



Longview, Texas 75601. QX is the assignee of all title and interest of the Patent-in-suit. Plaintiff possesses the entire right to sue for infringement and recover past damages.

3. Upon information and belief, Defendant Lake Pointe Operating Company LLC is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 6800 Scenic Drive, Rowlett, Texas 75088 and is the operating company for Lake Pointe Medical Center and its affiliated entities.

### **JURISDICTION AND VENUE**

4. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271, 281, 283, 284, and 285. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

5. The Court has personal jurisdiction over the Defendant because Defendant has minimum contacts within the State of Texas, and the Eastern District of Texas; Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in the Eastern District of Texas; Defendant has sought protection and benefit from the laws of the State of Texas; Defendant regularly conducts business within the State of Texas and within the Eastern District of Texas; and, Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Texas and in the Eastern District of Texas.

6. More specifically, Defendant, directly and/or through intermediaries, utilizes, uses, performs, and/or maintains a smart card based patient record system, which, *inter alia*, manages the medical history and critical information files of patients in the United States, the State of Texas, and the Eastern District of Texas. Defendant has committed patent infringement in the State of Texas and in the Eastern District of Texas. Defendant solicits customers in the State of Texas and in the Eastern District of Texas. Defendant uses, utilizes, performs and

processes smart cards and electronic medical records to many patients who are residents of the State of Texas and the Eastern District of Texas.

7. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1391 and 1400(b).

**COUNT I – PATENT INFRINGEMENT**

8. United States Patent No. 5,832,488 entitled “Computer Systems and Method for Storing Medical Records Using a Smart Card to Store Data” was duly and legally issued by the United States Patent and Trademark Office on November 3<sup>rd</sup>, 1998 after full and fair examination. Plaintiff is the assignee of all rights, title, and interest in and to the ‘488 patent and possesses all rights of recovery under the ‘488 patent including the right to sue for infringement and recover past damages.

9. Upon information and belief, Lake Pointe Defendant infringed and continues to infringe one or more claims of the ‘488 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, a computer-readable storage medium utilizing the method of storing and managing the medical history of individual patients by electronic means on a personal health card.

10. Each of Defendant’s aforesaid activities has been without authority and/or license from Plaintiffs.

11. Plaintiff is entitled to recover from the Defendant the damages sustained by Plaintiff as a result of Defendant’s wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

12. Defendant's infringement of Plaintiff's exclusive rights under the '488 patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

**JURY DEMAND**

13. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

**PRAYER FOR RELIEF**

14. Plaintiff respectfully requests that the Court find in its favor and against Defendant, and that the Court grant Plaintiff the following relief:

- A. An adjudication that one or more claims of the '488 patent has been infringed, either literally and/or under the doctrine of equivalents, by Defendant;
- B. An award to Plaintiff of damages adequate to compensate Plaintiff for the Defendant's acts of infringement together with pre-judgment and post-judgment interest;
- C. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining the Defendant from further acts of infringement with respect to the claims of the Patent-in-Suit;
- D. That this Court declare this to be an exceptional case and award Plaintiff reasonable attorneys' fees and costs in accordance with 35 U.S.C. § 285; and
- E. Any further relief that this Court deem just and proper.

Dated: August 17, 2012

By: /s/Andrew W. Spangler  
Andrew W. Spangler  
State Bar No. 24041960  
SPANGLER & FUSSELL P.C.  
208 N. Green Street, Suite 300  
Longview, Texas 75601  
903-753-9300  
Fax: 903-553-0403  
Email: spangler@sfipfirm.com

James A. Fussell III  
AR State Bar No. 2003193  
Spangler & Fussell P.C.  
211 N. Union Street, Suite 100  
Alexandria, VA 22314  
(903) 753-9300  
Fax: (903) 553-0403  
Email: fussell@sfipfirm.com

**Attorneys for Plaintiff  
Qxzab, LLC**