

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

EMTEL, INC.

Plaintiff,

V.

NUPHYSICIA, INC., MEDAIRE, INC.,  
INTOUCH TECHNOLOGIES, INC. DBA  
INTOUCH HEALTH, AND REACH  
HEALTH, INC.

Defendants.

CIVIL ACTION NO. \_\_\_\_\_

## JURY DEMAND

## COMPLAINT

For its Complaint, Plaintiff Emtel, Inc. (“Emtel”) avers as follows:

1. Emtel is a corporation organized and existing under the laws of the state of Texas, and having its principal place of business in Houston, Texas.

2. Upon information and belief, Defendant NuPhysicia, Inc. (“NuPhysicia”) is a corporation organized and existing under the laws of the state of Delaware and having its principal place of business in Houston, Texas. Defendant NuPhysicia may be served with process by serving its registered agent, Glenn Hammack, 4625 Southwest Freeway, Suite 142, Houston, Texas 77027.

3. Upon information and belief, Defendant MedAire, Inc. (“MedAire”) is a corporation organized and existing under the laws of the state of Nevada and having its principal place of business in Tempe, Arizona. It has operations and service in Houston, Texas. Defendant MedAire may be served with process by serving its registered agent, Capital Corporate Services, Inc., 800 Brazos, Suite 400, Austin, Texas 78701.

4. Upon information and belief, Defendant InTouch Technologies, Inc. dba InTouch Health (“InTouch”) is a corporation organized and existing under the laws of the state of Delaware and having its principal place of business in Santa Barbara, California. It serves Houston and Plano, Texas. Defendant InTouch may be served with process by serving its registered agent, Jon Mears, 4209 Angelina Drive, Plano, Texas.

5. Upon information and belief, Defendant Reach Health, Inc. (“Reach Health”) is a corporation organized and existing under the laws of the state of Georgia and having its principal place of business in Alpharetta, Georgia. It serves the Houston area. Defendant Reach Health does not have a registered agent for service of process in the state of Texas. Service of process on Reach Health may be had according to the laws of the state of Texas by serving the Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701, as Reach Health’s agent for service. Reach Health’s home address is 10745 Westside Way, Suite 350, Alpharetta, Georgia 30009.

6. This action arises under the patent laws of the United States, United States Code Title 35. Jurisdiction and venue are predicated upon United States Code Title 28, Sections 1338 and 1400.

7. Emtel is an emergency medicine innovator. It has developed a superior telemedicine services method, which includes these features:

- a physician at a central station (a hub);
- at least two remote stations (spokes) with a patient at each linked by video conferencing to the hub; and
- the physician at the hub with the ability to generally contemporaneously evaluate a medical condition of or otherwise aid the patients at the spokes.

8. To protect its investment in the development of this method, Emtel applied for a United States patent on March 17, 2000, and filed a continuation application on March 25, 2003. These applications were filed in the name of the inventor and assigned to Emtel.

9. The United States Patent and Trademark Office (“PTO”) allowed the continuation application and issued it as U.S. Patent 7,129,970 on October 31, 2006. On April 12, 2011, the PTO reissued that patent as RE42,288. *See Exhibit A attached.*

10. Emtel is and at all relevant times has been the owner of all the right, title, and interest in and to the invention of and the patent rights of the RE42,288 patent.

11. Defendants are using, selling, and offering to sell, directly and by actively inducing, methods and systems that infringe the RE42288 patent within this district and elsewhere. In particular,

- a) NuPhysicia provides 2-way real-time interactive videoconferencing between a remote doctor and a plurality of patients with an on-site paramedic for walk-in retail settings, the workplace, rural hospitals, prisons, marketed as part of its Digital Medical Services (DMS), DMS System, InPlace Medical Solutions (for offshore and remote locations), NuPhysicia Technology, and Medicine At Work.
- b) MedAire provides remote physicians at its MedLink Global Response Centers to its subscribers on business aircraft, commercial airlines, yachts, and commercial ships.
- c) InTouch provides a telemedicine solution marketed as part of Remote Presence that includes a physician interface to a network to provide

emergency, intensive, stroke, critical care, and multi-specialty care to remotely located patients, allowing doctors to be in two places at once.

- d) Reach Health is full-service web-based provider using integrated audio-visual communications that enables specialists such as neurologists at hospital hubs to completely and efficiently consult, evaluate, and diagnose patients in remote areas on a time-critical basis at hospital spokes.

## COUNT I

### **PATENT INFRINGEMENT**

12. Emtel repeats and realleges paragraphs 1 through 11 of this Complaint as if fully set forth herein.

13. On information and belief, Defendants have infringed the RE42,288 patent since it issued (and reissued) by using, selling, or offering to sell, or actively inducing same, methods, systems, and arrangements covered by the claims of the RE42,288 patent in the United States.

14. As a result of Defendants' acts, Emtel has been damaged.

15. A jury trial is demanded on all issues so triable pursuant to Federal Rule of Civil Procedure 38.

Therefore, Emtel prays for:

A finding by this Court that Defendants have infringed the RE42,288 patent;

An award against Defendants for the damages Emtel suffered as a result of Defendants' acts of infringement with pre-judgment interest thereon;

An award to Emtel of attorney's fees, costs, and expenses in this action;

An award against Defendants of treble damages if Defendants' acts are found to be willful; and

This Court to grant such other and further relief as this Court may deem just.

Respectfully submitted,

/s/

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