

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**BILLINGNETWORK PATENT, INC.,**

**Plaintiff,**

**v.**

**MODERNIZING MEDICINE, INC.,**

**Defendant.**

**Case No.:**

**JURY TRIAL DEMANDED**

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**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Billingnetwork Patent, Inc. (“BNP” or “Plaintiff”) complains of Defendant Modernizing Medicine, Inc. (“ModMed” or “Defendant”) as follows:

**NATURE OF LAWSUIT**

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

**THE PARTIES**

2. Plaintiff Billingnetwork Patent, Inc. is a Florida corporation with a place of business at 440 North Wells Street, Suite 570, Chicago, Illinois 60654.

3. BNP is the named assignee of, owns all right, title and interest in, and has standing to sue for infringement of United States Patent No. 6,374,229, entitled “Integrated Internet Facilitated Billing, Data Processing and Communication System,” which issued on April 16, 2002 (the “’229 Patent”) (a true and correct copy is attached as Exhibit A).

4. BNP has the exclusive right to license and enforce the ‘229 Patent and to collect all damages for infringement. BNP also has standing to sue for infringement of the ‘229 Patent.

5. Upon information and belief, Defendant Modernizing Medicine, Inc. is a Delaware corporation with a listed registered agent of CorpDirect Agents, Inc., 160 Greentree Drive, Suite 101, Dover, Delaware 19904.

6. ModMed provides cloud-based practice management and billing services throughout the United States including this judicial district.

### **JURISDICTION AND VENUE**

7. This Court has exclusive jurisdiction over the subject matter of the Complaint under 28 U.S.C. §§ 1331 and 1338(a).

8. Defendant owns, operates and conducts business through its practice management system – which system is covered by at least Claim 1 of the ‘229 Patent – throughout the United States including this judicial district.

9. ModMed is a registered Delaware corporation, currently doing business in this judicial district, has purposefully availed itself of the privilege of conducting business with residents of this judicial district, has purposefully reached out to residents of this judicial district, and has established sufficient minimum contacts with the State of Delaware such that it should reasonably and fairly anticipate being haled into court in Delaware.

10. Venue in this judicial district is proper under 28 U.S.C. § 1400(b) because ModMed resides in this Judicial District.

### **HISTORY OF UNITED STATES PATENT NO. 6,374,229**

11. In 1999, the co-inventors of the ‘229 Patent – Dr. Richard Krumholz (who operated his own medical practice) and Ms. Susan Lowrey (who operated a company that assisted medical professionals in billing management) – recognized problems with at least two internet-related prior

art billing systems: “stand-alone” and “batch” billing systems. (See, *e.g.*, Exhibit A at Col. 1, ll. 13-29).

12. To improve upon the state of the art in 1999, Dr. Krumholz and Ms. Lowrey contemplated the use of a “browser-based” system, which was applied to transfer “data and query forms” from a server to a subscriber without the need to transfer any underlying software application. (See, *e.g.*, *id.* at Col. 3, l. 41 – Col. 4, l. 26).

13. This new and useful approach – covered by the asserted claim of the ‘229 Patent (“Claim 1”) – improved upon the prior art by using software applications installed and run on a server rather than on a plurality of individual subscriber computers, which allowed, *inter alia*, control of installations and upgrades from the back-end and secure access suitable for public network exchange of sensitive information including medical records. (See, *e.g.*, *id.*).

14. This improvement, in combination with real-time access, provided increased benefits previously unknown in the industry and, accordingly, experienced tremendous commercial success as evidenced in part by significant licensees including, for example, United Health Group, Inc. (which involved litigation lasting approximately 52 months).

15. Thus, Claim 1 covers a new and useful internet-related system (rooted in, and dependent upon, computer technology) invented by entrepreneurs (from both the customer and supplier sides) to solve technological problems in conventional industry practice.

16. At its core, Claim 1 is a computer-implemented, internet browser-related system designed to solve technological problems in conventional industry practice as of 1999 (*e.g.*, the problems of “stand-alone” and “batch” internet-related systems).

17. BNP acknowledged on the face of the '229 Patent that electronic billing systems existed in 1999 and, pursuant to the plain language of the Patent Act, BNP improved upon those inferior systems.

18. Claim 1 recognized and solved problems within the industry – in 1999 (when now-household names like Wikipedia, Facebook, Twitter, Gmail, Skype, YouTube, etc. were relatively unknown or non-existent) – by providing the first internet browser-based system allowing a plurality of users to remotely and securely access (over a public network) and query, in real time, substantially only billing and data entry forms, and store the necessary data from those forms on a secure databased attached to a back-end computer designed to control and modify the forms and rules of said system.

**INFRINGEMENT OF UNITED STATES PATENT NO. 6,374,229**

19. Plaintiff BNP realleges and incorporates by reference paragraphs 1 through 18, inclusive, as though fully set forth herein.

20. ModMed owns and operates the websites [www.modmed.com](http://www.modmed.com), [ema.md](http://ema.md), and related URLs wherein ModMed provides its browser-based practice management system.

21. ModMed's practice management system includes one or more database servers.

22. ModMed provides a browser-based homepage accessible through the internet by subscribers of its practice management system.

23. ModMed provides a browser-based homepage that permits access to the one or more database servers to subscribers of its practice management system.

24. ModMed provides a browser-based homepage on which a subscriber must enter a Username and Password to obtain access to the user's account, thereby providing only secure access to its practice management system.

25. The ModMed practice management system includes a means for providing electronic transfer of billing and data entry forms to a subscriber.

26. The ModMed practice management system produces billing invoices/statements to clients/customers of the subscriber.

27. The ModMed practice management system provides a subscriber with a means to view and query data and billings information in the one or more database servers.

28. The ModMed practice management system includes a PC type computer electronically connected to the one or more database servers.

### **CLAIM 1**

29. The ModMed practice management system incorporates an integrated internet facilitated billing, data processing, and communication system, in accordance with the limitations of Claim 1 of the '229 Patent.

30. The ModMed practice management system performs each of the limitations of Claim 1 of the '229 Patent by incorporating:

(a) a database server and a home page of a website which provides access via an internet service provider (ISP) to said database server by a plurality of browser-based subscribers each of which have electronic access to said home page via a modem and the ISP;

(b) said home page providing only secure access by each browser-based subscriber to one of a plurality of subscriber areas within said system;

(c) means for providing electronic transfer of substantially only billing and data entry forms to the browser-based subscriber upon request, data entered on said forms, when electronically returned to a corresponding said subscriber area, then entered into said database server, said database server

then, utilizing an appropriate application software thereon, producing billing invoices and statements to clients and customers for each corresponding browser-based subscriber;

(d) means for providing real time electronic viewing and query access of data and billings stored in said database server by each corresponding browser-based subscriber;

(e) a PC type computer electronically connected to said database server for controlling said forms as required and responding to queries entered by each browser-based subscriber.

31. Defendant ModMed through its practice management system has directly infringed and continues to directly infringe Claim 1 of the '229 Patent under 35 U.S.C. § 271(a) by manufacturing, hosting, using, selling, licensing the use of, offering for sale and offering a license to use the ModMed practice management system.

32. Defendant ModMed's acts of infringement of the '229 Patent have injured Plaintiff, and Plaintiff is entitled to recover damages adequate to compensate it for such infringement from ModMed, but, in no event less than a reasonable royalty.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Billingnetwork Patent, Inc. respectfully requests that this Court enter judgment against Defendant Modernizing Medicine, Inc. and against its respective subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, employees and all persons in active concert or participation with it, granting the following relief:

A. The entry of judgment in favor of Plaintiff and against Defendant;

B. An award of damages against Defendant adequate to compensate Plaintiff for the infringement that has occurred, but in no event less than a reasonable royalty as permitted under 35 U.S.C. § 284, together with prejudgment interest from the date infringement began; and

C. Such other relief that Plaintiff is entitled to under law and any other and further relief that this Court or a jury may deem just and proper.

### **JURY DEMAND**

Plaintiff demands a trial by jury on all issues presented in this Complaint.

Dated: November 15, 2017

Respectfully submitted,

*Of Counsel:*

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