

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

TRIPMENT, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No.
)	
MDSAVE, INC., and MDSAVE SHARED)	
SERVICES, INC.,)	
)	
Defendants.)	

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff Tripment, Inc. (“Tripment”) brings this complaint for declaratory judgment against defendants MDSave, Inc. (“MDSave”) and MDSave Shared Services, Inc. (“MDSave Shared Services”) (collectively, “Defendants”) and alleges as follows.

INTRODUCTION

1. This is an action for declaratory judgment pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201-02, seeking declarations of non-infringement and invalidity of two (2) United States Patents under the Patent Laws of the United States, 35 U.S.C. § 100 *et seq.*; non-violation of Sections 32(1) and 43(a) of the Lanham Act, 15 U.S.C. § 1051 *et seq.*; non-violation of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030; and non-violation of the Texas Harmful Access by Computer Act, Tex. Civ. Prac. & Rem. Code § 143 *et seq.*; as well as declarations of no unfair competition by misappropriation, no civil conspiracy, and no tortious interference with prospective business relations under the common law.

2. Defendants brought an action in the U.S. District Court for the Western District of Texas captioned *MDSave et al. v. Sesame, Inc. et al.*, Case No. 6:21-cv-1338-ADA (the “MDSave Action”), against Tripment and two other defendants, alleging that each of them committed the

common-law torts, statutory violations, and acts of patent and trademark infringement cited above (the “MDSave Action”).

3. For reasons known only to Defendants, they chose to commence the MDSave Action against Triplement in the Western District of Texas, a court that cannot properly exercise personal jurisdiction over Triplement for the claims asserted and where venue is clearly improper under 28 U.S.C. §1400(b), as construed by *TC Heartland LLC v. Kraft Foods Group Brands LLC*, 137 S. Ct. 1514, 1518 (2017). Accordingly, Triplement has filed a motion to dismiss the MDSave Action on these and other grounds.

4. The MDSave Action has the purpose and effect of preventing legitimate competition between businesses that facilitate patients’ access to important healthcare services. Indeed, upon information and belief, MDSave brought the MDSave Action in an effort to hobble its competitors, knowingly and recklessly asserting baseless accusations to tarnish the reputations of Triplement and other competitors and stymie their efforts to legitimately compete with MDSave.

5. The MDSave Action has also jeopardized Triplement’s business by creating substantial uncertainty and insecurity, all the while allowing its business competitor, MDSave, to gain an unfair advantage in the marketplace by weaponizing patents that clearly do not cover Triplement’s business methods and which will be shown to be invalid.

6. Indeed, Triplement believes that MDSave’s allegations in the MDSave Action, and in this action to the extent those allegations are repeated in this action through a counterclaim, are so irresponsible and utterly lacking in merit as to render this an exceptional case, entitling Triplement to recover the attorneys’ fees incurred in this action as provided by 35 U.S.C. § 285.

7. Triplement brings this declaratory-judgment action seeking relief from the uncertainty that the MDSave Action has created, and the harm to Triplement’s business that has

resulted and will continue to result until the rights of the parties are settled.

PARTIES

8. Tripment is a corporation organized under Delaware law with its principal place of business in New York, New York.

9. MDSave is a corporation organized under Delaware law with its principal place of business in Brentwood, Tennessee.

10. MDSave Shared Services is a corporation organized under Delaware law with its principal place of business in Brentwood, Tennessee.

JURISDICTION

11. This Court has subject-matter jurisdiction over this dispute pursuant to 28 U.S.C. §§ 1331, 1338(a), 1367, 2201, and 2202. This controversy arises, in part, under the Patent Laws of the United States, 35 U.S.C. § 100, *et seq.*, relating to the non-infringement and invalidity of U.S. Patent Nos. 9,123,072 and 11,170,423 B2; in part under the Lanham Act, 15 U.S.C. §§ 1114(1) and 1125; and in part under the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, *et seq.* The Court has supplemental subject-matter jurisdiction over the state-law statutory and common-law claims described herein because Defendants have alleged in the MDSave Action that those claims derive from a common nucleus of operative facts with the substantive federal claims. An actual, immediate, and justiciable controversy exists between Tripment and Defendants related to Defendants' allegations of patent and trademark infringement, statutory violations, and common-law claims, and Tripment seeks declaratory judgments in its favor with respect to each of those claims.

12. Defendants are subject to general personal jurisdiction in Delaware by virtue of their incorporation under Delaware law.

VENUE

13. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 because Defendants are incorporated in, and therefore reside in, the State of Delaware.

FACTUAL ALLEGATIONS

Tripment's Online Healthcare Marketplace

14. Uninsured and underinsured patients in the United States are often forced to pay for critical healthcare services out-of-pocket, with little visibility into the costs of the services they need. To make matters worse, the lack of competition in the healthcare industry disadvantages consumers by stifling progress and innovation and keeping costs high.

15. Tripment aims to disrupt that system by empowering patients to act as informed consumers of healthcare services. Tripment is a nationwide digital healthcare marketplace that offers patients easy access to quality, affordable care with transparent and upfront prices by connecting patients to healthcare providers and key healthcare services. Through Tripment's web-based platform, patients can find and book a variety of services and procedures including telehealth or in-person visits, diagnostic imaging services, discount prescriptions, lab tests, and more (the "Tripment Facilitated Bookings").

16. Not only are rates for Tripment Facilitated Bookings generally cheaper than insurance rates for the same services and procedures, but they are also transparent and certain, so patients can be confident that they will not receive a surprise medical bill as a result of Tripment Facilitated Bookings.

17. The advantages and opportunities that Tripment's online marketplace offers are not limited to patients; healthcare providers, too, benefit from Tripment's platform. Tripment facilitates connections between providers and patients in need of their services to fill available

appointment slots and last-minute cancellations. Moreover, because patients pay for Tripment Facilitated Bookings through Tripment's marketplace, providers are paid in full for those services without the administrative burdens of billing and claim-filing.

MDSave is a Competitor of Tripment

18. Tripment's business model is rooted in the notion that competition in the healthcare industry benefits patients. So too does competition among digital healthcare marketplaces such as Tripment's.

19. Defendant MD Save is, at least to some degree, a competitor of Tripment's in the digital-marketplace space. Although there are meaningful differences in the two companies' offerings and the way their business operate, at a high level both platforms allow patients to shop for and arrange healthcare services online.

20. Despite the benefits to consumers that such competition creates, MDSave has endeavored to stamp out competition by filing the MDSave Action and attempting to stymie Tripment's business, as described further below.

The MDSave Action

21. Defendants filed the MDSave Action in the U.S. District Court for the Western District of Texas on December 21, 2021. A copy of the Amended Complaint filed in the MDSave Action is attached hereto as Exhibit 1.

22. The Amended Complaint in MDSave Action asserts a laundry list of claims against Tripment and defendants Sesame, Inc. ("Sesame"), and Green Imaging, LLC ("Green Imaging"), both of which – upon information and belief – are also, to some degree, competitors of MDSave that offer online marketplaces where patients can book or purchase healthcare services.

23. The Amended Complaint in the MDSave Action purports to assert the following causes of action against Triplement:

- a. Direct Infringement of United States Patent No. 9,123,072 (the “’072 Patent”), owned by MDSave Shared Services (for which MDSave allegedly holds a license) (*see* Exh. 1, Count 10);
- b. Direct Infringement of United States Patent No. 11,170,423 B2 (the “’423 Patent”), owned by MDSave Shared Services (for which MDSave allegedly holds a license) (*see* Exh. 1, Count 11);
- c. Federal Trademark Infringement Under Lanham Act § 32(1)(a), 15 U.S.C. § 1114(1), with respect to United States Trademark Registrations Nos. 4719881, 471627, and 4719885 (the “MDSave Marks”) (*see* Exh. 1, Count 2);
- d. False Advertising Under 15 U.S.C. § 1125(a) (*see* Exh. 1, Count 1);
- e. Federal Unfair Competition Under 15 U.S.C. § 1125(a) (*see* Exh. 1, Count 3);
- f. Violation of the Computer Fraud and Abuse Act Under 18 U.S.C. § 1030 (*see* Exh. 1, Count 4);
- g. Violation of the Texas Harmful Access by Computer Act Under Tex. Civ. Prac. & Rem. Code § 143 *et seq.* (*see* Exh. 1, Count 5);
- h. Unfair Competition by Misappropriation (*see* Exh. 1, Count 6);
- i. Civil Conspiracy (*see* Exh. 1, Count 7); and
- j. Tortious Interference with Prospective Business Relations (*see* Exh. 1, Count 9).

24. The '072 Patent is entitled "Network-based marketplace service for facilitating purchases of services and products" and bears an issuance date of September 1, 2015. A copy of the '072 Patent is attached hereto as Exhibit 2.

25. Tripmnet denies that it infringes any claim of the '072 Patent and maintains that the '072 Patent is invalid.

26. The '423 Patent is entitled "Provisioning medical resources triggered by a lifecycle event" and bears an issuance date of November 9, 2021. A copy of the '423 Patent is attached hereto as Exhibit 3.

27. Tripmnet denies that it infringes any claim of the '423 Patent and maintains that the '423 Patent is invalid.

28. Tripmnet denies that it infringes any of the MDSave Marks and, in fact, upon information and belief, has never used any of the MDSave Marks on its website, contrary to the allegations of the Amended Complaint in the MDSave Action.

29. Tripmnet denies that it has falsely represented relationships with healthcare providers or otherwise made false or misleading material statements through its website.

30. Tripmnet denies that it has accessed any computer or computer system without authorization or the consent of the owner. Specifically, Tripmnet has never "web-scraped" or "screen-scraped" any website, including MDSave's, contrary to the allegations of the Amended Complaint in the MDSave Action. Additionally, because Tripmnet has no presence in Texas, and accessed no computer unlawfully in Texas, it cannot have violated the Texas Harmful Access by Computer Act because that statute does not apply extraterritorially.

31. Tripmnet denies that it has engaged in conduct that constitutes unfair competition by misappropriating any protected data or information of MDSave. Specifically, Tripmnet has not

unlawfully accessed, copied, or stolen any protected data or information of MDSave, and thus has not (and cannot have) used such data or information in its business, contrary to the allegations of the Amended Complaint in the MDSave Action.

32. Triplement denies that it has engaged in a civil conspiracy with Sesame or Green Imaging (or any other person or entity).

33. Triplement denies that it has engaged in conduct constituting tortious interference with MDSave's prospective business relations.

34. It is apparent that Defendants brought the MDSave Action, at least in part, to coerce business competitors such as Triplement and quash legitimate competition.

35. On February 16, 2022, Triplement responded to the MDSave Action by filing a motion to dismiss for lack of personal jurisdiction, improper venue, and failure to state a cause of action, or alternatively to transfer venue to this Court. Although Triplement is confident that its motion will be granted, it remains concerned that MDSave and MDSave Shared Services will continue to act to impede and obstruct Triplement's business, including by continuing to threaten and pursue litigation against it. Not only will Triplement's business suffer in the meantime, but so too will the consumers who benefit from competition in the healthcare industry. As such, there is an actual controversy between the parties, and a declaratory judgment is necessary on each claim to resolve the legal issues in dispute and afford Triplement relief from uncertainty and insecurity.

36. This Court's determination of the issues presented by the actual controversy between Triplement and Defendants will afford relief from the uncertainty, insecurity, and controversy with respect to the rights and legal relations of the parties. Declaratory relief is equitable, necessary, and proper under the circumstances presented by this case.

COUNT ONE

**DECLARATORY JUDGMENT OF NON-INFRINGEMENT AS TO THE '072 PATENT
(Against MDSave Shared Services)**

37. Tripment incorporates by reference the allegations contained in each of the preceding paragraphs of this Complaint as if fully set forth herein.

38. Tripment does not infringe and has not infringed, directly or indirectly, or under the doctrine of equivalents, Claim 13 or any valid or enforceable claim of the '072 Patent, in connection with the services described in the Amended Complaint in the MDSave Action.

39. As a result of the MDSave Action, there exists an actual and substantial controversy of sufficient immediacy and reality to warrant the issuance of declaratory judgment.

40. Tripment is entitled to a declaratory judgment pursuant to 28 U.S.C. §§ 2201–2202 that Tripment does not infringe and has not infringed, directly or indirectly, or under the doctrine of equivalents, any valid or enforceable claim of the '072 Patent, in connection with the allegations of the Amended Complaint in the MDSave Action.

COUNT TWO

**DECLARATORY JUDGMENT OF INVALIDITY AS TO THE '072 PATENT
(Against MDSave Shared Services)**

41. Tripment incorporates by reference the allegations contained in each of the preceding paragraphs of this Complaint as if fully set forth herein.

42. The '072 Patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. § 102, because the '072 Patent was anticipated by prior art, and/or 35 U.S.C. § 103, because the subject of the '072 Patent would have been obvious to a person having ordinary skill in the art to which it pertains before the time that it was filed.

43. As a result of the MDSave Action, there exists an actual and substantial controversy of sufficient immediacy and reality to warrant the issuance of declaratory judgment.

44. A judicial declaration is necessary and appropriate so that Tripment may ascertain its rights with respect to the '072 Patent.

45. Tripment is entitled to a declaratory judgment pursuant to 28 U.S.C. §§ 2201–2202 that the '072 Patent is invalid.

COUNT THREE

DECLARATORY JUDGMENT OF NON-INFRINGEMENT AS TO THE '423 PATENT (Against MDSave Shared Services)

46. Tripment incorporates by reference the allegations contained in each of the preceding paragraphs of this Complaint as if fully set forth herein.

47. Tripment does not infringe and has not infringed, directly or indirectly, or under the doctrine of equivalents, Claim 1 or any valid or enforceable claim of the '423 Patent, in connection with the allegations of the Amended Complaint in the MDSave Action.

48. As a result of the MDSave Action, there exists an actual and substantial controversy of sufficient immediacy and reality to warrant the issuance of declaratory judgment.

49. Tripment is entitled to a declaratory judgment pursuant to 28 U.S.C. §§ 2201–2202 that Tripment does not infringe and has not infringed, directly or indirectly, or under the doctrine of equivalents, any valid or enforceable claim of the '423 Patent, in connection with the allegations of the Amended Complaint in the MDSave Action.

COUNT FOUR

DECLARATORY JUDGMENT OF INVALIDITY AS TO THE '423 PATENT (Against MDSave Shared Services)

50. Tripment incorporates by reference the allegations contained in each of the

preceding paragraphs of this Complaint as if fully set forth herein.

51. The '423 Patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. § 102, because the '423 Patent was anticipated by prior art, and/or 35 U.S.C. § 103, because the subject of the '423 Patent would have been obvious to a person having ordinary skill in the art to which it pertains before the time that it was filed.

52. As a result of the MDSave Action, there exists an actual and substantial controversy of sufficient immediacy and reality to warrant the issuance of declaratory judgment.

53. A judicial declaration is necessary and appropriate so that Tripmont may ascertain its rights with respect to the '423 Patent.

54. Tripmont is entitled to a declaratory judgment pursuant to 28 U.S.C. §§ 2201–2202 that the '423 Patent is invalid.

COUNT FIVE

DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF TRADEMARKS UNDER LANHAM ACT, § 32(1)(a), 15 U.S.C. § 1114(1) (Against MDSave)

55. Tripmont incorporates by reference the allegations contained in each of the preceding paragraphs of this Complaint as if fully set forth herein.

56. Tripmont does not infringe and has not infringed, directly or indirectly, any or all of the MDSave Marks in connection with the allegations of the Amended Complaint in the MDSave Action.

57. As a result of the MDSave Action, there exists an actual and substantial controversy of sufficient immediacy and reality to warrant the issuance of declaratory judgment.

58. Triplement is entitled to a declaratory judgment pursuant to 28 U.S.C. §§ 2201–2202 that Triplement does not infringe and has not infringed the MDSave Marks under Section 32(1)(a) of the Lanham Act, 15 U.S.C. § 1114(1), in connection with the allegations of the Amended Complaint in the MDSave Action.

COUNT SIX

**DECLARATORY JUDGMENT OF NO FALSE ADVERTISING UNDER
LANHAM ACT, 15 U.S.C. § 1125(a)
(Against MDSave)**

59. Triplement incorporates by reference the allegations contained in each of the preceding paragraphs of this Complaint as if fully set forth herein.

60. Triplement has not engaged in conduct that constitutes false advertising in violation of the Lanham Act because it has not made any false or misleading statement that has deceived or is likely to deceive in a material way, in connection with the allegations of the Amended Complaint in the MDSave Action.

61. As a result of the MDSave Action, there exists an actual and substantial controversy of sufficient immediacy and reality to warrant the issuance of declaratory judgment.

62. Triplement is entitled to a declaratory judgment pursuant to 28 U.S.C. §§ 2201–2202 that Triplement does not violate and has not violated the Lanham Act, 15 U.S.C. § 1125(a), with respect to MDSave and the allegations of the Amended Complaint in the MDSave Action.

COUNT SEVEN

**DECLARATORY JUDGMENT OF NO UNFAIR COMPETITION UNDER
LANHAM ACT, 15 U.S.C. § 1125
(Against MDSave)**

63. Triplement incorporates by reference the allegations contained in each of the preceding paragraphs of this Complaint as if fully set forth herein.

64. Triplement has not engaged in conduct that constitutes unfair competition in violation of the Lanham Act because it has not used the MDSave Marks in any manner that has caused or may cause confusion or mistake with the MDSave Marks, in connection with the allegations of the Amended Complaint in the MDSave Action.

65. As a result of the MDSave Action, there exists an actual and substantial controversy of sufficient immediacy and reality to warrant the issuance of declaratory judgment.

66. Triplement is entitled to a declaratory judgment pursuant to 28 U.S.C. §§ 2201–2202 that Triplement does not violate and has not violated the Lanham Act, 15 U.S.C. § 1125(a), with respect to MDSave and the allegations of the Amended Complaint in the MDSave Action.

COUNT EIGHT

DECLARATORY JUDGMENT OF NON-VIOLATION OF COMPUTER FRAUD AND ABUSE ACT, 18 U.S.C. § 1030 (Against MDSave)

67. Triplement incorporates by reference the allegations contained in each of the preceding paragraphs of this Complaint as if fully set forth herein.

68. Contrary to the allegations of the Amended Complaint in the MDSave Action, Triplement does not violate and has not violated the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, because Triplement does not and has not “web-scraped” or otherwise accessed without authorization a computer or computer system of MDSave.

69. As a result of the MDSave Action, there exists an actual and substantial controversy of sufficient immediacy and reality to warrant the issuance of declaratory judgment.

70. Triplement is entitled to a declaratory judgment pursuant to 28 U.S.C. §§ 2201–2202 that Triplement does not violate and has not violated the Computer Fraud and Abuse Act, 18 U.S.C.

§ 1030, with respect to MDSave and the allegations of the Amended Complaint in the MDSave Action.

COUNT NINE

**DECLARATORY JUDGMENT OF NON-VIOLATION OF
TEXAS HARMFUL ACCESS BY COMPUTER ACT,
TEX. CIV. PRAC. & REM. CODE § 143 *et seq.*
(Against MDSave)**

71. Tripment incorporates by reference the allegations contained in each of the preceding paragraphs of this Complaint as if fully set forth herein.

72. Contrary to the allegations of the Amended Complaint in the MDSave Action, Tripment does not violate and has not violated the Texas Harmful Access by Computer Act, Tex. Civ. Prac. & Rem. Code § 143 *et seq.*, because that statute does not apply to extraterritorially, and further because Tripment does not access and has not accessed a computer or computer system of MDSave without the effective consent of the owner, by “web-scraping” or otherwise.

73. By virtue of the MDSave Action, there exists an actual and substantial controversy of sufficient immediacy and reality to warrant the issuance of declaratory judgment.

74. Tripment is entitled to a declaratory judgment pursuant to 28 U.S.C. §§ 2201–2202 that it has not engaged in actions that violate the Texas Harmful Access by Computer Act, Tex. Civ. Prac. & Rem. Code § 143 *et seq.*, with respect to MDSave and the allegations of the Amended Complaint in the MDSave Action.

COUNT TEN

**DECLARATION OF NO UNFAIR COMPETITION BY MISAPPROPRIATION
(Against MDSave)**

75. Tripment incorporates by reference the allegations contained in each of the preceding paragraphs of this Complaint as if fully set forth herein.

76. Contrary to the allegations of the Amended Complaint in the MDSave Action, Tripment has not engaged in actions that constitute unfair competition by misappropriation under the common law of any State because Tripment has not accessed or transferred any protected data or information of MDSave or used such data or information to unfairly compete against MDSave.

77. By virtue of the MDSave Action, there exists an actual and substantial controversy of sufficient immediacy and reality to warrant the issuance of declaratory judgment.

78. Tripment is entitled to a declaratory judgment pursuant to 28 U.S.C. §§ 2201–2202 that it has not engaged in actions that constitute unfair competition by misappropriation under the common law of any State with respect to MDSave and the allegations of the Amended Complaint in the MDSave Action.

COUNT ELEVEN

DECLARATION OF NO CIVIL CONSPIRACY (Against MDSave)

79. Tripment incorporates by reference the allegations contained in each of the preceding paragraphs of this Complaint as if fully set forth herein.

80. Contrary to the allegations of the Amended Complaint in the MDSave Action, Tripment has not engaged in actions that constitute civil conspiracy under the common law of any State because Tripment did not have a meeting of the minds with any other person(s) on an object to be accomplished and no unlawful act was done in furtherance of any conspiracy.

81. By virtue of the MDSave Action, there exists an actual and substantial controversy of sufficient immediacy and reality to warrant the issuance of declaratory judgment.

82. Tripment is entitled to a declaratory judgment pursuant to 28 U.S.C. §§ 2201–2202 that it has not engaged in actions that constitute civil conspiracy under the common law of any

State with respect to MDSave and the allegations of the Amended Complaint in the MDSave Action.

COUNT TWELVE

**DECLARATION OF NO TORTIOUS INTERFERENCE WITH
PROSPECTIVE BUSINESS RELATIONS
(Against MDSave)**

83. Tripment incorporates by reference the allegations contained in each of the preceding paragraphs of this Complaint as if fully set forth herein.

84. Contrary to the allegations of the Amended Complaint in the MDSave Action, Tripment has not engaged in actions that constitute tortious interference with prospective economic relations under the common law of any State because Tripment has not committed any tortious or unlawful act to prevent MDSave from entering into a business relationship with any person.

85. By virtue of the MDSave Action, there exists an actual and substantial controversy of sufficient immediacy and reality to warrant the issuance of declaratory judgment.

86. Tripment is entitled to a declaratory judgment pursuant to 28 U.S.C. §§ 2201–2202 that it has not engaged in actions that constitute tortious interference with prospective business relations under the common law of any State with respect to MDSave and the allegations of the Amended Complaint in the MDSave Action.

PRAYER FOR RELIEF

WHEREFORE, Tripment prays for the following relief:

A. A judgment for Tripment against Defendants;

B. An order declaring that Triplement does not infringe, and has not infringed, the '072 Patent, either literally or under the doctrine of equivalents, in connection with the allegations of the Amended Complaint in the MDSave Action;

C. An order declaring that the '072 Patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with the requirements of 35 U.S.C. §§ 102 and/or 103.

D. An order declaring that Triplement does not infringe, and has not infringed, the '423 Patent, either literally or under the doctrine of equivalents, in connection with the allegations of the Amended Complaint in the MDSave Action;

E. An order declaring that the '423 Patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with the requirements of 35 U.S.C. §§ 102 and/or 103.

F. An order declaring that Triplement does not infringe, and has not infringed, the MDSave Marks in violation of the Lanham Act, 15 U.S.C. § 1114(1), in connection with the allegations of the Amended Complaint in the MDSave Action;

G. An order declaring that Triplement has not engaged in false advertising in violation of the Lanham Act, 15 U.S.C. § 1125(a) in connection with the allegations of the Amended Complaint in the MDSave Action;

H. An order declaring that Triplement has not engaged in unfair competition in violation of the Lanham Act, 15 U.S.C. § 1125(a) in connection with the allegations of the Amended Complaint in the MDSave Action;

I. An order declaring that Triplement does not violate and has not violated the Computer Fraud and Abuse Act Under 18 U.S.C. § 1030 in connection with the allegations of the Amended Complaint in the MDSave Action;

J. An order declaring that Tripment does not violate and has not violated the Texas Harmful Access by Computer Act Under Tex. Civ. Prac. & Rem. Code § 143 *et seq.*, in connection with the allegations of the Amended Complaint in the MDSave Action;

K. An order declaring that Tripment has not engaged in conduct constituting unfair competition by misappropriation in connection with the allegations of the Amended Complaint in the MDSave Action;

L. An order declaring that Tripment has not engaged in civil conspiracy in connection with the allegations of the Amended Complaint in the MDSave Action;

M. An order declaring that Tripment has not engaged in tortious interference with prospective business relations in connection with the allegations of the Amended Complaint in the MDSave Action;

N. A judgment that this is an exceptional case and an award to Tripment of its costs and reasonable attorneys' fees incurred in this action as provided by 35 U.S.C. § 285;

O. An award of costs, and expenses as allowed by law;

P. A judgment in Tripment's favor and against the Defendants for monetary damages, including, but not limited to, all amounts necessary to compensate Tripment for Defendants' wrongful activities including reasonable attorneys' fees and costs;

Q. An order granting such other and further relief as may be deemed just and appropriate.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b)(1), Plaintiff Tripment hereby demands a trial by jury of all issues so triable.

Dated: February 16, 2022

Respectfully submitted,

/s/ Stephen D. Dargitz
Stephen D. Dargitz (ID # 3619)
O'HAGAN MEYER PLLC
800 North King Street, Suite 303
Wilmington, DE 19801
(302) 492-2150
sdargitz@ohaganmeyer.com

-and-

Jason C. Kravitz (*pro hac vice* to be requested)
Kacey Houston Walker (*pro hac vice* to be requested)
NIXON PEABODY LLP
Exchange Place
53 State Street
Boston, MA 02109-2835
Tel: (617) 345-1000
Fax: (617) 345-1300
jkraivtz@nixonpeabody.com
kwalker@nixonpeabody.com

Attorneys for Plaintiff Tripment, Inc.