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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

DAV SUB, INC. (d/b/a CONTINUUM
HEALTH TECHNOLOGIES CORP.),

Plaintiff,

v.

COMMUNICARE TECHNOLOGY,
INC. (d/b/a PULSARA),

Defendant.

Cause No. 2:24-CV-35-BMM-JTJ

COMPLAINT FOR PATENT
INFRINGEMENT AND DEMAND
FOR JURY TRIAL

COMPLAINT FOR PATENT INFRINGEMENT

1. This is an action under the patent laws of the United States, Title 35 of the United States Code (35 U.S.C. §§ 271, 286), for patent infringement in which DAV Sub, Inc. (d/b/a Continuum Health Technologies Corp.) (“Continuum” or “Plaintiff”), makes the following allegations against CommuniCare Technology, Inc. (d/b/a Pulsara) (“Pulsara” or “Defendant”).

PARTIES

2. Plaintiff is a Delaware company, having its primary office at 801 Barton Springs Rd., Floor 9, Austin, TX 78704.

3. Defendant is a Delaware company with its principal place of business at 1627 W Main Street, Suite 229, Bozeman, MT 59715. Defendant’s Registered Agent for service of process in Montana is CT Corporation System, 3011 American Way, Missoula, MT 59808.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this district under 28 U.S.C. §§ 1391(c), generally, and under 1400(b), specifically. Defendant has a regular and established place of

business in this Judicial District, and Defendant has also committed acts of patent infringement in this Judicial District.

6. Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Montana Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Montana and in this Judicial District.

7. Defendant has established offices in Bozeman, MT – within the District of Montana.



8. Defendant has infringed, and does infringe, by transacting and conducting business within the District of Montana. Upon information and belief, operations at Defendant's Bozeman location include sales, marketing, business development, and/or technology development for Defendant's infringing instrumentalities.

9. Defendant's offices in Bozeman, MT is a regular and established place of business in this Judicial District, and Defendant has committed acts of infringement (as described in detail, hereinafter) at Defendant's office within this District. Venue is therefore proper in this District under 28 U.S.C. § 1400(b).

FACTUAL BACKGROUND – PLAINTIFF'S PATENTS

10. Plaintiff is a software company providing healthcare related software as a service ("SaaS") products and systems ("Plaintiff's Systems"). The development of the Plaintiff's core intellectual property began in the early 2000's and has continued ever since.

11. Plaintiff currently owns a half dozen issued U.S. Patents, reading upon various healthcare related technologies and operations - including, but not limited to: healthcare related revenue cycle management; HIPAA secure messaging; telehealth operations; healthcare payment systems; secure file sharing; remote resource transactions; and mobile applications and interfaces for a variety of users and resource providers.

12. Plaintiff currently owns multiple pending U.S. Patent applications, directed to its healthcare related technologies and operations, in addition to innovative technologies and systems.

13. Plaintiff has invested, and continues to invest, substantial resources – both in terms of time and costs – to procure and develop patents that protect its intellectual property.

14. Plaintiff's Systems implement and practice the inventions disclosed and claimed in the U.S. Patents owned by Plaintiff.

DEFENDANT'S INFRINGING INSTRUMENTALITIES

15. Defendant directly – or through intermediaries including distributors, partners, contractors, employees, divisions, branches, subsidiaries, or parents – made, had made, used, operated, imported, provided, supplied, distributed, offered for sale, sold, and/or provided access to software systems, cloud-based software, and/or smart device apps for peer-to-peer messaging and document transfer between healthcare professionals, ancillary service providers, administrative staff, caregivers, or patients – including, but not limited to, Defendant's Pulsara App and its supporting Pulsara infrastructure (collectively, "Pulsara Platform").

16. The Pulsara Platform is the infringing instrumentality.

17. Defendant's publicly available information (including the following screen capture(s) from its own website) indicates that the Pulsara Platform processes application data in a distributed manner, utilizing dynamic load balancing, across a cluster of web servers in geographically separated data centers:

- Pulsara's systems utilize dynamic load balancing to automatically distribute incoming application traffic across a web server cluster. Additionally, to support system continuity best-practices, our systems leverage multiple geographically separated data centers.

18. Defendant's publicly available information (including the following screen capture(s) from its own website) indicates that that the Pulsara Platform stores and maintains all customer data in servers under the operative control of Pulsara:

- All customer data is encrypted and stored in U.S. based servers.
- DR & hourly backups
 - Pulsara maintains best practices to ensure our systems are resilient and distributed. Our infrastructure is supported by our Disaster Recovery plan, with environments on standby in the case of a disaster. Pulsara maintains hourly backups of all data.

19. Defendant's publicly available information (including the following screen capture(s) from its own website) indicates that users of the Pulsara Platform have no hardware or servers to install in order to use the Pulsara Platform, and that

- **Light footprint on IT:** no servers or on-premise hardware to install, and we do all the upgrades and maintenance.

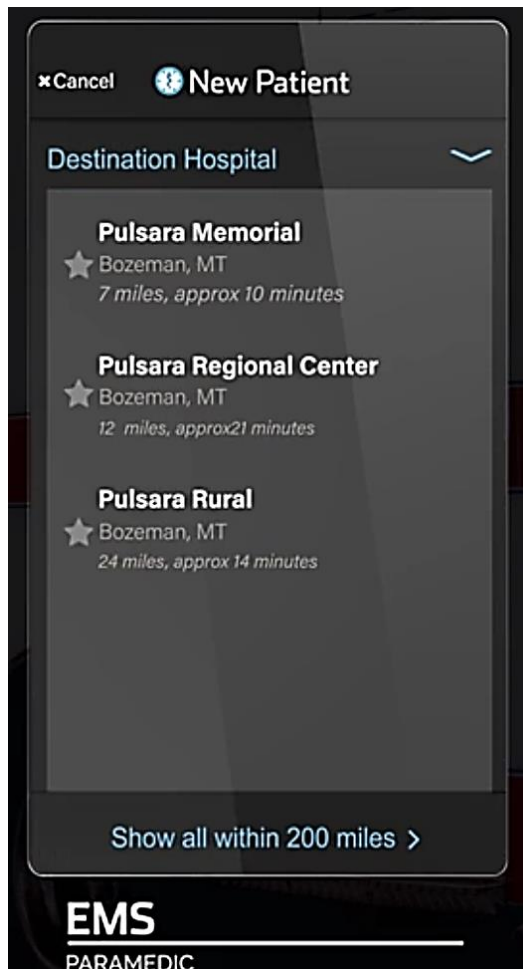
20. Defendant's publicly available information (including the following screen capture(s) from its own website) indicates that that the Pulsara Platform is provided in both mobile app and web-based formats:

- Native mobile applications on iOS and Android, distributed via the Apple iTunes and Google Play app stores.
- Web-based admin dashboard for provisioning, administration, and reporting that runs on all modern browsers and operating systems.

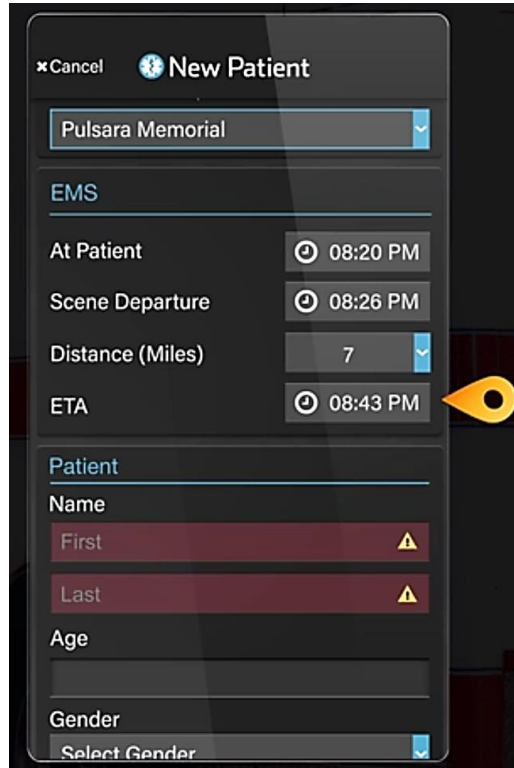
21. Defendant's publicly available information (including the following screen capture(s) from its own website) indicates that Pulsara controls all access to the Pulsara Platform application infrastructure:

- o Application infrastructure (the machines running the product) can only be accessed from a Pulsara-owned IP address enforced by: VPN, posture assessment, firewall rules, and using public/private key authentication.

22. Defendant's publicly available information (including the following screen capture(s) from its own website) indicates that the Pulsara Platform provides a user with information concerning available resources based upon location information:



23. Defendant's publicly available information (including the following screen capture(s) from its own website) indicates that the Pulsara Platform utilizes GPS to determine a patient's location:



Geolocation

Pulsara's mobile apps use location services provided by Android and iOS to calculate and update ETA for inbound EMS patients. For EMS organizations, ensure that each device can detect the current location using Apple Maps on iOS or Google Maps on Android.

24. Defendant's publicly available information (including the following screen capture(s) from its own website) indicates that the Pulsara Platform utilizes push notifications to deliver alerts to users' devices:

Pulsara uses Push Notifications for its delivery of alerts.

25. Defendant’s publicly available information (including the following screen capture(s) from its own website) indicates that the Pulsara Platform requires mobile users to retrieve data from the Pulsara Platform:

WHAT DATA IS STORED ON THE MOBILE DEVICE?

None. When a mobile user needs to access data, it is retrieved from the Pulsara platform. Data is only present in volatile memory on the device.

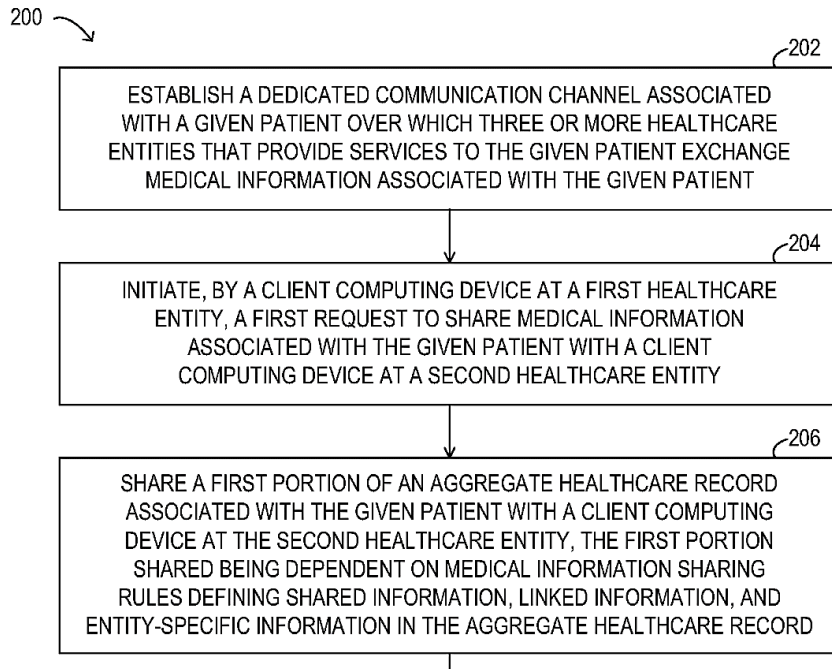
26. Defendant’s publicly available information (including the following screen capture(s) from its own website) indicates that the Pulsara Platform provides networked communication across an entire team – even if the team comprises members across multiple organizations:

CommuniCare Technology, Inc., dba Pulsara, is a healthcare communication platform that connects teams across organizations. What makes Pulsara so unique is its ability to enable networked communication across the entire care team for any patient event — even if the care team is across multiple organizations. As a desktop and mobile SaaS platform, clinicians can add a new organization, team, or specialist to any patient event, dynamically building a care team even as the patient condition and location are constantly changing.

The Pulsara software platform unites the right clinicians at the right time for the right patient — providing transparency and streamlined communication. Simply CREATE a dedicated patient channel. BUILD the team. And, COMMUNICATE about patient medical information using audio, video, instant messaging, data, images, and key benchmarks. Studies report an average decreased treatment time of nearly 30% when using Pulsara. Pulsara is the evidence-based standard of care.

Users can create a “channel” - adding or changing networked team resources associated with the “channel,” as well as access data, images, media, and other resources via the channel.

27. Defendant’s publicly available information (from its own website) indicates that the Pulsara Platform has two U.S. utility patents directed to its products – U.S. Patent No. 11,212,346 and U.S. Patent No. 11,616,836 (the “Pulsara Patents”). Both patents disclose the following operational steps:



28. Defendant’s publicly available information (including the following screen capture(s) from its own website) indicates that the Pulsara Platform provides users with adding members or teams to a channel as needed:

Adding members to a patient channel via direct assignment provides flexibility to bring teams or individuals into a channel as needed.

29. Defendant’s publicly available information (including the following screen capture(s) from its own website) indicates that the Pulsara Platform provides alerts to team resources as they are added to a “patient channel”:

Primary Alert

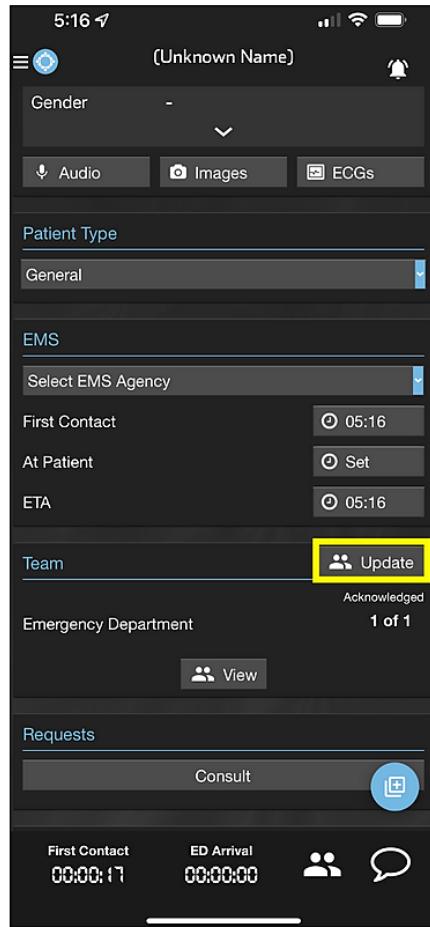
- The first alert that is sent as soon as a patient-type event has occurred..
- Primary alerts can be configured differently per team.
- Force assigning a team member to a patient sends a primary alert

30. Defendant’s publicly available information (including the following screen capture(s) from its own website) indicates that the Pulsara Platform provides the above-referenced operation by first requiring the user to navigate to its “Team Screen” and then tapping on “Update”:

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To direct assign a team or individual, navigate to the Team Screen and tap Update.

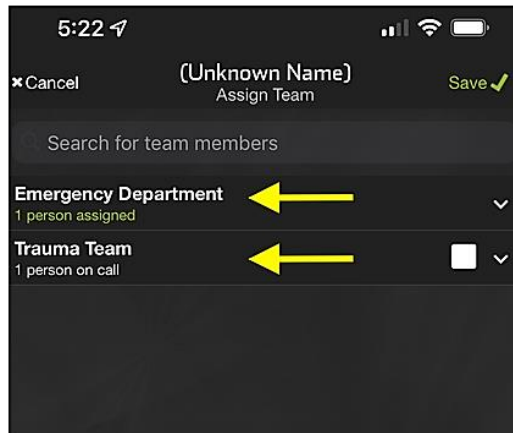


31. Defendant's publicly available information (including the following screen capture(s) from its own website) indicates that a user operating the Pulsara Platform in this manner is next presented with a list of available teams and/or individuals that may be assigned:

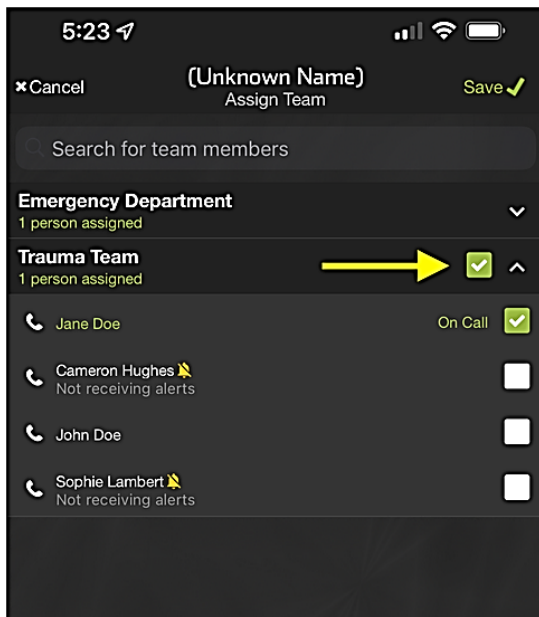
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On this screen a list of response teams will be listed.



Locate the team or individual that needs to be direct assigned. If there are members currently toggled on call, a white checkbox next to this team will be available. Tapping this checkbox will notify all members currently toggled on call.



The user then selects the teams and/or individuals that they want to add to the channel.

32. Defendant's publicly available information (including the following screen capture(s) from its own website) indicates that the Pulsara Platform provides

users access to external data resources in conjunction with a request entered via the “patient channel”:

When at least one External Link exists for a patient, the External Links card will appear above the Team section.



Simply tap (mobile) or click (HQ) the link to view the information in an external system. When

33. Defendant’s publicly available information (including the following screen capture(s) from its own website) indicates that the Pulsara Platform utilizes a “patient channel” as the basis for transferring data – contextually related to a patient – between a number of disparate resources:

Pulsara is a secure, user-friendly app that unites the entire care team, even across different departments or organizations. By replacing multiple phone calls, radio reports, faxes, and pagers with one unified patient channel, Pulsara streamlines workflows, leading to reduced treatment

From EMS and hospital staff to urgent cares, nursing homes, testing clinics, standalone EDs, Public Health, and even FEMA Medical Operations Coordination Cells, Pulsara connects all members of the care team, regardless of location, organization, or position.

34. Defendant's publicly available information (including the following screen capture(s) from its own website) indicates that the Pulsara Platform communications are cloud-based, secure, and HIPAA compliant, and provide information and file sharing among team members:

Pulsara is an integrated digital care communication platform, streamlining the coordination of patient information, images, videos, ECGs and more. With a simple tap, you'll have the ability to:

- Replace the radio report.
- Eliminate delays caused by heavy radio traffic.
- Auto calculate ETA.
- Communicate on a HIPAA-compliant, secure, cloud-based platform.
- Capture and share any pertinent patient information.
- Enjoy transparent team activation, collaboration, and file sharing.
- See all crucial events, automatically date and time stamped to one clock.
- Receive instant feedback for all members—**INCLUDING EMS!**
- Export data for CQI and Reporting.

35. Defendant’s publicly available information (including the following screen capture(s) from its own website) indicates that the infringing instrumentalities provide the “patient channel” module use for a number of situational contexts, from various patient response and treatment teams:



Pulsara provides the most robust yet flexible solution for communication and logistics. EMS teams enjoy integration with their favorite ECG monitors, EMS-to-EMS handoff, facility-to-EMS handoff, the ability to consult specialists, medical control or any other member of the care team, and more.

EMS and hospital staff can seamlessly communicate event-based patient information, including one-tap team notifications, image sharing, audio/video calls, and ETA, right from the Pulsara app.

Start a case, share important details (like an ECG or images from the field), and receive instant feedback as soon as the case is closed.

Ambulance

EMS & Out of Hospital

Replace the radio report, expand your scope of practice, and more.

Hospital Organizations

Healthcare Facilities

One way to communicate with all other clinicians and organizations.

Pulsara **MED OPS** connects your community from the Multiple Patient Incident (MPI/MCI), to the full-fledged disaster, to a worldwide pandemic. Using Pulsara **MED OPS**, everyone - from Emergency Responders to Public Health - has full transparency from the beginning of the event through patient follow-up and reporting. Pulsara effortlessly scales as the situation unfolds.

PULSARA MED OPS IS THE PERFECT SOLUTION FOR:

- Incident Management, including Patient Tracking and Reunification
- State-Based Trauma Systems
- Centralized Medical Control
- Emergency Operations Center (EOC)
- ESF #8 - Public Health and Medical Services (PHMS)
- Medical Operations Coordination Cells (MOCC)
- Medical Operations (for entire region) RMOCC
- Medical Operations (for entire state) SMOCC
- Medical Operations (for federal) FMOCC
- Medical Operations Center (MOC)



to a number of treatments, responses, and patient situations:

connect team members for ANY event? Pulsara is built to efficiently manage routine transports, transfers, and transitions of care as well as coordinate care for distributed teams across organizations for time sensitive emergencies like STEMI, stroke, burn and trauma. However, it can also scale to help regions respond for mass casualty, fires, hurricanes, evacuations, pandemics, and other major stress events. Enable networked communication that can connect all members of the care team from any organization.

When you've got a STEMI on your hands, every second counts. Did you know the odds of a STEMI patient's survival at one year decrease by 3% for every one minute increase in time to intervention? That's why Pulsara's STEMI app prioritizes saving time by getting ALL care team members on the same page, every step of the way.

With Pulsara, it's simple:



1. Create Patient Channel



2. Build Teams on the Fly



3. Communicate

Dynamically Build Your Team

Configure Your Teams to Fit Your Patient's Needs.

Cardiac arrest is extremely time sensitive. Mobilizing the correct treatment team and enabling them to communicate effectively is critical.

Cardiologist? Cath Lab? Respiratory? ECMO Team? Dynamically build your team to include everyone you need, right when you need them.

Collaborative Toxicology Care Starts with EMS

With Pulsara, EMS teams responding to a toxicology or overdose case have the option to securely and instantly connect and consult with a hospital or poison center to determine the best course of action for their patients.

With these flexible interactions and the ability to form teams on the fly, your teams can even bypass the ED completely, taking patients to the appropriate department or facility to ensure proper and more efficient care.

36. Defendant's publicly available information (including the following screen capture(s) from its own website) indicates that the infringing instrumentalities provide a number of transaction situation contexts:

Dynamically Build Your Team

Get the Right Information to the Right People, at the Right Time.

Stroke cases evolve quickly, and the instant you determine your patient is eligible for thrombolysis or mechanical thrombectomy, you need the power to connect with the neurologist and interventionalist in real time — regardless of whether they're at your facility or one across the state.

Dynamically build your team to include everyone you need, right when you need them. (Pulsara is a stroke app, STEMI app, trauma app, sepsis app, and more — all in one!).

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Trauma cases quickly evolve over a short period of time, and correct trauma level activation is important for patient care as well as reimbursement. With Pulsara, EMS can clearly communicate case details, allowing the hospital to activate the proper teams. Get it right the first time, and then easily add additional team members as needed. Everybody is on the same page — just like that.

These materials indicate that resources dynamically added to (or accessed by) the patient channel may be based upon a situational context (*e.g.*, stroke, cardiac arrest, trauma).

37. Defendant’s publicly available information (including the following screen capture(s) from its own website) indicates that the infringing instrumentalities may access a variety of informational resources depending upon the situational context:

Pulsara captures data relevant to communicating about patient status and treatment including images, ECGs, Audio Clips, Conversations, Labs, Vital Signs, Contraindications, Contacts, Stroke Scores, Team Alerts, and Requests.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 7,426,730

38. Plaintiff herein restates and incorporates by reference paragraphs 15 – 37, above.

39. Plaintiff is the owner by assignment of United States Patent No. 7,426,730 (“the ‘730 Patent”) entitled “Method and System for Generalized and Adaptive Transaction Processing Between Uniform Information Services and Applications” – including all rights to recover for past, present, and future acts of infringement. The ‘730 Patent issued on September 16, 2008, and has a priority date

of April 19, 2001. A true and correct copy of the '730 Patent is attached as Exhibit A, and hereafter incorporated by reference.

40. The '730 Patent discloses systems and methods providing a processing function that is useful for controlling any type of transaction between information sources and information consumers. In particular, the invention provides a transaction framework that dynamically integrates a plurality of information sources and consumers based on transaction context data. (Ex. A, Col. 5, lines 12-17).

41. Claim 1 of the '730 Patent generally recites a number of elements for a networked computer system comprising a plurality of computer servers for providing a resultant resource according to a transaction request.

42. As described in paragraphs 15 – 37, above, Defendant's publicly available information (including in the following screen capture(s) from its own website) indicates that the infringing instrumentalities provide components that are communicably coupled, and provide access, to a plurality of networked data, communication, information, and application resources. The infringing instrumentalities are cloud-based (indicating multiple servers):

- **Communicate on a HIPAA-compliant, secure, cloud-based platform.**

and comprise a number of disparate networked resources:

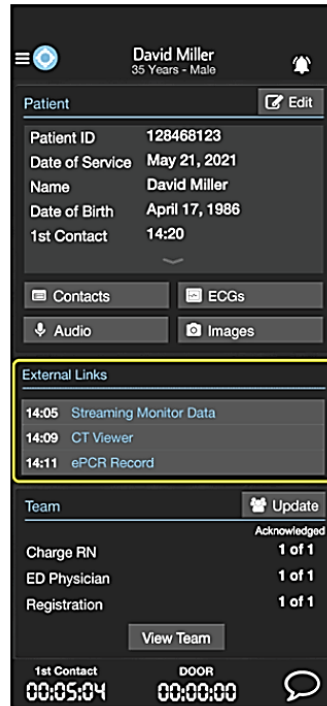
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Pulsara is an integrated digital care communication platform, streamlining the coordination of patient information, images, videos, ECGs and more. With a simple tap, you'll have the

communication. Simply CREATE a dedicated patient channel. BUILD the team. And, COMMUNICATE about patient medical information using audio, video, instant messaging, data, images, and key benchmarks. Studies report an average decreased treatment time of nearly 30% when

43. As described in paragraphs 15 – 37, above, Defendant's publicly available information (including the following screen capture(s) from its own website) indicates that the infringing instrumentalities provide access to resources (e.g.: assignment of a team member; access to audio, video, image, and data resources) responsive to requests initiated via a "patient channel" module:

When at least one External Link exists for a patient, the External Links card will appear above the Team section.

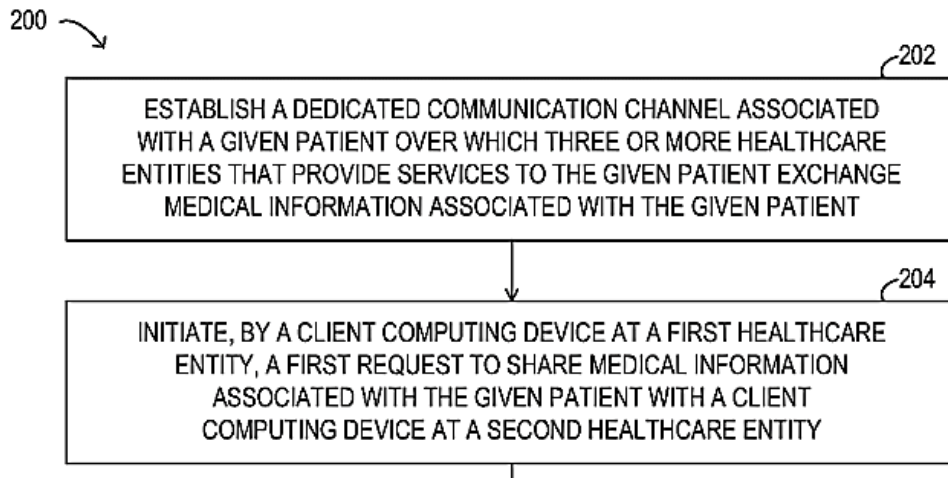


Simply tap (mobile) or click (HQ) the link to view the information in an external system. When

Pulsara creates interoperability, reducing fragmentation of information by providing ONE dashboard where all data and communication can flow to and from any other organization.

44. This “patient channel” module within the infringing instrumentalities comprises a software module that processes transaction requests.

45. As described in paragraphs 15 – 37, above, the Pulsara Patents (to the extent that the infringing instrumentalities practice the inventions disclosed therein) further indicate that the infringing instrumentalities provide access to resources responsive to requests initiated via the “patient channel” module:



46. As described in paragraphs 15 – 37, above, Defendant’s publicly available information (including the following screen capture(s) from its own website) indicates that the infringing instrumentalities provide requests initiated via the “patient channel” module on both mobile devices and web-based computer systems:

- Native mobile applications on iOS and Android, distributed via the Apple iTunes and Google Play app stores.
- Web-based admin dashboard for provisioning, administration, and reporting that runs on all modern browsers and operating systems.

communication. Simply CREATE a dedicated patient channel. BUILD the team. And, COMMUNICATE about patient medical information using audio, video, instant messaging, data, images, and key benchmarks. Studies report an average decreased treatment time of nearly 30% when

makes Pulsara so unique is its ability to enable networked communication across the entire care team for any patient event — even if the care team is across multiple organizations. As a desktop and mobile SaaS platform, clinicians can add a new organization, team, or specialist to any patient event, dynamically building a care team even as the patient condition and location are constantly changing.

47. As described in paragraphs 15 – 37, above, Defendant’s publicly available information (including the following screen capture(s) from its own website) indicates that the infringing instrumentalities provide access – via the “patient channel” module – to various remote resource providers communicatively coupled to the patient channel via a computer network:

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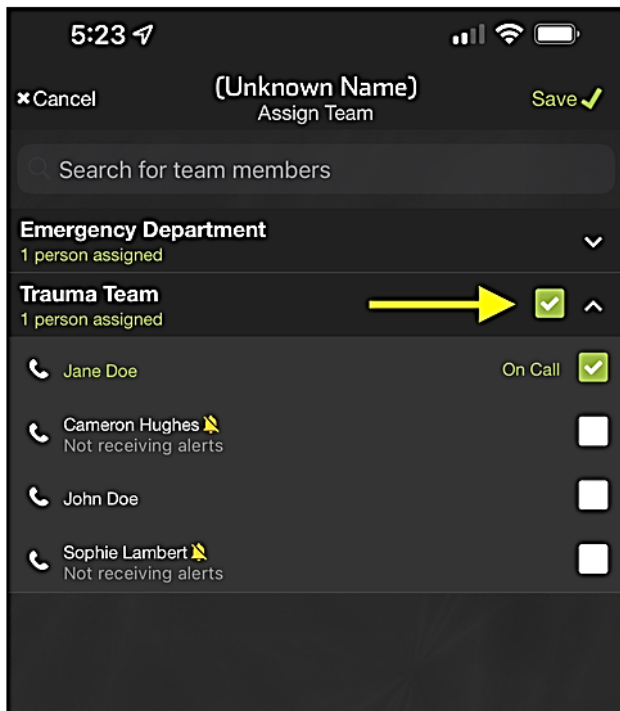
From EMS and hospital staff to urgent cares, nursing homes, testing clinics, standalone EDs, Public Health, and even FEMA Medical Operations Coordination Cells, Pulsara connects all members of the care team, regardless of location, organization, or position.

- o Pulsara's systems utilize dynamic load balancing to automatically distribute incoming application traffic across a web server cluster. Additionally, to support system continuity best-practices, our systems leverage multiple geographically separated data centers.

Pulsara is your single source of truth in an otherwise fragmented system: Amidst health systems with many different referring organizations using many different devices and data sources, Pulsara allows your organization — and any others on the patient channel — to access all of the patient data in one place.

48. As described in paragraphs 15 – 37, above, Defendant’s publicly available information (including the following screen capture(s) from its own website) indicates that the infringing instrumentalities provide the “patient channel” module with a registry of available resources, and attributes of those resources:

Locate the team or individual that needs to be direct assigned. If there are members currently toggled on call, a white checkbox next to this team will be available. Tapping this checkbox will notify all members currently toggled on call.



When at least one External Link exists for a patient, the External Links card will appear above the Team section.



Simply tap (mobile) or click (HQ) the link to view the information in an external system. When

49. As described in paragraphs 15 – 37, above, Defendant’s publicly available information (including the following screen capture(s) from its own website) indicates that the infringing instrumentalities provide the “patient channel” module for a number of situational contexts, from various patient response and treatment teams:



EMS and hospital staff can seamlessly communicate event-based patient information, including one-tap team notifications, image sharing, audio/video calls, and ETA, right from the Pulsara app.

Start a case, share important details (like an ECG or images from the field), and receive instant feedback as soon as the case is closed.

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EMS & Out of Hospital

Replace the radio report, expand your scope of practice, and more.

Hospital Organizations

Healthcare Facilities

One way to communicate with all other clinicians and organizations.

to a number of treatments, responses, and patient situations:

connect team members for ANY event? Pulsara is built to efficiently manage routine transports, transfers, and transitions of care as well as coordinate care for distributed teams across organizations for time sensitive emergencies like STEMI, stroke, burn and trauma. However, it can also scale to help regions respond for mass casualty, fires, hurricanes, evacuations, pandemics, and other major stress events. Enable networked communication that can connect all members of the care team from any organization.

50. As described in paragraphs 15 – 37, above, Defendant’s publicly available information (including the following screen capture(s) from its own website) indicates that the infringing instrumentalities provide dynamic resource selection:

makes Pulsara so unique is its ability to enable networked communication across the entire care team for any patient event — even if the care team is across multiple organizations. As a desktop and mobile SaaS platform, clinicians can add a new organization, team, or specialist to any patient event, dynamically building a care team even as the patient condition and location are constantly changing.

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Trauma cases quickly evolve over a short period of time, and correct trauma level activation is important for patient care as well as reimbursement. With Pulsara, EMS can clearly communicate case details, allowing the hospital to activate the proper teams. Get it right the first time, and then easily add additional team members as needed. Everybody is on the same page — just like that.

51. As described in paragraphs 15 – 37, above, Defendant’s publicly available information (including the following screen capture(s) from its own website) indicates that the infringing instrumentalities provide situational contexts and context elements used in dynamic resource selection responsive to a transaction request initiated in the “patient channel” module:

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Get the Right Information to the Right People, at the Right Time.

Stroke cases evolve quickly, and the instant you determine your patient is eligible for thrombolysis or mechanical thrombectomy, you need the power to connect with the neurologist and interventionalist in real time — regardless of whether they’re at your facility or one across the state.

Dynamically build your team to include everyone you need, right when you need them. (Pulsara is a stroke app, STEMI app, trauma app, sepsis app, and more — all in one!).

connect team members for ANY event? Pulsara is built to efficiently manage routine transports, transfers, and transitions of care as well as coordinate care for distributed teams across organizations for time sensitive emergencies like STEMI, stroke, burn and trauma. However, it can also scale to help regions respond for mass casualty, fires, hurricanes, evacuations, pandemics, and other major stress events. Enable networked communication that can connect all members of the care team from any organization.

52. Plaintiff herein restates and incorporates by reference paragraphs 15 – 51, above.

53. As described in paragraphs 15 – 51, above, Defendant’s publicly available information (from its own website) indicates that all required elements of Claim 1 (see Ex. A at 40) are found within the structure or operation of the Defendant’s infringing instrumentalities.

54. Defendant's infringing instrumentalities therefore literally and directly infringe – at least – Claim 1 of the '730 Patent.

55. In the alternative, the Defendant's infringing instrumentalities directly infringe – at least – Claim 1 of the '730 Patent under the doctrine of equivalents. As described in paragraphs 15 – 51, above, Defendant's infringing instrumentalities perform substantially the same functions in substantially the same manner with substantially the same structures, obtaining substantially the same results, as the required elements of – at least – Claim 1 of the '730 Patent. Any differences between the Defendant's infringing instrumentalities and Claim 1 of the '730 Patent are insubstantial.

56. As described in paragraphs 15 – 51, above, Defendant's publicly available information (from its own website) indicates that all required elements of Claims 15, 17, and 37 (see Ex. A at 41-42) are found within the structure or operation of the Defendant's infringing instrumentalities.

57. Defendant's infringing instrumentalities therefore literally and directly infringe Claims 15, 17, and 37 of the '730 Patent.

58. In the alternative, the Defendant's infringing instrumentalities directly infringe – at least – Claims 15, 17, and 37 of the '730 Patent under the doctrine of equivalents. As described in paragraphs 15 – 51, above, Defendant's infringing instrumentalities perform substantially the same functions in substantially the same

manner with substantially the same structures, obtaining substantially the same results, as the required elements of – at least – claims 15, 17, and 37 of the ‘730 Patent. Any differences between the Defendant’s infringing instrumentalities and the claims of the ‘730 Patent are insubstantial.

59. The Defendant’s infringing instrumentalities, when used and/or operated in their intended manner or as designed, infringe – at least – Claims 1, 15, 17, and 37 of the ‘730 Patent, and Defendant is therefore liable for infringement of the ‘730 Patent.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter:

- a. A judgment in favor of Plaintiff that Defendant has infringed the ‘730 Patent;
- b. A permanent injunction enjoining Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith, from infringement of the ‘730 Patent;
- c. A judgment and order requiring Defendant to pay Plaintiff its damages, costs, expenses, and pre-judgment and post-judgment interest for Defendant’s

infringement of the '730 Patent as provided under 35 U.S.C. §§ 284, 286;

d. An award to Plaintiff for enhanced damages resulting from the knowing and deliberate nature of Defendant's prohibited conduct with notice being made at least as early as the service date of this complaint, as provided under 35 U.S.C. § 284;

e. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees; and

f. Any and all other relief to which Plaintiff may show itself to be entitled.

DATED this 24th day of May, 2024.

/s/ Robert C. Lukes

Attorneys for Plaintiff