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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ARNOLD E. BURCHIANTI II and GREG TEAMANN

Appeal 2012-005760¹
Application 12/235,190²
Technology Center 3600

Before BIBHU R. MOHANTY, NINA L. MEDLOCK, and
BRADLEY B. BAYAT, *Administrative Patent Judges*.

MEDLOCK, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ Our decision references Appellants' Appeal Brief ("App. Br.," filed September 29, 2011) and Reply Brief ("Reply Br.," filed February 21, 2012), and the Examiner's Answer ("Ans.," mailed December 21, 2011), Final Office Action ("Final Act.," mailed April 28, 2011), and Advisory Action ("Advisory Act.," mailed September 13, 2011).

² Appellants identify Celtic Healthcare, Inc. as the real party in interest. App. Br. 1.

CLAIMED INVENTION

Appellants' claimed invention "relates to an integrated system for managing and delivering workflow and documents related to providing home healthcare services, and particularly to an integrated system that tracks and processes information at various levels of providing the home healthcare services" (Spec. ¶ 1).

Claim 1, reproduced below, is illustrative of the subject matter on appeal:

1. A computer-implemented method for managing and delivering workflow to a home healthcare service, said method comprising the steps of:
 - a. receiving a request from an application configured to communicate with an integration platform, said integration platform comprising a request interpretation component configured to use logic rules to convert said request to a standard format, at least one module configured to process said standard format request to generate a response, and to further process a workflow resulting from said response or said standard format request, and a response formatting component configured to use logic rules to convert said response to a format that a requesting application is configured to understand;
 - b. converting, using a processor, said request to said standard format using said request interpretation component;
 - c. processing, using the processor, said converted request using at least one of said logic rules to generate said response to said request, wherein said processing generates said workflow;
 - d. converting, using the processor, said response to said format that said requesting application is configured to understand using said response formatting component; and
 - e. processing, using the processor, said workflow using at least one workflow rule to generate at least one workflow result, and to make said workflow and said workflow result available to at least one authorized user.

REJECTIONS

Claims 19 and 20 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 1–20 are rejected under 35 U.S.C. § 103(a) as unpatentable over Brown (US 6,032,119, iss. Feb. 29, 2000) and Official Notice, as supported by Burbeck (US 2004/0019630 A1, pub. Jan. 29, 2004).³

ANALYSIS

Non-Statutory Subject Matter

Appellants filed an Amendment After Final on July 15, 2011 seeking, *inter alia*, to cancel claims 19 and 20. Appellants' amendment was denied entry; therefore, claims 19 and 20 have not been canceled and remain pending (Ans. 3).

Appellants do not present any response in the Appeal Brief to the rejection of claims 19 and 20 under 35 U.S.C. § 101. Instead, Appellants state, “[t]he rejection of claims 19–20 pursuant [sic] to 35 U.S.C. § 101 as being directed to non-statutory subject matter is not being appealed” (App. Br. 6).

Therefore, we summarily sustain the Examiner's rejection.

Obviousness

Independent claims 1, 8, and 14

Appellants argue independent claims 1, 8, and 14 as a group. We select claim 1 as representative. Claims 8 and 14 stand or fall with claim 1. 37 C.F.R. § 41.37(c)(1)(vii) (2011).

³ We treat the Examiner's failure to list claims 19 and 20 among the claims rejected under 35 U.S.C. § 103(a) as inadvertent inasmuch as the Examiner indicates that claims 19 and 20 remain pending (*see* Ans. 3).

Appellants first argue that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103(a) because neither Brown nor Burbeck discloses or suggests “a workflow resulting from said response or said standard format request,” as recited in claim 1 (App. Br. 8–9). The Examiner maintains that the rejection is proper, and relies on Brown as disclosing the argued feature (Ans. 5, “providing care instructions (reads on ‘workflow’) to a patient located at home (Abstract)”).

Brown is directed to a system for delivering personalized health information to a patient’s home by displaying the information directly on a customized image of a human body (Brown, Abstract). Brown describes that the patient’s medical record, standards of care for the patient’s medical condition, prescribed treatments, and patient input are applied to a generalized health model of a disease to generate a personalized model of the patient (*id.*). Data from health provider sources are collected and stored in a database on a server at a service provider site, and the data are processed at the server, and displayed in the patient’s home using a TV connected to a multimedia processor, which connects the TV to a communications network (*id.*).

Appellants acknowledge that Brown discloses an input that is processed to generate an output, i.e., care instructions (App. Br. 8). But Appellants argue that the claimed workflow “is neither the input nor the output of [Appellants’] claimed system or method.” Instead, according to Appellants, the claimed workflow

“result[s] from said response or said standard format request,” and is a precursor to the output to the end-user; thus, the workflow claimed by [Appellants] actually moves through the system “between clinicians, office staff, patients, and other

authorized users of a single healthcare provider to provide home healthcare services to the patient” and is not a task that is performed by the patient or any other user (*id.* at 8–9; *see also* Reply Br. 3).

Appellants’ argument is not persuasive. Brown discloses an arrangement in which treatment directions are retrieved and downloaded to a patient’s home in response to the patient’s request for such instructions (Ans. 13, citing Brown, Fig. 4-E; *see also* Brown, col. 6, ll. 40–41). We find nothing in the claim language, nor do Appellants point to anything in the claim language, that excludes a task to be performed by the patient as a “workflow.” As such, we agree with the Examiner that “care instructions” provided in response to a patient request, as disclosed in Brown, constitute “a workflow resulting from said response . . . ,” as recited in claim 1.⁴

Appellants next argue that neither Brown nor Burbeck discloses or suggests “an integration platform,” as recited in claim 1 (App. Br. 9–11). Appellants maintain that the claimed “integration platform allows ‘a many to many relationship’” between applications with a single point of entry for a request and a single point of exit for the response to the request (*id.* at 10). Thus, according to Appellants, “while [Brown’s] system aggregates data to generate a model of the patient’s health condition, [Appellants’] system, because of the integration platform, is configured to ‘manage data sets to build integrated information results’” (*id.*).

⁴ We note here that we agree with Appellants that the Specification does not limit the term “workflow” to an alert only. Instead, the Specification states that “the term workflow is defined to include at least one alert that is automatically generated in response to a request” (Spec. ¶ 15).

Appellants' argument is not persuasive at least because it is not commensurate with the scope of claim 1. As the Examiner correctly observes, claim 1 only requires a single application sending requests to the "integrated platform" (Ans. 14). Although claim language is properly construed in light of the specification, limitations from the specification are not to be read into the claims. *See, e.g., In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993).

We agree with the Examiner that "integration platform" is properly construed, under the broadest, reasonable interpretation standard, to constitute a computer system comprising the recited software modules (Ans. 14), and is met by the Brown system, which comprises software modules for processing a patient request for treatment instructions from a health care provider and for providing the patient with the requested information (*id.* at 15).

Addressing Appellants' argument that the Examiner failed to "point to any teaching or suggestion" in the cited references of "'logic rules' used 'to convert said request to a standard format'" (App. Br. 7), the Examiner explains in the Response to Argument section of the Answer that "[a]s disclosed, 'logic rules' appears to be a form of software logic capable of, when performed by a computer[], allow[ing] the computer to realize a particular functionality" (Ans. 9). The Examiner concludes that both Brown (citing Brown's Fig. 1 illustrating a multimedia processor and central server and Fig. 3 illustrating a personal computer capable of performing data processing steps) and Burbeck disclose software capable of performing particular functionality, and further notes that Official Notice was previously

taken that translating data from one format to another format for processing is known (*id.* at 9–10).

Appellants argue in the Reply Brief that the Examiner’s characterization of “particular functionality” is overly broad, and that the functionality described in Brown (i.e., at column 3, line 64 to column 4, line 4 describing Brown’s Fig. 1) is “not a teaching or suggestion with respect to [Appellants’] claimed ‘logic rules to convert said response to a format that a requesting application is configured to understand’” (Reply Br. 2–3).

Appellants’ argument is not persuasive because it is not responsive to the rejection articulated by the Examiner. The Examiner relies on Official Notice, as supported by Burbeck, and not on Brown, as evidence that converting data from one format to another was known at the time of Appellants’ invention (Ans. 10–11).

In view of the foregoing, we sustain the Examiner’s rejection of independent claim 1 under 35 U.S.C. § 103(a). We also sustain the Examiner’s rejection of independent claims 8 and 14, which fall with claim 1.

Dependent claims 2, 4, 7, 9, 13, 15, and 18

Appellants do not present any argument for the separate patentability of claims 2, 4, 7, 9, 13, 15, and 18 except to assert that the claims are allowable based on their dependence on one of claims 1, 8, and 14 (*see* App. Br. 11–13, 16–18). We are not persuaded for the reasons set forth above that the Examiner erred in rejecting claims 1, 8, and 14. Therefore, we sustain the Examiner’s rejection of claims 2, 4, 7, 9, 13, 15, and 18 under 35 U.S.C. § 103(a) for the same reasons.

Dependent claims 3, 5, and 16

Claim 3 depends from claim 1, and recites that the claimed method further comprises “automatically generating an instruction to use said workflow to provide home healthcare to a patient.” Claims 5 and 16 depend from claims 1 and 14, respectively, and recite “notifying an authorized user about at least one of said workflow or said workflow result.”

Appellants’ arguments with respect to claim 3 (App. Br. 12–13) and claims 5 and 16 (*id.* at 14–15) are substantially similar to Appellants’ “workflow” arguments with respect to claim 1, and are unpersuasive for the same reasons. Therefore, we sustain the Examiner’s rejection of claims 3, 5, and 16 under 35 U.S.C. § 103(a).

Dependent claims 6, 12, and 17

Claims 6, 12, and 17 depend from claims 1, 8, and 14, respectively, and recite that “said request is at least one of a request for processing at least one piece of data, a request for storing at least one piece of data, and a request for retrieving at least one piece of data.”

We are not persuaded by Appellants’ arguments that the Examiner erred in rejecting claims 6, 12, and 17 (App. Br. 15–16). Instead, we agree with the Examiner that Brown discloses sending a request for instructions to the physician (Ans. 6), i.e., a “request for retrieving at least one piece of data,” and, therefore, meets the claim language.

Dependent claim 10

Claim 10 depends from claim 8 and recites that the “request generates a workflow process that requires processing by another module.”

In rejecting 10, in the Final Office Action, the Examiner states, “[a]s per claim 10, Brown teaches software capable of educating the patient

(Figure 5)” (Final Act. 6). The Examiner further states in the Advisory Action that “Brown’s education feature is considered to be ‘another module’. As such, the system of Brown generates a ‘workflow process’ that requires the education software to process and display data to the patient” (Advisory Act. 7).

Appellants argue that the Examiner’s allegation that Brown teaches “software capable of educating the patient” does not address the claim language, and that the Examiner’s “unsupported and conclusory statement [in the Advisory Action] that ‘Brown’s education feature is considered to be ‘another module’” may not be relied on to support the obviousness conclusion (App. Br. 18).

In the Response to Argument section of the Answer, the Examiner cites Figures 4-B, 5-G, and column 3, lines 50–53 of Brown as disclosing the subject matter of claim 10, and the Examiner clarifies the basis for the obviousness rejection:

Brown teaches that the patient can request the system to provide general information (reads on a type of “request”) (Figure 4-B, Figure 5-G, column 3 line 50-53 illustrating that the patient request for comparative care information of the heart). The system responds by searching a database to retrieve the information requested by the patient (Figure 5-G).

This searching and education software functionality is considered to be a form of “another module” because additional software functionality, i.e. searching a database, is required to fulfill the patient’s request for heart data.

(Ans. 16). We find the Examiner’s findings to be reasonable and supported.⁵

⁵ Appellants do not present further arguments with respect to claim 10 in the Reply Brief.

Therefore, we sustain the Examiner's rejection of claim 10 under 35 U.S.C. § 103(a).

Dependent claim 11

Claim 11 depends from claim 8, and recites that "said application is selected from the group consisting of a web application, a personal assistant application, and a point of care application."

Appellants argue that the Examiner erred in rejecting claim 11 under 35 U.S.C. § 103(a) because Brown, on which the Examiner relies, does not disclose or suggest the claimed subject matter (App. Br. 19–21; *see also* Reply Br. 5). The Examiner maintains that the rejection is proper, and points to paragraphs 39–41 of the Specification as disclosing that a "personal assistant application" can manage schedules and appointments for an authorized user (paragraph 0039)" (Ans. 18). The Examiner, thus, concludes:

Since Brown teaches that the patient (considered to be an authorized user) can edit his appointments and schedules (column 6 line 38-41H), and the computer can remind the patient about appointments (Figure 5-C), Examiner submits that the teachings of Brown meets the limitation "personal assistant application" under the broadest and most reasonable interpretation.

Id. Appellants assert in the Reply Brief that the teaching in Brown is not a teaching with respect to Appellants' personal assistant application, "which 'is configured to submit a request **A, B, C, D, F** to the integration platform 20 for processing and interpretation using logic rules'" (Reply Br. 5). But Appellants do not present any technical arguments and/or reasoning to explain why the Examiner's findings are unreasonable and/or unsupported.

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Therefore, we sustain the Examiner's rejection of claim 11 under 35 U.S.C. § 103(a).

Independent claim 19 and dependent claim 20

Appellants do not present any arguments in support of the patentability of claims 19 and 20. Therefore, the Examiner's rejection of claims 19 and 20 under 35 U.S.C. § 103(a) is summarily sustained.

DECISION

The Examiner's rejection of claims 19 and 20 under 35 U.S.C. § 101 is affirmed.

The Examiner's rejection of claims 1–20 under 35 U.S.C. § 103(a) is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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