UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

CARDIONET, INC., Plaintiff, v. THE SCOTTCARE CORPORATION, and AMBUCOR HEALTH SOLUTIONS, INC., Defendants.	Civil Action No. 12-cv-2516 (PBT) **JURY TRIAL DEMANDED**

FIRST AMENDED COMPLAINT AND JURY DEMAND

Plaintiff CardioNet, Inc., for its First Amended Complaint against The ScottCare Corporation and Ambucor Health Solutions, Inc., (collectively, "Defendants"), alleges as follows:

THE PARTIES

1. Plaintiff CardioNet, Inc. ("CardioNet") is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 227 Washington Street, #300, Conshohocken, PA 19428. CardioNet is a leading provider of ambulatory outpatient management solutions for monitoring clinical information regarding an individual's health.

2. On information and belief, defendant The ScottCare Corporation ("ScottCare") is a corporation organized under the laws of the State of Delaware, having a principal place of business at 4791 W. 150th Street, Cleveland, OH 44135.

3. ScottCare has represented to this Court, in its Answer and Counterclaims, filed on July 02, 2012 (D.I. 18) that Ambucor Health Solutions ("Ambucor") is an unincorporated division of ScottCare.

JURISDICTION AND VENUE

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

5. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

FACTS

7. U.S. Patent 7,212,850, entitled "System And Method For Processing And Presenting Arrhythmia Information To Facilitate Heart Arrhythmia Identification And Treatment" ("'850 Patent") was duly and legally issued on May 1, 2007. CardioNet is the owner by assignment of all right, title, and interest in and to the '850 Patent, including without limitation the right to sue and recover for past infringements thereof. A copy of the '850 Patent is attached as Exhibit A to this Complaint.

8. U.S. Patent 7,907,996, entitled "System And Method For Processing And Presenting Arrhythmia Information To Facilitate Heart Arrhythmia Identification And Treatment" ("'996 Patent") was duly and legally issued on March 15, 2011. CardioNet is the owner by assignment of all right, title, and interest in and to the '996 Patent, including without

limitation the right to sue and recover for past infringements thereof. A copy of the '996 Patent is attached as Exhibit B to this Complaint.

9. U.S. Patent 6,569,095, entitled "Adaptive Selection Of A Warning Limit In Patient Monitoring" ("'095 Patent") was duly and legally issued on May 27, 2003. CardioNet is the owner by assignment of all right, title, and interest in and to the '095 Patent, including without limitation the right to sue and recover for past infringements thereof. A copy of the '095 Patent is attached as Exhibit I to this Complaint.

10. U.S. Patent 7,587,237, entitled "Biological Signal Management" ("'237 Patent") was duly and legally issued on September 8, 2009. CardioNet is the owner by assignment of all right, title, and interest in and to the '237 Patent, including without limitation the right to sue and recover for past infringements thereof. A copy of the '237 Patent is attached as Exhibit J to this Complaint.

11. U.S. Patent 7,941,207, entitled "Cardiac Monitoring" ("'207 Patent") was duly and legally issued on May 10, 2011. CardioNet is the owner by assignment of all right, title, and interest in and to the '207 Patent, including without limitation the right to sue and recover for past infringements thereof. A copy of the '207 Patent is attached as Exhibit K to this Complaint.

12. On information and belief, ScottCare actively solicits and does business throughout this Judicial District, including offering for use, selling, and offering for sale at least the TeleSentry Mobile Cardiac Telemetry device and the software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device.

13. On information and belief, Ambucor actively solicits and does business throughout this Judicial District, including using, offering for use, selling, and offering for sale monitoring services associated with the TeleSentry Mobile Cardiac Telemetry device and the software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device.

14. On information and belief, the ScottCare TeleSentry Mobile Cardiac Telemetry device is an ambulatory ECG monitor that remotely monitors the patient, and records and processes a patient's electrocardiographic signal. A copy of a portion of ScottCare's Section 510(k) Premarket Notification of Intent to Market the TeleSentry Mobile Cardiac Telemetry device is attached as Exhibit C to this Complaint.

15. On information and belief, the ScottCare TeleSentry Mobile Cardiac Telemetry System, includes both the device that records and processes a patient's electrocardiographic signal and the monitoring service for assessing the cardiac data transmitted by the TeleSentry Mobile Cardiac Telemetry device provided by Defendant.

16. On information and belief, the ScottCare TeleSentry Mobile Cardiac Telemetry device and the software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device identify arrhythmia events, including atrial fibrillation. A copy of ScottCare's TeleSentry advertising brochure is attached as Exhibit D to this Complaint.

17. On information and belief, the ScottCare TeleSentry Mobile Cardiac Telemetry device and the software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device evaluate heart rate trends, and provide graphic reports presenting information regarding heart rate data and identified arrhythmia events. A copy of a sample ScottCare TeleSentry Daily Trend Report is attached as Exhibit E to this Complaint. A copy of ScottCare's website advertising the TeleSentry device is attached as Exhibit F to this Complaint. A copy of a sample ScottCare TeleSentry End of Session Report is attached as Exhibit G to this Complaint.

18. On information and belief, the data transmission from the TeleSentry device to the monitoring station is triggered when arrhythmia events are detected.

19. On information and belief, the triggering of data transmission from the TeleSentry device is based on predetermined parameters which can be reprogrammed.

20. On information and belief, the ScottCare TeleSentry Mobile Cardiac Telemetry device is in bidirectional communication with a remote server.

21. On information and belief, the ScottCare TeleSentry Mobile Cardiac Telemetry device and the software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device send heart rate data, including identification of arrhythmias, to a remote server. A copy of ScottCare's advertising brochure for Live Ambulatory Telemetry is attached as Exhibit H to this Complaint.

22. On information and belief, the cardiac data on the remote server is accessible by a monitoring center for assessment by personnel at Ambucor.

23. On information and belief, Ambucor personnel assess atrial fibrillation events in regular time intervals.

24. On information and belief, based on the assessment of an atrial fibrillation event by Ambucor personnel, a graphic representation of heart rate data is presented on the same time scale with the atrial fibrillation activity.

INFRINGEMENT OF '850 PATENT

25. Each of the Defendants has infringed and is continuing to infringe the '850 Patent by making, using, selling, and/or offering for sale, in the United States and in this Judicial District, products, software, and /or services that incorporate or make use of one or more of the inventions covered by the '850 Patent, including but not limited to the TeleSentry Mobile Cardiac Telemetry device and the software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device, thereby infringing one or more claims of the '850 Patent.

26. ScottCare's TeleSentry Mobile Cardiac Telemetry device and the software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device satisfy each and every

element of one or more claims of the '850 Patent, for example, and without limitation, claim 33 of the '850 Patent.

27. Claim 33 of the '850 Patent recites:

> A system for reporting information related to arrhythmia events comprising:
>
> monitoring means for processing and reporting physiological data, including heart rate data, for a living being and for identifying arrhythmia events from the physiological data;
>
> display means for receiving the physiological data from the monitoring means and for displaying the physiological data to a human user;
>
> processing means for receiving arrhythmia information from the monitoring system and for receiving human-assessed arrhythmia information from the display means wherein the human-assessed arrhythmia information derives from at least a portion of the physiological data and wherein the processing means is capable of pictographically presenting, using a common time scale, information regarding the heart rate data during a defined time period and regarding duration of arrhythmia event activity, according to the identified arrhythmia events, during the defined time period such that heart rate trend is presented with arrhythmia event burden.

28. Claim 33 of the '850 Patent has the preamble: "A system for reporting information related to arrhythmia events comprising." The ScottCare TeleSentry Mobile Cardiac Telemetry device and the software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device is a system for reporting information related to arrhythmia events.

29. Claim 33 of the '850 Patent has the element: "monitoring means for processing and reporting physiological data, including heart rate data, for a living being and for identifying

arrhythmia events from the physiological data." According to ScottCare's advertising materials and 510(k), the TeleSentry Mobile Cardiac Telemetry device and the software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device, monitor at least a patient's heart rate data and identify the arrhythmia events. *See* Ex. C: ScottCare's 510(k); Ex. D: ScottCare TeleSentry Advertising Brochure.

30. Claim 33 of the '850 Patent has the element: "display means for receiving the physiological data from the monitoring means and for displaying the physiological data to a human user." According to ScottCare's advertising materials, the software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device receives the physiological data and generates a display of the physiological data for viewing by a human user. *See* Ex. C: ScottCare's 510(k); Ex. H: ScottCare Live Ambulatory Telemetry Brochure; Ex. E: ScottCare TeleSentry Daily Trend Report; Ex. G: ScottCare TeleSentry End of Session Report.

31. Claim 33 of the '850 Patent has the element: "processing means for receiving arrhythmia information from the monitoring system and for receiving human-assessed arrhythmia information from the display means wherein the human-assessed arrhythmia information derives from at least a portion of the physiological data and wherein the processing means is capable of pictographically presenting, using a common time scale, information regarding the heart rate data during a defined time period and regarding duration of arrhythmia event activity, according to the identified arrhythmia events, during the defined time period such that heart rate trend is presented with arrhythmia event burden." ScottCare's software which is used in conjunction with the TeleSentry Mobile Cardiac Telemetry device is a processing means for receiving arrhythmia information from the TeleSentry Mobile Cardiac Telemetry device and for receiving the arrhythmia information assessed by Ambucor personnel, wherein the human-assessed arrhythmia information derives from at least a portion of the physiological data. The

software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device is capable of pictographically presenting, using a common time scale, information regarding the heart rate during a defined time period and regarding duration of arrhythmia event activity, according to the identified arrhythmia events, during the defined time period such that heart rate trend is presented with arrhythmia event burden. *See* Ex. C: ScottCare's 510(k); Ex. H: ScottCare Live Ambulatory Telemetry Brochure; Ex. E: ScottCare TeleSentry Daily Trend Report; Ex. G: ScottCare TeleSentry End of Session Report.

32. The acts of infringement by each of the Defendants set forth above have caused and will cause Plaintiff irreparable harm for which it has no adequate remedy at law, and will continue unless enjoined by this Court.

INFRINGEMENT OF '996 PATENT

33. Each of the Defendants has infringed and is continuing to infringe the '996 Patent by making, using, selling, and/or offering for sale, in the United States and in this Judicial District, products, software, and/or services that incorporate or make use of one or more of the inventions covered by the '996 Patent, including but not limited to the TeleSentry Mobile Cardiac Telemetry device and the software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device, thereby infringing one or more claims of the '996 Patent.

34. ScottCare's TeleSentry Mobile Cardiac Telemetry device and the software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device satisfies each and every element of one or more claims of the '996 Patent, for example, and without limitation, claim 12 of the '996 Patent.

35. Claim 12 of the '996 Patent recites:

An article comprising a machine-readable medium embodying information indicative of instructions that when performed by one or more machines result in operations comprising:

identifying atrial fibrillation events in physiological data obtained for a living being, wherein identifying atrial fibrillation events comprises examining the physiological data in multiple time intervals, and identifying intervals in which at least one atrial fibrillation event has occurred;

obtaining heart rate data for the living being;

receiving a human assessment of a subset of the identified atrial fibrillation events; and

based on the human assessment of the subset of the identified atrial fibrillation events, pictographically presenting, using a common time scale, information regarding the heart rate data for the multiple time intervals during a defined time period in alignment with indications of atrial fibrillation activity for the identified intervals, according to the identified atrial fibrillation events, during the defined time period such that heart rate trend is presented with atrial fibrillation burden, wherein pictographically presenting information regarding the heart rate data comprises displaying for each of the multiple time intervals a range of heart rates and a heart rate average.

36. Claim 12 of the '996 Patent has the preamble: "An article comprising a machine-readable medium embodying information indicative of instructions that when performed by one or more machines result in operations comprising." The ScottCare software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device is an article comprising a machine-

readable medium that when performed by one or more machines, results in the claimed operations.

37. Claim 12 of the '996 Patent has the element: "identifying atrial fibrillation events in physiological data obtained for a living being, wherein identifying atrial fibrillation events comprises examining the physiological data in multiple time intervals, and identifying intervals in which at least one atrial fibrillation event has occurred." According to ScottCare's advertising materials and 510(k), the TeleSentry Mobile Cardiac Telemetry device and the software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device, identify atrial fibrillation events in physiological data obtained for a patient by examining the patient's physiological data in multiple time intervals, and identifying intervals in which an atrial fibrillation event has occurred. *See* Ex. C: ScottCare's 510(k); Ex. D: ScottCare TeleSentry Advertising Brochure.

38. Claim 12 of the '996 Patent has the element: "obtaining heart rate data for the living being." According to ScottCare's advertising materials, the software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device obtains at least a patient's heart rate data. *See* Ex. C: ScottCare's 510(k); Ex. H: ScottCare Live Ambulatory Telemetry Brochure; Ex. D: ScottCare TeleSentry Advertising Brochure.

39. Claim 12 of the '996 Patent has the element: "receiving a human assessment of a subset of the identified atrial fibrillation events." ScottCare's software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device receives an assessment of a subset of the identified atrial fibrillation events by Ambucor personnel. *See* Ex. H: ScottCare Live Ambulatory Telemetry Brochure.

40. Claim 12 of the '996 Patent has the element: "based on the human assessment of the subset of the identified atrial fibrillation events, pictographically presenting, using a common time scale, information regarding the heart rate data for the multiple time intervals during a

defined time period in alignment with indications of atrial fibrillation activity for the identified intervals, according to the identified atrial fibrillation events, during the defined time period such that heart rate trend is presented with atrial fibrillation burden, wherein pictographically presenting information regarding the heart rate data comprises displaying for each of the multiple time intervals a range of heart rates and a heart rate average." Based on the assessment of a subset of the identified atrial fibrillation events by Ambucor personnel, ScottCare's software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device pictographically presents, using a common time scale, information regarding the heart rate data for the multiple time intervals during a defined time period in alignment with indications of atrial fibrillation activity for the identified intervals, according to the identified atrial fibrillation events, during the defined time period such that heart rate trend is presented with atrial fibrillation burden, wherein pictographically presenting information regarding the heart rate data comprises displaying for each of the multiple time intervals a range of heart rates and a heart rate average. *See* Ex. E: ScottCare TeleSentry Daily Trend Report; Ex. G: ScottCare TeleSentry End of Session Report.

41. The acts of infringement by each of the Defendants set forth above have caused and will cause Plaintiff irreparable harm for which it has no adequate remedy at law, and will continue unless enjoined by this Court.

INFRINGEMENT OF '237 PATENT

42. Each of the Defendants has infringed and is continuing to infringe the '237 Patent by making, using, selling, and/or offering for sale, in the United States and in this Judicial District, products, software, and/or services that incorporate or make use of one or more of the inventions covered by the '237 Patent, including but not limited to the TeleSentry Mobile

Cardiac Telemetry device and the software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device, thereby infringing one or more claims of the '237 Patent.

43. ScottCare's TeleSentry Mobile Cardiac Telemetry device and the software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device satisfy each and every element of one or more claims of the '237 Patent, for example, and without limitation, claim 25 of the '237 Patent.

44. Claim 25 of the '237 Patent recites:

> An article comprising one or more machine-readable media storing instructions operable to cause one or more machines to perform operations for monitoring a cardiac biological signal using electrocardiographic monitoring instrumentation, the operations comprising:
>
> receiving the cardiac biological signal that includes information describing events, wherein events comprise periods in time when an information content of the cardiac biological signal is of increased relevance to a particular purpose and the events are demarcated by periods of time that are not of increased relevance to the particular purpose;
>
> classifying the events into two or more categories based on cardiac conditions indicated by the information describing each event;
>
> determining a measure of merit of the information describing each event, wherein the measure of merit embodies a severity of the cardiac condition associated with the event and a an amount of noise in the information describing the event;
>
> comparing the measure of merit of information describing each event with a first merit criterion;

transmitting, for medical purposes, information describing a first proper subset of the events in a first of the categories that have merits meeting the first merit criterion to a remote medical receiver, wherein the remote medical receiver is not located at the same site at the electrocardiographic monitoring instrumentation;

discarding information describing a second proper subset of the events in the first of the categories that have measures of merit that fail to meet the first merit criterion;

comparing the measure of merit of information describing each event with a second merit criterion;

transmitting, for medical purposes, information describing a third proper subset of the events in a second of the categories that have measures of merit meeting the second merit criterion to the remote medical receiver, wherein the second category differs from the first category and the second merit criterion differs from the first merit criterion; and

discarding information describing a fourth proper subset of the events in the second of the categories that have measures of merit that fail to meet the second merit criterion.

45. Claim 25 of the '237 Patent has the preamble: "An article comprising one or more machine-readable media storing instructions operable to cause one or more machines to perform operations for monitoring a cardiac biological signal using electrocardiographic monitoring instrumentation, the operations comprising." The TeleSentry Mobile Cardiac Telemetry device is an article comprising one or more machine-readable media storing instructions operable to cause the TeleSentry Mobile Cardiac Telemetry device to perform

operations for monitoring a patient's cardiac signal using electrocardiographic monitoring instrumentation. *See* Ex. H: ScottCare Live Ambulatory Telemetry Brochure.

46. Claim 25 of the '237 Patent has the element: "receiving the cardiac biological signal that includes information describing events, wherein events comprise periods in time when an information content of the cardiac biological signal is of increased relevance to a particular purpose and the events are demarcated by periods of time that are not of increased relevance to the particular purpose." The TeleSentry Mobile Cardiac Telemetry device receives the patient's cardiac signal that includes information describing events, for example atrial fibrillation events. These events comprise periods in time when the information content of the cardiac signal is of increased relevance for, for example, monitoring the cardiac health of the patient, and are demarcated by periods of time that do not have increased relevance. *See* Ex. E: ScottCare TeleSentry Daily Trend Report; Ex. G: ScottCare TeleSentry End of Session Report.

47. Claim 25 of the '237 Patent has the element: "classifying the events into two or more categories based on cardiac conditions indicated by the information describing each event." The TeleSentry Mobile Cardiac Telemetry device classifies the events into two or more categories, for example sinus bradycardia and atrial fibrillation, based on cardiac conditions indicated by the information describing each event. *See* Ex. E: ScottCare TeleSentry Daily Trend Report; Ex. G: ScottCare TeleSentry End of Session Report.

48. Claim 25 of the '237 Patent has the element: "determining a measure of merit of the information describing each event, wherein the measure of merit embodies a severity of the cardiac condition associated with the event and a an amount of noise in the information describing the event." The TeleSentry Mobile Cardiac Telemetry device determines a measure of merit of the information describing each event, wherein the measure of merit embodies a severity of the cardiac condition associated with the event, and an amount of noise in the

information describing the event. *See* Ex. C: ScottCare's 510(k); Ex. E: ScottCare TeleSentry Daily Trend Report; Ex. G: ScottCare TeleSentry End of Session Report; Ex. H: ScottCare Live Ambulatory Telemetry Brochure.

49. Claim 25 of the '237 Patent has the element: "comparing the measure of merit of information describing each event with a first merit criterion." The TeleSentry Mobile Cardiac Telemetry device compares the measure of merit of information describing each event with a first merit criterion. *See* Ex. C: ScottCare's 510(k); Ex. E: ScottCare TeleSentry Daily Trend Report; Ex. G: ScottCare TeleSentry End of Session Report; Ex. H: ScottCare Live Ambulatory Telemetry Brochure.

50. Claim 25 of the '237 Patent has the element: "transmitting, for medical purposes, information describing a first proper subset of the events in a first of the categories that have merits meeting the first merit criterion to a remote medical receiver, wherein the remote medical receiver is not located at the same site at the electrocardiographic monitoring instrumentation." The TeleSentry Mobile Cardiac Telemetry device transmits to a remote medical receiver, for medical purposes, information describing a proper subset of the events in a first category of events that have met or exceeded the first merit criterion. The remote medical receiver, for example Ambucor's monitoring facility, is in a different location than the TeleSentry Mobile Cardiac Telemetry device. *See* Ex. C: ScottCare's 510(k); Ex. E: ScottCare TeleSentry Daily Trend Report; Ex. G: ScottCare TeleSentry End of Session Report; Ex. H: ScottCare Live Ambulatory Telemetry Brochure.

51. Claim 25 of the '237 Patent has the element: "discarding information describing a second proper subset of the events in the first of the categories that have measures of merit that fail to meet the first merit criterion." The TeleSentry Mobile Cardiac Telemetry device discards

a second subset of the events in the first category of events which failed to meet the first merit criterion. *See* Ex. C: ScottCare's 510(k).

52. Claim 25 of the '237 Patent has the element: "comparing the measure of merit of information describing each event with a second merit criterion." The TeleSentry Mobile Cardiac Telemetry device compares the measure of merit of information describing each event with a second merit criterion. *See* Ex. C: ScottCare's 510(k).

53. Claim 25 of the '237 Patent has the element: "transmitting, for medical purposes, information describing a third proper subset of the events in a second of the categories that have measures of merit meeting the second merit criterion to the remote medical receiver, wherein the second category differs from the first category and the second merit criterion differs from the first merit criterion." The TeleSentry Mobile Cardiac Telemetry device transmits to a remote medical receiver, for medical purposes, information describing a proper subset of the events in a second category of events that have met or exceeded the second merit criterion. The first and second categories of events differ, as well as the first and second merit criteria. *See* Ex. C: ScottCare's 510(k); Ex. E: ScottCare TeleSentry Daily Trend Report; Ex. G: ScottCare TeleSentry End of Session Report; Ex. H: ScottCare Live Ambulatory Telemetry Brochure.

54. Claim 25 of the '237 Patent has the element: "discarding information describing a fourth proper subset of the events in the second of the categories that have measures of merit that fail to meet the second merit criterion." The TeleSentry Mobile Cardiac Telemetry device discards a fourth subset of the events in the second category of events which failed to meet the second merit criterion. *See* Ex. C: ScottCare's 510(k); Ex. E: ScottCare TeleSentry Daily Trend Report; Ex. G: ScottCare TeleSentry End of Session Report; Ex. H: ScottCare Live Ambulatory Telemetry Brochure.

55. The acts of infringement by each of the Defendants set forth above have caused and will cause Plaintiff irreparable harm for which it has no adequate remedy at law, and will continue unless enjoined by this Court.

INFRINGEMENT OF '207 PATENT

56. Each of the Defendants has infringed and is continuing to infringe the '207 Patent by making, using, selling, and/or offering for sale, in the United States and in this Judicial District, products, software, and/or services that incorporate or make use of one or more of the inventions covered by the '207 Patent, including but not limited to the TeleSentry Mobile Cardiac Telemetry System, thereby infringing one or more claims of the '207 Patent.

57. ScottCare's TeleSentry Mobile Cardiac Telemetry device and the software used in conjunction with the TeleSentry Mobile Cardiac Telemetry device satisfy each and every element of one or more claims of the '207 Patent, for example, and without limitation, claim 20 of the '207 Patent.

58. Claim 20 of the '207 Patent recites:

> An article comprising one or more machine-readable media storing instructions operable to cause one or more machines to perform operations, the operations comprising:
>
> determining a beat-to-beat variability in cardiac electrical activity;
>
> determining a relevance of the variability over a collection of beats to one of atrial fibrillation and atrial flutter using a non-linear function of a beat-to-beat interval; and
>
> identifying one of an atrial fibrillation event and an atrial flutter event based on the determined relevance, the event being a period in time when the

information content of the cardiac electrical activity is of increased relevance to the one of atrial fibrillation and atrial flutter.

59. Claim 20 of the '207 Patent has the element: "An article comprising one or more machine-readable media storing instructions operable to cause one or more machines to perform operations, the operations comprising." The TeleSentry Mobile Cardiac Telemetry device is an article comprising one or more machine-readable media storing instructions operable to cause one or more machines to perform the claimed operations. *See* Ex. H: ScottCare Live Ambulatory Telemetry Brochure.

60. Claim 20 of the '207 Patent has the element: "determining a beat-to-beat variability in cardiac electrical activity." The TeleSentry Mobile Cardiac Telemetry device determines a beat-to-beat variability in the patient's cardiac activity. *See* Ex. H: ScottCare Live Ambulatory Telemetry Brochure.

61. Claim 20 of the '207 Patent has the element: "determining a relevance of the variability over a collection of beats to one of atrial fibrillation and atrial flutter using a non-linear function of a beat-to-beat interval." The TeleSentry Mobile Cardiac Telemetry device determines a relevance of the variability over a collection of beats to one of atrial fibrillation and atrial flutter using a non-linear function of a beat-to-beat interval. *See* Ex. C: ScottCare's 510(k); Ex. E: ScottCare TeleSentry Daily Trend Report; Ex. G: ScottCare TeleSentry End of Session Report; Ex. H: ScottCare Live Ambulatory Telemetry Brochure.

62. Claim 20 of the '207 Patent has the element: "identifying one of an atrial fibrillation event and an atrial flutter event based on the determined relevance, the event being a period in time when the information content of the cardiac electrical activity is of increased relevance to the one of atrial fibrillation and atrial flutter." The TeleSentry Mobile Cardiac Telemetry device identifies one of an atrial fibrillation event and an atrial flutter event based on

the determined relevance, the event being a period in time when the information content of the patient's cardiac activity is of increased relevance to the one of atrial fibrillation and atrial flutter. *See* Ex. E: ScottCare TeleSentry Daily Trend Report; Ex. G: ScottCare TeleSentry End of Session Report.

63. The acts of infringement by each of the Defendants set forth above have caused and will cause Plaintiff irreparable harm for which it has no adequate remedy at law, and will continue unless enjoined by this Court.

INFRINGEMENT OF '095 PATENT

64. Each of the Defendants has infringed and is continuing to infringe the '095 Patent by making, using, selling, and/or offering for sale, in the United States and in this Judicial District, products and/or software that incorporate or make use of one or more of the inventions covered by the '095 Patent, including but not limited to the TeleSentry Mobile Cardiac Telemetry System, thereby infringing one or more claims of the '095 Patent.

65. ScottCare's TeleSentry Mobile Cardiac Telemetry System satisfies each and every element of one or more claims of the '095 Patent, for example, and without limitation, claim 1 of the '095 Patent.

66. Claim 1 of the '095 Patent recites:

A method of monitoring a patient, comprising the steps:

establishing a current warning limit for a physiological characteristic of the patient;

providing a sensor for the physiological characteristic;

measuring a measured value of the physiological characteristic of the patient using the sensor;

comparing the measured value and the current warning limit, and generating a warning signal responsive to the step of comparing; and

selecting a revised warning limit responsive to at least one of the steps of providing and measuring.

67. Claim 1 of the '095 Patent has the preamble: "A method of monitoring a patient, comprising the steps." The TeleSentry Mobile Cardiac Telemetry System performs a method of monitoring a patient.

68. Claim 1 of the '095 Patent has the element: "establishing a current warning limit for a physiological characteristic of the patient." The TeleSentry Mobile Cardiac Telemetry System establishes a current warning limit for a physiological characteristic, such as heart rate, of the patient. *See* Ex. H: ScottCare Live Ambulatory Telemetry Brochure.

69. Claim 1 of the '095 Patent has the element: "providing a sensor for the physiological characteristic." The TeleSentry Mobile Cardiac Telemetry System includes the TeleSentry Mobile Cardiac Telemetry device with sensors for one or more physiological characteristics, such as heart rate, which is provided to the patient.

70. Claim 1 of the '095 Patent has the element: "measuring a measured value of the physiological characteristic of the patient using the sensor." The TeleSentry Mobile Cardiac Telemetry System measures a measured value of the physiological characteristic of the patient, such as heart rate, using the sensor on the TeleSentry Mobile Cardiac Telemetry device. *See* Ex. E: ScottCare TeleSentry Daily Trend Report; Ex. G: ScottCare TeleSentry End of Session Report.

71. Claim 1 of the '095 Patent has the element: "comparing the measured value and the current warning limit, and generating a warning signal responsive to the step of comparing." The TeleSentry Mobile Cardiac Telemetry System compares the measured value and the current

warning limit, and generates a warning signal in response which is sent to the monitoring station. *See* Ex. H: ScottCare Live Ambulatory Telemetry Brochure.

72. Claim 1 of the '095 Patent has the element: "selecting a revised warning limit responsive to at least one of the steps of providing and measuring." The TeleSentry Mobile Cardiac Telemetry System selects a revised warning limit in response to the steps of providing a sensor and/or measuring the physiological characteristic, such as heart rate. *See* Ex. H: ScottCare Live Ambulatory Telemetry Brochure.

73. The acts of infringement by each of the Defendants set forth above have caused and will cause Plaintiff irreparable harm for which it has no adequate remedy at law, and will continue unless enjoined by this Court.

WHEREFORE, Plaintiff CardioNet, Inc. prays for judgment against the Defendants as follows:

A. For a declaration that the '850 Patent was duly and legally issued, and is valid and enforceable;

B. For a declaration that the '996 Patent was duly and legally issued, and is valid and enforceable;

C. For a declaration that the '095 Patent was duly and legally issued, is valid and enforceable;

D. For a declaration that the '237 Patent was duly and legally issued, is valid and enforceable;

E. For a declaration that the '207 Patent was duly and legally issued, is valid and enforceable;

F. Each Defendant has infringed the '850 Patent;

G. Each Defendant has infringed the '996 Patent;

H. Each Defendant has infringed the '095 Patent;

I. Each Defendant has infringed the '237 Patent;

J. Each Defendant has infringed the '207 Patent;

K. That CardioNet be awarded damages caused by each Defendant's infringement, including all lost profits of CardioNet resulting from each Defendant's acts of infringement, and reasonable royalties, together with pre-judgment and post-judgment interest;

L. Enjoining each Defendant, its officers, agents, servants, employees, attorneys, all parent and subsidiary corporations and affiliates, its assigns and successors in interest, and those persons in active concert or participation with each Defendant who receives notice of the injunction, from continuing acts of infringement of the '850, '996, '095, '237 and/or '207 Patents;

M. Adjudging this an exceptional case and awarding to CardioNet its reasonable attorneys' fees pursuant to 35 U.S.C. § 285;

N. Awarding to CardioNet its costs and disbursements incurred in this action; and

O. Awarding to CardioNet such other and further relief as this Court may deem just and proper.

Respectfully submitted,

DILWORTH PAXSON LLP

Dated: July 18, 2012

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CERTIFICATE OF SERVICE

I hereby certify that on the 18th of July, 2012, I caused a true and correct copy of the foregoing First Amended Complaint with Jury Demand to be served electronically via electronic mail and the C/M ECF System upon the following:

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