IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Tenaha Licensing LLC, Plaintiff, v. **PerfectServe, Inc.**, Defendant.	Case No. _____ Patent Case Jury Trial Demanded

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Tenaha Licensing LLC ("Tenaha"), through its attorney, Timothy Devlin, complains against PerfectServe, Inc. ("PerfectServe") and alleges the following:

PARTIES

1.   Plaintiff Tenaha Licensing LLC is a limited liability company organized and existing under the laws of Texas with its principal place of business at 3000 Custer Road, Suite 270-7027, Plano, TX 75075.

2.   Defendant PerfectServe, Inc. is a corporation organized and existing under the laws of Delaware with its principal place of business at 10024 Investment Drive, Knoxville, TN 37932.

JURISDICTION

3.   This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

4.   This Court has exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5.   This Court has personal jurisdiction over PerfectServe because it has engaged in systematic and continuous business activities in the District of Delaware and is incorporated in

Delaware. Specifically, PerfectServe provides its full range of services to residents in this District. As described below, PerfectServe has committed acts of patent infringement giving rise to this action within this District.

VENUE

6.   Venue is proper in this District under 28 U.S.C. § 1400(b) because PerfectServe is incorporated in Delaware. In addition, Tenaha has suffered harm in this District.

PATENT-IN-SUIT

7.   Tenaha is the assignee of all right, title, and interest in United States Patent No. 8,238,869 (the "'869 Patent" or "Patent-in-Suit"), including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the Patent-in-Suit. Accordingly, Tenaha possesses the exclusive right and standing to prosecute the present action for infringement of the Patent-in-Suit by PerfectServe.

8.   On August 7, 2012, the United States Patent and Trademark Office issued the '869 Patent. The '869 Patent is titled "Lifesaver Personal Alert and Notification Device." The application leading to the '869 Patent was filed on July 19, 2010 and is a national stage entry of PCT/US2006/023972, which was filed on June 20, 2006, which claims priority from provisional application number 60/693,541, which was filed on June 23, 2005. A true and correct copy of the '869 Patent is attached hereto as Exhibit A and incorporated herein by reference.

9.   The '869 Patent is valid and enforceable.

10.   The '869 Patent describes a need for improved systems and methods to provide alerts and notifications of emergencies to members of the general public. Ex. A, 1:58–62.

11.   The '869 Patent describes systems, devices, and methods of transmitting emergency and non-emergency notifications to a plurality of users via a combination of wide area and low-range transmissions. Ex. A, 1:65–2:12.

12.   The '869 Patent does not take a broad and simplistic method or process and apply it to a general-purpose computer. Instead, the methods and processes described in the '869 Patent specifically establish the process of utilizing various transmission devices such as siren towers, radios, telephones, pagers, and television sets. Ex. A, 2:27–29.

COUNT I: INFRINGEMENT OF THE '869 PATENT

13.   Tenaha incorporates the above paragraphs herein by reference.

14.   **Direct Infringement.** PerfectServe has been and continues to directly infringe at least claim 15 of the '869 Patent in this District and elsewhere in the United States by performing the steps of "providing emergency and non-emergency event notification to a plurality of users." For example, PerfectServe offers the communication platform, PerfectServe Integrated Clinical Communication, (the "PerfectServe product"), to provide emergency and non-emergency notifications to users. The PerfectServe product allows operators to send customized messages to target users in mass. *See* https://www.perfectserve.com/; Figure 1.

Figure 1. The PerfectServe communication platform provides emergency and non-emergency event notifications (e.g., clinical alerting, critical test results, emergency notification and incident management, etc.) to a plurality of users.

See https://www.perfectserve.com/clinical-collaboration-solutions-for-nurses/; Figure 2.

Figure 2.
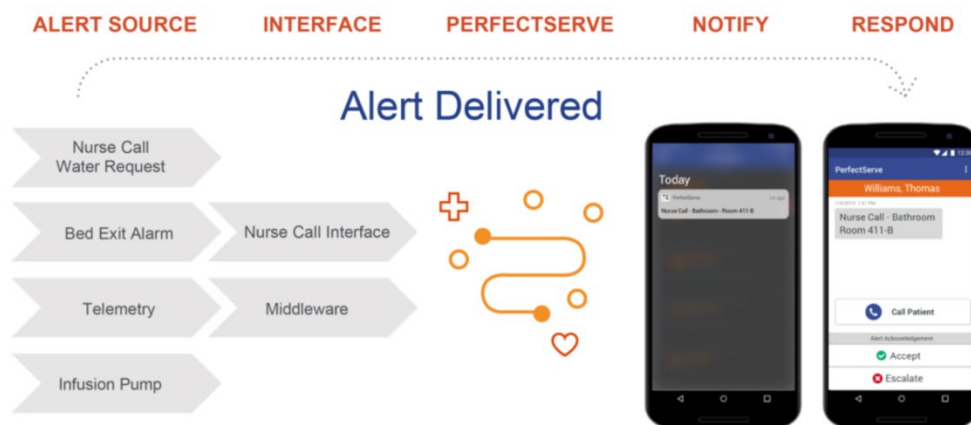
See https://www.perfectserve.com/; Figure 3.

Automating real-time clinical communication and care coordination

Dynamic Intelligent Routing® uses advanced rules to connect clinicians with the right person on the first try, every time.

Secure clinical collaboration across all healthcare settings

PerfectServe's cloud-based clinical communication software overcomes geographic and organizational barriers to enable collaboration, no matter where you are.

Comprehensive patient and family communication

Reduce readmissions, get real-time feedback on your patients' experiences and more with PerfectServe's patient and family communication functionality.

Customized algorithms

We compile and maintain all the workflow rules, call schedules and contact preferences for every workgroup, practice and care team member.

Targeted coordination

Never worry about figuring out who's on call. Dynamic Intelligent Routing® connects you to the right person who can take action at that moment.

Patient-centered access

All you need to know is the patient's name. PerfectServe® instantly shows and connects you to the team members caring for that patient at that time.

Multimodal

Supports and unifies all devices and modalities. Smartphones, Web browsers, landline phones, VoIP devices, pagers and SMS text.

Responsive escalation

PerfectServe knows when the recipient has read a message. Unread messages automatically escalate based on defined protocols.

Advanced search

Easily connect with any member on the PerfectServe platform inside your organization and across your healthcare ecosystem.
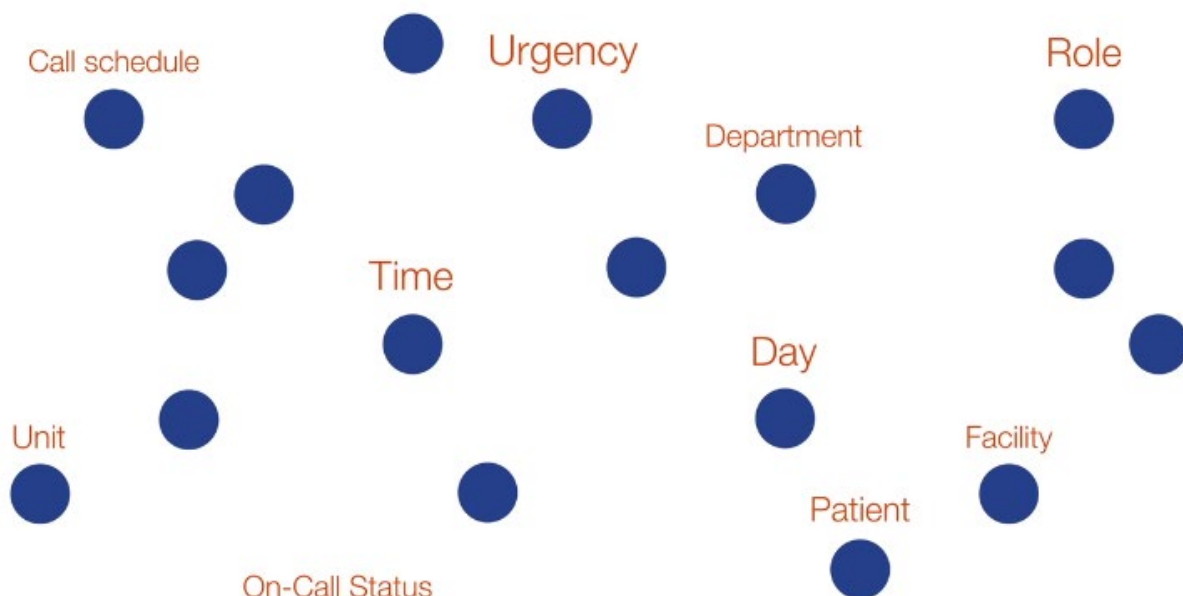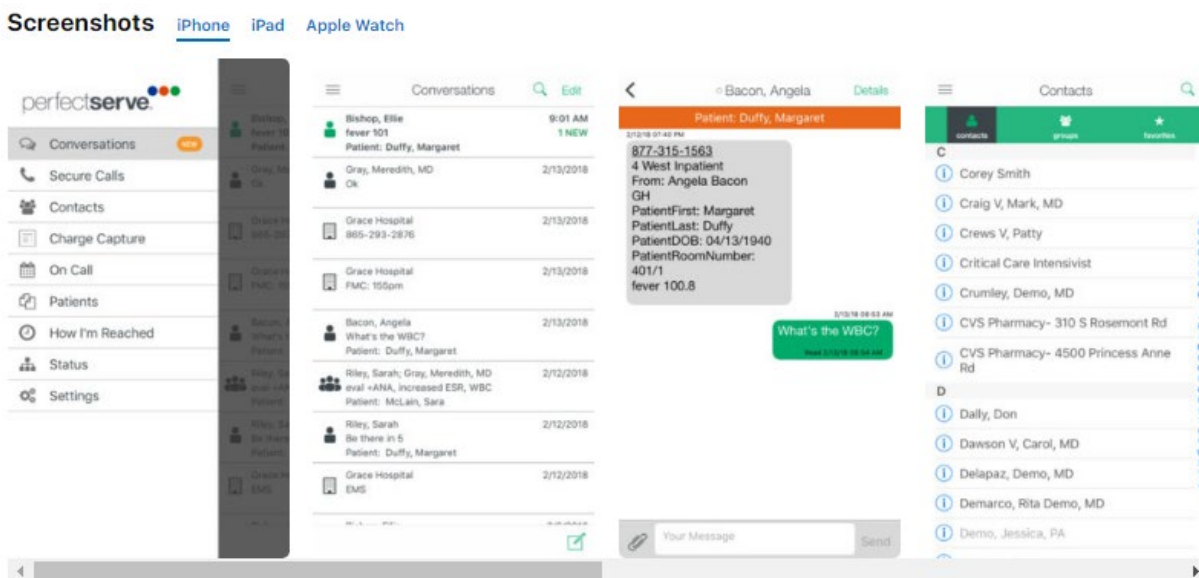
Figure 3.

See https://itunes.apple.com/us/app/perfectserve-practitioner/id367592241#?platform=iphone; Figure 4.

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App Store Preview

This mobile app is for physicians, physician assistants and other credentialed medical staff or advanced practice providers that work in both inpatient and outpatient settings.

Get only the communications you need. No more unnecessary interruptions. No more lost or delayed messages. Protect your caller ID. Collaborate instantly with other physicians and care team members.

PerfectServe® is healthcare's most intelligent system of clinical communications – an integrated set of solutions designed to unite physicians, nurses and other care team members across inpatient and outpatient settings and facilitate communication-driven workflows for timely care team collaboration.

WITH THE PERFECTSERVE PRACTITIONER APP, YOU CAN:
- Send a secure message to colleagues, including text messages, clinical photos, voice messages and group messages.
- Automatically identify and connect to the colleague you need to reach at that particular moment in time with Dynamic Intelligent Routing®.
- Securely call patients while protecting your caller ID privacy and overcoming caller ID block. When you call a patient, your office number — not your personal mobile number — appears as the caller ID.
- Instantly sign on or off call or change who is covering call. The changes take effect immediately.
- Easily change how you are reached based on your predefined communication preferences.
- Change your status for those situations when you cannot be contacted directly (e.g., in surgery, clinic, etc.) with just a click. All communications will be automatically routed to the right back-up colleague.
- View and manage patients assigned to your group and manage which provider is caring for each.
- Easily capture charges at the point of care in just a couple of clicks to avoid lost charges and speed revenue recognition.
- Access 24/7/365 personal assistance from the Support Center.

Figure 4.

See http://www.perfectserve.com/wp-content/uploads/2015/12/iPhone_MobileApp_UserGuide.pdf; Figure 5.

-7-
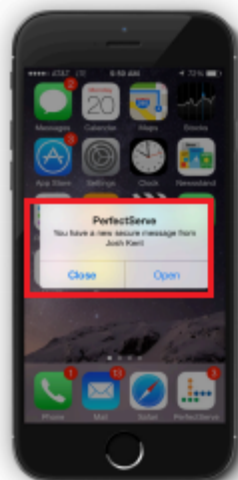
Notification configuration

1. PerfectServe will notify you each time you receive a new message. The standard notification sequence is as follows:

   - Immediate notification of new message.

   - Repeat message notification 15 minutes after the message is received.

   - Second repeat message notification 30 minutes after the message is received.

   - Phone call 45 minutes after the message is received.

   If you check the message at any time during this sequence, subsequent notifications will cease.
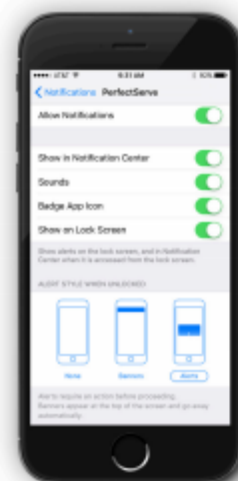
2. For the best experience, we suggest "**Alert**" notification styles on iPhone.

   - Open your iPhone Settings.

   - Tap "**Notifications**."

   - Tap "**PerfectServe**."

   - Choose "**Alerts**."

3. To change your PerfectServe notification sound, open the app and tap "**Settings**" in the main menu.

   - Tap "**Push Notification Sound**" and select your preferred sound.

   - After finalizing your choice, tap "**Save**" in the upper right-hand corner.

   - All PerfectServe notifications will now use that sound.

Figure 5.

See https://www.perfectserve.com/press-releases/apple-watch-app/; Figure 6.

PerfectServe's Apple Watch app alerts clinicians to critical messages

Physicians who wear the Apple Watch can soon access PerfectServe's new app to view notifications of voice and text messages. The healthcare professional can simply tap the notification to open the app, read the message and prioritize responding without having to pull out an iPhone.

Clinicians also have three ways to reply to messages. They can use the microphone's speech-to-text function, access Scribble to write messages using a finger on the Apple Watch screen, or use pre-written responses for faster interaction with colleagues.

"A substantial number of our clients have asked for a PerfectServe app to complement their Apple Watch experience," said Terry Edwards, President and CEO of PerfectServe. "We've listened to them and are excited to roll out the application this spring. Healthcare professionals lead active lives and, like most people, check their smartphones on average up to 80 times daily according to one study. We're working diligently to increase their connectivity to PerfectServe in innovative ways, and put more access and control into their hands to improve quality of care."

Figure 6.

See https://itunes.apple.com/us/app/perfectserve-practitioner/id367592241#?platform=appleWatch
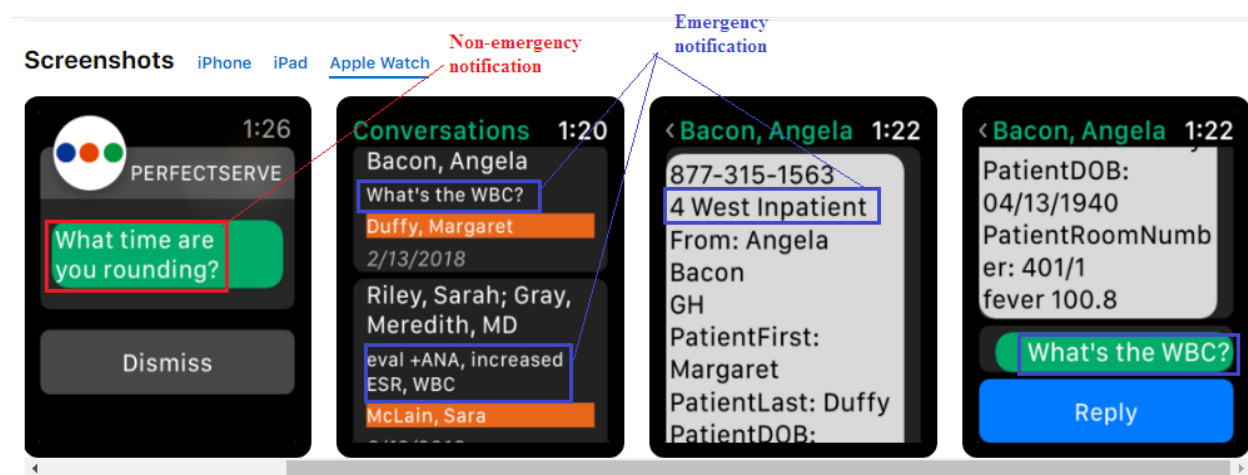Figure 7.

Figure 7.

15.   The PerfectServe product satisfies claim element 15(a): "using a low-range transceiver to automatically relay within a wide area notification area a first emergency notification

signal from a wide area notification device, and to further provide an audible and/or visible alert notification to the first emergency notification signal." For example, the PerfectServe product operates by using a low-range transceiver to automatically relay within a wide area notification area a first emergency notification signal (e.g., an emergency notification or alert) from a wide area notification device (e.g., a central server that can receive alerts from a remotely located source and forward them on to an PerfectServe Paging System or IP-DECT System), and to further provide an audible and/or visible alert notification (a notification to a user on a paging device or IP-DECT phone) in response to the first emergency notification signal.. *See* Figs. 1-11.

16. The PerfectServe product satisfies claim element 15(b): "manually, and independently from the first emergency notification signal, providing a second non-emergency notification signal to at least one of the plurality of users using the low-range transceiver, wherein the non-emergency notification signal is a user-specific and event-specific notification signal that is transmitted by an operator of the low-range transceiver to a wireless transmitter that is worn by a user, wherein the user is a person other than the operator." For example, the PerfectServe product may provide a second non-emergency notification signal manually and independently from the first emergency notification signal (e.g., an emergency notification, or any other emergency alert), providing a second non-emergency notification signal (e.g., a nurse call, infant protection notification or a general non-emergency notification etc.) to at least one of the plurality of users (e.g., a user with a smartphone) using the low-range transceiver (e.g., a smartphone with the PerfectServe Mobile Application installed), wherein the non-emergency notification signal (e.g., an operator uses the PerfectServe Paging transmitter or IP-DECT access point to send the notification) is a user-specific and event-specific notification (e.g., the notification is sent to a targeted individual) signal that is transmitted by an operator (e.g., administrator or an operator of

the PerfectServe paging system or IP-DECT system) of the low-range transceiver to a wireless transmitter that is worn by a user (e.g., a user with a pager or IP-DECT handset), wherein the user is a person other than the operator (e.g., the user receiving the notification is one other than the administrator that initiated the notification to be sent).   *See* Figs. 1-11; *see also* https://www.apple.com/apple-watch-series-3/; Figure 8.
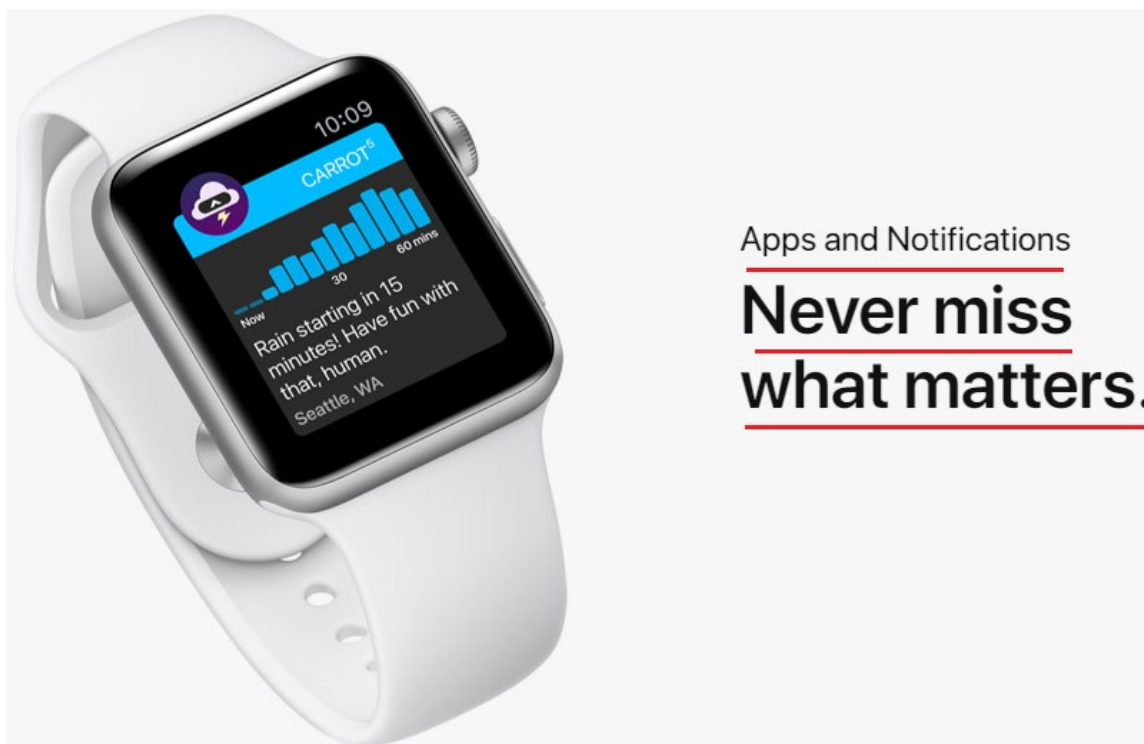
Figure 8.

17.   **Induced Infringement.** PerfectServe has also actively induced, and continues to induce, the infringement of at least claim 15 of the '869 Patent by actively inducing its customers, including merchants and end-users, to use the PerfectServe product in an infringing manner as described above. Upon information and belief, PerfectServe has specifically intended that its customers use the PerfectServe product that infringes at least claim 15 of the '869 Patent by, at a minimum, providing access to, support for, training and instructions for its website to its customers to enable them to infringe at least claim 15 of the '869 Patent, as described above. Even where performance of the steps required to infringe at least claim 15 of the '869 Patent is accomplished by PerfectServe and a PerfectServe customer jointly, PerfectServe is responsible for the actions that cause each of the steps of at least claim 15 of the '869 Patent to be performed.

18.   Tenaha is entitled to recover damages adequate to compensate it for such infringement in an amount no less than a reasonable royalty under 35 U.S.C. § 284.

JURY DEMAND

19.   Under Rule 38(b) of the Federal Rules of Civil Procedure, Tenaha respectfully requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Tenaha asks this Court to enter judgment against PerfectServe, granting the following relief:

A.   A declaration that PerfectServe has infringed the Patents-in-Suit;

B.   An award of damages to compensate Tenaha for PerfectServe's direct infringement of the Patents-in-Suit;

C.   An award of damages, including trebling of all damages, sufficient to remedy PerfectServe's infringement of the Patents-in-Suit under 35 U.S.C. § 284;

D.   An accounting for all damages not presented at trial;

E.   A declaration that this case is exceptional, and an award to Tenaha of reasonable attorneys' fees, expenses and costs under 35 U.S.C. § 285;

F.   An award of prejudgment and post-judgment interest; and

G.   Such other relief as this Court or jury may deem proper and just.

Dated: March 26, 2019

DEVLIN LAW FIRM LLC

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