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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GEORG HANS ROSE and
KLAUS WEIDENHAUPT

Appeal 2014-006208¹
Application 12/064,083²
Technology Center 3600

Before JOSEPH A. FISCHETTI, JAMES A. WORTH, and
MATTHEW S. MEYERS, *Administrative Patent Judges*.

MEYERS, *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, 3, and 7–11, which constitute all the claims pending in this application. Claims 2 and 6 have been cancelled. Claims 4

1. Our decision references Appellants' Appeal Brief ("Appeal Br.," filed October 23, 2013) and Reply Brief ("Reply Br.," filed April 28, 2014), the Examiner's Answer ("Ans.," mailed February 26, 2014), Final Office Action ("Final Act.," mailed May 23, 2013), and Advisory Action ("Adv. Act.," mailed July 24, 2013).

2. Appellants identify Koninklijke Philips Electronics N.V., as the real party in interest (Appeal Br. 2).

and 5 have been withdrawn from consideration. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

CLAIMED INVENTION

Appellants' claimed invention "is directed to [a] health care data management system and methods for their operation" (Spec. 1).

Claims 1, 5, and 9 are the independent claims on appeal. Claim 9, reproduced below, with minor formatting changes and added bracketed notations, is illustrative of the subject matter on appeal:

9. Method for operating a health care data management system, comprising the steps of:

[a] creating, by a computer processor, a query to be sent from a decision support system to a workflow management system;

[b] transmitting, by the computer processor, the query to the workflow management system via an interface between the decision support system and the workflow management system;

[c] determining, by the computer processor, an answer to said query comprising entity allocation data of an entity handled by the workflow management system;

[d] transmitting, by the computer processor, said answer to the decision support system;

[e] utilizing, by the computer processor, said data as a probabilistic input variable for a probabilistic expert system comprised by said decision support system;

[f] determining, by the computer processor, a set of promising medical actions on the basis of said input variables or a patient's medical data; and

[g] ranking, by the computer processor, said medical actions in a ranking order according to a probabilistic impact of each of said medical actions on a confidence level of a medical diagnosis or on an efficiency of a medical treatment,

[h] wherein the probabilistic expert system is a Bayes network which comprises a knowledge base that is based on

probabilities that put different pieces of information into relation rather than simple binary rules.

REJECTIONS ON APPEAL

Claims 1, 3, and 7–11 are rejected under 35 U.S.C. § 103(a) as unpatentable over Dahlin (US 2004/0122701 A1, pub. June 24, 2004) and Watrous (US 2002/0052559 A1, pub. May 2, 2002).

ANALYSIS

Independent claims 9 and dependent claims 10 and 11

We are not persuaded by Appellants’ argument that the Examiner erred in rejecting independent claim 9 under 35 U.S.C. § 103(a) because the combination of Dahlin and Watrous fails to disclose or suggest “determining . . . an answer to said query comprising entity allocation data of an entity handled by the workflow management system,” as recited by limitation [c] of independent claim 9, and “transmitting . . . said answer to the decision support system,” as further recited by limitation [d] of independent claim 9 (*see* Appeal Br. 5–6; *see also* Reply Br. 2–4).

Instead, we agree with the Examiner that the combination of Dahlin and Watrous discloses the argued features (*see* Final Act. 3–4, (citing Dahlin ¶¶ 17, 18, 54, and 119–125); *see also* Adv. Act. 2 (citing Dahlin ¶¶ 24, 77); Ans. 4–5).

In this regard, we note that Dahlin is directed to “an electronic system that integrates disease management into a physician workflow and that can serve as a single point of integration for third party Disease Management Advisors (DMAs)” (Dahlin ¶ 2). More particularly, Dahlin discloses

[a] system for specifying medical diagnosis and treatment algorithms that may be integrated into a healthcare workflow, the system may include: (a) one or more coordination servers having one or more rules for selecting at least one treatment algorithm based on medical and demographic information about a patient; (b) an interface for providing a plurality of questions related to one or more medical findings, the questions may be asked of the patient or entered about the patient and potential orders that may be executed for the patient; and (c) a distribution server that distributes information from the interfaces to the one or more coordination servers, receives one or more treatment algorithms from the one or more coordination servers, and transmits these one or more treatment algorithms to the one or more interfaces to be included in one or more healthcare workflows.

(*Id.* ¶ 18). Dahlin further discloses

In an exemplary implementation, treatment algorithms are integrated into a healthcare workflow using the following steps, as shown in FIG. 19. In step 1 a user such as an HCP or patient accesses an interface such as an HCP interface or patient interface and enters medical findings. In step 2, entered findings and stored information about the patient are transmitted to a coordination server. In step 3, the coordination server selects at least one-treatment algorithm using rules for selecting at least one treatment algorithm based on medical and demographic information about a patient. In step 4, the coordination server transmits the at least one treatment algorithm to the interface. In step 5, the interface displays content specified by the at least one treatment algorithm.

(*Id.* ¶ 119). Dahlin discloses that “[e]ach treatment algorithm may also comprise a priority, which allows the healthcare EMR system to rank conflicting elements for display” (*id.* ¶ 77). Dahlin also discloses a workflow mechanism wherein a “disease management advisor creates an appointment within the healthcare EMR system for a patient to schedule a visit with a healthcare professional at a clinic for a healthcare professional-patient encounter” (*id.* ¶ 125).

Appellants argue that

[t]o meet the recitation of claim 9, the Examiner relies on Dahlin's teaching that "each treatment algorithm may also comprise a priority, which allows the healthcare EMR system to rank conflicting elements for display" (*See* 7/24/13 Advisory Action, p. 2). The Examiner appears to equate this creation of an appointment using priority ranking with entity allocation of claim 9.

(Appeal Br. 5). More particularly, Appellants argue "that the Examiner's reliance on paragraph [0077] of Dahlin to meet the recitation of claim 9 is misplaced" because Dahlin "simply displays the highest-ranking algorithm in terms of priority at any given time" which "is not equivalent to determining [] which patient an entity should be allocated based on medical expertise and patient information, as recited in claim 9" (*id.* at 5–6). We are not persuaded by Appellants' argument.

Appellants' argument is not persuasive at least because it is not commensurate with the scope of the claim. Claim 9 recites "determining . . . an answer to said query comprising entity allocation data of an entity handled by the workflow management system;" it does not recite determining to which patient an entity should be allocated based on medical expertise and patient information, as argued (*id.* at 6). Moreover, the Examiner does not "equate . . . creation of an appointment using priority ranking with entity allocation;" but rather, the "Examiner considered entity allocation as allocation of disease management advisor (DMA) information and treatment algorithms into a physician/healthcare professional (HCP) workflow" (Adv. Act. 2). We also note, the Examiner does not rely solely on paragraph 77 of Dahlin to disclose the argued features of independent claim 9; but also relies on at least paragraphs 18 and 119–125 (*see* Ans. 4) in

addition to paragraph 77 of Dahlin as disclosing the argued features (*see* Adv. Act. 2).

Appellants also argue the Examiner erred in rejecting independent claim 9 as obvious over Dahlin and Watrous because in “Dahlin, the appointment request is sent from a disease management advisor (DMA)” and “[i]t is not clear how the Examiner is analogi[z]ing a DMA to a decision support system” (*see* Reply Br. 3–4). However, independent claim 9 does not require the decision support system transmit the answer, but rather limitation [d] of independent claim 9 recites “transmitting . . . said answer to the decision support system” (emphasis added). Thus, Appellants argument is not persuasive.

In view of the foregoing, we sustain the Examiner’s rejection of independent claims 9 under 35 U.S.C. § 103(a). We also sustain the Examiner’s rejection of claims 10 and 11, which are not separately argued.

Independent claims 1 and 5, and dependent claims 3, 4, 7, and 8

Appellants argue that independent claims 1 and 5 are allowable for the same reasons as set forth with respect to independent claim 9 (*see* Appeal Br. 6–7). We are not persuaded for the reasons set forth above that the Examiner erred in rejecting independent claim 9 under 35 U.S.C. § 103(a). Therefore, we will sustain the Examiner’s rejection of independent claims 1 and 5 under 35 U.S.C. § 103(a) for the same reasons. We also will sustain the Examiner’s rejection of claims 3, 4, 7, and 8, each of which depends from one of independent claims 1 and 5, and were not separately argued.

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DECISION

The Examiner's rejection of claims 1, 3, and 7-11 under 35 U.S.C. § 103(a) is sustained.

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