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1 UNITED STATES PATENT AND TRADEMARK OFFICE

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4 BEFORE THE PATENT TRIAL AND APPEAL BOARD
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7 *Ex parte* ERNST BARTSCH,
8 BRIAN DELMONEGO,
9 BETTY FINK,
10 GARY GRZYWACZ,
11 STEFAN HERTEL,
12 SUSANNE LAUMANN,
13 JAMES PRESSLER,
14 RAMESH RAMANUJAM,
15 DONALD TAYLOR,
16 and ARNOLD TERES

17
18
19 Appeal 2011-003559
20 Application 11/114,585
21 Technology Center 3600
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24
25 Before MURRIEL E. CRAWFORD, ANTON W. FETTING, and
26 BIBHU R. MOHANTY, *Administrative Patent Judges*.
27 FETTING, *Administrative Patent Judge*.

28 DECISION ON APPEAL

1 STATEMENT OF THE CASE¹

2 Ernst Bartsch, Brian DelMonego, Betty Fink, Gary Grzywacz, Stefan
3 Hertel, Susanne Laumann, James Pressler, Ramesh Ramanujam, Donald
4 Taylor, and Arnold Teres (Appellants) seek review under 35 U.S.C. § 134
5 of a final rejection of claims 1-19, the only claims pending in the application
6 on appeal. We have jurisdiction over the appeal pursuant to
7 35 U.S.C. § 6(b).

8 The Appellants invented a way of managing a workflow (task sequence)
9 of a supervisory healthcare worker (e.g., a supervisory radiologist),
10 providing a real-time overview of tasks which subordinate healthcare
11 workers (e.g., radiologist residents) are performing, and indicating tasks
12 where a second opinion is needed. (Specification 2:15-18).

13 An understanding of the invention can be derived from a reading of
14 exemplary claim 1, which is reproduced below [bracketed matter and some
15 paragraphing added].

16 1. A medical information system for use with portable
17 processing devices, comprising:
18 a portable processing device including

¹ Our decision will make reference to the Appellants' Appeal Brief ("App. Br.," filed June 17, 2010) and the Examiner's Answer ("Ans.," mailed September 14, 2010).

1 [1] a communication processor
2 for receiving messages
3 from one or more different healthcare workers,
4 an individual message identifying,
5 a task for performance by a particular healthcare
6 worker for a patient,
7 patient and task associated context information
8 including,
9 patient name
10 and
11 a medical image relevant to said task for
12 performance and a priority level of said task;
13 and
14 [2] a computer user interface
15 configured to provide data
16 [2a] representing at least one display image
17 for display to a supervisory clinician user
18 and
19 comprising an overview of tasks
20 of said different healthcare
21 workers
22 including said task
23 for performance
24 by said particular healthcare
25 worker
26 and
27 [2b] enabling said supervisory clinician user to,
28 monitor tasks of a plurality of subordinate
29 healthcare workers,
30 re-structure and prioritize tasks of said
31 plurality of subordinate healthcare workers,

1 01. Eisenberg is directed to a personnel and a process management
2 system suitable for healthcare and other fields. Eisenberg, para.
3 [0002].

4 02. Eisenberg receives information in one or more messages
5 initiated by a particular healthcare worker. The received
6 information identifies the particular healthcare worker, a particular
7 patient, and a healthcare role. The healthcare role identifies a
8 work function to be performed by the particular healthcare worker
9 for the particular patient. The management processor updates an
10 information repository to include the received information.
11 Eisenberg, para. [0005].

12 03. Eisenberg's electronic device includes a user interface having
13 an input device that permits a user to input information into the
14 electronic device and an output device that permits a user to
15 receive information from the electronic device. Eisenberg, para.
16 [0014].

17 04. Eisenberg receives information in one or more messages
18 initiated by a particular healthcare worker using the electronic
19 device. The received information identifies the particular
20 healthcare worker, the particular patient, and the healthcare role
21 identifying a work function to be performed by the particular
22 healthcare worker for the particular patient. In particular, the
23 received information identifies: (a) a start date of the particular
24 healthcare worker being assigned to perform the particular
25 healthcare role, (b) an end date of the particular healthcare worker

1 being assigned to perform the particular healthcare role, (c) a type
2 of data the particular healthcare worker is authorized to access, (d)
3 authorization of the particular healthcare worker to perform the
4 particular healthcare role, and (e) credentials of the particular
5 healthcare worker. Eisenberg, para. [0016].

6 05. Eisenberg's repository includes a patient file having a
7 healthcare provider list including names, individual roles, and
8 individual subscription timeframes for each healthcare provider
9 listed. A healthcare role identifies a work function to be
10 performed by a healthcare worker for the individual patient. The
11 healthcare roles include roles being performed at different
12 locations. The roles include healthcare work functions associated
13 with different parts of a treatment regimen including work
14 functions associated with one or more of the following: (a),
15 examination, (b) laboratory testing, (c) diagnosis, (d) treatment,
16 (e) post-treatment, (f) therapy, and (g) physiotherapy. The role
17 includes one or more of the following: (a) a nurse work function,
18 (b) a physician work function, (c) an administrative work function,
19 (d) a therapist work function, (d) a case manager work function,
20 (e) a home aid work function, (f) a laboratory test support work
21 function, (g) a technician work function, (h) a care unit support
22 work function, (i) a nurse practitioner work function, (j) a
23 physician assistant work function, and (k) a cleaning and resource
24 supply work function. The roles include a role performed by a
25 healthcare worker during an inpatient stay in a hospital and
26 performed by a healthcare worker outside of the hospital. The

1 roles also include clinical and administrative healthcare worker
2 roles. Eisenberg, para. [0028].

3 06. The healthcare information may include a graphical trace
4 including, for example, an electrocardiogram (EKG) trace, an
5 electrocardiogram (ECG) trace, and an electroencephalogram
6 (EEG) trace. The video files include a still video image or a video
7 image sequence. The audio files include an audio sound or an
8 audio segment. The visual files include a diagnostic image
9 including, for example, a magnetic resonance image (MRI), an X-
10 ray, a positive emission tomography (PET) scan, or a sonogram.
11 Eisenberg, para. [0037].

12 07. The task listing notifies an appropriate healthcare worker of a
13 new event, and of the action, such as a scheduled task, that the
14 healthcare worker is expected to take to deliver a healthcare
15 service to a patient. The workflow engine may populate the task
16 listing or it may be populated directly by the entrance of a new
17 event. The task scheduling processor in the task listing schedules
18 performance of a task by the particular healthcare worker,
19 performing the healthcare role for the particular patient, identified
20 using the information repository. Eisenberg, paras. [0041]-[0042].

21 08. The clinician subscription process is a process by which the
22 clinician requests and is granted access to clinical information
23 regarding individuals (or groups of individuals). Embedded
24 within the process is a credentials and privileging check to
25 determine if the clinician has appropriate authority to (a) access

1 the records and perform services of the patient or group of
2 patients, and (b) to access any or all data elements and to perform
3 any specified service with respect to individual patients.

4 Eisenberg, para. [0060].

5 09. Eisenberg provides the ability to manage clinical caregiver
6 authority for selections of patients and data types based on
7 individual clinical privileges and credentials. *Credentialing and*
8 *privileging are primarily administrative processes that allow*
9 *verification of the credentials (education, certification and*
10 *licenses) of individual healthcare providers. Part of the*
11 *credentialing process in healthcare organizations is to create a set*
12 *of privileges (i.e., procedures and treatments the caregiver is*
13 *allowed to provide within the setting). Privileges may allow full*
14 *access to providing certain services, limited access (e.g., with*
15 *supervision) for other services, restricted access (e.g., only in*
16 *specified situations) for other services, and blocked access for still*
17 *other services. Privileges are assigned based on education,*
18 *training and experience and, increasingly, based on performance*
19 *measurement (i.e., achievement of specified threshold levels of*
20 *positive outcomes). The systems link credentialing and*
21 *privileging levels with clinical care coordination within clinical*
22 *information systems. Eisenberg, para. [0109].*

23 10. Traditionally, credentialing and privileging systems are isolated
24 and are used for maintenance of accreditation and performance
25 management activities. Hence, the credentialing and privileging
26 systems may be incorporated by communication links or

1 integrated into the systems. The systems also support authority
2 and role-based access to privileging files. Eisenberg, para. [0128].

3 *Reuss*

4 11. Reuss is directed to an integrated medical monitoring system
5 for use in a clinical setting. The medical monitoring system
6 includes local patient monitors, remote central stations, and
7 remote access devices, networked together through a wireless
8 communication system. The communications between various
9 components of the system are bi-directional, thereby affording the
10 opportunity to establish monitoring parameters from remote
11 locations, provide interactive alarms and monitoring capabilities,
12 and provide data exchange between components of the system.

13 Reuss 1:8-20.

14 12. Reuss provides a medical monitoring system in which medical
15 alert messages can be automatically formatted to include time of
16 alert, patient identification, patient location, alert condition and
17 priority, vital signs data, and physiological waveform data. Reuss
18 3:40-44. A waveform, being a form of a wave, is a graphical
19 visual interpretation (thus a form) of the data behind the wave.

20 ANALYSIS

21 We are not persuaded by the Appellants' argument that

22 Eisenberg does NOT show or suggest "patient and task
23 associated context information including, patient name and a
24 medical image relevant to said task for performance and a
25 priority level of said task", Eisenberg with Reuss also fails to
26 show or suggest such a feature. Eisenberg with Reuss further

1 fails to show or suggest “at least one display image for display
2 to a supervisory clinician user and comprising an overview of
3 tasks of said different healthcare workers including said task for
4 performance by said particular healthcare worker and enabling
5 said supervisory clinician user to, monitor tasks of a plurality of
6 subordinate healthcare worker”. Eisenberg with Reuss further
7 fails to show or suggest “at least one display image for display
8 to a supervisory clinician user and comprising an overview of
9 tasks” “enabling said supervisory clinician user to[”], “re-
10 structure and prioritize tasks of said plurality of subordinate
11 healthcare workers, and access background information
12 comprising said patient associated context information
13 associated with a task requiring assistance of said supervisory
14 clinician”.

15 Appeal Br. 10; *see also* Appeal Br. 11-12. In particular, Appellants contend
16 the art does not show an “overview of tasks” of “different healthcare
17 workers” or “overview of tasks” “enabling said supervisory clinician user
18 to” “access background information comprising said patient associated
19 context information associated with a task requiring assistance of said
20 supervisory clinician.”

21 Limitation [2] recites “a computer user interface configured to provide
22 data representing at least one display image for display to a supervisory
23 clinician user.” Thus, the structural requirement is for an interface able to
24 provide data. Any computer within the past several decades meets that
25 minimal requirement. The limitation goes on to say the data represents a
26 display image. Again, this is met by most computers, particularly as the
27 manner of representation is left open. The data is not displayed, but merely
28 provided, and the data is not necessarily a display buffer but any manner of
29 representation. A filename would be within the scope so far.

1 The phrase “for display to a supervisory clinician user” is aspirational
2 rather than structural or even functional, and so deserves no patentable
3 weight. Not only is the display as a verb not actually required, there is no
4 narrowing as to time or place; it is not even necessary the display be for
5 display on the machine being claimed.

6 The next phrase recites that the display image that is somehow
7 represented comprises “an overview of tasks of said different healthcare
8 workers.” The nature and manner of such an overview is unspecified. It
9 might be highly detailed or highly summarized. The scope of the set of such
10 tasks is undefined, and the only limitation is that for whichever tasks are
11 selected, they be of one or more different healthcare workers.

12 Again the data somehow represents such a display, so data sufficient to
13 actually portray a partial or whole display would still represent the whole
14 display. In any event, as the Examiner found, Eisenberg’s task listing
15 notifies an appropriate healthcare worker of a new event, and of the action,
16 such as a scheduled task, that the healthcare worker is expected to take to
17 deliver a healthcare service to a patient. FF 07. As this occurs for different
18 actions for different workers, the task listing is an overview of tasks of
19 different healthcare workers. Again, the claim does not recite whether plural
20 tasks or workers within a display buffer at the same time, and does not recite
21 physical display as a verb.

22 The next phrase recites that the display image that is somehow
23 represented enables a supervisory clinician user to monitor tasks, re-
24 structure and prioritize tasks, and access background information. The
25 nature and manner of such enablement is unspecified. Clearly Eisenberg’s

1 system enables any user to monitor tasks, re-structure and prioritize tasks,
2 and access background information, as this is no more than accessing and
3 modifying the data in Eisenberg's database. Whether the user is a supervisor
4 is of no patentable weight, as all claims are drawn to physical structure
5 rather than steps of performance. But in any event. Eisenberg clearly
6 contemplates a supervisor as a user for the purpose of credentialing a
7 supervised worker. FF 08-10.

8 As to separately argued claim 2-6, Appellants simply argue the portions
9 of the art cited by the Examiner do not support the rejections. We find the
10 Examiner has made sufficient findings to properly reject those claims and
11 we adopt the Examiner's findings and analysis from the Answer at pages 9-
12 13 and 33-38 and reach similar legal conclusions. Appellants argue claims
13 7-10 on the basis of claims 2-6.

14 The remaining independent claims are argued similar to that as done
15 with claim 1. The remaining dependent claims rely on the arguments in
16 support of claims 1-10. Thus we find the rejections as to these claims
17 proper. We also adopt the Examiner's findings of fact and analysis from the
18 Answer at pages 13-26 and 38-46 and reach similar legal conclusions.

19 CONCLUSIONS OF LAW

20 The rejection of claims 1-19 under 35 U.S.C. § 103(a) as unpatentable
21 over Eisenberg and Reuss is proper.

22 DECISION

23 The rejection of claims 1-19 is affirmed.

