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NEWSILIKE MEDIA GROUP, INC.
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EXAMINER

NGUYEN, HIEP VAN

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Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* JAMES F. MOORE

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Appeal 2014-004757  
Application 11/615,224<sup>1</sup>  
Technology Center 3600

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Before, ANTON W. FETTING, JOSEPH A. FISCHETTI, and  
NINA L. MEDLOCK, *Administrative Patent Judges*.

FISCHETTI, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant seeks our review under 35 U.S.C. § 134 of the Examiner's final rejection of claims 151–170. We have jurisdiction under 35 U.S.C. § 6(b).

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<sup>1</sup> Appellants identify Newsilike Media Group as the real party in interest.  
Br. 2.

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## SUMMARY OF DECISION

We AFFIRM.

### THE INVENTION

Appellant claims a method of managing tomography information.

Claim 151, reproduced below, is representative of the subject matter on appeal.

151. A method comprising:

receiving computed tomography data from a medical device;

in a non-transitory computer-readable medium, securing the computed tomography data with a conditional access, thereby transforming the computed tomography data from an original state into a conditionally accessible state; and

publishing the conditionally accessible computed tomography data in a syndicated data feed.

### THE REJECTION

The following rejection is before us for review.

Claims 151–170 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mohr (US 2007/0027710) in view of Burris et al. (US 7,953,725 hereinafter Burris).

## FINDINGS OF FACT

1. We adopt the Examiner's findings as set forth on pages 2–10 of the Answer.

2. The Specification states:

The term “syndication” is intended to refer to publication, republication, or other distribution of content using any suitable technology, including RSS and any extensions or modifications thereto, as well as any other publish-subscribe or similar technology that may be suitably adapted to the methods and systems described herein. “Syndicated” is intended to describe content in syndication.

Para. 87.

3. Mohr discloses that its disclosed image data is “...data of examinations by means of imaging methods such as x-ray, ultrasound, magnetoresonance tomography, computer tomography, positron emission tomography, endoscopic examinations, photography e.g. of the skin.

Para. 37.

4. Mohr discloses

As a last method step, in the preferred embodiment the so-called validation of the data pool (module 58) is provided which follows referencing. In accordance with ISO 9000 validation means making available an objective proof that the requirements for an intended use or a specific intended application have been fulfilled.

Para. 90.

## ANALYSIS

### 35 U.S.C. § 103 REJECTION

Concerning claim 151, the sole independent claim before us for review, Appellant argues, “Burriss does not show, teach or suggest combining such a system with a medical device, such as the recited computed tomography system.” (Appeal Br. 7).

Appellant’s argument is not well taken because the Appellant is attacking the Burriss reference individually when the rejection is based on a combination of references. *See In re Keller*, 642 F.2d 413, 426 (CCPA 1981); *In re Young*, 403 F.2d 754, 757-58 (CCPA 1968). The Examiner found that Mohr, and not Burriss, discloses tomography related data finding:

Mohr discloses when a data source in the data pool has been acquired with regard to its existence, the medical and care-relevant information contents of the data source are identified and also acquired in the data pool. The data source includes x-ray, ultrasound, magnetoresonance tomography, computer tomography (‘710; Fig. 7: X-ray computer tomography; Paras 0037). Thus Mohr discloses data source of computed tomography. Mohr is silent on the publishing data in a syndicated data feed.

(Answer 8). We find no error with the Examiner’s rejection because our review of Mohr reveals that paragraph 37 explicitly discloses computed tomography data. (FF. 3).

Appellant argues that:

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Applicant respectfully maintains that the Office Action also errs in its citation of Mohr as disclosing “securing the computed tomography data with a conditional access, thereby transforming the computed tomography data from an original state into a conditionally accessible state” as cited in claim 151. The cited paragraphs of Mohr disclose a system for correlating data from different sources within a collection of medical data. Mohr, not being concerned with syndication or publication in any way, makes no mention of securing such data with conditional access, nor of securing a data feed generally. Again, as neither Mohr nor Burriss provides this element, Applicant respectfully submits that claim 151 and its dependent claims, including claim 152, should be allowed for this reason in addition to the reasons noted above.

(Appeal Br. 8).

The Examiner, however, found,

The data contained in the data pool are referenced such that elements of the data pool that are correlated with regard to contents are linked and displayable automatically as being correlated (‘710; Abstract). Mohr further discloses the so-called validation of data pool for an intended use or a specific intended application that have been fulfilled (‘710; Para 0090). The Examiner notes the broadest reasonable interpretation of the term “predetermined criteria” and “validation of data pool” as in the form of “conditional access” (emphasis omitted).

(Answer 9–10).

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We agree with the Examiner. Our review of Mohr (FF. 4) reveals that Mohr discloses a validation means for allowing access to the data pool, which we agree with the Examiner meets the claim requirement of “conditional access.”

Dependent claim 152, recites in pertinent part, “subscribing to the syndicated data feed and storing the syndicated data feed in a data pool.” *Appx. cl. 152.* Appellant argues concerning claim 152, “[t]he cited paragraph [of Burris col. 4, ll. 51–63, *see* Final Act. 3)] makes no reference to a data pool, nor does the remainder of the disclosure of Burris appear to disclose a data pool.” (Appeal Br. 8).

The Examiner however found that Burris discloses the claimed “data pool” at column 4, lines 51–63. (Answer 3, 9).

We agree with the Examiner. Our review of Burris at the cited section in column 4 reveals that Burris explicitly discloses a data pool in the form of a storage device 112 in which is stored sources of “syndicatable feeds of information.” Notwithstanding, as we found *supra*, (FF. 4), Mohr additionally discloses a data pool at module 58.

We are further not persuaded of error by Appellant’s argument that the Examiner engaged in improper hindsight because “there is no reason suggested in Burris for transforming the information prior to consumption into conditionally accessible units or storing the units in a common data pool for access to subscribers who satisfy the conditions for accessing it.” (Appeal Br. 9). To the extent Appellant seeks an explicit suggestion or motivation in the Burris reference itself, this is no longer the law in view of the Supreme Court’s holding in *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct.

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1727, 1741 (2007). Because the Examiner has provided some articulated reasoning with some rational underpinning for why a person with ordinary skill in the art would modify Mohr to include the medical data of Burris (Answer 3), Appellant's argument is not persuasive as to error in the rejection.

We also affirm the rejections of dependent claims 153–170 because Appellant has not challenged such with any reasonable specificity (*see In re Nielson*, 816 F.2d 1567, 1572 (Fed. Cir. 1987)).

#### CONCLUSIONS OF LAW

We conclude the Examiner did not err in rejecting claims 151–170 under 35 U.S.C. § 103.

#### DECISION

The decision of the Examiner to reject claims 151–170 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). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED.