MyHeritage member who made the search (first name initial and last name, gender, country) and a list of their family sites on MyHeritage. The details of the search made by the user are then elaborated.

If you find a result that seems relevant or useful, you can contact the person who conducted the search and get in touch to exchange more information.

<https://faq.myheritage.com/Discoveries-Research/Search-Connect/951689331/What-is-Search-Connect.htm>

The reference describes determining a level of reliability in authenticity based on correspondence between data on said individual entered by a plurality of related individuals [A Search Connect™ result includes basic information about the MyHeritage member who made the search (first name initial and last name, gender, country) and a list of their family sites on MyHeritage].

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<p>the system being configured to define one or more levels of permitted communication between individuals in the database and the verified individual on the basis of said verification.</p>	<p>In response to popular demand, <i>Contacting DNA Matches</i> is now available to all MyHeritage DNA users for free. This remains free for people who uploaded DNA data to MyHeritage, and, for the first time, is also free to users with MyHeritage DNA kits who do not have a subscription plan. We are making this free because this has been a frequent request by our users. In addition, we believe it will benefit the community because more people will be contacting their DNA Matches, resulting in more family reunions, more discoveries, and increased collaboration.</p> <p><u>On the DNA Matches list, click on the "Contact" button for any DNA Match to send a message. If the DNA Match is not the manager of his or her own DNA kit, you have the option to send a message either to the DNA Match or to the person who manages their kit.</u></p> <p><https://blog.myheritage.com/2018/01/contacting-dna-matches-is-now-free/></p> <p>The reference describes the system being configured to define one or more levels of permitted communication between individuals in the database and the verified individual on the basis of said verification [On the DNA Matches list, click on the "Contact" button for any DNA Match to send a message. If the DNA Match is not the manager of his or her own DNA kit, you have the option to send a message either to the DNA Match or to the person who manages their kit].</p>

These allegations of infringement are preliminary and are therefore subject to change.

19. MyHeritage has and continues to induce infringement. MyHeritage has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., question and answer services on the Internet] and related services that provide question and answer services across the Internet such as to cause infringement of one or more of claims 1–17 of the '309 patent, literally or under the doctrine of equivalents. Moreover, MyHeritage has known of the '309 patent and the technology underlying it from at least the date of issuance of the patent.

20. MyHeritage has and continues to contributorily infringe. MyHeritage has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., question and answer services on the Internet] and related services that provide question and answer services across the Internet such as to cause infringement of one or more of claims 1–17 of the '309 patent, literally or under the doctrine of equivalents. Moreover, MyHeritage has known of the '309 patent and the technology underlying it from at least the date of issuance of the patent.

21. MyHeritage has caused and will continue to cause DatRec damage by direct and indirect infringement of (including inducing infringement of) the claims of the '309 patent.

C. Infringement of the '198 Patent

22. On February 9, 2013, U.S. Patent No. 8,990,198 (“the '198 patent”, attached as Exhibit C) entitled “Method and system for computerized management of related data records” was duly and legally issued by the U.S. Patent and Trademark Office. DatRec, LLC owns the '198 patent by assignment.

23. The '198 patent relates to a novel and improved system for secure communication over a public network.

24. MyHeritage maintains, operates, and administers a website at www.MyHeritage.com that infringes one or more claims of the '198 patent, including one or more of claims 1-18, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the '198 Patent into service (i.e., used them); but for Defendant's actions, the claimed-inventions embodiments involving Defendant's products and services would never have been put into service. Defendant's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant's procurement of monetary and commercial benefit from it.

25. Support for the allegations of infringement may be found in the following preliminary table:

US8990198 B2

MyHeritage

A method for automatic computerized identification of mergeable family trees stored in one or more databases, wherein each family tree comprises nodes representing individuals and connecting links connecting nodes defining a relationship sequence, each said node comprising data items on the individual represented thereby and each said node being linked to at least one other node, the method comprising:

Build your family tree to make fascinating Discoveries

Tell us what you know about your parents and grandparents, and we'll instantly start matching your tree with over 6.3 billion historical records.

Create tree

Import GEDCOM



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<https://www.myheritage.com/discovery-hub/556987041/main>

MyHeritage has a method for automatic computerized identification of mergeable family trees stored in one or more databases, wherein each family tree comprises nodes representing individuals and connecting links connecting nodes defining a relationship sequence, each said node comprising data items on the individual represented thereby and each said node being linked to at least one other node.

The reference includes subject matter disclosed by the claims of the patent after the priority date.

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MyHeritage

directing a computer to find matching nodes satisfying at least one of the following (i) a match in a majority of data items, (ii) a match in predetermined data items, (iii) having matched data items, said matched data items having pre-assigned weighting factors of respective data pieces about the individual, for which the average or total weighting factors satisfy a certain threshold condition;

How do I merge two family trees?



It is possible to merge two family tree projects using our Family Tree Builder software, but we do not recommend merging large family trees, as duplicate information has to be deleted manually and inconsistencies within the family tree might occur.

Trees will be merged during Import GEDCOM process ([click here to learn what a GEDCOM file is](#)) in Family Tree Builder. The first tree will be used as a basis for merge, and the second tree will be merged with the basic project.

You will have to take different actions depending on where you originally created the family trees that you would like to merge.

directing a computer to determine that two family trees are mergeable only if there are a predetermined number of matching nodes and connecting links therebetween common to each of the two family trees, said step of directing a computer to determine that two family trees are mergeable comprising-providing a plurality of first matrices associated with one of the two family trees and a plurality of second matrices associated with the other of the two family trees, each matrix comprising attributes on individuals that are linked to one another by a predetermined link;

<https://faq.myheritage.com/Family-Tree-Builder/Family-Tree/951694701/How-do-I-merge-two-family-trees.htm>

The reference describes directing a computer to find matching nodes satisfying at least one of the following (i) a match in a majority of data items, (ii) a match in predetermined data items, (iii) having matched data items, said matched data items having pre-assigned weighting factors of respective data pieces about the individual, for which the average or total weighting factors satisfy a certain threshold condition [It is possible to merge two family tree projects using our Family Tree Builder software].

The reference describes directing a computer to determine that two family trees are mergeable only if there are a predetermined number of matching nodes and connecting links therebetween common to each of the two family trees, said step of directing a computer to determine that two family trees are mergeable comprising-providing a plurality of first matrices associated with one of the two family trees and a plurality of second matrices associated with the other of the two family trees, each matrix comprising attributes on individuals that are linked to one another by a predetermined link [Trees will be merged during Import GEDCOM process ... in Family Tree Builder. The first tree will be used as a basis for merge, and the second tree will be merged with the basic project].

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MyHeritage

identifying substantially identical first and second matrices in said pluralities of first and second matrices; and

generating data indicative of a merge of the family trees to one another if a number of the substantially identical matrices exceeds a predefined number; and

Find and delete duplicates in the merged tree:

Merging the two trees will not automatically merge people who appear in both trees. This means that you will need to detect duplicates manually. This can be done by sorting alphabetically, and then deleting them:

How do I merge duplicates in my Family Tree Builder project?

You can also click on 'Tools' in the upper menu bar and select 'Check for duplicates' option to find duplicated people in your tree.

Connect people in the merged tree:

Please note, what this merge process actually does is to put both family trees in the same project. It doesn't create a connection between people in the different trees. To create connections between people in the trees, please see this FAQ post:

How can I attach / detach existing people in Family Tree Builder?

If there are similar people in the two GEDCOM files, they will remain duplicates and will not be consolidated; you will need to delete the duplicates manually.

Because of this, we don't recommend using the merge feature if the family trees are very similar and include many of the same people. If this is the case with your family trees, you should open the most updated tree and manually add the missing records from the second tree.

<https://faq.myheritage.com/Family-Tree-Builder/Family-Tree/951694701/How-do-I-merge-two-family-trees.htm>

The reference describes identifying substantially identical first and second matrices in said pluralities of first and second matrices [You can also click on 'Tools' in the upper menu bar and select 'Check for duplicates' option to find duplicated people in your tree].

The reference describes generating data indicative of a merge of the family trees to one another if a number of the substantially identical matrices exceeds a predefined number [what this merge process actually does is to put both family trees in the same project].

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MyHeritage

directing a computer to utilize said generated data indicative of the merge for merging said at least two family trees determined to be mergeable.

Find and delete duplicates in the merged tree:

Merging the two trees will not automatically merge people who appear in both trees. This means that you will need to detect duplicates manually. This can be done by sorting alphabetically, and then deleting them:

How do I merge duplicates in my Family Tree Builder project?

You can also click on 'Tools' in the upper menu bar and select 'Check for duplicates' option to find duplicated people in your tree.

Connect people in the merged tree:

Please note, what this merge process actually does is to put both family trees in the same project. It doesn't create a connection between people in the different trees. To create connections between people in the trees, please see this FAQ post:

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If there are similar people in the two GEDCOM files, they will remain duplicates and will not be consolidated; you will need to delete the duplicates manually.

Because of this, we don't recommend using the merge feature if the family trees are very similar and include many of the same people. If this is the case with your family trees, you should open the most updated tree and manually add the missing records from the second tree.

<https://faq.myheritage.com/Family-Site/Health-Family-Tree/1074027601/How-do-I-assign-a-condition-to-someone-in-the-Health-Family-Tree.htm>

The reference describes directing a computer to utilize said generated data indicative of the merge for merging said at least two family trees determined to be mergeable [If there are similar people in the two GEDCOM files, they will remain duplicates and will not be consolidated; you will need to delete the duplicates manually].

These allegations of infringement are preliminary and are therefore subject to change.

26. MyHeritage has and continues to induce infringement. MyHeritage has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., question and answer services on the Internet] and related services that provide question and answer services across the Internet such as to cause infringement of one or more of claims 1–18 of the '198 patent, literally or under the doctrine of equivalents. Moreover, MyHeritage has known of the '198 patent and the technology underlying it from at least the date of issuance of the patent.

27. MyHeritage has and continues to contributorily infringe. MyHeritage has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., question and answer services on the Internet] and related services that provide question and answer services across the Internet such as to cause infringement of one or more of claims 1–18 of the '198 patent, literally or under the doctrine of equivalents. Moreover, MyHeritage has known of the '198 patent and the technology underlying it from at least the date of issuance of the patent.

MyHeritage has caused and will continue to cause DatRec damage by direct and indirect infringement of (including inducing infringement of) the claims of the '198 patent.

IV. JURY DEMAND

DatRec hereby requests a trial by jury on issues so triable by right.

V. PRAYER FOR RELIEF

WHEREFORE, DatRec prays for relief as follows:

- a. enter judgment that Defendant has infringed the claims of the ‘158 patent, the ‘309 patent, and the ‘198 patent through MyHeritage.com, or a website linked thereto;
- b. award DatRec damages in an amount sufficient to compensate it for Defendant’s infringement of the ‘158 patent, the ‘309 patent, and the ‘198 patent, in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;
- c. award DatRec an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
- d. declare this case to be “exceptional” under 35 U.S.C. § 285 and award DatRec its attorneys’ fees, expenses, and costs incurred in this action;
- e. declare Defendant’s infringement to be willful and treble the damages, including attorneys’ fees, expenses, and costs incurred in this action and an increase in the damage award pursuant to 35 U.S.C. § 284;
- f. a decree addressing future infringement that either (i) awards a permanent injunction enjoining Defendant and its agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association with Defendant from infringing the claims of the Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an amount consistent with the fact that for future infringement the Defendant will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law; and
- g. award DatRec such other and further relief as this Court deems just and proper.

Respectfully submitted,

Ramey & Schwaller, LLP

/s/Craig Buschmann

Craig Buschmann

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