

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

UNILOC USA, INC. and UNILOC  
LUXEMBOURG S.A.,

Plaintiffs,

v.

OPTUMINSIGHT, INC. and OPTUM  
CLINICAL SOLUTIONS, INC.,

Defendants.

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CIVIL ACTION NO. 6:16-cv-468

**JURY TRIAL DEMANDED**

**PLAINTIFFS' FIRST AMENDED COMPLAINT  
FOR PATENT INFRINGEMENT**

Plaintiffs Uniloc USA, Inc. (“Uniloc USA”) and Uniloc Luxembourg S.A. (“Uniloc Luxembourg”) (collectively, “Uniloc”) file this Original Complaint against OptumInsight, Inc. and Optum Clinical Solutions, Inc. (“Defendants”) for infringement of U.S. Patent Nos. 5,682,526 (“the ‘526 patent”) and 5,715,451 (“the ‘451 patent”).

**THE PARTIES**

1. Uniloc USA, Inc. (“Uniloc USA”) is a Texas corporation with its principal place of business at Legacy Town Center I, Suite 380, 7160 Dallas Parkway, Plano, Texas 75024. Uniloc USA also maintains a place of business at 102 N. College, Ste. 806, Tyler, Texas 75702.

2. Uniloc Luxembourg S.A. (“Uniloc Luxembourg”) is a Luxembourg public limited liability company, with its principal place of business at 15, Rue Edward Steichen, 4th Floor, L-2540, Luxembourg (R.C.S. Luxembourg B159161).

3. Uniloc Luxembourg and Uniloc USA are collectively referred to as “Uniloc.” Uniloc has researched, developed, manufactured, and licensed information security technology

solutions, platforms and frameworks, including solutions for securing software applications and digital content. Uniloc owns and has been awarded a number of patents. Uniloc's technologies enable, for example, software and content publishers to securely distribute and sell their high-value technology assets with maximum profit to its customers and/or minimum burden to legitimate end-users. Uniloc's technologies are used in several markets including, for example, electronic health record software, software and game security, identity management, intellectual property rights management, and critical infrastructure security.

4. Defendant OptumInsight, Inc. is a Delaware corporation with its principal place of business at 12125 Technology Drive, Eden Prairie, Minnesota, 55344-7302. Defendant may be served with process through its registered agent, CT CORPORATION SYSTEM, at 1999 Bryan Street, Ste 900, Dallas, Texas 75201.

5. Defendant Optum Clinical Solutions, Inc. is a Massachusetts corporation with its principal place of business at 100 Quannapowitt Pkwy Ste. 405 Wakefield, Massachusetts 01880. Defendant may be served with process through its registered agent, C T CORPORATION SYSTEM, at 155 Federal Street Ste. 700, Boston, Massachusetts 02110.

#### **JURISDICTION AND VENUE**

6. Uniloc brings this action for patent infringement under the patent laws of the United States, namely 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a), and 1367.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendants are deemed to reside in this judicial district, have committed acts of infringement in this judicial district, have purposely transacted business

involving its accused products in this judicial district and/or, have regular and established places of business in this judicial district.

8. Defendants are subject to this Court's personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to their substantial business in this State and judicial district, including: (A) at least part of their infringing activities alleged herein; and (B) regularly doing or soliciting business, engaging in other persistent conduct, and/or deriving substantial revenue from goods sold and services provided to Texas residents.

### **PATENTS-IN-SUIT**

9. Uniloc Luxembourg is the owner, by assignment, of the '526 patent, entitled "METHOD AND SYSTEM FOR FLEXIBLY ORGANIZING, RECORDING, AND DISPLAYING MEDICAL PATIENT CARE INFORMATION USING FIELDS IN FLOWSHEET." A true and correct copy of the '526 patent is attached as Exhibit A.

10. Uniloc USA is the exclusive licensee of the '526 patent with ownership of all substantial rights in the '526 patent, including the right to grant sublicenses, exclude others and to enforce, sue and recover damages for past and future infringements.

11. Uniloc Luxembourg is the owner, by assignment, of the '451 patent, entitled "METHOD AND SYSTEM FOR CONSTRUCTING FORMULAE FOR PROCESSING MEDICAL DATA." A true and correct copy of the '451 patent is attached as Exhibit B.

12. Uniloc USA is the exclusive licensee of the '451 patent with ownership of all substantial rights in the '451 patent, including the right to grant sublicenses, exclude others and to enforce, sue and recover damages for past and future infringements.

13. The '526 Patent spent over two years being examined at the United States Patent and Trademark Office. During examination of the '526 Patent, trained United States Patent

Examiners considered at least twenty-four (24) references before determining that the inventions claimed in the ‘526 Patent deserved patent protection. Such references include, for example, various references from Emtex Health Care Systems, Inc., Motorola, Inc., Spacelabs Medical, Inc., and Hewlett-Packard Company.

14. Each claim of the ‘526 Patent is directed to a “process” as defined in 35 U.S.C. § 100.

15. The ‘451 Patent spent nearly three years being examined at the United States Patent and Trademark Office. During examination of the ‘451 Patent, trained United States Patent Examiners considered at least twenty-three (23) references before determining that the inventions claimed in the ‘451 Patent deserved patent protection. Such references include, for example, various references from Emtex Health Care Systems, Inc., Motorola, Inc., Spacelabs Medical, Inc., and Hewlett-Packard Company.

16. Over 20 years ago (when the applications that issued as the ‘526 and ‘451 Patents was filed), the general-purpose databases and rigid patient information databases then available took a one-size-fits-all approach, one that failed to address the technical and often dynamic needs of particular medical practices. (*See, e.g.,* ‘526 Patent, col. 1, lines 39-58). Certain systems were encumbered with features and data structures that particular practices never used. Other systems omitted features and data structures necessary for other medical practices. None of the electronic medical/health record systems available at that time (including those cited during prosecution) enabled users—regardless of their programming experience—to flexibly design a *patient information hierarchy* according to the present needs of a particular medical practice, let alone in the particular manner set forth in claims of the ‘526 and ‘451 Patents.

17. The '526 and '451 Patents claim technical solutions to problems unique to electronic medical/health records and computer networks involving the same, including the non-limiting example problems described above.

18. Further, the '526 and '451 Patent claims improve upon the functioning of computer systems. For example, certain (if not all) claims teach a much improved user-interface that, among other features, enables virtually any user, regardless of his or her programming experience, to flexible design a patient information hierarchy according to the specific and often dynamically changing needs of a particular practice.

19. At least certain (if not all) claims of the '526 and '451 Patents require special-purpose software.

20. The '526 and '451 Patents are directed to computer-implemented technologies that have no pen-and-paper analog. As a non-limiting example, there is no pen-and-paper analog to the automatic and conditional display of a linked-to parameter in conjunction with the display of a new parameter having the linked-from possible result value. That is, if someone writes a particular dosage on a piece of paper, there is no way for the paper to automatically display an alert indicating that the dosage is too high, or that the medication interacts with other medication, or that the patient may have an allergic reaction to a particular medication.

21. The '526 and '451 Patent claims are not directed to a “method of organizing human activity,” “fundamental economic practice long prevalent in our system of commerce,” or “a building block of the modern economy.” Further, the claims are not directed to a longstanding or fundamental economic practice at the time of patented inventions. Nor do they involve a method of doing business that happens to be implemented on a computer. Nor were they fundamental principles in ubiquitous use on the Internet or computers in general.

22. Instead, as explained above, the ‘526 and ‘451 Patent claims are directed toward solutions rooted in computer technology and use technology unique to computers and computer networking to overcome a problem specifically arising in the realm of electronic medical records.

23. The ‘526 and ‘451 Patents both issued after *Bilski v. Kappos*, 561 U.S. 593 (2010), and *Mayo Collaborative Servs’. v. Prometheus Labs., Inc.*, 132 S. Ct. 1289 (2012). And although the examinations predated *Alice Corp. v. CLS Bank Int’l*, 134 S. Ct. 2347 (2014), that case applied the *Mayo* framework and stated that its holding “follows from our prior cases, and *Bilski* in particular ....”

24. Because the claims of the ‘526 and ‘451 Patents are directed to improving the functioning of such computers and computer networks, they cannot be considered abstract ideas. *Enfish, LLC v. Microsoft Corp.*, 2015-1244, 2016 WL 2756255, at \*8 (Fed. Cir. May 12, 2016).

25. Indeed, the Federal Circuit in *Enfish* reaffirmed that software is a “large field of technological progress” which patents can protect:

Much of the advancement made in computer technology consists of improvements to software that, by their very nature, may not be defined by particular physical features but rather by logical structures and processes. We do not see in *Bilski* or *Alice*, or our cases, an exclusion to patenting this large field of technological progress.

*Id.*

26. The patents-in-suit do not claim, or attempt to preempt, the performance of an abstract business practice on the Internet or using a conventional computer.

27. The patents-in-suit do not claim a pre-existing but undiscovered algorithm.

28. Although the systems and methods taught in the ‘526 and ‘451 Patents have been adopted by leading businesses today, at the time of invention, the claimed inventions were

innovative and novel, as evidenced, for example, by the breadth and volume of the references considered during prosecution.

29. The '526 Patent has been referenced by more than one hundred (100) other patent applications. The '451 Patent has been referenced by more than two hundred forty (240) other patent applications. Such patent applications citing the patents-in-suit include patents applications by General Electric Company; Siemens Medical Solutions USA, Inc.; Baxter International, Inc.; OptumInsight, Inc.; NASA; The United States Army; International Business Machines (IBM); Microsoft Corporation; Koninkl Philips Electronics Nv; GE Medical Systems Global Technology Company; St. Louis University; Washington University; and The University Of Texas System.

**COUNT I**  
**(INFRINGEMENT OF '526 PATENT)**

30. Uniloc incorporates the preceding paragraphs herein by reference.

31. The '526 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

32. On information and belief, to the extent any marking was required by 35 U.S.C. § 287, Uniloc and all predecessors in interest to the '526 patent complied with any such requirements.

33. Defendants directly or through intermediaries have infringed (literally and/or under the doctrine of equivalents) one or more claims of the '526 patent in this judicial district and elsewhere in Texas, including at least Claims 2-7, 10-19, and 25 without Uniloc's consent or authorization. Defendants' infringing products include, as a non-limiting examples, the products listed in Exhibit C, which have received federal certification by the Office of the National Coordinator (ONC) as being either modular or complete Electronic Health Record ("EHR") products (hereinafter "Infringing Products").

34. Defendants' Infringing Products enabled users, including Defendants themselves, to flexibly modify the operation of the Infringing Products.

35. Defendant's Infringing Products enabled users, including Defendant themselves, to create and modify clinical decision support rules.

36. Defendants' Infringing Products enabled users, including Defendant themselves, to create and modify linkages amongst parameters within the Infringing Products corresponding to patients, procedures, tests, medications, and diagnoses.

37. Defendants' Infringing Products implemented automated, electronic clinical decision support rules based on the data elements included in: problem list; medication list; demographics; and laboratory test results.


38. Defendants' Infringing Products automatically and electronically generated and indicated in real-time, notifications and care suggestions based upon clinical decision support rules.

39. Defendants' Infringing Products enabled a limited set of identified users to select or activate one or more electronic clinical decision support interventions based on each one and at least one combination of the following data: problem list, medication list, medication allergy list, demographics, laboratory test and values/results, and vital signs.

40. Defendants' Infringing Products enabled electronic clinical decision support interventions to be configured by a limited set of identified users (e.g., system administrator) based on a user's role.

41. Upon information and belief, the following describes, at least in part, certain aspects of a representative sample of Defendants' Infringing Products:






**Optum PM and Physician EMR  
Meaningful Use Guarantee**

Optum PM and Physician EMR is guaranteed to help physicians meet meaningful use requirements. We're willing to suspend your subscription costs until you receive your stimulus payments.

"Optum™ PM/EMR has reduced our costs, increased our efficiency, improved our billing, and ensured that we receive the proper level of reimbursement for the services we provide. I would recommend it to other practices." — Scott Hill, Office Manager, Trumbull Medical Practice LLC




Available at: <https://campaign.optum.com/landing/co/pm-emr/practice-management.html>.

42. Upon information and belief, the following describes, at least in part, certain aspects of a representative sample of Defendants' Infringing Products:

Optum™ PM and Physician EMR

**Qualify for the EHR stimulus bill incentives**



Ambulatory EHR

Optum PM and Physician EMR helps physicians and hospitals meet the requirements to receive reimbursements. Its CCHIT certification means that it protects privacy and gives physicians the information they need to deliver high-quality care. It automatically generates electronic prescriptions and sends them to the appropriate pharmacy and refills can be processed 24/7. Real-time connections enable safe and secure data exchange with labs, pharmacies, hospitals, and more. Optum PM and Physician EMR includes auto-prompting for Physician Quality Reporting Index (PQRI) and ePrescribing to facilitate a 4 percent bonus from Medicare.

Available at:  
[https://campaign.optum.com/content/dam/optum/resources/productSheets/Optum\\_PM\\_EMR\\_PS\\_06\\_2012.pdf](https://campaign.optum.com/content/dam/optum/resources/productSheets/Optum_PM_EMR_PS_06_2012.pdf).

43. Upon information and belief, the following describes, at least in part, certain aspects of a representative sample of Defendants' Infringing Products:

### **Certified for meaningful use**

This EHR Module has been tested and certified under the InfoGard Certification program and meets the requirements as a Modular EHR system for EHR Certified Technology. This EHR Module is 2014 Edition compliant and has been certified by an ONC-ACB in accordance with the applicable certification criteria adopted by the Secretary of Health and Human Services. This certification does not represent an endorsement by the U.S. Department of Health and Human Services or guarantee the receipt of incentive payments.



**OPTUM™**

781-557-3000 | [optum.com](http://optum.com)

Available at:

[https://www.optum.com/content/dam/optum/resources/productSheets/ED\\_PulseCheck\\_overview\\_PS.pdf](https://www.optum.com/content/dam/optum/resources/productSheets/ED_PulseCheck_overview_PS.pdf).

44. Upon information and belief, the following describes, at least in part, certain aspects of a representative sample of Defendants' Infringing Products:

Optum™ provides a family of cloud-based EMR solutions that enable physicians to enhance patient care and manage their practices more efficiently. Our EMR solutions are offered as stand-alone systems, or as fully integrated EMR/practice management solutions. Both the Optum Physician EMR and the Optum Physician EMR Lite are ONC-ATCB certified as Complete Ambulatory EMRs for achieving Meaningful Use.

Available at: <https://campaign.optum.com/landing/co/pm-emr.html>.

45. Upon information and belief, the following describes, at least in part, certain aspects of a representative sample of Defendants' Infringing Products:

## Symmetry EBM Connect

Connect evidence-based medicine to claims data.

Optum™ Symmetry® EBM Connect® is decision support software that compares medical and pharmacy claim, lab result and enrollment data with evidence-based best practices for clinical conditions and preventive measures. EBM Connect helps you assess patient compliance with proven evidence-based treatment standards.

EBM Connect compares the medical claim, pharmacy claim, lab result and enrollment data from your plan with evidence-based best practices for more than 90 clinical conditions and almost 600 measures of care. These measures provide a quantifiable basis for actionable interventions by health plans, employers, disease managers and others. EBM Connect provides:

- Flexibility to choose a set of measures and eligibility requirements to meet the unique needs of your patients
- Easy-to-use output files readily integrated with existing disease management systems, care management systems and many other analytical and reporting applications
- Seamless integration with other Symmetry component engines such as Episode Treatment Groups®, Episode Risk Groups®, Procedure Episode Groups® and Pharmacy Risk Groups®, without requiring multiple setups
- Complete transparency of measure specifications for confidence in citing results
- Customization of measure content by allowing modification of EBM Connect measures and creation of new measures

Available at: <https://campaign.optum.com/content/optum/en/providers/analytics/health-plan-analytics/symmetry/symmetry-ebm-connect.html>.

46. Upon information and belief, the following describes, at least in part, certain aspects of a representative sample of Defendants' Infringing Products:

**Optum PreOptimize™** is a preoperative clinical decision support solution that helps guide clinicians through better adherence to evidence and consensus-based, and hospital preoperative protocols. PreOptimize also enables patients who are scheduled for surgery the convenience of entering their medical history securely online. As a result, preop workflow can be optimized at the point of care, enabling more timely and complete assessments, avoiding costly surgery delays or cancellations, saving clinical staff time and providing potential cost savings for the hospital.

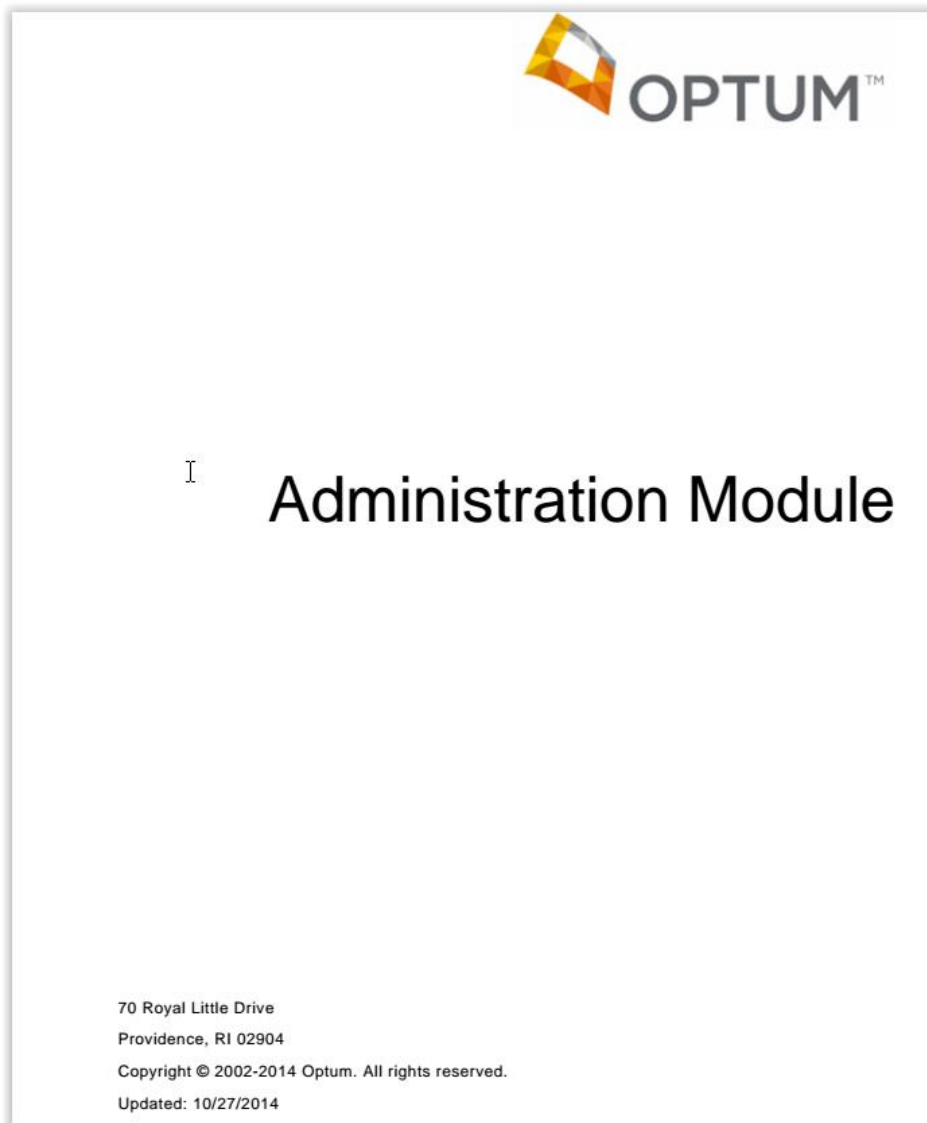
Research has shown that there are proven benefits to establishing preoperative clinics in hospitals. However, the proliferation of these clinics has been limited, primarily due to operational costs in a time of major belt-tightening. But without the service that these clinics can provide it is harder for hospitals to standardize the preoperative process. Clinicians in turn have greater difficulty adhering to evidence-based, consensus-based and hospital protocols to prepare anesthesia plans in advance of procedures. In short, hospitals run the risk of surgery delays or cancellations, misuse of costly resources, the potential for unnecessary testing and low levels of patient satisfaction.

#### Key features

- Preoperative clinical decision support
  - Patient-specific diagnostic testing recommendations
  - Patient-specific consult recommendations
  - Patient-specific teaching instructions
- Intuitive preop patient checklist management
- Web-based patient intake portal
- Automated surgical authorization
- Quality measure tracking with Anesthesia Quality Institute (AQI) integration
- Reporting on patient populations and postoperative results
- Patient satisfaction surveys
- Access from mobile devices

Available at: <https://www.optum.com/content/dam/optum/resources/productSheets/PreOptimize-DataSheet-Clinical.pdf>.

47. Defendant published a manual entitled Administration Module showing a last update on October 27, 2014 on the cover. A screenshot of this manual is shown below.



This module will be referred to hereinafter as the Administration Module Setup Guide for Optum Clinical Today.



48. Upon information and belief, the following describes, at least in part, certain aspects of a representative sample of Defendants' Infringing Products:

## 22 Managing Vital Signs

The Vital Sign Ranges application allows practices to define items to display in the vital signs grid of the Vital Signs application and define the "normal" ranges for vital signs.

### 22.1 Defining Items in the Vital Signs Application

To define items in the Vital Signs application:

1. Click the **Administration** module, and then click the **Clinical** tab.
2. Click the **Vital Sign Ranges** link in the System Administration section. Optum Physician EMR displays the Vital Sign Ranges application.
3. Select **Group** to view vital sign ranges for the group, or select **Company** to view all of the vital sign ranges for the company.
4. Drag the **Medicin** node item to the vital signs list. The vital signs items list display in the Vital Signs application of the **Medical Record** module. You can sort the order of the vital sign items by clicking the **Up** and **Down Arrow** icon  or remove a vital sign item from the list by clicking the **Delete** icon .

### 22.2 Setting Up Vital Sign Ranges

You can define the "normal" ranges for vital signs included in the list. When vitals are entered in the patient's medical record, Optum Physician EMR alerts the operator if the vital signs are outside the set range.

For each vital sign you can enter multiple conditions that allow you to customize the vital sign range based on:

- Systolic and diastolic blood pressure
- Temperature








The two conditions listed above can be further defined by age range.


In the example below, Optum PM and Physician EMR displays an alert if you enter a pulse rate below 80 or above 150 for a child between 2 and 5 years old.

**Add Edit Vitals Normal/Abnormal Range**

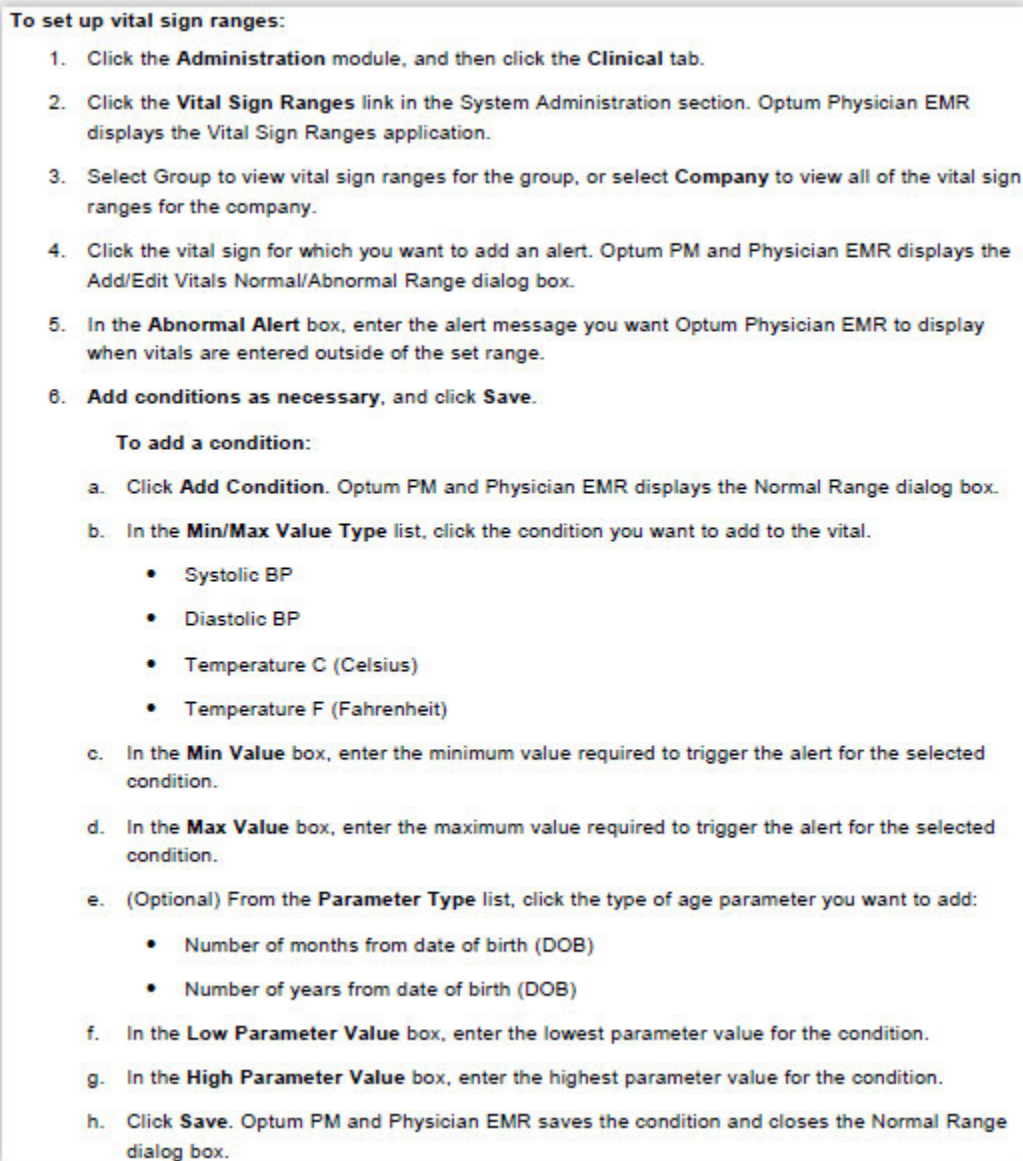
**Abnormal Alert:** [Pulse is outside of the normal ran]

**Add Condition**

Name	Min Value	Max Value	Low Parameter Value	Hi Parameter Value		
Num North From DOB	100	180		6		
Num North From DOB	120	160	6	24		
Num Years From DOB	80	180	2	5		
Num Years From DOB	60	100	10			

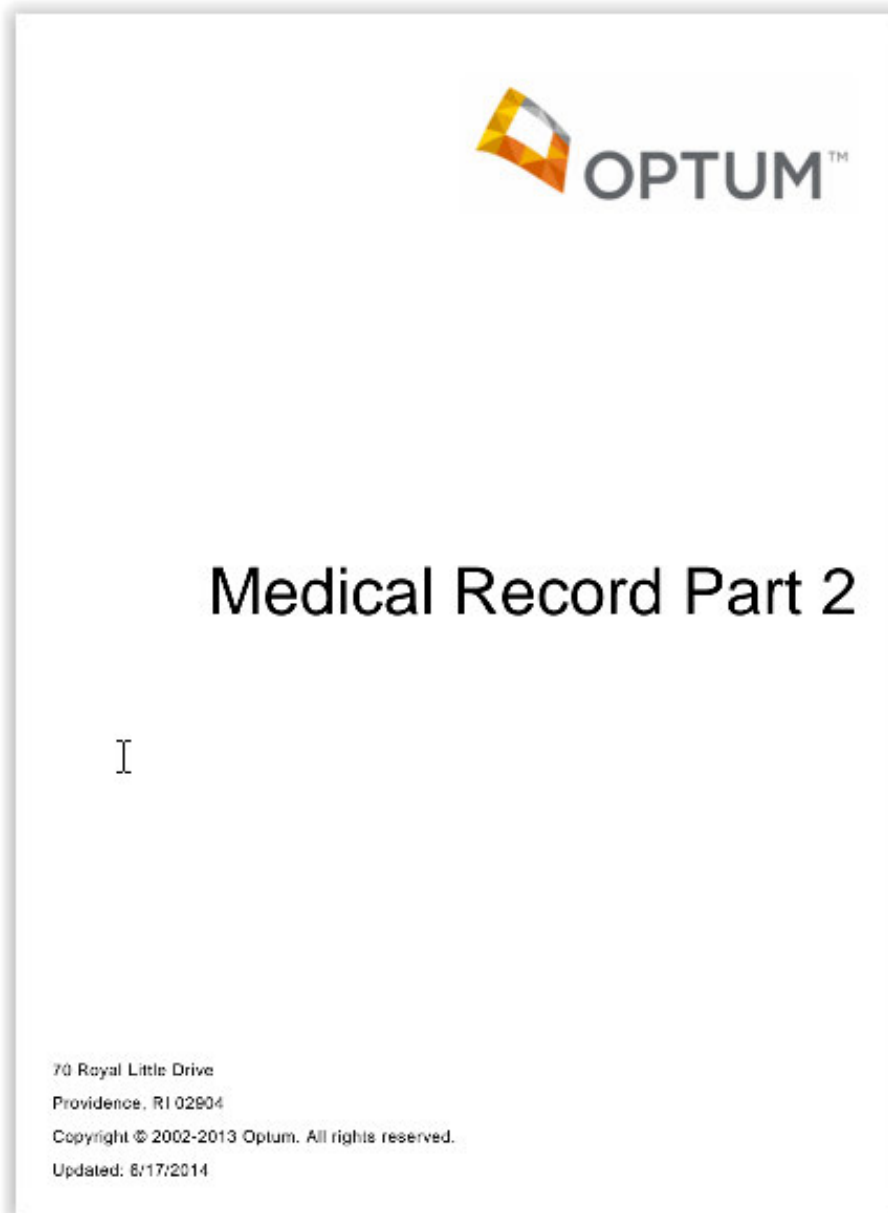
**Save**  **Cancel**

Administration Module Setup Guide for Optum Clinical Today, p. 69.



Administration Module Setup Guide for Optum Clinical Today, p. 70.

49. Defendant published a manual entitled Medical Record Part 2 showing a last update of June 17, 2014 on the cover. A screenshot of this manual is shown below.



This module will be referred to hereinafter as the Medical Record Module 2.

50. Upon information and belief, the following describes, at least in part, certain aspects of a representative sample of Defendants' Infringing Products:



CareTracker - Electronic Medical Records - E&M Evaluator - Windows Internet E...

### E&M Evaluator

Chart Based Calculation Method		CALCULATION METHOD:
Patient Type	Established	<input checked="" type="radio"/> Chart Based
Guideline	1995 <input type="radio"/> 1997 <input checked="" type="radio"/>	<input type="radio"/> Manual
Managed 3+ chronic conditions this visit	No <input type="radio"/> Yes <input checked="" type="radio"/>	<input type="radio"/> >50% of time spent counseling patient or coordinating care
History Level	Problem Focused	
Exam Level	- Select -	
Medical Decision Making Level	Straightforward	
<b>Calculate</b>		
E&M Codes recommended by CareTracker are recommendations and should be verified prior to being submitted for billing.		
Recommended Code	99211	
Selected Code	99211 *	
E&M Codes can only be submitted one time per encounter. Please verify the selected code prior to submission.		
<b>Submit</b>		<b>Cancel</b>

CareTracker - Electronic Medical Records - E&M Evaluator - Windows Internet E...

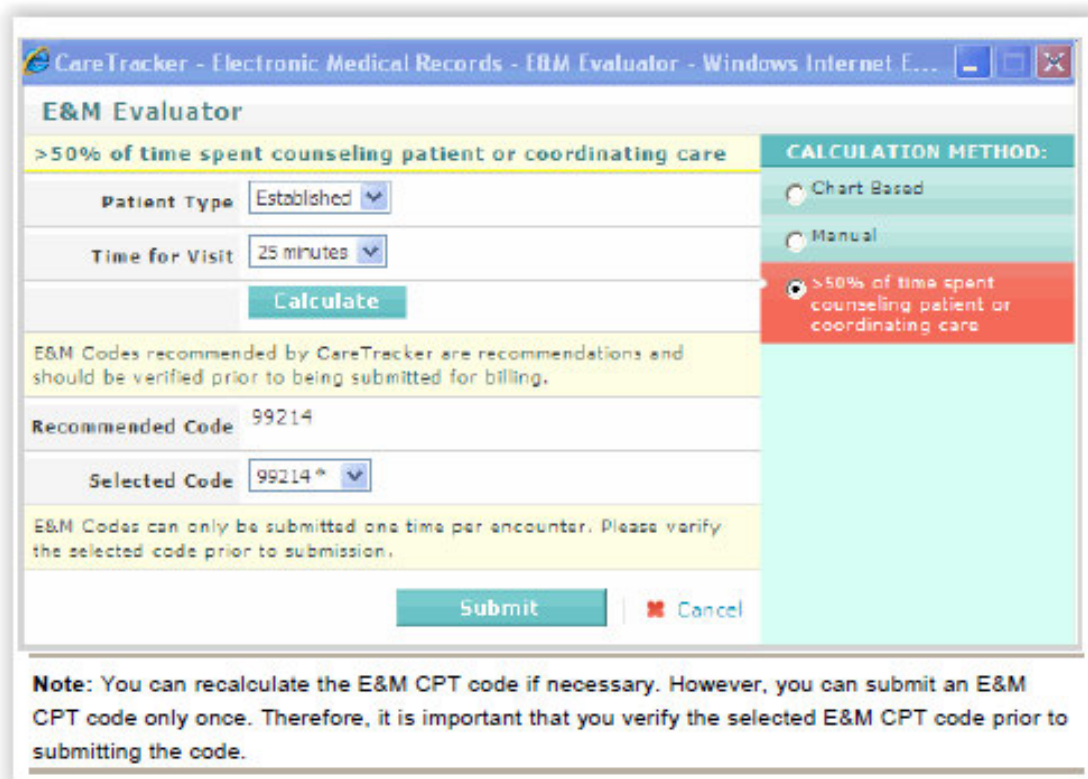
### E&M Evaluator

Manual Calculation Method		CALCULATION METHOD:
Patient Type	Established	<input type="radio"/> Chart Based
Guideline	1995 <input type="radio"/> 1997 <input checked="" type="radio"/>	<input checked="" type="radio"/> Manual
Managed 3+ chronic conditions this visit	No <input type="radio"/> Yes <input checked="" type="radio"/>	<input type="radio"/> >50% of time spent counseling patient or coordinating care
History Level	Problem Focused	
Exam Level	Problem Focused	
Medical Decision Making Level	Straightforward	
<b>Calculate</b>		
E&M Codes recommended by CareTracker are recommendations and should be verified prior to being submitted for billing.		
Recommended Code	99212	
Selected Code	- Select -	
E&M Codes can only be submitted one time per encounter. Please verify the selected code prior to submission.		
<b>Submit</b>		<b>Cancel</b>

**Manual Based Calculation**

Medical Record Module 2., p. 160-65.

51. Upon information and belief, the following describes, at least in part, certain aspects of a representative sample of Defendants’ Infringing Products:



Medical Record Module 2., p. 160-65.

52. Defendant published a manual entitled Medical Record Part 1 showing a last update of November 14, 2014 on the cover. A screenshot of this manual is shown below.



# Medical Record Module

## Part 1

70 Royal Little Drive  
Providence, RI 02904  
Copyright © 2002-2014 Optum. All rights reserved.  
Updated: 11/14/2014

This module will be referred to hereinafter as the Medical Record Module 1.

## 14.4 Dosing Calculator


### 14.4.1 Viewing Dosing Recommendations

You can view dosing recommendations for the medication based on weight and age of the patient. For weight-based decision support, you must enter the patient's weight. Optum PM and Physician EMR displays a dialog box to enter the weight, if:

- the medication requires the weight and it is not recorded for the patient.
- the weight recorded is more than 180 days old.

Additionally, the calculator takes into consideration other factors such as the reason for prescribing the medication, type of the dose, route and other special conditions enabling you to customize recommendations to suit your preference. However, the ability and the options available to customize dosage recommendations are based on the medication you are prescribing.

**To use the dosing calculator:**

- a. Click the Dosing Calculator icon . Optum PM and Physician EMR displays the Dosing Calculator dialog box. By default, dosage recommendations display for all combinations of the dosing criteria.
- b. Change the dose type, indication, route and special condition by clicking the drop-down arrow to customize the dosage instructions. Optum PM and Physician EMR displays a list of recommended dosages based on the selections made.

Medical Record Module 1, p. 97

53. Upon information and belief, the following describes, at least in part, certain aspects of a representative sample of Defendants' Infringing Products:

## Care Management Activation



- Care Management ensures regular follow-up by the care team, provides timely reminders for providers, identifies relevant subpopulations for proactive care and facilitates individual patient care planning
- Review the “Quality Measures” reports in Optum Physician EMR to view a list of quality measures and measure satisfiers available through Optum Physician EMR
- Select the check off box for one or more Health or Disease Management item

- Select Save

Go to Administration → Clinical Tab → Maintenances → Care Management Activation








OPTUM™

Proprietary and Confidential. Do not distribute.

Administration Module Setup Guide for Optum Clinical Today, p. 14.

54. Upon information and belief, the following describes, at least in part, certain aspects of a representative sample of Defendants’ Infringing Products:

g. Click **Save** to add the medication item to the Medication section of the order set.

**Note:** You can edit SIG information, by clicking the Edit icon . You can delete a medication from the order set by clicking the Delete icon . You can click the Expand icon  and Collapse icon  to display or hide SIG information. If multiple medications are added to the order set, you can drag and drop the Reorder icon  to the left of the medication to sort medications in the order you want. The first medication listed in the order set displays as the default medication when the order set is accessed via the **Medical Record** module.

h. Click **Save & Close**.

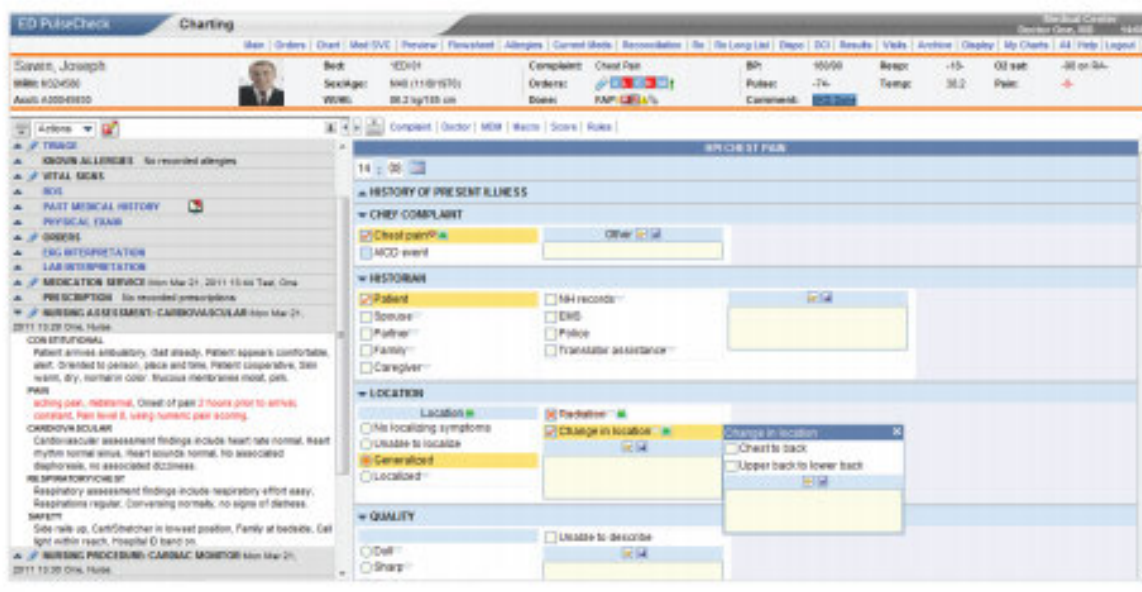
Administration Module Setup Guide for Optum Clinical Today, p. 16-17.

55. Upon information and belief, the following describes, at least in part, certain aspects of a representative sample of Defendants' Infringing Products:

## Clinical decision support

### Integrated risk mitigation

ED PulseCheck's built-in notifications help improve documentation by reminding caregivers of important clinical documentation requirements, such as need for re-evaluation, vital sign range, drug/allergy and drug/drug interaction checks and open order reminders.



### ED PulseCheck Insight

ED PulseCheck Insight rules processor sends notifications to clinicians and administrators during patient documentation to help provide better department management and adhere to patient care protocols for increased charge capture.

### The Sullivan Group Risk Mitigation for ED PulseCheck Insight ED Rules Processor

The Sullivan Group's Risk Mitigation Module provides ED PulseCheck users with a robust, evidence-based, clinical decision support tool that consolidates all data to match to high-risk cases, helping clinicians consider what is needed as part of their care process.

Available at:

[https://www.optum.com/content/dam/optum/resources/productSheets/ED\\_PulseCheck\\_overview\\_PS.pdf](https://www.optum.com/content/dam/optum/resources/productSheets/ED_PulseCheck_overview_PS.pdf).

56. Defendants' infringement has occurred through operation of the Infringing Products, which each practice the method of one or more claims of the '526 patent. Such operation includes Defendants' own operations (directly or through intermediaries) including, but not limited to, testing of the Infringing Products prior to federal certification; testing of the Infringing Products during federal certification; testing of the Infringing Products after federal certification; operation of the Infringing Products during classes and demonstrations; hosting of the operation of the Infringing Products on behalf of third parties such as medical groups or medical providers; installing, setting up, or maintaining the Infringing Products on behalf of third parties such as medical groups or medical providers; and operation of the Infringing Products on behalf of third parties such as medical groups or medical providers.

57. In addition, should Defendant's Infringing Products be found to not literally infringe the asserted claims of the '526 Patent, Defendant's Infringing Products would nevertheless infringe the asserted claims of the '526 Patent. More specifically, the Infringing Products performed substantially the same function (contains instructions for enabling a user to flexibly establish linkages amongst elements in electronic health records software), in substantially the same way (comprising computer readable instructions contained in or loaded into non-transitory memory) to yield substantially the same result (effecting such a flexible linkage). Defendant would thus be liable for direct infringement under the doctrine of equivalents.

58. Defendant may have infringed the '526 Patent through other software, currently unknown to Uniloc, utilizing the same or reasonably similar functionality, including other versions of its EHR software. Uniloc reserves the right to discover and pursue all such additional infringing software.



59. Uniloc has been damaged as a result of Defendants' infringing conduct described in this Count. Defendants are thus liable to Uniloc in an amount that adequately compensates it for Defendants' infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

**COUNT II**  
**(INFRINGEMENT OF THE '451 PATENT)**

60. Uniloc incorporates the preceding paragraphs herein by reference.

61. The '451 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

62. On information and belief, to the extent any marking was required by 35 U.S.C. § 287, Uniloc and all predecessors in interest to the '451 patent complied with any such requirements.

63. Defendants directly or through intermediaries have infringed (literally and/or under the doctrine of equivalents) one or more claims of the '451 patent in this judicial district and elsewhere in Texas, including at least Claims 1, 2, and 7-8 without Uniloc's consent or authorization. Defendants' infringement has occurred through making, selling, offering to sell, using, and/or importing the Infringing Products, and, also, by operation of the Infringing Products, which each practice the method of one or more claims of the '451 patent. Such operation includes Defendants' own operation (directly or through intermediaries) including, but not limited to, testing of the Infringing Products prior to federal certification; testing of the Infringing Products during federal certification; testing of the Infringement Products after federal certification; operation of the Infringing Products during classes and demonstrations; hosting of the operation of the Infringing Products on behalf of third parties such as medical groups or medical providers; installing, setting up, or maintaining the Infringing Products on behalf of third parties such as

medical groups or medical providers; and operation of the Infringing Products on behalf of third parties such as medical groups or medical providers.

64. In addition, should Defendants' Infringing Products be found to not literally infringe the asserted claims of the '451 Patent, Defendants' Infringing Products would nevertheless infringe the asserted claims of the '451 Patent. More specifically, the Infringing Products performed substantially the same function (contains instructions for configure clinical decision support rules and alerts), in substantially the same way (comprising computer readable instructions contained in or loaded into non-transitory memory) to yield substantially the same result (effecting a clinical decision support rule). Defendants would thus be liable for direct infringement under the doctrine of equivalents.

65. Defendants may have infringed the '451 Patent through other software, currently unknown to Uniloc, utilizing the same or reasonably similar functionality, including other versions of its EHR software. Uniloc reserves the right to discover and pursue all such additional infringing software.

66. Uniloc has been damaged as a result of Defendants' infringing conduct described in this Count. Defendants are thus liable to Uniloc in an amount that adequately compensates it for Defendants' infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

### **JURY DEMAND**

67. Uniloc hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

**PRAYER FOR RELIEF**

Uniloc requests that the Court find in its favor and against each Defendant, and that the Court grant Uniloc the following relief:

- a. Judgment that one or more claims of the '526 and '451 Patents have been infringed, either literally and/or under the doctrine of equivalents, by each Defendant;
- b. Judgment that each Defendant account for and pay to Uniloc all damages to and costs incurred by Uniloc because of Defendant's infringing activities and other conduct complained of herein;
- c. Judgment that Uniloc be granted pre-judgment and post-judgment interest on the damages caused by each Defendant's infringing activities and other conduct complained of herein; and
- d. That Uniloc be granted such other and further relief as the Court may deem just and proper under the circumstances.

**Dated: June 15, 2016**

Respectfully submitted,

/s/ James L. Etheridge

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