


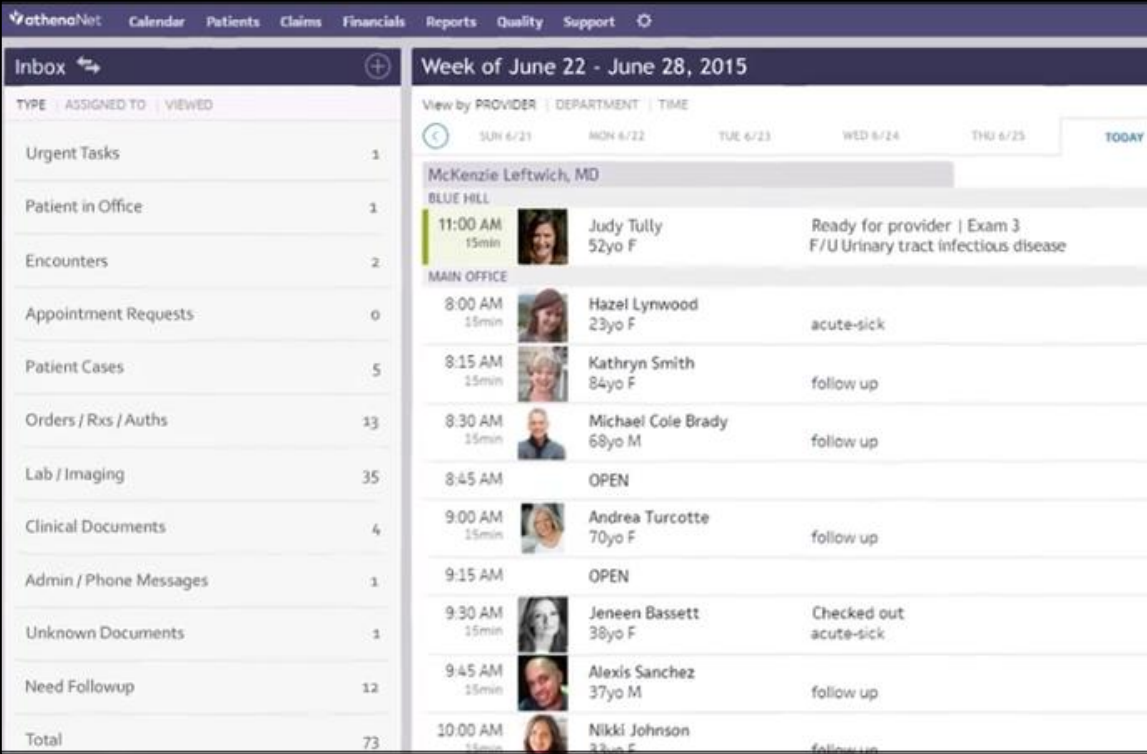
# EXHIBIT D

U.S. PAT. NO. 7,069,293 v. Athenahealth

Athenahealth directly infringes the method claims of U.S. Patent No. 7,069,293 by developing, distributing, and operating software applications available to its customers for deployment through its offering of cloud-based desktop, browser, and mobile software applications are installed and run on athenahealth servers and instances of the application or application's components on its customers, thus performing each of the claimed steps. Athenahealth directly infringes the system and apparatus claims by selling, and offering to sell its athenahealth software client to make various software applications available to its customers.

Claim	Athenahealth
<p>1pre. A method for distribution of application programs to a target on-demand server on a network comprising the following executed on a centralized network management server coupled to the network:</p>	<p>Athenahealth practices a method for distribution of application programs to a target on-demand server on a network comprising the following executed on a centralized network management server coupled to the network.</p> <p>For example, athenahealth is in the business of providing cloud-based services in the health care domain to medical practices (practitioners), and hospitals. It provides solutions for electronic health records, medical billing, patient engagement, etc. It provides a suite of cloud-based services, e.g., athenaNet and athenaOne, which include athenaClinicals, athenaCollector, and athenaCommunicator.</p> <p>The following citations show that athenahealth offers various healthcare solutions like athenaNet, which runs on demand servers (e.g., production servers) so that athenaNet application updates, patches, etc. are then made available to healthcare providers).</p> 

Claim	Athenahealth
	<p data-bbox="1068 653 1284 684"><b>Athenahealth</b></p> <p data-bbox="1068 695 1312 737"><b>Our services</b></p> <p data-bbox="651 772 1624 898"><b>athenaOne</b>—our suite of integrated, network-enabled services—works to deliver measurable financial and clinical results for providers. That’s why our top-performing clients are beating industry benchmarks across the board.</p> <p data-bbox="415 913 873 942">Source: <a href="http://www.athenahealth.com/">http://www.athenahealth.com/</a></p> <div data-bbox="690 982 1624 1480"><div data-bbox="690 982 1024 1480"><p data-bbox="721 1010 906 1062"><b>WELCOME BACK TO THE NETWORK</b></p><p data-bbox="721 1083 816 1100">PROVIDERS</p><p data-bbox="721 1108 854 1140"><b>120,000+</b></p><p data-bbox="721 1163 922 1180">PATIENT LIVES COVERED</p><p data-bbox="721 1188 898 1220"><b>117,400,000</b></p><p data-bbox="721 1243 886 1260">CLAIMS SUBMITTED</p><p data-bbox="721 1268 880 1299"><b>52,300,000</b></p><p data-bbox="721 1308 795 1325">Q3 2018</p></div><div data-bbox="1040 982 1624 1480"><p data-bbox="1073 999 1219 1026"><b>athenaNet</b></p><p data-bbox="1073 1062 1516 1089">Username <input data-bbox="1240 1062 1516 1089" type="text" value="johnsmith@hospital.com"/></p><p data-bbox="1073 1125 1338 1152">Password <input data-bbox="1240 1125 1620 1152" type="password" value="....."/></p><p data-bbox="1240 1178 1598 1205"><a href="#">Forgot password?</a>   <a href="#">Configure browser</a></p><p data-bbox="1507 1339 1576 1367">Log In</p><p data-bbox="1057 1388 1624 1440">We learn from every new provider who joins our network. <a href="#">Introduce us to a colleague &gt;</a></p></div></div> <p data-bbox="415 1493 1084 1522">Source: <a href="https://athenanet.athenahealth.com/1/1/login.esp">https://athenanet.athenahealth.com/1/1/login.esp</a></p>

Claim	Athenahealth
	 <p>Source: <a href="http://www.athenahealth.com/videos/athenaclinicals">http://www.athenahealth.com/videos/athenaclinicals</a> (0:15)</p> <p><u>athenaNet</u> is a centrally hosted, web-based application and, as such, does not require pu hardware, database management systems (DBMS), drug information databases, clinical backup utilities, third-party software applications, etc. However, for certain device types y purchase specific compatible machines and software. Details are listed below for the rele athenaNet, whether accessed via mobile phone or personal computer, has configuration allow clients to remain in HIPAA compliance. athenahealth has a co-sourced model whe to secure data, and the client must do other things to protect their data.</p> <p>Source: <a href="https://www.athenahealth.com/~media/athenaweb/files/pdf/athenahealth_tech_requirements">https://www.athenahealth.com/~media/athenaweb/files/pdf/athenahealth_tech_requirements</a></p>

Claim	Athenahealth
	<p>athenahealth Response: <u>athenaNet is a web based application, updates and fixes to the application centrally on athenahealth's servers. athenaNet Device Manager is a thin windows application and modules default to auto-updating when prompted by athenaNet during a user's online session. An athenaNet Device Manager is available for download through athenaNet for clients who manage centrally. Customers are responsible for maintaining any technology infrastructure they use to connect using a browser. athenahealth can detect whether certain requirements are in place, such as browser of athenaNet and athenaNet Device Manager patches are communicated with release notes.</u></p> <p><u>Regarding patches or updates to our servers,</u> we install patches from a small number of software sources (SuSe, IBM, and Oracle). We verify these patches using MD5 checksums. We then roll them out in several stages: first they are applied to a development server which is regression tested; then <u>they are loaded onto</u> a single, less used production server for a period; then to <u>a small set of fully utilized production servers for a period; then into production generally.</u> If problems appear in any of these stages, we pause the rollout and investigate/solve the problem before continuing.</p> <p>For patches to the operating system, athenaClinical has never either required or contraindicated the use of Windows hotfixes or upgrades. However, if such a situation arose, it would be communicated in the form of patches to Internet Explorer. athenahealth doesn't provide a software system which resides on the user's installation media; our product is delivered over the web. <u>Regarding patches or updates to our servers,</u> from a small number of software sources we trust (SuSe, IBM, and Oracle). We verify these patches using MD5 checksums. We then roll them out in several stages: first they are applied to a development server which is regression tested; <u>then they are loaded onto</u> a single, less used production server for a period; then to <u>a small set of fully utilized production servers for a period; then into production generally.</u> If problems appear in any of these stages, we pause the rollout and investigate/solve the problem before continuing.</p> <p><b>Source:</b> <a href="https://www.athenahealth.com/content/how-does-athenahealth-handle-patch-process#">https://www.athenahealth.com/content/how-does-athenahealth-handle-patch-process#</a></p>
<p>1a. providing an application program to be distributed to the network management server;</p>	<p>Athenahealth practices a method that includes providing an application program to be distributed to the network management server.</p> <p>For example, the following citations show that athenaNet is a web-based application hosted on a central server provided to one or more production servers. New versions are distributed whenever there is an update, and the updates are delivered to users.</p>

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