

ability to shop for a bundled set of services with transparency and without hidden costs is a game changer. For example, an MDSave customer can acquire a colonoscopy, including facility fee, pathology fee, anesthesia, and the procedure itself, from a high-quality provider—usually at a substantial discount from what would otherwise be available—without worrying about any additional or hidden costs or the need for insurance. MDSave also specializes in providing bundled healthcare services so that patients and employers can pay a single, MDSave pre-negotiated reduced price for a multi-provider procedure such as a knee replacement, which would include the individual fees for the surgery, the anesthesia, the facility, and the physical therapy. The bundled services are represented by a purchase information record or persistent data record, hereafter called a “voucher,” within a transaction information database. This model not only reduces costs but dramatically simplifies the process. In sum, MDSave’s marketplace allows consumers to obtain important medical services from trusted providers across the country, including in areas underserved by high quality medical care or with large numbers of uninsured or underinsured consumers.

4. The technological innovations used to provide these services have been recognized in the many patents awarded to MDSave Shared Services, which are licensed to MDSave.

5. MDSave first launched its website in 2013, and since then has experienced great growth. In 2015, MDSave raised more than \$14 million from investors and expanded services to 24 states. By 2018, MDSave expanded to a network of more than 200 hospitals across 29 states. Currently, MDSave operates in 36 states, offering more than 1,700 procedures and partnering with more than 300 hospitals across the country. However, this success, and, indeed, MDSave’s livelihood, is now threatened if Sesame’s conduct is allowed to proceed.

6. In or around November 2021, Plaintiff learned that Sesame was unlawfully appropriating MDSave's business, including by stealing its protected data and infringing MDSave Shared Services' patents.

7. Specifically, Plaintiff discovered that Sesame had decided to enter MDSave's business by stealing data from MDSave's website and falsely representing that it has direct contractual relationships with MDSave's providers. Indeed, a review of the Sesame website demonstrates that it wholesale copied, and is exploiting, MDSave's hard-earned and protected data, know-how, and reduced pricing for bundled services.

8. This is abundantly clear because Sesame's website lists many of the same procedures from the same list of providers as those available on MDSave's website, including both imaging and non-imaging procedures. Because MDSave researched and identified *these specific providers* and negotiated reduced, upfront rates for specific bundled procedures, there can be no doubt that Sesame stole—wholesale—protected data from MDSave's website, such as the name and location of MDSave's healthcare partners, lists and descriptions of available bundled services and procedures, MDSave's negotiated prices, and other information essential to consumers when selecting healthcare.

9. Sesame is also using the proprietary pricing data MDSave generated through years of business development and market research. In so doing, it falsely represents that it has relationships with MDSave's healthcare providers when in fact it does not. Sesame also uses the stolen data to price its own services and to negotiate its own contracts and rates with MDSave's partner providers.

10. In sum, Sesame's infringement has caused extraordinary harm to Plaintiff. Sesame's actions have caused Plaintiff to lose revenues for use of its patented technology and have

caused MDSave to suffer lost sales, customers, and market share; have caused extensive and damaging confusion among MDSave's customers and healthcare partners; and deprived MDSave of significant growth opportunities.

PARTIES

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

12. Upon information and belief, Defendant Sesame is a corporation organized under Delaware law with its principal place of business in New York, New York.

JURISDICTION AND VENUE

13. This Court has subject matter jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. §§ 1331 and 1338, as Plaintiff asserts claims of patent infringement arising under federal law.

14. This Court has personal jurisdiction over Sesame because Sesame is incorporated in Delaware. Moreover, Sesame has stolen MDSave's protected data and is exploiting it in the State of Delaware, and its wrongful conduct is otherwise directed at the State of Delaware. Indeed, Sesame directs its website at existing and potential customers in the State of Delaware, by selling bundled healthcare services and the representative vouchers for services with healthcare providers both generally and for those who have an exclusive relationship with MDSave, and engaging with existing or potential MDSave customers there by assisting in identifying healthcare providers, scheduling appointments, and otherwise facilitating customer service needs. Sesame is actively promoting its services and engaging with customers in the State of Delaware. Sesame is using this stolen data in a manner that infringes and continues to infringe MDSave Shared Services' patents, for which MDSave possesses a license, in the State of Delaware.

15. Venue in this Court is proper under 28 U.S.C. § 1400(b), because, as set forth above, Sesame is incorporated in Delaware, and thus resides in the State of Delaware, and is subject to this Court's personal jurisdiction in this District. Indeed, Sesame has stolen MDSave's protected data and exploited it and sold it through Sesame's website offering bundled healthcare services from healthcare providers in this District, as Sesame offers bundled healthcare services from healthcare providers in this District. Sesame has infringed MDSave Shared Services' patents.

FACTUAL ALLEGATIONS

MDSave's Innovative Online Marketplace

16. MDSave provides an online healthcare marketplace that allows individuals and employers to purchase bundled healthcare services and their respective vouchers for common medical procedures, such as MRIs, CT scans, ultrasounds, colonoscopies, blood tests, and general surgeries, at upfront and reduced rates, which it has negotiated in advance with a nationwide network of healthcare partners. MDSave's negotiated rates are often far below the national average, offering patients savings up to 60%, a feat it has achieved by building meaningful relationships with its healthcare partners who are pleased to provide their services to a growing patient base.

17. MDSave also sells bundles of its vouchers to employers through its proprietary employer platform, MDSave for Employers, which grants employers access to a private network of local hospitals and providers. For example, an employer may select to purchase a group of common services, such as for MRIs, mammograms, colonoscopies, blood tests, CT scans, and ultrasounds, which the employer offers as a supplement or substitute to a sponsored health plan.

18. Forming relationships with its healthcare partners requires significant work. MDSave performs extensive research into potential healthcare partners, from single-office providers to large regional hospital groups. It often takes months to reach a final agreement. And

after an agreement is reached, MDSave's technology team then performs extensive work with its healthcare partners, including by assisting the partners with integration and implementation. MDSave's account management teams also work closely with the healthcare partners to educate them on MDSave's platform and services, which involves onsite visits at the hospitals and providers to train all facility staff on how to accept and process an MDSave voucher. Finally, MDSave also meets with the healthcare partner's physicians, radiologists, pathologists, anesthesiologists, and all other providers, to negotiate rates for vouchers and bundles of vouchers. This allows MDSave to offer comprehensive voucher bundles to employers at affordable prices.

19. Since its founding in 2011, MDSave has built partnerships with 7 out of the 10 largest healthcare systems in the country, including 300 hospitals and nearly 5,000 individual providers, which collectively offer more than 1,700 individual procedures. To accomplish this, MDSave has expended more than \$26 million and countless hours conducting market research, traveling to meet with and develop relationships with existing and potential healthcare partners, and, ultimately, negotiating reduced-fee rates for essential bundled healthcare procedures that it can offer to its existing and potential customers.

20. MDSave has also achieved this growth by developing and expanding its customer base, which it does by building and developing its online tools, including its website and protected data, and engaging with new and existing customers, through customer service, advertising, and other outreach efforts.

21. MDSave's innovative online marketplace has been recognized across the industry. In 2013, MDSave was awarded Top Healthcare Startup by the Nashville Area Chamber of Commerce. In 2015, Fortune featured MDSave in an article describing it as "the healthcare version of Expedia" that "plans to save lives, lower medical bills." In 2019, MDSave was recognized as

#152 on Inc. Magazine's list of the 5,000 fastest-growing companies in the nation. MDSave has been featured in other national publications and media including Consumer Reports, Fox News, Bloomberg Business, and Yahoo! Finance. MDSave's platform is enabled by MDSave Shared Services' patented technology.

Defendant Sesame

22. In or around November 2021, Plaintiff discovered that Sesame was offering virtually the same list of procedures from the same list of providers as those available on MDSave's website. **Exhibit 1** is a sample of more than a hundred procedures from MDSave partner providers in the State of Texas that Sesame lists on its website that are nearly identical or identical to those first listed by MDSave.

23. Sesame's offered prices are derived from MDSave's own negotiated prices with those same vendors, except that they are significantly marked up. Thus, Sesame is improperly pursuing its own ends by marking up a service that it does not provide and is not authorized to sell. This harms not only MDSave, but also the purchaser, the provider, and the overall goal of delivering affordable healthcare.

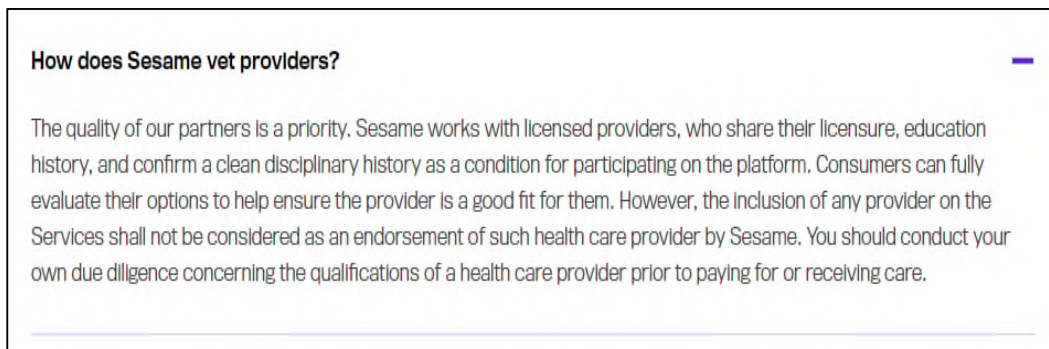
24. Sesame has stolen MDSave's data and used it to infringe MDSave Shared Services' patents and compete with MDSave in the same markets, for the same services, from the same healthcare providers, and for the same potential customers.

25. Sesame bases its own vouchers off the data that it has stolen from MDSave, adding a consistent mark-up, such as \$100, and then using MDSave's data again to negotiate its own vouchers with new customers.

26. Sesame claims that it has a provider network of "10,000 doctors and specialists" that have agreed to "participate" on its platform. *See* <https://sesamecare.com/>. Sesame also

represents that for each provider listed on its website, Sesame has already vetted the provider by having the provider “share” the provider’s “licensure, education, and clean disciplinary history.”

See <https://sesamecare.com/faq>. For instance, its website states:



27. But most, if it not all, of the healthcare partners Sesame claims to have are, in fact, derived from MDSave’s website.

28. These are providers with whom MDSave first developed relationships. Upon information and belief, Sesame only lists these partners because it has stolen MDSave’s data and used it in a manner that infringes MDSave Shared Services’ patents.

29. Indeed, upon information and belief, when a Sesame customer chooses to buy a service from such a provider, Sesame will then reach out to that provider and attempt to negotiate a transaction price with them, using the stolen MDSave information to negotiate.

30. In addition, or alternatively, Sesame might obtain an MDSave voucher from Green Imaging, LLC to re-sell. Of course, Sesame both obtained the “sale” of the voucher and attempted to negotiate a rate with the healthcare provider wrongfully using MDSave’s data, or outright re-selling MDSave vouchers purchased by Green Imaging without Sesame having authorization to do so.

Defendant's Infringement of the MDSave '072 Patent

31. MDSave Shared Services owns United States Patent No. 9,123,072 (the "'072 Patent"), attached hereto as **Exhibit 2**.

32. The Abstract of the '072 Patent states:

An apparatus for facilitating purchases of services includes an application server providing a network service and maintaining a service offer database that comprises a plurality of service offer information records respectively associated with a plurality of service offers. The plurality of service offers include at least one service offer for a bundled set of services. Each information record comprises an indication of a primary service, a purchase price, a payment amount for a primary service, and compensation information for receiving payment for the primary service. Upon being accessed by user operating a client system, the network service is operable to receive an indication of a service offer being selected for purchase by the user, receive purchase information from the user specifying a funding source, and issue a request to the funding source for funds corresponding to the purchase price included in the information record associated with the selected service offer.

33. The invention claimed by the '072 Patent represents a significant advance over the prior art.

34. The examiner recognized during prosecution of the '072 Patent that the prior art of record "alone or in combination, neither anticipates, reasonably teaches, nor renders obvious" the claimed feature that "each service offer information record comprising an indication of a primary healthcare service of the associated service offer, a purchase price for the associated service offer, an indication of a corresponding healthcare service provider for the primary healthcare service, a payment amount for the primary healthcare service, and compensation for the primary healthcare service." Feb. 11, 2015 Office Action, at 5.

35. The examiner rejected the initially proposed claims under 35 U.S.C. § 101; however, after the claims were amended to include additional limitations from certain dependent claims, the examiner withdrew the rejection and allowed the claims, illustrating that the issued claims are directed to a specific implementation of a solution to a problem in the computing arts

rather than an abstract idea that would raise preemption concerns. Mar. 25, 2015 Notice of Allowance, at 2-3.

36. Moreover, the claims of the '072 Patent do not merely use well-understood, routine, or conventional techniques or systems. The claimed combinations also improve the operation of computer functionality, enabling the elements of the system to address the problems recognized in prior art systems as discussed in the Background of the Invention and the Summary of the Invention.

37. At all relevant times, MDSave has possessed and currently possesses a full and complete license to the '072 Patent from MDSave Shared Services.

38. As shown in the '072 Patent preliminary claim charts, which are attached hereto as **Exhibit 3**, Sesame is infringing at least Claim 13 of the '072 Patent through its products and services in the United States. For example, as the claim chart shows, Sesame is selling bundled healthcare services through a networked application server, using a database comprising of a plurality of procedure, provider, and price data (including copied MDSave data), and generating its own purchase information records (or "vouchers"). *See Exhibit 3*. Sesame, in reselling MDSave's services and/or copying MDSave's business model, is, upon information and belief, also maintaining records of purchases and redemptions on a transactional information database as part of its data storage systems. *See Id.*

39. Through this Complaint, MDSave Shared Services alleges direct infringement of the '072 Patent in violation of 35 U.S.C. § 271 against Sesame, as set forth below in the First Claim for Relief.

Defendant's Infringement of the MDSave '423 Patent

40. MDSave Shared Services owns United States Patent No. 11,170,423 B2 (the "'423 Patent"), attached hereto as **Exhibit 4**.

41. The Abstract of the '423 Patent states:

Apparatus and associated methods related to determining medical services appropriate to a patient in response to a patient lifecycle event: presenting the medical services to the patient for selection; optionally scheduling the selected medical services; and automatically presenting the selected services for prepayment. The patient lifecycle event may be, for example, a doctor's order, diagnosis, condition change, payment, admission, or discharge. The services presented to the patient may be determined in response to, and as a function of, the lifecycle event. For example, the services presented may include procedures determined after the lifecycle event, in view of patient medical history. In an illustrative example, the services presented may be based on medical indication, contraindication, provider or facility availability, or patient scheduling preference, advantageously permitting more medically relevant, beneficial, convenient, or cost-effective services. Various examples may advantageously provide a discount for a service bundle provided at a particular time or facility or by an affiliated physician or medical group.

42. The invention claimed by the '423 Patent represents a significant advance over the prior art.

43. During prosecution of the '423 Patent, certain initially pending claims were rejected by the examiner under 35 U.S.C. § 101. Those claims were canceled, leaving only claims that the examiner did not view as subject to a § 101 rejection. The remaining claims were allowed following the filing of a terminal disclaimer, illustrating that the issued claims are directed to a specific implementation of a solution to a problem in the computing arts rather than an abstract idea that would raise preemption concerns.

44. Moreover, the claims of the '423 Patent do not merely use well-understood, routine, or conventional techniques or systems. The claimed combinations also improve the operation of computer functionality, enabling the elements of the system to address the problems recognized in

prior art systems as discussed in the Background of the Invention and the Summary of the Invention.

45. At all relevant times, MDSave has possessed and currently possesses a full and complete license to the '423 Patent from MDSave Shared Services.

46. As shown in the '423 Patent preliminary claim charts, which are attached hereto as **Exhibit 5**, Sesame is infringing at least Claim 1 of the '423 Patent through its products and services in the United States.

47. Through this Complaint, MDSave Shared Services alleges direct infringement of the '423 Patent in violation of 35 U.S.C. § 271 against Sesame, as set forth below in the Second Claim for Relief.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF Direct Infringement of the '072 Patent

48. MDSave Shared Services realleges and incorporates by reference each and every paragraph of this Complaint as if fully set forth herein and further alleges as follows:

49. As set forth in **Exhibit 3**, Sesame is infringing, and has infringed the '072 Patent either literally or under the doctrine of equivalents by performing each and every step set forth in at least Claim 13 of the '072 Patent in violation of 35 U.S.C. § 271.

50. Upon information and belief, Sesame has actual and constructive knowledge of the '072 Patent, including because the patent is listed on MDSave's website, which Sesame studied, and copied.

51. Moreover, Sesame has knowledge of the patents and of infringement based on the complaint and claim charts filed and served in *MDSave Inc. v. Sesame, Inc.*, C.A. No. 6:21-1338-ADA (W.D. Tex.) (D.I. 1 & 4).

52. MDSave Shared Services has been damaged by Sesame's infringement.

53. Sesame's conduct has been willful and intentional. Sesame studied, and copied MDSave's website, which lists the '072 Patent, and Sesame was aware of the '072 Patent and its infringement as a result of the Texas litigation. Sesame therefore had knowledge of, or was willfully blind to, the existence of the '072 Patent and its infringement thereof.

54. Sesame's conduct has caused and is causing irreparable injury to MDSave Shared Services and, unless enjoined by this Court, will continue to do so.

SECOND CLAIM FOR RELIEF
Direct Infringement of the '423 Patent

55. MDSave Shared Services realleges and incorporates by reference each and every paragraph of this Complaint as if fully set forth herein and further alleges as follows:

56. As set forth in **Exhibit 5**, Sesame is infringing, and has infringed the '423 Patent either literally or under the doctrine of equivalents by performing each and every step set forth in at least Claim 1 of the '423 Patent in violation of 35 U.S.C. § 271.

57. Upon information and belief, Sesame has actual and constructive knowledge of the '423 Patent, including because the patent is listed on MDSave's website, which Sesame studied, and copied.

58. Moreover, Sesame has knowledge of the patents and of infringement based on the complaint and claim charts filed and served in *MDSave Inc. v. Sesame, Inc.*, C.A. No. 6:21-1338-ADA (W.D. Tex.) (D.I. 1 & 4).

59. MDSave Shared Services has been damaged by Sesame's infringement.

60. Sesame's conduct has been willful and intentional. Sesame studied, and copied MDSave's website, which lists the '423 Patent, and Sesame was aware of the '423 Patent and its

infringement as a result of the Texas litigation. Sesame therefore had knowledge of, or was willfully blind to, the existence of the '423 Patent and its infringement thereof.

61. Sesame's conduct has caused and is causing irreparable injury to MDSave Shared Services and, unless enjoined by this Court, will continue to do so.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court enter judgment in its favor on each and every claim for relief set forth above and award Plaintiff relief, including, but not limited to, an Order:

1. Declaring that Sesame has infringed and is continuing to infringe one or more claims of the '072 and '423 Patents;

2. Preliminarily and permanently enjoining Sesame, its officers, employees, agents, subsidiaries, representatives, distributors, dealers, members, affiliates, licensees, internet service providers, and all persons acting in concert or participation with them from directly or indirectly infringing one or more claims of the '072 and '423 Patents;

3. Awarding Plaintiff damages adequate to compensate for Sesame's infringement, including supplemental damages for any post-verdict infringement up until entry of final judgment with an accounting as needed, together with pre-judgment and post-judgment interest on the damages awarded;

4. Declaring that Sesame's infringement has been willful and awarding Plaintiff enhanced damages under 35 U.S.C. § 284;

5. Declaring that this patent infringement case is exceptional and awarding Plaintiff its costs and attorneys' fees in this action pursuant to 35 U.S.C. § 285, or as otherwise provided by law; and

6. Awarding such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues so triable.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Michael J. Flynn

OF COUNSEL:

WINSTON & STRAWN LLP
David P. Enzminger
Michael A. Tomasulo
333 S. Grand Avenue
Los Angeles, CA 90071
(213) 615-1700

HOLLOWELL PATENT GROUP LLC
Kelly J. Hollowell
1804 Foxhound Lane
Virginia Beach, VA 23454
757-222-8022

Jack B. Blumenfeld (#1014)
Michael J. Flynn (#5333)
Anthony D. Raucci (#5948)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200
jblumenfeld@morrisnichols.com
mflynn@morrisnichols.com
araucci@morrisnichols.com

Attorneys for Plaintiff

December 14, 2022