

Patent Owner's Demonstrative Exhibits

Teladoc Health, Inc. v. Data Health Partners, Inc.

June 11, 2025

Oral Argument

U.S. Patent No. 11,144,554 | Case No. IPR2024-00616

U.S. Patent No. 11,151,142 | Case No. IPR2024-00617

SKIERMONT DERBY
— LLP —

THE '554 INSTITUTED CLAIMS

The '554 Instituted Claims: Claim 1

Claim 1 recites:

A method for tracking goal progression, the method comprising:

- receiving input, by an administrator, for establishing an account for a client, wherein the client is an individual receiving treatment or assistance, and wherein the accounts are stored in a server available through one or more networks;
- assigning the client to one or more of providers in response to selections from the administrator, wherein the one or more providers include at least individuals available to treat or assist the client;
- determining, by the one or more providers, treatment and assistance for the client, which is used for establishing goals, a plan of action, and thresholds for the client, wherein the thresholds represent certain points of progress towards the goals;
- periodically receiving updated data, from the one or more providers, about the status and/or well-being of the client;
- compiling data associated with the client received from the one or more providers utilizing computing or communications devices in communication with the server, wherein the computing or communications devices represent devices communicating with the server from any of one or more networks, in order to determine progress of the client towards achieving the goals; and
- determining whether the thresholds associated with the goals are being met based on the compiled data; and modifying the plan of action, by the one or more providers, in response to one or more of the thresholds not being met.

The '554 Instituted Claims: Claims 2, 4 and 5

Claim 2 recites:

The method according to claim **1**, further comprising:
automatically communicating alerts in response to the compiled
data varying from one or more of the thresholds to become
significant for the client.

Claim 4 recites:

The method according to claim **1**, further comprising:
establishing a baseline for the goals of the client.

Claim 5 recites:

The method according to claim **4**, wherein the baseline is set based
on tests, recorded activities, and general notes.

The '554 Instituted Claims: Claims 6 and 7

Claim 6 recites:

The method according to claim **1**, wherein the server is accessed through a cloud network, and wherein a client management program is executed by the computing or communications devices is utilized to receive the data and track progress of the goals.

Claim 7 recites:

The method according to claim **1**, further comprising: establishing the goals and the plan of action for the client utilizing goal creating and tracking software, wherein the data, goals, plan of action, compiled data, and thresholds are associated with the account of the client.

The '554 Instituted Claims: Claims 8 and 9

Claim 8 recites:

The method according to claim 1, further comprising:
data mining the compiled data to determine best practices;
and recommending the best practices to the one or more
providers in response to the best practices being associated
with a client assigned to the one or more providers.

Claim 9 recites:

The method according to claim 1, further comprising:
recommending a next goal in response to the client
completing the goal.

The '554 Instituted Claims: Claims 10 and 11

Claim 10 recites:

The method according to claim **1**, further comprising:
determining whether the data required is received from
each of the one or more providers; and sending an alert to
the one or more providers in response to determining there
is missing data for the client associated with the one or more
providers.

Claim 11 recites:

The method according to claim **2**, further comprising:
generating a score based on the compiled data to determine
if the compiled data varies from the thresholds to become
significant for the client.

The '554 Instituted Claims: Claim 12

Claim 12 recites:

The method according to claim **9**, further comprising:
matching the client with a provider from the one or
more providers for the next goal.

The '554 Instituted Claims: Claim 13

Claim 13 recites:

A system for tracking goal progression, the system comprising:
a server communicates with communications devices through a transceiver utilizing one or more networks, the server includes a processor that executes a client management program to:
receive input, by an administrator, for establishing an account for one or more providers serving a client, wherein the client is an individual receiving treatment or assistance, and wherein the accounts are stored in a server available through one or more networks,
assign the client to one or more of the providers in response to selections from the administrator, wherein the one or more providers include at least individuals available to treat or assist the client,
determine, by the one or more providers, treatment and assistance for the client, which is used to establish goals, a plan of action, and thresholds for the client, wherein the thresholds represent certain points of progress towards the goals,
compile data associated with the client received from the providers utilizing computing or communications devices in communication with the server,
determine whether the thresholds associated with the goals are being met based on the compiled data, and
modify the plan of action, by the one or more providers, in response to one or more of the thresholds not being met;
and
a database in communication with the server configured to store the data, goals, plan of action, compiled data, and thresholds with the account associated with the client and the one or more providers.

The '554 Instituted Claims: Claims 14, 15 and 16

Claim 14 recites:

The system according to claim **13**, wherein the database is a relational database management system performing data mining to analyze the data from the providers to determine best practices, wherein the best practices are recommended for the client if relevant.

Claim 15 recites:

The system according to claim **13**, wherein the client management program further establishes a baseline for the goals of the client, wherein the baseline is set based on tests, recorded activities, and general notes.

Claim 16 recites:

The system according to claim **13**, wherein the client management program further generates a score based on the compiled data to determine if the compiled data varies from the thresholds to become significant for the client.

The '554 Instituted Claims: Claim 17

Claim 17 recites:

A server comprising:
a processor for executing a set of instructions; and
a memory for storing the set of instructions, wherein the set of instructions are executed by the processor to:
receive input, by an administrator, for establishing an account for one or more providers serving a client,
wherein the client is an individual receiving treatment or assistance, and wherein the accounts are stored in
a server available through one or more networks;
assign the client to one or more of the providers in response to selections from the administrator, wherein
the one or more providers include at least individuals available to treat or assist the client;
determine, by the one or more providers, treatment and assistance for the client, which is used to establish
goals, a plan of action, and thresholds for the client, wherein the thresholds represent certain points of
progress towards the goals;
periodically receive updated data about the status and/or well-being of the client from the providers, about
the status and/or well-being of the client;
compile data associated with the client received from the providers utilizing computing or communications
devices in communication with the server, in order to determine progress of the client towards achieving the
goals; and
determine whether the thresholds associated with the goals are being met based on the compiled data; and
modify the plan of action, by the provider, in response to determining whether the one or more thresholds
are not being met.

The '554 Instituted Claims: Claims 19 and 20

Claim 19 recites:

The server according to claim **17** , wherein the set of instructions are further executed to generate a score based on the compiled data to determine if the compiled data varies from the thresholds to become significant for the client .

Claim 20 recites:

The server according to claim **17** , wherein the set of instructions are further executed to data mine the compiled data to determine best practices ; and recommend the best practices to the providers in response to the best practices being associated with a client assigned to the providers.

THE '142 INSTITUTED CLAIMS

The '142 Instituted Claims: Claim 1

Claim 1 recites:

A method for tracking goal progression, the method comprising:

receiving input establishing accounts for providers serving clients, wherein the clients are individuals receiving treatment or assistance, and wherein the accounts are stored in a server available through one or more networks;

creating fields required for compiling data associated with the treatment or assistance of each of the clients from the providers;

assigning each of the clients to one or more of the providers in response to selections from an administrator, wherein the one or more of the providers include at least individuals available to treat or assist the client;

establishing desired outcomes for each of the clients based on treatment and assistance required to meet the desired outcomes, wherein one or more thresholds indicates whether the desired outcomes are met;

compiling data associated with at least performance of the desired outcomes by each of the clients received from the providers utilizing computing or communications devices in communication with the server;

automatically determining whether 1) the desired outcomes are being met in response to rules governing data analysis that are utilized based on the compiled data, and 2) the compiled data varies from one or more thresholds to become significant for one or more of the clients; and

automatically communicating alerts in response to the compiled data varying from the one or more thresholds to become significant for the one or more of the clients.

The '142 Instituted Claims: Claims 2 and 3

Claim 2 recites:

The method according to claim 1, wherein the server is accessed through a cloud network, and wherein a client management program is executed by the computing or communications devices is utilized to receive the data and track progress of the desired outcomes.

Claim 3 recites:

The method according to claim 1, further comprising: establishing desired outcomes for the client associated with treatment or assistance utilizing a wizard application.

The '142 Instituted Claims: Claims 4 and 5

Claim 4 recites:

The method according to claim **3**, wherein the wizard application receives at least a main heading, a start date, a projected closure date, and a desired outcome description.

Claim 5 recites:

The method according to claim **1**, further comprising:
data mining the compiled data to determine best practices;
and
recommending the best practices to the providers in response to the best practices being associated with a client assigned to the providers.

The '142 Instituted Claims: Claims 6 and 7

Claim 6 recites:

The method according to claim 1, wherein the data includes at least intervention plans, desired outcomes and objectives, recorded activities, and general notes.

Claim 7 recites:

The method according to claim 1, further comprising:
determining whether the data required is received from each of the providers; and
sending an alert to one or more providers in response to determining there is missing data for one or more clients associated with the one or more providers.

The '142 Instituted Claims: Claims 9 and 10

Claim 9 recites:

The method according to claim **1**, further comprising:
tracking a time and occurrence of number of client actions
in response to input from the providers; and
indicating progress based on rules toward desired outcomes
for the clients, wherein the rules compare data against a
minimum growth line.

Claim 10 recites:

The method according to claim **1**, further comprising:
prompting the providers to provide data associated with
assigned clients.

The '142 Instituted Claims: Claim 11

Claim 11 recites:

A system for tracking goal progression, the system comprising:

a server that communicates with communications devices through a transceiver utilizing one or more networks, the server includes a processor that executes a client management program to;

receive input establishing accounts for providers serving clients, wherein the clients are individuals receiving treatment or assistance, and wherein the accounts are stored in a server available through one or more networks;

create fields required for compiling data associated with the treatment or assistance of each of the clients from the providers;

assign each of the clients to one or more of the providers in response to selections from an administrator, wherein the one or more of the providers include at least individuals available to treat or assist the client;

establish desired outcomes for each of the clients based on treatment and assistance required to meet the desired outcomes, wherein one or more thresholds indicates whether the desired outcomes are met;

compile data associated with at least performance of the desired outcomes by each of the clients received from the providers utilizing computing or communications devices in communication with the server;

automatically determine whether 1) the desired outcomes are being met in response to rules governing data analysis that are utilized based on the compiled data, and 2) the compiled data varies from one or more thresholds to become significant for one or more of the clients; and automatically communicate alerts in response to the compiled data varying from the one or more thresholds to become significant for the one or more of the clients;

a database in communication with the server configured to store the data and information associated with the clients and the providers.

The '142 Instituted Claims: Claims 12, 13 and 14

Claim 12 recites:

The system according to claim **11**, wherein the database is a relational database management system performing data mining to analyze the data from the providers to associate best practices with each of the clients.

Claim 13 recites:

The system according to claim **11** wherein the server is configured to recommend one or more best practices to the plurality of providers in response to the data of the clients being associated with the best practices.

Claim 14 recites:

The system according to claim **11**, wherein the server further establishes the desired outcomes for the client utilizing a wizard application including at least a main heading, a start date, a projected closure date, and a desired outcomes description.

The '142 Instituted Claims: Claim 16

Claim 16 recites:

A controller comprising:

a processor for executing a set of instructions; and

a memory for storing the set of instructions, wherein the set of instructions are executed by the processor to:

receive input establishing accounts for providers serving clients, wherein the clients are individuals receiving treatment or assistance, and wherein the accounts are stored in a server available through one or more networks;

create fields required for compiling data associated with the treatment or assistance of each of the clients from the providers;

assign each of the clients to one or more of the providers in response to selections from an administrator wherein the one or more of the providers include at least individuals available to treat or assist the client;

establish desired outcomes for each of the clients based on treatment and assistance required to meet the desired outcomes, wherein one or more thresholds indicates whether the desired outcomes are met;

compile data associated with at least performance of the desired outcomes by each of the clients received from the providers utilizing computing or communications devices in communication with the server;

automatically determine whether 1) the desired outcomes are being met in response to rules governing data analysis that are utilized based on the compiled data, and 2) the compiled data varies from one or more thresholds to become significant for one or more of the clients; and

automatically communicate alerts in response to the compiled data varying from the one or more thresholds to become significant for the one or more of the clients.

The '142 Instituted Claims: Claims 17 and 18

Claim 17 recites:

The server according to claim **16**, wherein the data includes at least intervention plans, desired outcomes and objectives, recorded activities, and general notes.

Claim 18 recites:

The server according to claim **16**, wherein the set of instructions are further executed to:
recommend best practices to the providers in response to historic success with the clients.

The '142 Instituted Claims: Claim 20

Claim 20 recites:

The controller according to claim **16**, wherein the controller is accessible by a plurality of mobile devices, a plurality of computing devices, and a web interface.

'554: ALL CLAIMS

“[determining/determine’], by the one or more providers, treatment and assistance for the client, which is used for [establishing/to establish] goals, a plan of action, and thresholds for the client”

The Claims Separately Recite a “Plan of Action,” “Goals” and “Thresholds”

- **All claims recite:** “[determining/determine’], by the one or more providers, treatment and assistance for the client, which is used for [establishing/to establish] **goals**, a **plan of action**, and **thresholds** for the client, wherein the thresholds represent certain points of progress towards the goals.”
- **Becton Presumption:** “Where a claim lists elements separately, as done here, there is ‘a presumption that those components are distinct.’”

Becton Presumption Applies to the Separately-Recited “Plan of Action,” “Goals” and “Thresholds”

- **Step 1:** evaluate the applicability and effect of the claim construction principle, reiterated in *Becton*, that explains “[w]here a claim lists elements separately, the clear implication of the claim language is that those elements are distinct components of the patented invention.” *Regeneron Pharms., Inc. v. Mylan Pharms. Inc.*, 130 F.4th 1372, 1377 (Fed. Cir. 2025) (citations omitted).
 - A “plan of action,” “goals,” and “thresholds” are separately recited in all Challenged Claims.

Intrinsic Evidence Does Not Overcome *Becton* Presumption as to the Separately-Recited “Plan of Action,” “Goals” and “Thresholds”

- **Step 2:** “consider[] whether the evidence overcame ‘the clear implication’ of separateness under *Becton*.”
Regeneron, 130 F.4th at 1377.

- The specification recites goals and a plan of action separately.

in response to selections from an administrator. **Goals** and a **plan of action** are established for the client in response to treatments and assistance required. Data associated with the

- ‘554 patent at abstract.

Intrinsic Evidence Does Not Overcome *Becton* Presumption as to the Separately-Recited “Plan of Action,” “Goals” and “Thresholds”

- **Step 2:** “consider[] whether the evidence overcame ‘the clear implication’ of separateness under *Becton*.” *Regeneron*, 130 F.4th at 1377.
 - The specification recites goals, plan of action, and thresholds separately.

7. The method according to claim 1, further comprising: establishing the **goals** and the **plan of action** for the client utilizing goal creating and tracking software, wherein the data, **goals**, **plan of action**, compiled data, and **thresholds** are associated with the account of the client.

- ‘554 patent at claim 7.

Becton Separateness Applies Unless Evidence to “Overcome the Clear Implication of Separateness under *Becton*”

- *Kyocera Senco Indus. Tools Inc. v. Int’l Trade Comm’n*, 22 F.4th 1369, 1382-83 (Fed. Cir. 2022)
 - Applying *Becton* separateness even though the written description contained two **embodiments**, one of which was **not claimed when applying *Becton* separateness**.
- *Comcast Cable Commc’ns, LLC v. Promptu Sys. Corp.*, 838 F. App’x 551, 553 (Fed. Cir. 2021)
 - **Applying *Becton* separateness** to a “speech recognition system” and “wireless node” when the specification “contains an **embodiment where a speech recognition system is ‘in’ a wireline node, [but] also describes an embodiment with a speech recognition system ‘near’ a wireline node.**”

Becton Separateness = Separately Identifiable and Cannot Coexist as the Same Element, But Not Wholly Distinct

- *Becton, Dickinson & Co. v. Tyco Healthcare Grp., LP*, 616 F.3d 1249, 1253–54 (Fed. Cir. 2010)
 - Reversing construction of a “**spring means connected to said hinged arm** for urging said guard along said needle cannula” where construction failed to “require a **spring means that was a distinct structural element from the hinged arm.**”
- *Comcast Cable Commc'ns, LLC v. Promptu Sys. Corp.*, 838 F. App'x 551, 553 (Fed. Cir. 2021)
 - Affirming the Board's construction that “a **speech recognition system coupled to a wireless node**” requires “that the ‘speech recognition system’ and ‘wireline node’ be **distinct elements**,” even though they are coupled together.

The Petition Conflates “Plan of Action,” “Goals” and “Thresholds”

- The Petition’s identification of Douglas’s overall “therapeutic program” as the claimed plan of action maps goals as a subset of the plan of action:

and 6; Bergeron at ¶ 70. The claimed plan of action is met by Douglas’s overall “therapeutic program” that includes the above goals. Douglas at 7:5-8:13; see *also*

– ‘554 Petition at 25-26.

So. Douglas at 8:12-13; Bergeron at ¶ 65. Indeed, Douglas’s program provides “goals 52,” one month goals 61,” and “final goals 62” for, e.g., weight loss, smoking cessation, reduction of alcohol consumption, and dietary improvements.

– ‘554 Petition at 23-24.

'554 AND '142: ALL CLAIMS

“assigning each of the clients to one or more of the providers in response to selections from an administrator”

Douglas Does Not Disclose “Assign[ing]” in Response to “Selections” from the Administrator

- Claims require “assign[/ing] the client to one or more of providers *in response to* selections from the administrator, wherein the one or more providers include at least individuals available to treat or assist the client.”
- “Assignment” and “selection” are mapped to the same step in Douglas:
 - Petitioner argues “assignment” of the client to a provider is satisfied by the administrator’s “entering the patient prescription form” into Douglas’s system.
 - Petitioner claims the inputs of information from the prescription form (e.g., by “double tapping”) by the case administrator is the claimed “selection.”

The Petition Does Not Separately Map “Assign[ing]” and “Selections” as Petitioner Contends

A POSITA would have understood Douglas’s disclosure of the administrator entering this patient-physician information from the patient prescription form to be disclosure of the administrator’s assignment of the patient to the physician within Douglas’s system. Bergeron at ¶ 66.

Additionally, by entering the patient prescription form, the case administrator’s assignments of the patients to the physicians constitute the administrator’s selections of each of the patients and of the physician to be assigned to that patient. Bergeron at ¶ 68.

Douglas Does Not Disclose “Assign[ing]” in Response to “Selections” from the Administrator

- If the entry of the patient prescription form by the administrator into Douglas’s system is both “assigning” and “selecting,” one cannot be done “in response to” the other as the claims require.
- “Where a claim lists elements separately, as done here, there is ‘a presumption that those components are distinct.’” *Barrday, Inc. v. Lincoln Fabrics Inc.*, No. 2022-1903, 2023 WL 7871688, at *4 (Fed. Cir. Nov. 16, 2023) (quoting *Kyocera Senco Indus. Tools Inc. v. Int’l Trade Comm’n*, 22 F.4th 1369, 1382 (Fed. Cir. 2022)).

Douglas's Prescription Form Is a Paper Form Filled in by Physician

HeartLand Prescription Form Fig 2

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Patient Name	Patient ID	Date	Physician Name	Physician ID
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1. Fill in diagnosis:

Patient Diagnosis	Co-morbid Diagnosis
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2. Circle a diagnostic category:

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Category	Diagnosis	Level 1 (mos.)	Level 2 (mos.)	Level 3 (mos.)	Health and Wellness
I	Current year MI survivor	3	3	6	Contin.>12th month
II	Current year alt. to PTCA or CABG	3	3	6	Contin.>12th month
III	Current year diagnosed CAD	3	3	6	Contin.>12th month
IV	All diagnosed Angina	3	3	6	Contin.>12th month
V	Prior years' post MI/surgical-High Risk	3	3	6	Contin.>12th month
VI	Prior years' post MI/surgical-Low Risk	1	1	10	Contin.>12th month
VII	2 or more Risk factors	0	2	4	Contin.>6th month
VIII	Health and Wellness	0	0	0	Continuous

3. Please circle as appropriate:

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Does the patient need smoking cessation? Yes No

Have you prescribed nicotine patch or gum? Yes No

Does the patient need weight reduction? Yes No If yes, target weight: _____

4. What are patient's current and prescribed medications?

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Medication	Standard Dosage	Comments/Changes
HCTZ	25 mg	
Atenolol	50 mg	
Lisinopril	20 mg	
Atorvastatin	20 mg	
Lovastatin	20 mg	
Antioxidant: Vitamin E	400 IU	
Antioxidant: Vitamin C	500 mg	
Other:		
Other:		
Other:		

5. Circle or fill in desired 3-month targets:

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	1200	1500	2000	2500	3000
Daily calories					
Sat Fat Grams	<15	15	18	20	25
Pet Fat Cal	10%	15%	20%	25%	30%
Exercise (Frog/w/RPE)	20/5x/3	30/5x/4	45/5x/5	50/5x/6	60/5x/7
Max Heart Rate					
Stress Reduction Needs	Low Need	Some	Definite	High	Very High
Lipid Level Target					
Total Cholesterol	140	150	175	200	<225
LDL	60	70	80	<100	<125
HDL	35	37	39	41	>42

Physician's Signature: _____ Telephone: _____

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'554: CLAIMS 13-16
'142: CLAIMS 11-16

Claim 13 ('554)/11 ('142): “database in communication with the server configured to store the data, goals, plan of action, compiled data, and thresholds with the account associated with the client and the one or more providers ”

The Petition Did Not Allege that Douglas Discloses a “Database in Communication with the Server” as Claim 13 ('554 Patent)/Claim 11 ('142 Patent) Recites

- Claim 13 (11 in '142 patent) recites a system comprising a database **in communication with** the server:

13. A system for tracking goal progression, the system comprising: ...
a **database in communication with the server** configured to store the data, goals, plan of action, compiled data, and thresholds with the account associated with the client and the one or more providers.

- The Petition merely alleged that the server **includes** a database:

Douglas discloses that **network server 508 includes “one or more relational databases”** 522 (such as SQL) that contain all the health plan data” as well as “[a]ll the information needed by a user of the system.” Douglas at 24:28-37; Bergeron at

'554: CLAIMS 17-20
'142: CLAIMS 16-10

**Claim 17 ('554)/16 ('142): “a processor for
executing a set of instructions”**

The Petition Did Not Allege that Douglas Discloses a “Processor for Executing a Set of Instructions” as Claim 17 ('554 Patent)/Claim 16 ('142 Patent) Recites

- Claim 17 (16 in '142 patent) recites a processor for executing a set of instructions:

17. A server comprising:
a processor for executing a set of instructions; and

16. A controller comprising:
a processor for executing a set of instructions; and

The Petition Did Not Allege that Douglas Discloses a “Processor for Executing a Set of Instructions” as Claim 17 ('554 Patent)/Claim 16 ('142 Patent) Recites

- The Petition relies only on its analysis for a prior claim that does not contain the “a set of instructions” limitation:

Douglas discloses or renders obvious a processor within network server 508 for executing a set of instructions for implementing Douglas’s system. See **Section VIII.A.9(b) (Limitation 13[a])**.

(b) *Limitation 13[a]: a server communicates with communications devices through a transceiver utilizing one or more networks, the server includes a processor that executes a client management program to:*

The Petition Did Not Allege that Douglas Discloses a “Processor for Executing a Set of Instructions” as Claim 17 (’554 Patent)/Claim 16 (’142 Patent) Recites

- The Petition’s claim element 13(a) citation to Douglas at 5:22-25 does not state that Douglas discloses a “processor for executing a set of instructions:

Douglas further discloses a client management program, specifically, Douglas’s “therapeutic behavior modification program’s compliance monitoring and feedback system.” Douglas at 5:22-25, FIGs. 59 and 60; Bergeron at ¶ 93. That

Douglas at
5:22-25

FIG. 59 is a block diagram of the therapeutic behavior modification program’s compliance monitoring and feedback system; and

FIG. 60 is a flow diagram illustrating certain aspects of the therapeutic behavior modification program’s compliance monitoring and feedback system.

**'554: CLAIMS 6 AND 13
'142: CLAIMS 2 AND 11**

Claim 6 ('554)/2 ('142): “client management program is executed by the computing or communication devices”

Douglas Cannot Disclose Both Claims 6 and 13 ('554 Patent)/Claims 2 and 11 ('142 Patent)

- Claims 6/13 (2/11 in '142 patent) recite the client management program being executed by a processor on the server or the computing/communications devices, respectively.

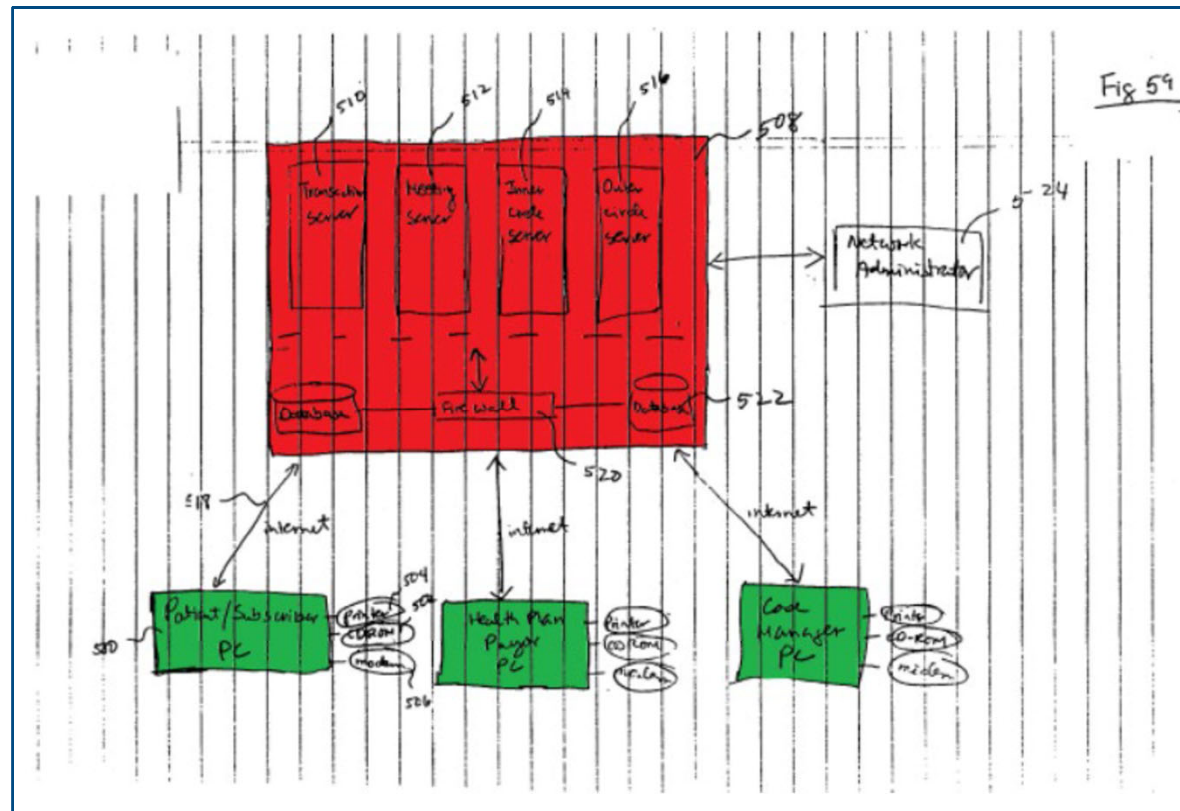
13. A system for tracking goal progression, the system comprising:

a server communicates with communications devices through a transceiver utilizing one or more networks, the server includes a processor that executes a client management program to:

6. The method according to claim 1, wherein the server is accessed through a cloud network, and wherein a client management program is executed by the computing or communications devices is utilized to receive the data and track progress of the goals.

Petitioner Relies on Douglas for Claim 11/12 Server Including a Processor that Executes a Client Management Program

- Petitioner alleges that Douglas's PCs 500 (green) are used by physicians to transmit patient data to the network server (red).



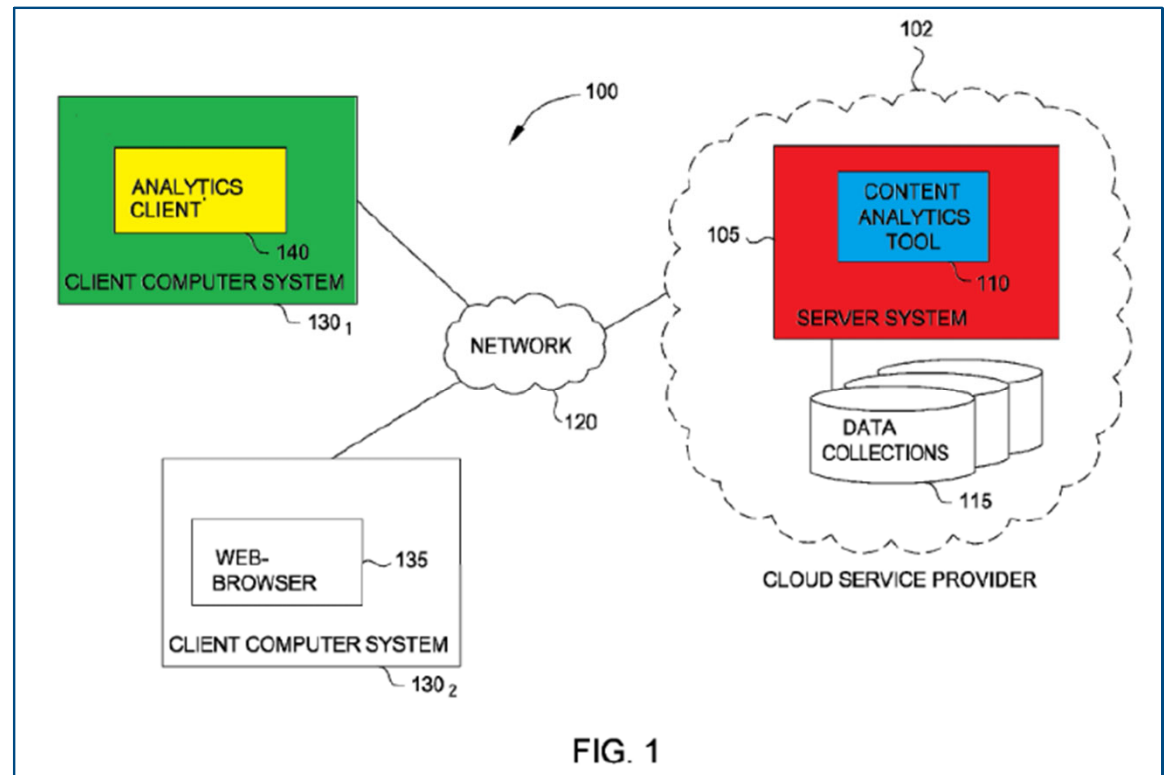
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'554 POR at 31-32; '554 Sur-Reply at 10-14; '554 Petition at 41, 62.

DEMONSTRATIVE EXHIBIT - NOT EVIDENCE

Petitioner's Reliance on Chitiveli for Claim 6/2 Does Not Remove Execution of Client Management Program from Server

- Chitiveli, like Douglas, discloses a server (red) that executes its program—the content analytics tool (blue—and the analytics client (yellow) contained on the client computer system (green) communicates to the content analytics tool on Chitiveli's server through cloud network 120.



'554: CLAIM 10
'142: CLAIM 7

“determining whether the data required is received from each of the providers” and “sending an alert to one or more providers in response to determining there is missing data for one or more clients associated with the one or more providers”

The Petition Suffers from a Failure of Proof

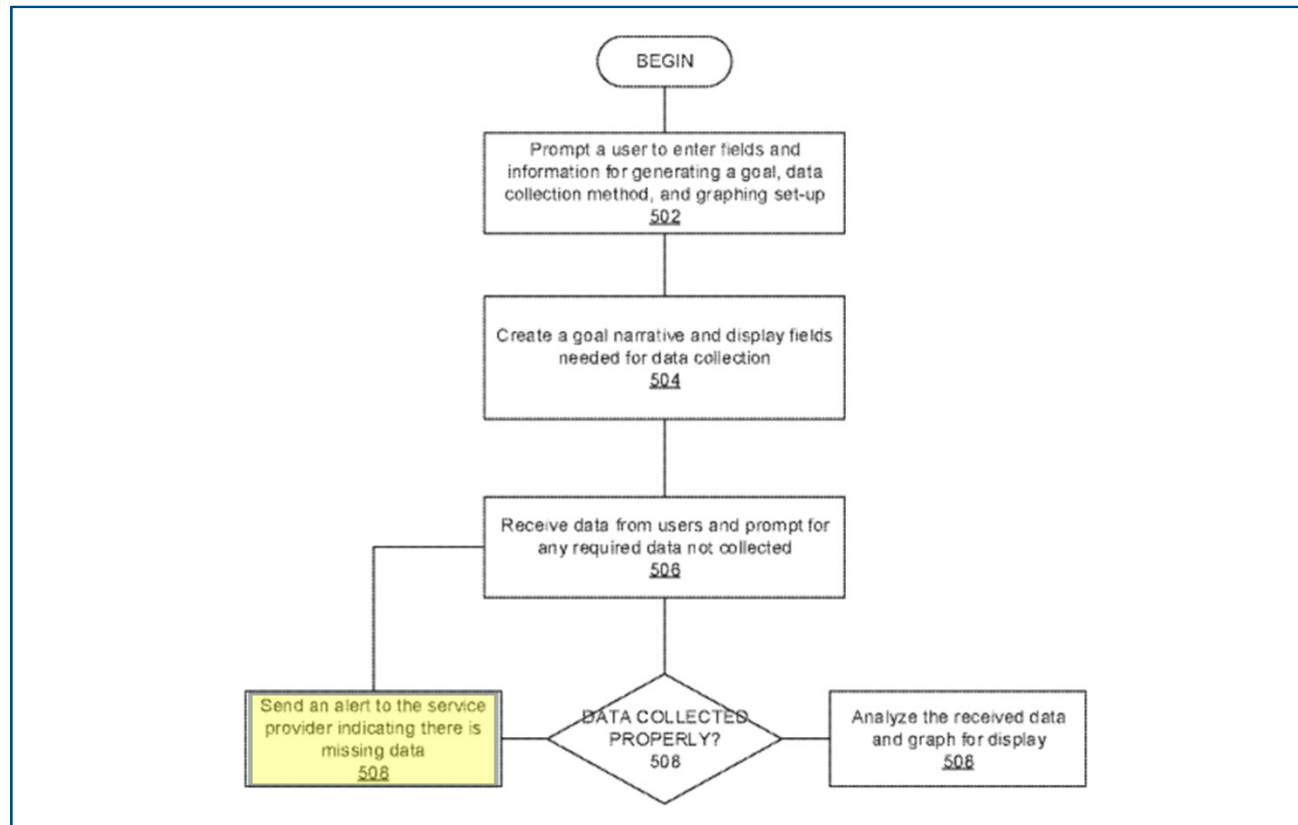
This is the entirety of Petitioner's proof for this claim:

Douglas discloses sending an “alert” to a client’s provider should the client’s data indicate a “threatening” situation. *See* Sections VIII.A.2(g)-VIII.A.2(h) (Limitations 1[f]-1[g]); Bergeron at ¶ 101. Given that client data may indicate a “threatening” or “potentially dangerous” situation (Douglas at 11:11-19), it would have been obvious for Douglas’s system to determine whether client data was missing and, if so, send an alert to the provider associated with the client. Bergeron at ¶ 101. Doing so would have encouraged the provider to enter the missing data (*see* Section VIII.A.2(f) (Limitation 1[e])), thereby allowing Douglas’s system to identify (and potentially uncover) a threatening or potentially dangerous situation indicated by the data. Bergeron at ¶ 101.

The Petition Suffers from a Failure of Proof

- The Petition never alleges that Douglas discloses the claimed “determin[ation]” of whether the data is received ***from each of the providers.***
- Even where Douglas discloses accepting updated patient ***from the patient directly,*** such input is merely permitted, not required.
- Douglas does not indicate that it tracks provider-specific data completeness.

The Specification Describes Sending Alerts to Providers for Missing Data



Petitioner Concedes No Alarm Is Sent for Missing Provider Data

- Petitioner's obviousness argument fails because even where Douglas discloses accepting updated patient *from the patient*, such input is merely permitted, not required.
- No suggestion in Douglas that missing provider data is noteworthy, let alone significant enough to trigger an alarm.
- Douglas does not provide framework or logic for handling missing data as an actionable condition.
- Implementing this functionality would require modification to Douglas's architecture and operation—with no motivation for doing so.

'142: CLAIM 6

**“wherein the data includes at least
intervention plans, desired outcomes and
objectives, recorded activities, and general
notes”**

Claim 6's "Data" Is "the Data" from Claim 1

- Claim 6's "data" must:
 - Be "associated with at least performance of the desired outcomes by each of the clients" (per claim 1)
 - Be "compiled" (per claim 1)
 - Be "received from the providers utilizing computing or communication devices in communication with the server" (per claim 1)
 - Include "at least intervention plans, desired outcomes and objectives, recorded activities, and general notes (per claim 6)

Douglas Does Not Disclose that the Data Identified by Petitioner Is Received from Providers

- The “data” identified in the Petition for claim 6 is not disclosed by Douglas as being received from providers utilizing computing or communications devices in communication with the server:
 - Positive intervention plans (Douglas at 16:15-25)
 - Exercise and stress management programs (Douglas at 16:32-35)
 - Negative interventions (e.g., notifications sent *to* physicians) (Douglas at 11:18-12:2)
 - Goals 51, 61, and 62 and patient health data (Douglas at Fig. 6)
 - Comments/changes (Douglas at Fig. 2)

'142: CLAIM 10

**“prompting the providers to provide data
associated with assigned clients”**

The Specification Describes an Embodiment of “Prompting” a User to Provide Data

In one embodiment, the process may begin by prompting a user to enter fields and information for generating a goal, data collection method, and graphing set-up (step 502). For example, a series of probes or questions may guide the user through completing fields that may generate the goal/objective narrative, data collection method set up, and graphing setup schedule. Step 502 may help ensure all elements are included in the goal/objective narrative to make specific, objective, and measurable goals. The process may also ensure information is entered to define how the process facilitates data collection, graph set-up, graph scheduling, and alert/notifications associated with these processes.

'142: CLAIMS 3, 4, AND 14

**“wizard application” and
“projected closure date”**

The Specification Describes an Embodiment of the “Wizard” Functionality

In one embodiment, by choosing a heading, the service providers **216** may be presented with information for specific goals and objectives **226**. For example, in a behavioral health field, the goals and objectives **226** may include areas, such as coping skills, fine motor skills, and physical aggression. The user may utilize a goal wizard or management function to be able to enter headings as well as detailed descriptions or narratives associated with each heading in a hierarchical format. For example, each of the goals and objectives 236 may include a main heading, a start date, a projected closure date, a goal description, a goal narrative, a lead service provider, a data collection method, email notifications (e.g., for individual users associated with the specific client or information for the client), function, and options. Goals may be opened and closed out at any time and may be viewed in separate files, such as active and archived.

Douglas's Figures Do Not Disclose Any "Wizard Application"

HeartLand 68 Fig 4

Administration — HeartLand Provider/Case Advisor

File Edit View Insert Format Tools Table Window Help MAIN MENU BACK

HeartLand Health Assessment Review HINT: CLICK ON CATEGORY SEE DETAIL

SCREEN 1 OF 3

PATIENT STATUS & GOALS: DETAILS		Now 2/10/98	1 month Goal	GOALS
Name / D.O.B.	Fred Smith 2-5-49			
Starting Date	2/1/98			
Heartland I.D.	23-642			
Height / Sex	5'9" Male			
Weight	193	182		
BMI	28.28	28.28		
Smoke	.5 Packs/Day	.5		
Physical Activity	0 / 0 / 0 minutes / x-week / RPE	20 / 3 / 3		
Alcohol	2 Average Drinks per Day	2		
Eating Habits	40 % Fiber/Complex Carb Intake	80		
	40 % Fatty Food Intake	20		
	40 % Fatty Dairy Intake	20		
Calories	3,600	3,300		
Fat Calories & %	45%	1,500		
Cholesterol - LDL	142	140 mg/dl		
Cholesterol - HDL	35	37 mg/dl		
Cholesterol	246 mg/dl	225		
Resting Pulse Rate	88 Beats Per Minute	68		
Stress	8.6 Scale of 1 to 10 (10 being high stress)	7.0		
Depression	Scale of 1 to 10 (10 being greatest)	10		
Blood Pressure	140/100 systolic/diastolic	140/100		
Seatbelt Use	30 percent of time	60		
Back Pain	Incidents per month	3		
Pharmaceuticals				
- aspirin	325 mg	325 mg/day		
- hydrochlorothzid.	12.5 mg	12.5 mg/day		
- Lovastatin	20 mg	20 mg/day		

EDIT DESIGN 50

S | D '142 POR at 22-25; '142 Sur-Reply at 4-5.

DEMONSTRATIVE EXHIBIT - NOT EVIDENCE

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Douglas's Figures Do Not Disclose Any "Wizard Application"

Heartland 69 Fig 5

Administration — Heartland Provider/Case Advisor

File Edit View Insert Format Tools Table Window Help MAIN MENU RACK PREVIEW/EDIT PATIENT PROGRAM

Heartland Health Assessment Review HINT: CLICK BOX TO DESIGN PROGRAM

SCREEN 2 OF 3

Design a new program for: Fred Smith Date: 3/10/98

Heartland I.D. #: 23-642 Social Security #: 213-48-3947

INITIAL SCALE

51 ~

	LOW	1	2	3	4	HIGH
DIET	☐	☐	☒	☐	☐	☐
EXERCISE	☐	☐	☐	☒	☐	☐
STRESS MANAGEMENT	☐	☒	☐	☐	☐	☐
GROUP SUPPORT	☐	☐	☒	☐	☐	☐
DRUGS	☐	☐	☐	☐	☐	☐
COMPLIANCE	☐	☐	☐	☒	☐	☐

Based on your input, Heartland suggests the following program and goals for: Fred Smith

52 ~

Diet	15%	Calories From Fat
Exercise	3/4 4	hr days per week
Stress Management	1/2 7	hr days per week
Group Support	1/2 5	hr days per week
Compliance Mgt. Freq.	4	times per Month
Smoking		Cessation
Drug -aspirin	325	
Drug -hydrochlorothzid.	12.5	mg/da
Drug -Lovastatin	20	

Program Detail ~ 54

Douglas's Figures Do Not Disclose Any "Wizard Application"

HeartLand 70 *Fig 6*

Administration — HeartLand Provider/Case Advisor

File Edit View Insert Format Tools Table Window Help MAIN MENU BACK

HeartLand Health Assessment Review HINT: CLICK ON CATEGORY SEE DETAIL

SCREEN 3 OF 3

Based on your input, here is HeartLand's recommended program for: Fred Smith
Use the buttons to confirm or edit this program. *61*

PATIENT STATUS & GOALS: DETAILS		Now 2/10/98	1 month Goal	GOALS
Name / D.O.B.	Fred Smith 2-5-49			
Starting Date	2/1/98			
Heartland I.D.	23-642			
Height / Sex	6'9" Male			
Weight	193	182	175	170
BMI	28.28	28.28	26.64	25.00
Smoke	.5 Packs/Day	.5	0	0
Physical Activity	0 / 0 / 0 minutes / x-week / RPE	20 / 3 / 3	25 / 6 / 4	4 / 6 / 8
Alcohol	2 Average Drinks per Day	2	1	1
Eating Habits	40 %Fiber/Complex Carb Intake	60	70	80
	40 %Fatty Food Intake	20	20	15
	40 %Fatty Dairy Intake	20	10	5
Calories	3,600	3,300	3,100	2,800
Fat Calories & %	45%	45%	20%	15%
Cholesterol - LDL	142	140 mg/dl	125 mg/dl	100 mg/dl
Cholesterol - HDL	35	37 mg/dl	39 mg/dl	45 mg/dl
Cholesterol	246 mg/dl	225	210	190
Resting Pulse Rate	88 Beats Per Minute	65	65	79
Stress	8.5 Scale of 1 to 10 (10 being high stress)	7.0	6.0	3.5
Depression	Scale of 1 to 10 (10 being greatest)	10	6	0
Blood Pressure	140/100 systolic/diastolic	140/100	130/90	130/90
Seatbelt Use	30 percent of time	60	75	100
Back Pain	Incidents per month	3	2	0
Pharmaceuticals				
- aspirin	325 mg	325 mg/day	325 mg/day	325 mg/day
- hydrochlorothzid.	12.5 mg	12.5 mg/day	12.5 mg/day	0 mg/day
- Lovastatin	20 mg	20 mg/day	20 mg/day	0 mg/day

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CONFIRM *63*

EDIT *64*

OPTIONS...

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S | D '142 POR at 25-28; '142 Sur-Reply at 4-5.

DEMONSTRATIVE EXHIBIT - NOT EVIDENCE

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The “Projected Closure Date” Is the Date at Which the Goal Will End

The duration may be a length measure in time or a number of times an activity is performed at the mastery level or goal is reached. A projected closure date is the date at which the goal will end. The projected closure date is utilized to keep users and clients focused on reaching a designated goal in a reasonable time period. For example, depending upon procedural and regulatory parameters, a projected closure date may be pre-determined (e.g., one year) or may be set by user or agent specification of timeline (e.g., organizational key performance indicators may be set annually).

Douglas's Figure 6 Does Not Disclose Any "Projected Closure Date"

PATIENT STATUS & GOALS: DETAILS			Now 2/10/98	1 month Goal	GOALS
Name / D.O.B.	Fred Smith 2-5-49				
Starting Date	2/1/98				
Heartland I.D.	23-642				
Height / Sex	6'9" Male				
Weight	193		182	175	170
BMI	28.28		28.28	25.64	25.00
Smoke	.5 Packs/Day		.5	0	0
Physical Activity	0 / 0 / 0 minutes / x-week / RPE		20 / 3 / 3	25 / 6 / 4	4 / 6 / 8
Alcohol	2 Average Drinks per Day		2	1	1
Eating Habits	40 %Fiber/Cmplx Carb Intake		60	70	80
	40 %Fatty Food Intake		20	20	15
	40 %Fatty Dairy Intake		20	10	5
Calories	3,600		3,300	3,100	2,800
Fat Calories & %	45%		45%	20%	15%
Cholesterol - LDL	142		140 mg/dl	125 mg/dl	100 mg/dl
Cholesterol - HDL	35		37 mg/dl	39 mg/dl	45 mg/dl
Cholesterol	246 ml/dl		226	210	190
Resting Pulse Rate	88 Beats Per Minute		68	65	79
Stress	8.5 Scale of 1 to 10 (10 being high stress)		7.0	6.0	3.5
Depression	Scale of 1 to 10 (10 being greatest)		10	6	0
Blood Pressure	140/100 systolic/diastolic		140/100	130/90	130/90
Seatbelt Use	30 percent of time		60	75	100
Back Pain	Incidents per month		3	2	0
Pharmaceuticals					
- aspirin	325 mg		325 mg/da	325 mg/da	325 mg/da
- hydrochlorothz d.	12.5 mg		12.5 mg/da	12.5 mg/da	0 mg/da
- Lovastatin	20 mg		20 mg/da	20 mg/da	0 mg/da

S | D '142 POR at 22-25; '142 Sur-Reply at 4-5. DEMONSTRATIVE EXHIBIT - NOT EVIDENCE

Petitioner's Expert Confirmed Douglas's One-Month Goals Are Not Final

Q. The goals identified in Column 61 do not represent the final goals, correct?

A. That's correct.

Q. The goals identified in Column 61 represent intermediate one month goals, correct?

A. Correct.

Petitioner's Expert Confirmed Douglas's One-Month Goals Are Not Final

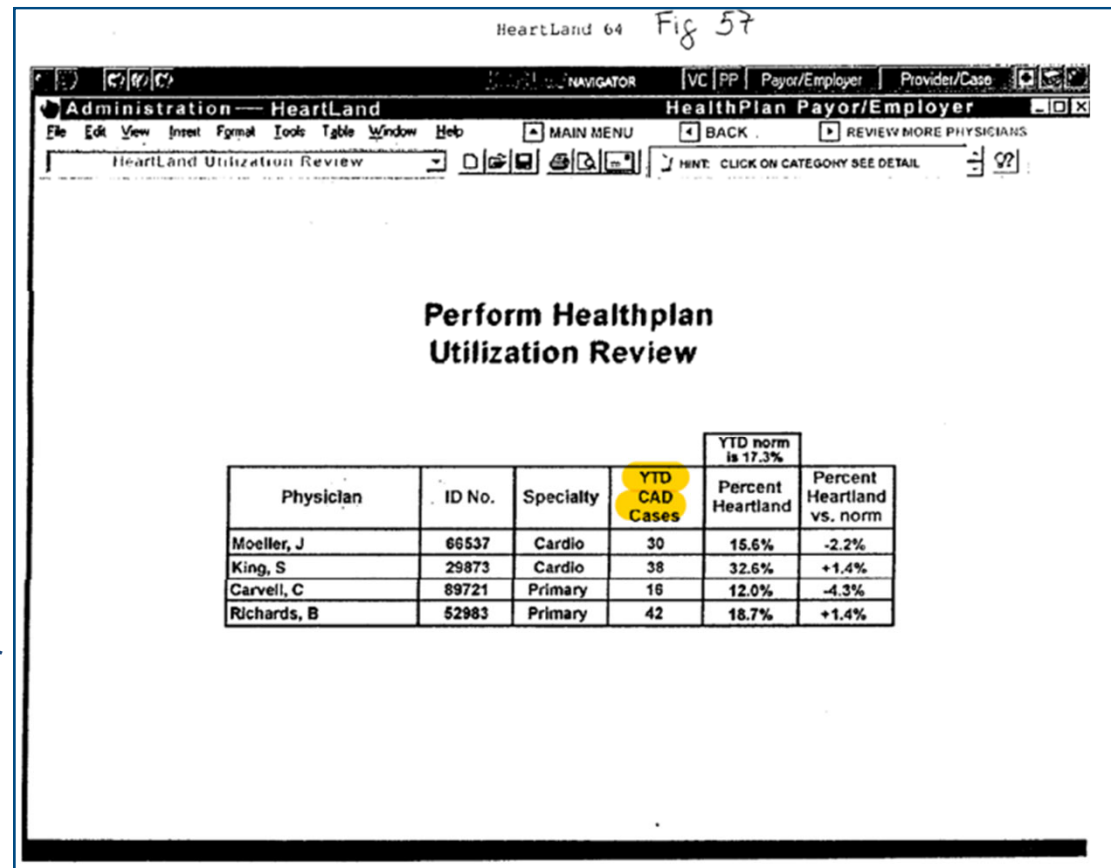
Q. [Y]ou would agree that the program in Figure 6 envisions Douglas's plan continuing past one month, correct?

A. Correct.

**'554 AND '142: NO MOTIVATION TO
COMBINE DOUGLAS AND WAGER**

Douglas Does Not Demonstrate a Need for Redistributing Patients

- Petitioner claims that Douglas shows a need for redistributing patients that Wager addresses, but:
 - Mischaracterizes the YTD CAD Cases in Douglas's Fig. 57 as showing unbalanced case loads, rather than merely the year-to-date coronary artery disease cases (whether open or closed), without regard to each physician's current or total caseload.



Douglas Does Not Demonstrate a Need for Redistributing Patients, Cont'd.

- Petitioner's expert agrees that Douglas's Fig. 57 does not provide overall caseload data:

Q: So based on Figure 57, you would – of Douglas, you would not be able to tell the current case load of any of the listed physicians, correct?

A: Current case load. The current case load it could be – **current case load is not on this list on any of these columns**. It would depend how you – how you define, usually, cases. So a **case would be either – either define cases as in process or completed**. And so – so I'm not sure why but – so again, for each of these cases – so in this list, Mueller or Moeller had 30 cases this year to date; King had 38; Carvell had 16 and Richards had 42.

Q: And those numbers you just listed are the **year to date coronary artery disease cases** for each of those patients – or each of those physicians, correct?

A: **Correct.**

Q: But **there's no indication on how many non-coronary artery disease year to date cases any of these physicians listed in Figure 57 have, correct?**

A: **Correct.**

Douglas Does Not Demonstrate a Need for Generating Patient-to-Care Provider Assignments

- In Douglas, patients are subscribed to the system only after they have selected and seen their own physician:

The physician can then place the patient on the system to help him or her make these desirable or necessary lifestyle and behavior modifications. In order to subscribe the patient to the system, his or her baseline vital factors are entered. Such factors may include blood pressure readings, heart rate, height, weight, and cholesterol levels. Depending on whether the doctor is on-line (block 1000, FIG. 60), The doctor may input these vital factors into the system directly via his or her personal computer (block 1002, FIG. 60). Alternatively, the physician may fill out a prescription form and send the information to a case advisor, who then sets the patient up on the system (blocks 1004, 1006 and 1008, FIG. 60).

A POSA Would Not Be Motivated to Reassign Patients from their Chosen Provider

Results for our sample show a significant association between the patient-physician relationship and patients' adherence to their physician's medical recommendations and healthy eating behavior. Strength of the relationship matters. Patients' trust in

Most patients want a strong relationship with a primary doctor.^{1,21,47,48} The vulnerability and dependency inherent in being ill and at a knowledge disadvantage, the necessity of revealing personal information, and the sheer importance of the service make finding—and keeping—a “good doctor” a consumer priority. Litera-

A POSA Would Not Be Motivated to Reassign Patients from their Chosen Provider

There is a lot of evidence that a good relationship with a freely chosen primary care doctor, preferably over several years, is associated with better, more appropriate care, better health and much lower healthcare costs.¹¹ These advantages come from the trust that builds up through relationship continuity.

GPs are key to the future of the NHS because they are trusted by their patients. ... trust reinforced through continuity of care directly improves healthcare outcomes.

GPs understand the complex set of circumstances that accompany individuals and their healthcare history. It is through their professional training and a relationship built on trust and continuity that GPs act as gatekeepers to other NHS services. This saves the NHS money by preventing wasted out-patient assessments, unnecessary investigations and hospital admissions.

S | D

¹¹554 POR at 36-46; ¹¹554 Sur-Reply at 21-24; Ex. 2003 at 6, 11-12.

DEMONSTRATIVE EXHIBIT - NOT EVIDENCE

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A POSA Would Not Be Motivated to Reassign Patients Recovering from Surgery from their Chosen Provider for On-Going Support

modification, including changes to diet, exercise patterns, and stress levels. Patients who are recovering from a surgical procedure such as heart bypass surgery or are suffering from diabetes, for example, must often make lifestyle changes in order to survive.

When individuals are successful in making and adhering to positive lifestyle changes, they frequently require fewer physician visits, go to the hospital less often, and have fewer surgeries. Long term medical costs go down accordingly.

At present, many programs for helping patients make lifestyle changes involve a doctor's visit and distribution of a brochure describing the health benefits of behavior modification and lifestyle change. This method is often ineffective in modifying behavior because there is little or nothing in the way of an on-going support mechanism to assist the patient in complying with recommendations, insufficient means for motivating the patient to make recommended changes, and insufficient means for monitoring compliance with such recommendations. Participation in an on-going support program is often effective for patients who have undergone surgery and must make subsequent lifestyle changes, but currently available in-person programs involve costly medical staff and facilities. It can also be inconvenient for the patient to travel to such

A POSA Would Understand that Reassignment ≠ Prompt, Quality Care

There may also be a problem when many doctors are involved. Those without a continuing relationship with a patient may assume that the usual doctor knows about, and will deal with, aspects of long-term care, when in fact no one takes responsibility for action until it becomes urgent. This has been called the Collusion of Anonymity^{46,47} and it still causes deaths.

When Catherine was 93 years' old, still living at home in an isolated village, she developed a rare, painful and serious skin condition.

Her GP did not know much about it but thought she recognised the condition. She sent photographs of the rash with the referral letter and, on the strength of that, Catherine was seen urgently by a dermatologist.

The dermatologist telephoned the GP to discuss the case and Catherine's management so that she could be cared for at home. He discussed the treatment, dosage regimes and other safeguards. He arranged for his specialist nurse to meet the district nurse to show her how to treat and dress the blisters.

A POSA Would Understand that New Assignments are Best Generated by Referrals

In order to deliver effective primary care GPs need to be expert generalists. Each consultation has exceptional power to manage healthcare costs, for example when the effective management of disease risk is negotiated, and when prescribing and referral decisions are made. GPs contribute to the safety of their patients' care by avoiding unnecessary and potentially harmful investigations and treatments. They also manage the uncertainty inherent in the early presentation of health problems by arranging expectant care. In addition, GPs act as gatekeepers for the patients' entry into more specialised care, using their expertise to direct patients to where they will receive the most benefit and at the right time.

**'554 AND '142: NO MOTIVATION TO
COMBINE DOUGLAS AND KOH**

A POSITA Would Not Have Been Motivated to Combine Douglas and Koh

- Petitioner stretches to combine Douglas and Koh, but:
 - Ignores that Douglas focuses on individualized patient engagement and compliance versus Koh’s exploration of potential applications for organizational data analysis
 - Does not establish that Douglas and Koh would be interoperable
 - The “Douglas-Koh” system is merely described as Douglas modified to generically use data mining to perform claims 5, 12, 13, and 18

Koh's Disclosure of Data Mining in Healthcare Is Largely Aspirational

- “There is vast potential for data mining applications in healthcare.” (Koh at 66.)
- “Data mining applications can be developed to evaluate the effectiveness of medical treatments.” (*Id.*)
- “To aid healthcare management, data mining applications can be developed to better identify and track chronic disease states and high risk patients, design appropriate interventions, and reduce the number of hospital admissions and claims.” (*Id.*)

Even if Combined, Douglas and Koh Still Do Not Disclose Claims 5, 12, or 13

Petitioner never alleges that any “best practice” would be recommended to providers or that any best practice would be “associated with a client assigned to the providers.”

The Petition Does Not Meaningfully Address the Requirements of Claim 18

Grounds 5 and 6: See Section VIII.D.4 (Claim 5). In the Douglas-Koh System, it would have been obvious for the processor executing Douglas's system, which is in network server 508 alongside Douglas's databases 522, to also execute data mining of that compiled data to protect the confidentiality of the compiled data as described in Section VIII.A.8(b) (Limitation 11[a]). Bergeron at ¶ 187. Further, in the Douglas-Koh System, that therapeutic program and modifications to the same reflected best practices determined to be historically successful through data mining. See Section VIII.D.4(a) (Limitation 5[a]); Bergeron at ¶ 187.

**'554 AND '142: NO DESCRIPTION OF
COMBINATION OF DOUGLAS + WAGER +
CHITIVELI/KLOTSCHKE/KOH/VIRGINIA**

The Petition Fails to Disclose its Proposed Combinations of Douglas + Wager + Chitiveli/Klotsche/Koh/Virginia

- For each combination relying on Douglas + Wager + a third reference, the Petition failed to explain Wager's role in the proposed combination.
- Petitioner's attempt to provide this explanation for the first time on Reply is not permitted under the law.
 - See *Intelligent Bio-Sys.*, at 1369 (“It is of the utmost importance that petitioners in the IPR proceedings adhere to the requirement that the initial petition identify ‘with particularity’ the ‘evidence that supports the grounds for the challenge to each claim...[T]he expedited nature of IPRs bring[s] with it an obligation for petitioners to make their case in their petition to institute. While the Board’s requirements are strict ones, they are requirements of which petitioners are aware when they seek to institute an IPR.”)

'142: VIRGINIA IS NOT ANALOGOUS ART

Virginia Fails Both the Field of Endeavor and Reasonably Pertinent Tests

In this Guide, we discuss the issues, challenges, and strategies that are involved in helping young people like Dan fully participate in society. Our focus in this guide is about what young people with autism can do and how to design the supports to expand opportunity and potential. Fortunately, we know that more persons like Dan are successfully served in the mainstream of school, (Kluth, 2003; NTLS, 2, 2007) work, (Wehman, Targett & Young, 2007) and the community (Wehman, Inge, Revell, & Brooke, 2007). Large companies like Walgreens are beginning to look seriously at hiring persons like Dan in their businesses (Merrick, Wall Street Journal, August 2, 2007). We know, however, that careful transition planning will be critical for young people like Dan to be successful in the community

The chapters in this Guide will describe how to help persons with autism move from adolescence to adulthood, and overcome the barriers that their disability presents. Growing up is hard enough for most teenagers; for those with autism, there are large additional barriers as well. But before we discuss transition, we must first understand what autism is.

The '142 Patent Addresses a Highly Specific Technological Problem

Illustrative embodiments provide a system, method, server, controller, and computer readable medium for tracking goal progression. Input establishing accounts for providers serving clients is received. Each of the clients is assigned to one or more of the providers in response to selections from an administrator. Goals are established for each of the clients in response to treatments and assistance required. Data associated with each of the clients received from the providers is compiled. A determination is made whether the goals are being met in response to rules based on the compiled data. Alerts are automatically communicated in response to the compiled data varying from a threshold to become significant for one or more of the clients. The illustrative embodiments also provide a computer, server, or controller including a processor and memory for performing the processes herein described and a computer readable medium including a non-transitory memory for tracking outcome specific data.

Another illustrative embodiments provide a system, method, server, controller, and computer readable medium for tracking outcome specific data. Input establishing accounts for providers serving clients is received. The accounts are stored in a server. Each of the clients is assigned to one or more of the providers in response to selections from an administrator. Data associated with each of the clients received from the providers is compiled utilizing computing or communications devices in communication with the server. The compiled data is presented visually, in graph form, in response to a user request. The illustrative embodiments also provide a computer or server including a processor and memory for performing the process herein described and a computer readable medium including a non-transitory memory for tracking outcome specific data.