

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

DROPLETS, INC.,

Plaintiff,

v.

WALMART, INC.,

Defendant.

Civil Action No. _____

**COMPLAINT FOR PATENT
INFRINGEMENT AND DAMAGES**

JURY TRIAL DEMANDED

**COMPLAINT FOR PATENT INFRINGEMENT AND DAMAGES
AND DEMAND FOR JURY TRIAL**

Plaintiff Droplets, Inc. (“Droplets” or “Plaintiff”) files this Complaint for patent infringement against Defendant Walmart Inc. (“Walmart” or “Defendant”), and alleges as follows:

NATURE OF THE ACTION

1. Droplets is an innovative software development corporation focused on technology for developing and delivering highly functional and scalable applications over the Internet. As a result of this leading-edge development, Droplets received patents on its platform, which includes deployment of rich internet applications and related technology. Droplets has sold products based on its technology to Global 1000 enterprises, U.S. armed services, independent software vendors, and application service providers.

2. Droplets claims that Walmart infringed Droplets’ U.S. Patent No. 6,687,745 (“the ’745 patent” or “the Asserted Patent,” Exhibit 1).

PARTIES

3. Droplets is a corporation organized and existing under the laws of Delaware, with its principal place of business at 16052 FM 3062, Bldg. 2, Malakoff, Texas 75148.

4. On information and belief, Walmart is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 702 S.W. 8th Street, Bentonville, Arkansas 72716. Walmart may be served with process by serving its registered agent, CT Corporation System, 124 West Capitol Ave., Suite 1900, Little Rock, AR 72201.

JURISDICTION AND VENUE

5. This is a civil action asserting a claim of patent infringement of the '745 patent. This Court has exclusive subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Walmart. Walmart has continuous and systematic business with the State of Texas and within the Eastern District of Texas. Walmart, directly or through subsidiaries or intermediaries, made, used, offered for sale, sold, imported, advertised, made available, and/or marketed products and services within the Eastern District of Texas through which it infringed the patent-in-suit, such as through its www.walmart.com website and/or other Walmart owned or controlled websites and its mobile applications. Walmart also operates 591 retail stores, 22 distribution centers, and 3 fulfilment centers in the State of Texas. *See* Exhibit 3 (<https://corporate.walmart.com/about/location-facts/united-states/texas>). Walmart employs 176,898 associates in Texas, has spent over \$100.8 billion with suppliers in Texas, and has paid \$660 million in taxes and fees to the State of Texas as a result of its business operations. *Id.*

7. Moreover, Walmart, through the Walmart Website and the Walmart Mobile Apps, allows users to pick up products in this District, as shown below:

The screenshot displays the Walmart product page for a Cuisinart Perfectemp 14 Cup Programmable Coffeemaker. The product is shown in a kitchen setting with two teal mugs. The price is \$99.00, and it is available for pickup tomorrow. The page includes a search bar, navigation menu, and a table of specifications.

At a glance		
Brand Cuisinart	Dimensions 10.13 x 11.00 x 16.63 Inches	Condition New
Material Glass	Has written warranty Yes - Warranty Text	Count 1

Exhibit 4, <https://www.walmart.com/ip/Cuisinart-Perfectemp-14-Cup-Programmable-Coffeemaker-Silver/2110250865?fulfillmentIntent=Pickup>

8. Venue is appropriate in the Eastern District of Texas under 28 U.S.C. §§ 1391, 1400, and 1404. Walmart has a regular and established place of business in this District, including Walmart supercenter retail stores in this District. *E.g.*, Exhibit 5 (<https://www.walmart.com/store/918-marshall-tx>).

9. On information and belief, Walmart also committed acts of infringement in the Eastern District of Texas. Walmart committed its infringing performance of the claims, as shown below, in this District, at least by, on information and belief, providing the Walmart Website and Walmart Mobile Apps in this District (to users in this District), providing content from servers located in this District (including edge servers located in this District), and developing and providing the Walmart Website and Walmart Mobile Apps from this District.

10. Moreover, on information and belief, Walmart's customers and users used the Walmart Website and Walmart Mobile Apps in this District. Walmart performed acts of inducement in this District, including by, on information and belief, encouraging and instructing its customers and users in that direct infringement. Walmart performed acts of contributory infringement in this District, including by, on information and belief, providing the webcode for the Walmart Website and Walmart Mobile Apps in this District (to users in this District), providing webcode from servers located in this District (including edge servers located in this District), and providing the webcode for the Walmart Website and Walmart Mobile Apps from this District. Walmart thus committed acts of patent infringement in this District.

BACKGROUND

11. Plaintiff Droplets is an innovative software company founded in 2000. Droplets invented a fundamentally novel way for webpages to work.

12. When Droplets was first formed, less than half of Americans had access to the Internet, and for those who did, it was through a very slow connection called "dial-up" that sent data over telephone lines. As a result of limited bandwidth connections, webpages could take a minute or more to load, even though they generally consisted of just text and images. Notably, webpages were static; for any part of a webpage to change, the entire webpage had to be re-loaded.

13. It was in this context that Droplets' patented technology was developed. In the mid-to-late 1990's, the inventors were working at a company called SphereSoft, where they were developing an online tool for stock traders. The goal was for stock traders to be able to access stock prices and execute trades over the Internet. While this is now commonplace, it was simply not possible at the time. Webpages could display stock prices, but in order to get the current stock price, the entire webpage would have to be refreshed. Due to the slow speed of the Internet, that would take a minute or longer, at which point the stock price was often out of date. For high-stakes stock traders,

waiting a minute could be the difference between making or losing millions of dollars. The same was true with webpages designed to execute stock trades—the delays caused by constantly re-loading a webpage meant that stock traders were always behind the stock market, which resulted in lost opportunities. The standard website technology at the time was simply not able to provide a viable online stock tool.

14. The inventors addressed these problems by developing a fundamentally novel way for webpages to work. The basic concept is straightforward: instead of always updating an entire webpage, update just the relevant part of the webpage; rather than having to download an entire webpage to get an updated stock price, download and refresh only the numbers for the updated stock prices. Because this information constitutes a small amount of data, it can be sent to the client every second, even using the slow dial-up connections of the time. This enabled, for the first-time, an Internet webpage that could provide real-time stock price information and allow traders to buy and sell stocks without the webpage ever re-loading.

15. The inventors quickly realized that their invention had much broader applicability than a stock trading application. In 2000, they formed a new company, Droplets, that was focused on providing their novel technology to companies worldwide. Droplets raised millions of dollars in angel/venture capital in the early 2000s for product development and sales efforts. In addition to its stock trading application, Droplets developed online mail and messaging applications, and provided a platform for developing webpages that could provide any type of online application. What Droplets was selling, in essence, was the ability to develop the dynamic, interactive webpages that we take for granted today.

16. Droplets received multiple patents on its unique software design. The first was awarded in 2004 and several more followed in 2009 and 2013. The first of these patents to be granted, U.S. Patent No. 6,687,745, is at issue in this case.

17. Droplets' product was gaining traction in the market, selling millions of dollars in products and services to a broad range of customers. However, major technology, retail, and finance companies began using Droplets' technology in their webpages without authorization. Droplets first filed a lawsuit against Adobe in 2006, alleging infringement of the Asserted Patent as well as trade secret misappropriation. Droplets proceeded to file additional cases against major companies for their infringement in 2011. In early 2015, Droplets obtained a favorable jury verdict in the Eastern District of Texas against three companies, the retailers Sears, Overstock, and Kmart. In March 2022, Droplets obtained another favorable jury verdict in the Northern District of California against Yahoo! Inc., in which the jury found that Yahoo! Inc. infringed the '745 Patent and awarded Droplets \$15 million in damages. *See Droplets Inc. v. Yahoo! Inc.*, No. 12-cv-03733-JST, Dkt. 1125 (N.D. Cal. Mar. 29, 2022).

18. On information and belief, Walmart was founded in 1962 and is the world's largest retailer, operating approximately 10,500 stores in 19 countries as well as a wide array of eCommerce websites. Exhibit 6 (<https://corporate.walmart.com/about>). Walmart had revenue of \$173 billion in fiscal year 2024. Exhibit 7 (<https://corporate.walmart.com/news/2024/02/20/walmart-releases-q4-and-fy24-earnings>). Walmart operates its largest website at www.walmart.com, which sees up to 120 million unique visitors a month. Exhibit 8 (<https://marketplace.walmart.com/9-things-about-walmart-customers/>).

19. Walmart, like other major technology and online retailers that were found to infringe the Asserted Patent, incorporated Droplets' technology into the Walmart Website and Mobile Applications without authorization. Droplets seeks damages for Walmart's infringement.

THE ASSERTED PATENT

20. United States Patent No. 6,687,745, entitled "System and method for delivering a graphical user interface of remote applications over a thin bandwidth connection," was duly and

legally issued by the United States Patent and Trademark Office on February 3, 2004 after full and fair examination. The '745 Patent expired on November 20, 2021.¹

21. Droplets is the assignee of all rights, title, and interest in the '745 Patent, including the right to recover damages for past infringement.

22. The '745 Patent claims technology that allowed users to run much richer and more functional applications on their computers and devices with less bandwidth. In 1999, the time of the invention, the Internet was exploding in popularity, but there were still a number of impediments to the Internet becoming what it is today—a highly interactive and immersive experience. '745 Patent at 2:20-3:65. For example, a user at that time could access a webpage and view its applications and information, but if the user wished to access additional applications or information, the user needed to navigate away from that webpage or open a new window, thereby taking the user away from the original webpage. *Id.* at 3:11-35. Further, once the user navigated to a new interactive webpage, then there was no consistent way for the user to retrieve that webpage in a previous state. *Id.* at 3:47-65. There were attempts to overcome this limitation through the use of applications on webpages, but this approach required the user to download the entire application. *Id.* at 17:52-57. In a time when dial-up connections were still common, this could take substantial time and negatively impact the user experience.

23. The inventors of the '745 patent addressed these problems by not requiring the user to download all of the applications that were displayed on each webpage. Instead, the applications could be executed, at least in part, remotely. This would create a useful experience from the user's point of view if the application could restore previous operating states. This would create the appearance and

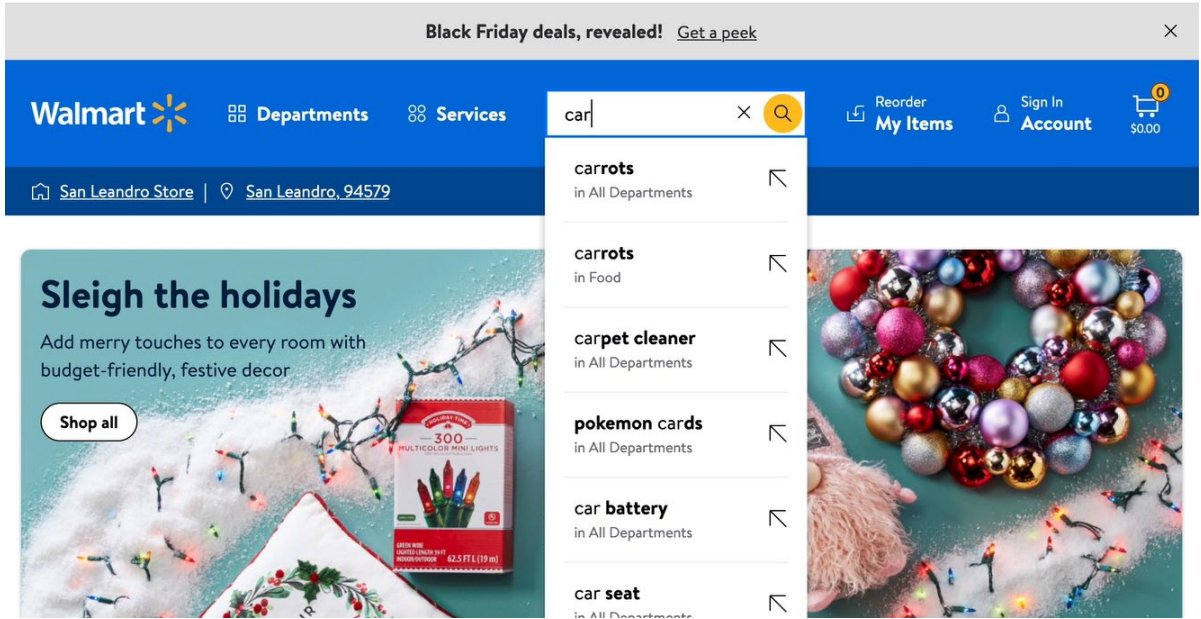
¹ This Complaint is only asserting infringement during the pendency of the '745 Patent and is not asserting direct or indirect infringement subsequent to the '745 Patent's expiration.

functionality of a locally downloaded application, without the bandwidth requirements of downloading the entire application for execution on the local computer.

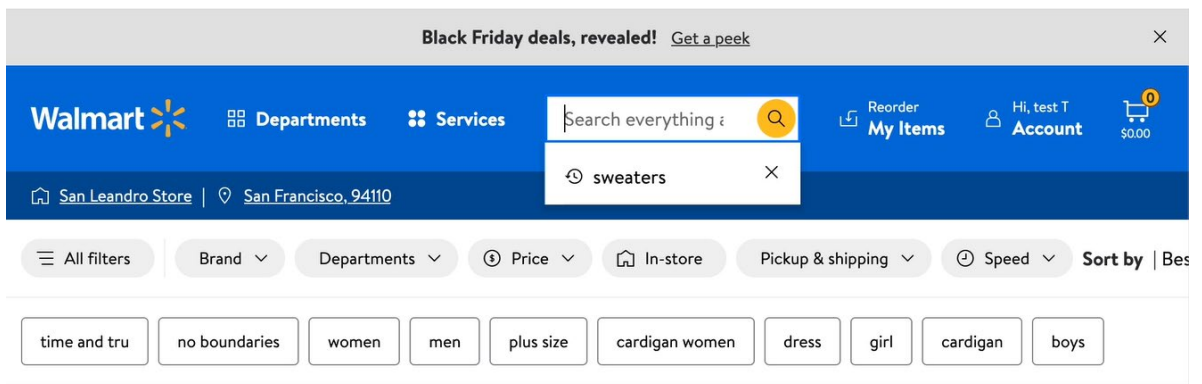
24. An *inter partes* reexamination of the '745 Patent was filed on August 3, 2007. On March 1, 2011, the United States Patent and Trademark Office duly and legally issued an *Inter Partes* Reexamination Certificate No. 6,687,745 C1 confirming the patentability of all claims of the '745 Patent and adding claims 27-104 determined to be patentable.

WALMART'S INFRINGING PRODUCTS AND SERVICES

25. On information and belief, Walmart infringed, directly and indirectly, one or more claims of the Asserted Patent, acting through the Walmart Website (including at least www.walmart.com, and/or other Walmart owned or controlled websites, subdomains thereof and constituent webpages thereof) and the Walmart Mobile Apps (the Walmart applications for mobile devices running on, for example, iOS and Android devices, including at least the iOS and Android Walmart mobile applications) (collectively, "the Accused Products"). Walmart provided a number of interactive functionalities on these Accused Products that infringed the '745 patent, including, but not limited to, the Search Suggest, Recent Searches, Filter, Lists, Item Options, Menu, Location/Store Selection, Sign In, and Checkout features (shown below). On information and belief, Walmart's Accused Products used those interactive functionalities, including but not limited to the Search Suggest, Recent Searches, Filter, Lists, Item Options, Menu, Location/Store Selection, Sign In, and Checkout features, to infringe the '745 patent.



www.walmart.com (showing Search Suggest) (accessed November 17, 2021)



www.walmart.com (showing Recent Searches) (accessed November 17, 2021)

The screenshot shows the Walmart website's search results page. At the top, there is a blue navigation bar with the Walmart logo, 'Departments', 'Services', a search bar, 'Reorder My Items', 'Sign In Account', and a shopping cart icon with a '\$0.00' price tag. Below the navigation bar, there are several filter buttons: 'All filters', 'In-store', 'Pickup & shipping', 'Price', 'Brand', and 'Speed'. To the right, a 'Sort by' dropdown menu is open, showing options: 'Best Seller', 'Best Match' (which is selected and has a checkmark), 'Price: low to high', and 'Price: high to low'. Below the filters, there is a 'Search in deals' section with a search input field and a row of category icons: 'Shop all deals', 'Tech deals' (with an MSI laptop icon), 'Media & gaming deals' (with a PS5 console icon), 'Toy deals' (with a green toy car icon), 'Home deals' (with a coffee maker icon), 'Fashion deals' (with a sneaker icon), 'Cell phone deals' (with a smartphone icon), and 'Home improvement deals' (with a paint can icon).

Early Access Deals (196)

Early access

Early access

Early access

<https://www.walmart.com/shop/earlyaccess> (showing Filter) (accessed November 17, 2021)

The screenshot shows the 'My Items' section of the Walmart website. At the top, there is a grey banner that says 'Black Friday deals, revealed! Get a peek'. Below this is the same blue navigation bar as in the previous screenshot, but with 'Hi, test T' next to the account icon and a shopping cart icon with a '\$22.50' price tag. Below the navigation bar, there is a blue bar with 'San Leandro Store' and 'San Francisco, 94110'. The main heading is 'My Items', with sub-tabs for 'Reorder', 'Lists' (which is selected), and 'Registries'. Below the tabs, there is a blue button that says 'Create a new list'. Underneath, there are two list cards. The first card is titled 'new list e' and has the text 'No items added yet! - Primary ☆'. The second card is titled 'test's List' and has the text 'No items added yet!'. Both cards feature a small icon of a blender.

www.walmart.com/lists (showing Lists) (accessed November 17, 2021)

The screenshot shows the Walmart website's search results for 'sweaters for women'. The top navigation bar includes the Walmart logo, 'Departments', 'Services', a search bar with 'sweaters for women', 'Reorder My Items', 'Sign In Account', and a shopping cart icon with '\$0.00'. Below the navigation bar, four product listings are displayed in a grid. Each listing includes a product image, a price, the brand name, and a brief description. The first listing is a white cardigan by Funcee for \$18.49. The second is a red sweater by Derek Heart for \$12.00 (originally \$16.98). The third is a green cardigan by G-Style USA for \$21.95. The fourth is a brown sweater by Happy Sailed for \$32.89 (originally \$37.39). Below the grid, the URL 'www.walmart.com/search (showing Item Options) (accessed November 17, 2021)' is visible.

Walmart Departments Services sweaters for women Reorder My Items Sign In Account \$0.00

From \$18.49 Funcee Funcee Women Casual Loose Knitted Cardigan Sweater Hooded Coat Plus Size

\$12.00 \$16.98 Derek Heart Derek Heart Juniors Destroyed Edge Pullover Sweater with Long Sleeves

Sponsored \$21.95 G-Style USA G-Style USA Women's 3/4 Sleeve Open Front Cropped Cardigan Sweater (S-XL)

Sponsored \$32.89 \$37.39 Happy Sailed Happy Sailed Women V Neck Cable Knit Sweater Long Sleeve Loose Fit Oversize Chunky...

www.walmart.com/search (showing Item Options) (accessed November 17, 2021)

The screenshot shows the Walmart website's 'All Departments' menu. The top navigation bar includes the Walmart logo, 'Departments', 'Services', a search bar with 'Search everything at W', 'Reorder My Items', 'Sign In Account', and a shopping cart icon with '\$0.00'. Below the navigation bar, a 'Black Friday deals, revealed!' banner is visible. The 'All Departments' menu is open, showing a list of categories: All Departments, Savings & Featured Shops, Grocery, Electronics, Clothing, Shoes & Accessories, Home, Furniture & Appliances, Toys & Video Games, Home Improvement, and Baby. The background of the page features a festive holiday-themed image with gnomes and Christmas ornaments. Below the menu, the URL 'https://www.walmart.com/all-departments' is visible, followed by the caption 'www.walmart.com (showing Menu) (accessed November 17, 2021)'.

Black Friday deals, revealed! Get a peek

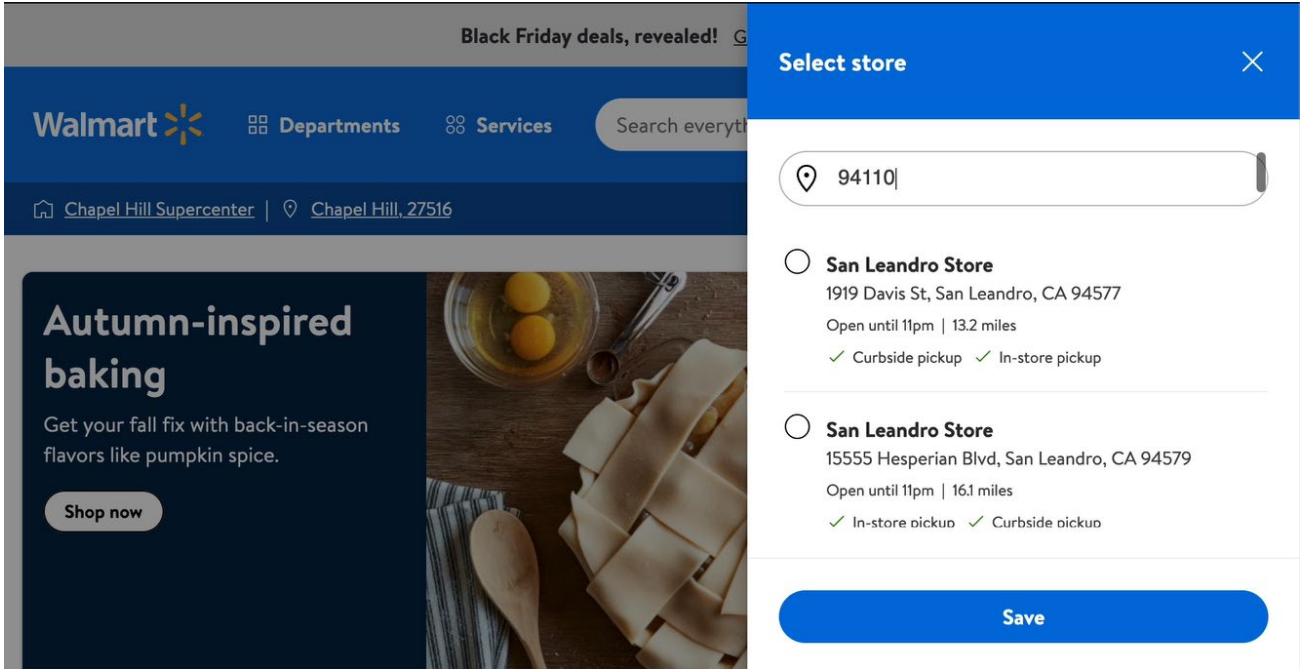
Walmart Departments Services Search everything at W Reorder My Items Sign In Account \$0.00

All Departments

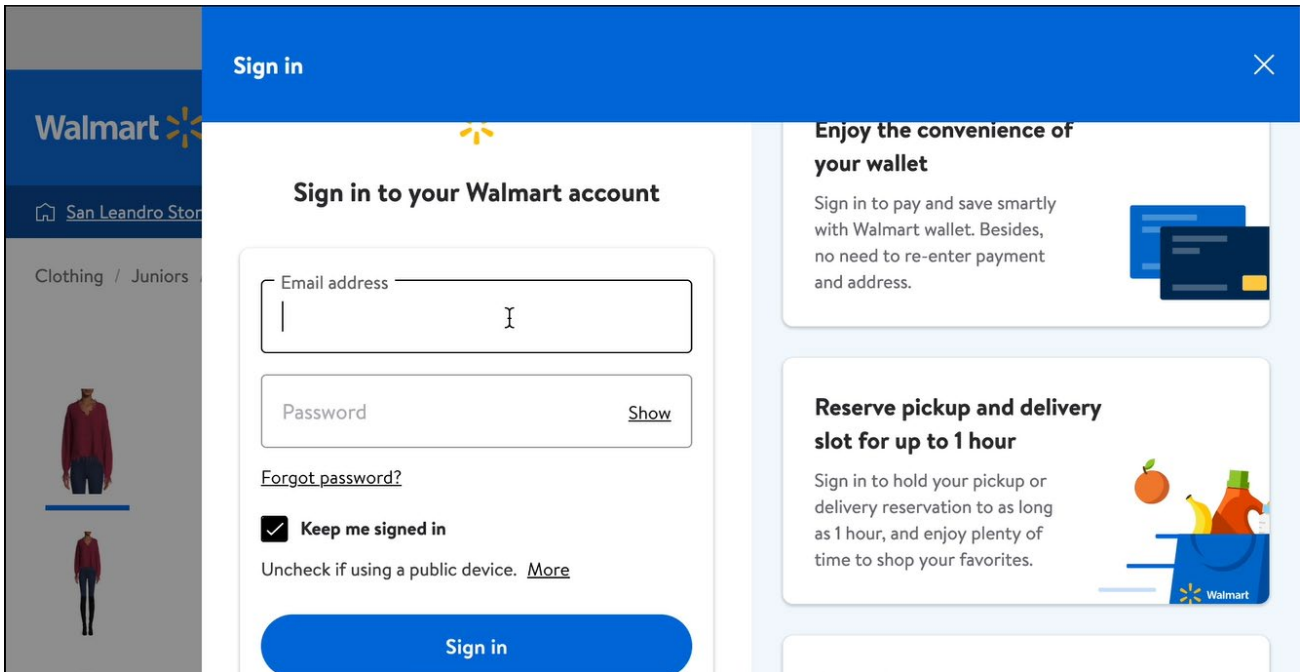
- Savings & Featured Shops
- Grocery
- Electronics
- Clothing, Shoes & Accessories
- Home, Furniture & Appliances
- Toys & Video Games
- Home Improvement
- Baby

https://www.walmart.com/all-departments

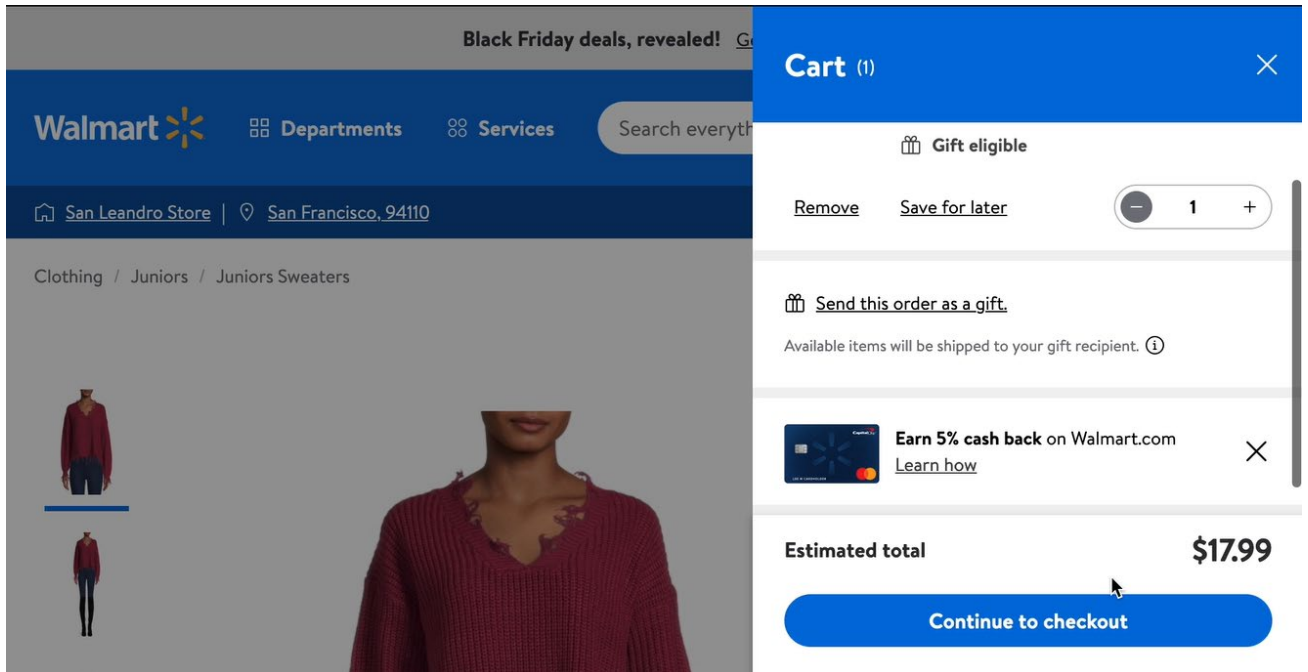
www.walmart.com (showing Menu) (accessed November 17, 2021)



www.walmart.com (showing Location/Store Selection) (accessed November 17, 2021)



https://www.walmart.com/ip/Derek-Heart-Juniors-Destroyed-Edge-Pullover-Sweater-with-Long-Sleeves/225797034 (showing Sign In) (accessed November 17, 2021)



<https://www.walmart.com/ip/Derek-Heart-Juniors-Destroyed-Edge-Pullover-Sweater-with-Long-Sleeves/225797034> (showing Checkout) (accessed November 17, 2021)

COUNT I

(INFRINGEMENT OF THE '745 PATENT)

26. Droplets incorporates by reference each allegation stated in paragraphs 1 through 25 above as if fully stated here.

27. Walmart infringed one or more of claims 1-16 of the '745 patent prior to its expiration, literally or under the doctrine of equivalents, under 35 U.S.C. § 271(a), by making, using, selling, or offering for sale the Accused Products in the United States to perform the claimed methods, including as shown in Exhibit 2. Exhibit 2 provides details regarding only examples of Walmart's infringement, and Droplets reserves its right to provide greater detail and scope via its Infringement Contentions at the time required under this Court's scheduling order.

28. Walmart has known of the '745 patent and its past infringement at least since the filing date of this Complaint. Additionally, on information and belief, Walmart has known, or should have known, of the '745 patent and its infringement since Droplets' previous litigations and verdicts,

discussed above, given the prominence and related nature of the defendants in those litigations and of the litigations themselves.

29. Walmart also indirectly infringed one or more claims of the '745 patent through the Walmart Website and the Walmart mobile applications. On information and belief, in certain circumstances, client devices and software (e.g., computers, devices, and software used by end users and customers of Walmart's Website and Mobile Apps) directly infringed the '745 patent through the use of the website and mobile applications, in a way shown in Exhibit 2.

30. On information and belief, Walmart actively induced infringement of one or more claims of the '745 patent, under 35 U.S.C. § 271(b), by actively encouraging and instructing and continuing to actively encourage and instruct its customers and users to perform, as described above, the methods of the '745 Patent through use of the Accused Products.

31. On information and belief, despite knowledge of the infringement of the '745 patent, Walmart intended to contribute to patent infringement by third parties by selling, offering to sell, and/or supplying components, materials, or apparatuses for use in performing the patented methods of the '745 patent by end users and consumers, including by providing especially made and/or especially adopted code (including the webcode discussed in Exhibit 2) for use in infringing the '745 patent, wherein that code is not a staple article or commodity of commerce suitable for substantial non-infringing use, and Walmart received valuable consideration in exchange.

32. On information and belief, to the extent Walmart was not aware that it was encouraging its customers and end users to infringe the '745 patent, or contributing to such infringement, its lack of knowledge was based on being willfully blind to the possibility that its acts would cause infringement.

33. Droplets was damaged by the infringement of the '745 patent by Walmart. Droplets is entitled to recover from Walmart the damages sustained by Droplets as a result of Walmart's wrongful acts.

34. The infringement by Walmart of the '745 patent was deliberate and willful, entitling Droplets to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

DEMAND FOR JURY TRIAL

35. Droplets hereby demands a jury trial on its claims for patent infringement.

PRAYER FOR RELIEF

Droplets respectfully requests that this Court enter judgment in its favor and grant the following relief:

- A. Enter judgment that Walmart infringed, directly and/or indirectly, the '745 patent;
- B. Find that such infringement was willful;
- C. Award Droplets damages in an amount adequate to compensate Droplets for Walmart's infringement of the '745 patent, but in no event less than a reasonable royalty under 35 U.S.C. § 284;
- D. Award enhanced damages pursuant to 35 U.S.C. § 284;
- E. Find that this case is exceptional and award Droplets its reasonable attorneys' fees under 35 U.S.C. § 285;
- F. Order Walmart to pay pre-judgment and post-judgment interest to the full extent allowed under the law; and
- G. Grant such other and further relief as the Court may deem just and proper.

Dated: November 22, 2024

Respectfully submitted,

/s/ Courtland L. Reichman

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