

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BILLINGNETWORK PATENT, INC.,

Plaintiff,

v.

MY PRACTICE NOW LLC,

Defendant.

Case No.: 1:20-cv-01254

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Billingnetwork Patent, Inc. (“BNP” or “Plaintiff”) complains of Defendant My Practice Now LLC (“My Practice Now” 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 2105 Hillview Street, Sarasota, Florida 34239.

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. Defendant My Practice Now LLC is listed as an active New Mexico limited liability company with a principal place of business at 8019 Edith Boulevard NE, Albuquerque, New Mexico 87113. My Practice Now gives a second place of business at 100 Sun Avenue, Suite 650, Albuquerque, New Mexico 87109.

6. My Practice Now provides its browser-based practice management software system in the United States and 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 software system – which system is covered by at least Claim 1 of the ‘229 Patent – throughout the United States including this Judicial District.

9. My Practice Now is a registered New Mexico limited liability company, 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 New Mexico such that it should reasonably and fairly anticipate being haled into court in new Mexico.

10. Venue in this Judicial District is proper under 28 U.S.C. §§ 1400(b) because My Practice Now resides in this Judicial District.

**HISTORY OF UNITED STATES PATENT NO. 6,374,229
AND ATTEMPTS TO ENGAGE MY PRACTICE NOW**

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. The benchmark for prior art with respect to the ‘229 Patent goes back to at least October 20, 1999, the filing date of the application for the ‘229 Patent.

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.

19. Claim 1 calls for the structural or tangible framework of a web server and a browser. Claim 1 also has a database server which has previously received a construction or interpretation. The database server is structural and is dedicated to storing and providing access to a shared database, including data and forms. The web server is further limited to include the structure of subscriber areas to in part provide security and privacy for each corresponding subscriber. Claim 1 further implicates “means plus function” elements which necessarily have structural aspects. For example, the first means plus function element implicates the structure of HTML query forms and input forms. Another means plus function element of Claim 1 provides structure for the real-time

electronic viewing of data and billing stored with respect to a given subscriber area. Taken together all of the structural elements of Claim 1 collectively define and recite a novel and unique combination at least as of October 20, 1999.

20. BNP offered My Practice Now opportunities to engage in amicable discussions regarding the '229 Patent outside of litigation by sending an initial letter via email and first class mail on October 3, 2018 (for which email relayed receipt was received) and detailed follow up letters via email and certified first class mail on September 18, 2019 (for which email relayed receipt was received) and via email and FedEx on August 24, 2020 (for which email relayed receipt was received and FedEx proof of delivery was received). My Practice Now never responded to the correspondence from BNP. Based on My Practice Now's silence, which further confirms BNP's allegations of infringement, BNP's only recourse is through the filing of this Complaint.

**INFRINGEMENT BY DEFENDANT MY PRACTICE NOW
COUNT I: INFRINGEMENT OF UNITED STATES PATENT NO. 6,374,229**

21. Plaintiff BNP realleges and incorporates by reference paragraphs 1 through 20, inclusive, as though fully set forth herein.

22. My Practice Now owns and operates the website www.mypracticenow.com, and related URLs wherein My Practice Now provides its browser-based practice management software system.

23. My Practice Now's practice management software system includes one or more database servers.

24. My Practice Now provides a browser-based homepage accessible through the internet by subscribers of its practice management software system.

25. My Practice Now provides a browser-based homepage that permits access to the one or more database servers to subscribers of its practice management software system.

26. My Practice Now 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 software system.

27. My Practice Now's practice management software system includes a means for providing electronic transfer of billing and data entry forms to a subscriber.

28. My Practice Now's practice management software system produces billing invoices/statements to clients/customers of the subscriber.

29. The My Practice Now practice management software system provides a subscriber with a means to view and query data and billings information in the one or more database servers.

30. My Practice Now's practice management software system includes a PC type computer electronically connected to the one or more database servers.

31. My Practice Now directly infringed independent system claim 1 of the '229 Patent (prior to its expiration on or about October 20, 2019).

CLAIM 1

32. My Practice Now's practice management software system incorporates an integrated internet facilitated billing, data processing, and communication system, in accordance with the limitations of Claim 1 of the '229 Patent.

33. My Practice Now's practice management software 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.

34. Defendant My Practice Now through its practice management software system has directly infringed 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 My Practice Now's practice management software system.

35. My Practice Now had notice of the '229 Patent and the likelihood of infringement thereof at least as early as October 3, 2018 pursuant to email and first class mail correspondence from BNP to My Practice Now's organizer, registered agent and chief operating officer, which identified the '229 Patent and provided notice of the My Practice Now practice management software system's infringement thereof.

36. Defendant My Practice Now'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 My Practice Now, but, in no event less than a reasonable royalty.

37. To the extent required by law, BNP has complied with the provisions of 35 U.S.C. § 287.

38. My Practice Now's direct infringement as described above injured BNP and BNP is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty from at least October 3, 2018 to October 20, 2019.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Billingnetwork Patent, Inc. respectfully requests this Court to enter judgment against Defendant My Practice Now LLC – and against each of its subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, employees, and all persons in active concert or participation with them – 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 occurred from at least October 3, 2018 through expiration of the '229 Patent, but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284, together with prejudgment interest from the date the infringement began; and

C. Such other relief to which Plaintiff is entitled under the 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: December 3, 2020

Respectfully submitted,

/s/ Timothy J. Haller

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