

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

LUPERCAL, LLC,

Plaintiff

v.

BANCORPSOUTH BANK,

Defendant

Case No. 6:22-cv-00279

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Lupercal, LLC (“Lupercal” or “Plaintiff”) files this Complaint for patent infringement against Defendant BancorpSouth Bank. (“BancorpSouth” or “Defendant”), and alleges as follows:

PARTIES

1. Lupercal is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business in Dallas, Texas.

2. Upon information and belief, Defendant BancorpSouth is a foreign financial institution organized and existing under the laws of the State Mississippi, with a principal place of business located at One Mississippi Plaza, Tupelo, Mississippi 38804. Defendant may be served through its registered agent in the State of Texas at CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201. Defendant maintains brick and mortar offices all over the country including but not limited to the Western District of Texas some of which are located at, 4901 Bosque Boulevard, Waco, Texas 76710.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

4. This Court has exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a)

5. This Court has personal jurisdiction over Defendant because it has engaged in systematic and continuous business activities in this District. As described below, Defendant has committed acts of patent infringement giving rise to this action within this District

6. Venue is proper in this District under 28 U.S.C. § 1400(b), because Defendant has committed acts of patent infringement in this District and has an established place of business in this District. In addition, Plaintiff has suffered harm in this District.

COUNT I
(Infringement of U.S. Patent No. 9,386,094)

7. Lupercal incorporates paragraphs 1 through 6 as though fully set forth herein.

8. Plaintiff is the owner, by assignment, of U.S. Patent No. 9,386,094 (the “’094 Patent”), entitled SYSTEM AND METHOD FOR MEDIA SUBMISSION, which issued on July 5, 2016.

9. The ’094 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

10. Defendant controlled activities related to the development, operation, promotion, and encouragement of the use of the BancorpSouth Mobile App (the “BancorpSouth App”).

11. Defendant provided the BancorpSouth Mobile App for use with Apple iOS devices and Android devices, which was available for download from Apple’s iTunes App Store and Google Play Apps:

Checking > Additional Services > Online Services > Mobile Services > MyBXS App

MyBXS Mobile App

Let's face it, these days, life is always on the go. BancorpSouth's My BXS app gives you the opportunity to manage your finances while you live your life on the road, at the ball field, at the dance recital or anywhere else you may find yourself.

[Download for iPhone](#) [Download for Android](#)



[Learn More](#)




<https://www.bancorpsouth.com/checking/additional-services/online-services/mobile-services/mybxs-app>

Explore Mobile Banking Services

With Mobile Banking Services from BancorpSouth, you will experience smarter tools with enhanced security to help you stay connected to your BancorpSouth accounts. No matter where you've been or where you're going, we have a variety of products and services to meet your needs including MyBXS Mobile App, Mobile Wallet, Mobile Deposit and more. At BancorpSouth, we're committed to being Right Where You Are.

[Download for iPhone](#) [Download for Android](#)

<p><i>MyBXS Mobile App</i> →</p>  <p>Log in to our mobile app to access all of your accounts in one convenient place. Now more secure with Touch ID & Facial Recognition.</p>	<p><i>Mobile Wallet</i> →</p>  <p>Mobile Wallet for BancorpSouth is a fast and secure way to keep pace with your lifestyle. It's easy to turn your mobile device into a digital wallet for contactless transactions – whether you shop online, in apps or in stores.</p>	<p><i>Mobile Deposit</i> →</p>  <p>No need to wait in line or worry about making it to the branch on time. Simply tap, snap and deposit through our MyBXS app.</p>
<p><i>Bill Pay</i> →</p>	<p><i>Online Statements</i> →</p>	

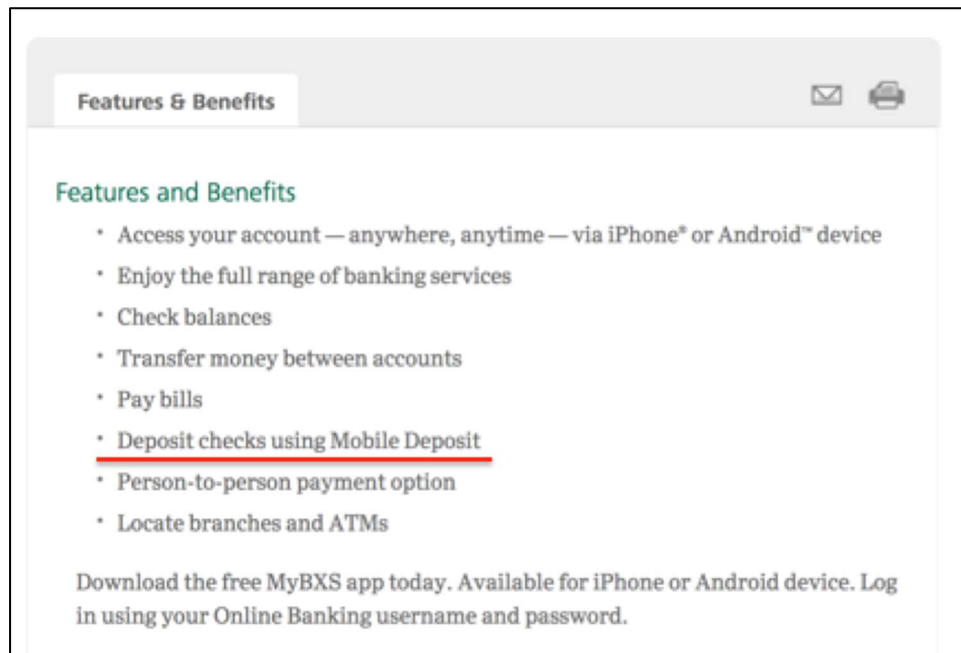
<https://www.bancorpsouth.com/checking/additional-services/online-services/mobile-services>

The screenshot shows the BancorpSouth website's 'Mobile Deposit' page. At the top, there is a navigation bar with the BancorpSouth logo and menu items: Personal, Business, Mortgage, Insurance, and Advice. Below this is a secondary navigation bar with categories: CHECKING, SAVINGS, LOANS, CREDIT CARDS, and WEALTH MANAGEMENT. A search bar is located in the top right corner. The main content area features a large image of a smiling man in a light blue shirt and black suspenders, holding a smartphone. To the right of the image is a 'Login to Online Banking' section with fields for 'User Name:' and 'Password:', a yellow 'Login' button, and links for 'Forgot Password', 'View Videos', 'Login to Other Accounts', and 'Apply for an Account'. Below the image, a breadcrumb trail reads: 'Checking > Additional Services > Online Services > Mobile Services > Mobile Deposit'. The main heading is 'Mobile Deposit' in green. The text below reads: 'On the count of three, say "Deposit!" We make depositing a check easy with our Mobile Deposit feature. No need to wait in line or worry about making it to the branch on time. Simply tap, snap and deposit through our MyBXS app and Remote Deposit feature.' To the right, there is a 'Relevant FAQs' section with a 'More FAQs' link and a 'Find a Location' section with a text input field for 'City and State or Zip Code'.

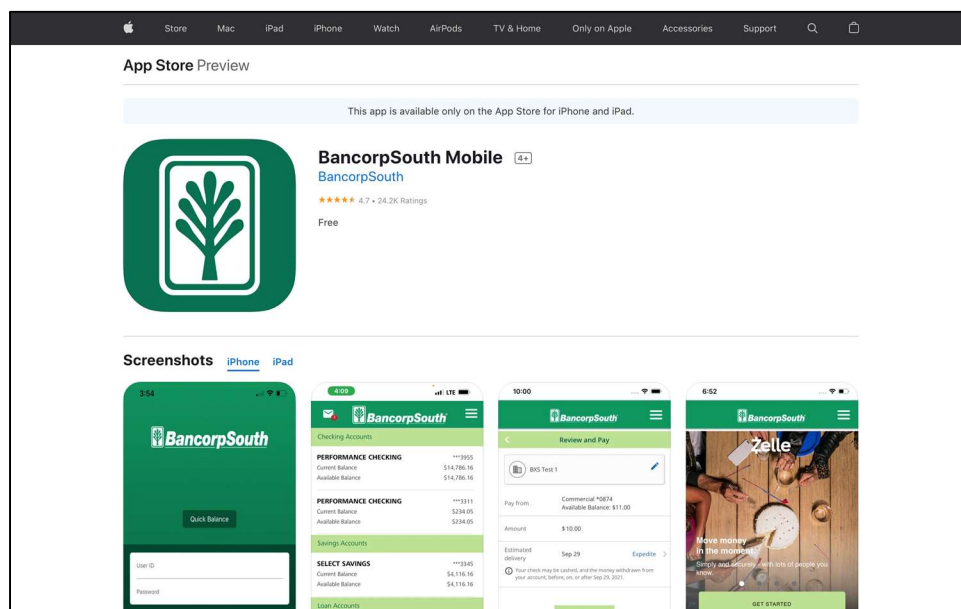
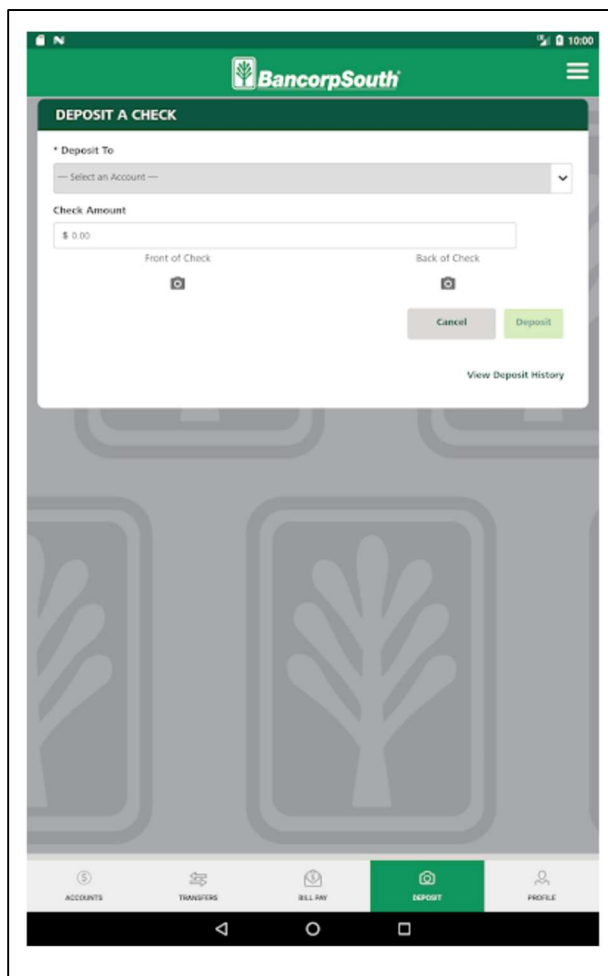
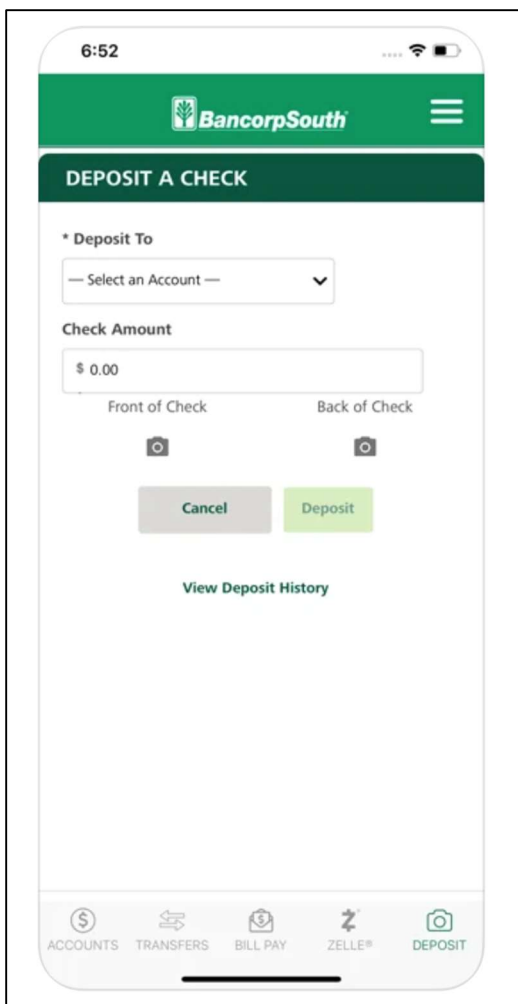
<https://www.bancorpsouth.com/checking/additional-services/online-services/mobile-services/mobile-deposit>

The screenshot shows the 'How it Works' section of the Mobile Deposit page. At the top, there are three tabs: 'Features and Benefits', 'Requirements & Fees', and 'How It Works', with 'How It Works' being the active tab. To the right of the tabs are icons for email and printing. The main heading is 'How it Works'. The text reads: 'Securely Deposit a check with five simple steps:'. Below this is a bulleted list of five steps: 'Step 1: From your MyBXS app click on the Deposit icon – Select the make a deposit option', 'Step 2: Enter the amount of the check to be deposited', 'Step 3: Photograph the check front & back', 'Step 4: Confirm the transaction', and 'Step 5: Done!'.

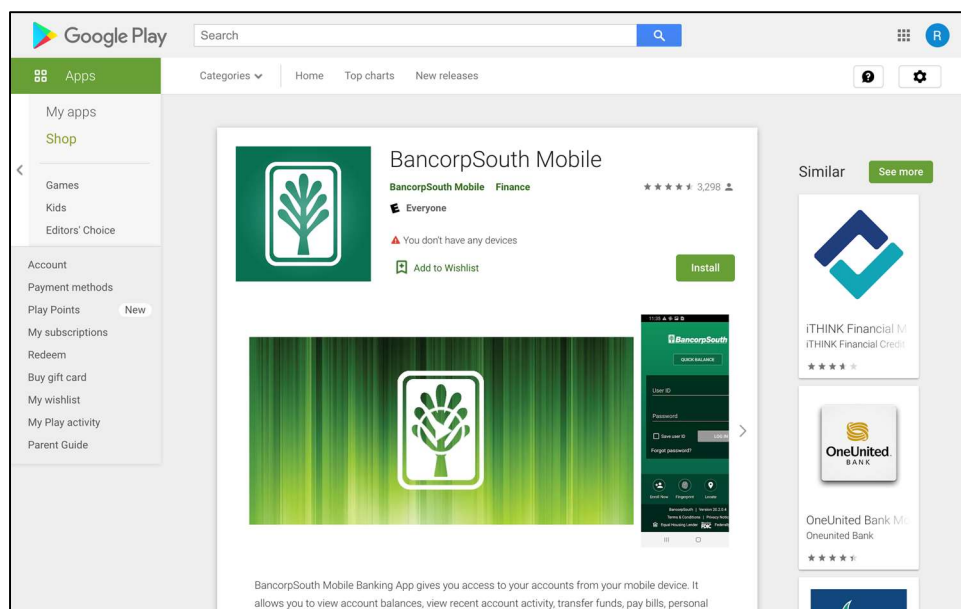
<https://www.bancorpsouth.com/checking/additional-services/online-services/mobile-services/mobile-deposit>



<https://www.bancorpsouth.com/checking/additional-services/online-services/mobile-services/mybxs-app>



<https://apps.apple.com/us/app/bancorpsouth-mobile/id469981191?platform=iphone>



<https://play.google.com/store/apps/details?id=com.bancorpsouth.android&hl=en>

12. After selecting an account to deposit the check to, the user enters the amount of the check.

13. The BancorpSouth Mobile App enables account holders to deposit checks electronically by taking a photo of the front and back of the check. After selecting an account to deposit the check to, the user enters the amount of the check.

14. The photo of the front and back is manually taken by the user – as a result, the images produced may be blurry or otherwise undesirable, and the application enables the user to retake a given photo (front or back). A visual representation of the photos is displayed on the screen.

15. Upon being accepted by the user (via the BancorpSouth Mobile App), the application pre-processes the front and back images to produce and front and back pre-processed images that is controlled by one or more preprocessing parameters received from a device (e.g., a server used to download the BancorpSouth Mobile App) separate from the user device (user's

smart phone) in a conversion of the one or more images or the one or more replacement images as specified for use by a receiving party.

16. Defendant controlled the operation and use of the BancorpSouth Mobile App and encourages its customers to use the BancorpSouth Mobile App to deposit checks to the customer's accounts with Defendant. The Defendant's BancorpSouth Mobile App is the Accused Instrumentality through which Defendant and its customers infringe the '094 Patent.

17. At least by developing, distributing, operating, promoting, and encouraging the use of the BancorpSouth Mobile App, Defendant encourages its customers to use the BancorpSouth Mobile App to practice the claimed methods, which Defendant controlled the use of and derives a direct benefit and profit from.

18. Upon information and belief, defendant has infringed and continues to infringe one or more claims, including claim 42, of the '094 Patent by developing, distributing, operating, promoting, and encouraging the use of the BancorpSouth Mobile App in the United States without authority. Defendant has infringed and continues to infringe the '094 Patent either directly or through the acts of inducement in violation of 35 U.S.C. § 271.

19. Defendant has been on notice of the '094 Patent at least as early as February 22, 2019 when it received a notice letter, which included a claim chart comparing the '094 Patent claims to the BancorpSouth Mobile App.

20. Claim 42 recites:

42. A computer implemented method performed by an image submission tool on a user device, comprising:

causing the image submission tool to generate a visual representation of
one or more images, the visual representation enabling a user to

determine whether the one or more images should be replaced with one or more replacement images;

causing the image submission tool to enable a user to enter text information for association with the one or more images or the one or more replacement images;

causing the image submission tool to pre-process the one or more images or the one or more replacement images to produce one or more pre-processed images, the pre-processing by the image submission tool controlled by one or more pre-processing parameters received from a device separate from the user device in a conversion of the one or more images or the one or more replacement images as specified for use by a receiving party;

causing the image submission tool to enable a user to submit the one or more pre-processed images; and

causing the image submission tool to transmit the one or more pre-processed images.

21. As indicated above, the BancorpSouth Mobile App enables account holders to deposit check electronically by taking a photo of the front and back of the check. After selecting an account to deposit the check to, the user enters the amount of the check.

22. More particularly, the BancorpSouth Mobile App is a computer implemented method performed by an image submission tool on a user device.

23. In the process of using the BancorpSouth Mobile App, the computer implemented method causes the image submission tool to generate a visual representation of one or more

images, the visual representation enabling a user to determine whether the one or more images should be replaced with one or more replacement images.

24. In the process of using the BancorpSouth Mobile App, the computer implemented method causes the image submission tool to enable a user to enter text information for association with the one or more images or the one or more replacement images.

25. In the process of using the BancorpSouth Mobile App, the computer implemented method causes the image submission tool to pre-process the one or more images or the one or more replacement images to produce one or more pre-processed images, the pre-processing by the image submission tool controlled by one or more pre-processing parameters received from a device separate from the user device in a conversion of the one or more images or the one or more replacement images as specified for use by a receiving party.

26. In the process of using the BancorpSouth Mobile App, the computer implemented method causes the image submission tool to enable a user to submit the one or more pre-processed images.

27. In the process of using the BancorpSouth Mobile App, the computer implemented method causes the image submission tool to transmit the one or more pre-processed images.

28. Lupercal has been damaged by Defendant's infringing activities.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the Court enter judgment against the Defendant:

- a. declaring that the Defendant has infringed the '094 Patent;
- b. awarding Plaintiff its damages suffered as a result of Defendant's infringement of the '094 Patent;
- c. awarding Plaintiff its costs, attorneys' fees, expenses, and interest; and

d. granting Plaintiff such further relief as the Court finds appropriate.

JURY DEMAND

Plaintiff demands trial by jury, Under Fed. R. Civ. P. 38.

Dated: March 16, 2022

Respectfully submitted,

/s/ Raymond W. Mort, III

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