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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MYMEDICALRECORDS, INC.,
Plaintiff,
v.
JARDOGS, LLC,
Defendant.

Case No. 2:13-cv-03560-ODW(SHx)
**ORDER GRANTING PLAINTIFF'S
MOTION TO AMEND [27]**

On May 31, 2013, Plaintiff MyMedicalRecords, Inc. filed a Complaint against Defendant Jardogs, LLC. MyMedicalRecords owns, among others, U.S. Patent No. 8,301,466, which covers Plaintiff's Internet-based, personal, medical-records system. MyMedicalRecords alleges that Jardogs's product FollowMyHealth Universal Health Record infringes upon the □466 patent. MyMedicalRecords only brought one patent-infringement claim against Jardogs based on Jardogs's alleged infringement of the □466 patent.

On September 23, 2013, MyMedicalRecords filed suit against Allscripts Healthcare Solutions, Inc. MyMedicalRecords alleges that Allscripts acquired all or substantially all of Jardogs in March 2013, thus allegedly rendering Allscripts liable for any infringement resulting from Jardogs's FollowMyHealth product. MyMedicalRecords brought two claims against Allscripts: one for alleged

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1 infringement of the □466 patent and one for alleged infringement of
2 MyMedicalRecords’s 8,498,883 patent involving the same Internet-based system.

3 The Court then ordered MyMedicalRecords to show cause why it had not added
4 Allscripts as a defendant in its suit against Jardogs. MyMedicalRecords subsequently
5 filed this Motion. Because both suits involve the same allegedly infringing product,
6 and Allscripts now ostensibly owns and uses the product that was once owned by
7 Jardogs, the Court **GRANTS** MyMedicalRecords’s Motion to Amend.

8 First, the Court notes that Allscripts did not oppose this Motion to Amend.
9 (ECF No. 27.) Under the Local Rules, a court may deem a party’s failure to file an
10 opposition as consent to the court granting the motion. C.D. Cal. L.R. 7-12.
11 Allscripts’s silence bespeaks its position on the Motion.

12 Under Federal Rule of Civil Procedure 19(a), Allscripts is a “necessary” party
13 and therefore “must be joined.” Rule 19(a) sets forth “necessary” parties, that is,
14 those parties who “must be joined” if they will not deprive the court of subject-matter
15 jurisdiction. A party is necessary if, among others, disposing of the action in that
16 party’s absence may “as a practical matter impair or impede the person’s ability to
17 protect the interest; or . . . leave an existing party subject to a substantial risk of
18 incurring double, multiple, or otherwise inconsistent obligations because of the
19 interest.” Fed. R. Civ. P. 19(a)(1)(B). If a necessary party has not been joined, the
20 court “must order that the person be made a party.” *Id.* (a)(2).

21 As noted above, the Jardogs suit was filed nearly four months before the
22 Allscripts suit. There is a potential risk that adjudicating the *Jardogs* suit could leave
23 Allscripts open to “incurring double, multiple, or otherwise inconsistent obligations.”
24 Fed R. Civ. P. 19(a)(1)(B). Since MyMedicalRecords alleges that Jardogs and
25 Allscripts each infringed the same patent through the same product, varied rulings in
26 two different cases would render Allscripts subject to “inconsistent obligations.” The
27 Court thus finds that Allscripts is a necessary party in the *Jardogs* action.

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1 Further, under 35 U.S.C. § 299(a), a plaintiff may join multiple alleged
2 infringers in one action if plaintiff's claims arise "out of the same transaction,
3 occurrence, or series of transactions or occurrences relating to the making, using,
4 importing into the United States, offering for sale, or selling of the same accused
5 product or process" and "questions of fact common to all defendants or counterclaim
6 defendants will arise in the action."

7 FollowMyHealth—the allegedly infringing product—is the "same accused
8 product" in both the *Jardogs* and *Allscripts* suits. MyMedicalRecord's suits against
9 each Defendant go further. MyMedicalRecords alleges that Defendants infringed the
10 □466 patent through the same product: FollowMyHealth. Issues such as the □466
11 patent's validity and whether FollowMyHealth's infringes the □466 patent are issues
12 common to both suits. The Court consequently finds that joinder of *Allscripts* is
13 proper under § 299.

14 The Court therefore **GRANTS** MyMedicalRecord's Motion to Amend. (ECF
15 No. 27.)

16 **IT IS SO ORDERED.**

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18 November 1, 2013

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21 **OTIS D. WRIGHT, II**
22 **UNITED STATES DISTRICT JUDGE**
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