

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* ERIC COHEN-SOLAL, KARINA TULIPANO,  
VICTOR P. M. VLOEMANS, ROLAND OPFER, and  
INGWER C. CARLSEN

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Appeal 2016-005783  
Application 13/580,387<sup>1</sup>  
Technology Center 3600

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Before CARL L. SILVERMAN, JOYCE CRAIG, and  
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

SILVERMAN, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

STATEMENT OF THE CASE

This is a decision on Rehearing in Appeal No. 2016-005783. We have jurisdiction under 35 U.S.C. § 6(b). Appellants submit their Request for Rehearing under 37 C.F.R § 41.52(a)(2) (“Appellant may present a new argument based upon a recent relevant decision of . . . a Federal Court”). Req. 1. Specifically, Appellants’ Request for Rehearing is based on a recent decision of the Court of Appeals for the Federal Circuit, which was decided after issuance of the Decision on Appeal: *Core Wireless Licensing v. LG*

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<sup>1</sup> The real party in interest is identified as Koninklijke Philips Electronics N.V. App. Br. 1.

*Electronics, Inc.*, 2018 WL 542672; Nos. 2016-2684, 2017-1922 (Fed. Cir. Jan. 25, 2018).

We have reconsidered our Decision regarding the claims in light of Appellants' arguments in the Request for Rehearing ("Request"). We grant the Request to the extent that we consider Appellants' arguments *infra*, but DENY the request to modify our Decision. We incorporate our earlier Decision herein by reference. *See* 37 C.F.R. § 41.52(a)(1).

### ISSUES ON REHEARING

Appellants present arguments they assert should be considered in the Request based on *Core Wireless Licensing*. Thus, the issue is whether *Core Wireless Licensing* changes our Decision.

### ANALYSIS

In our Decision, we affirmed the rejections of claims 1–5, 7, 9–14, and 16–23 under 35 U.S.C. § 101. (Decision 12).

Appellants argue the claims are patent eligible under the standard articulated in *Core Wireless Licensing* in which

the Court held that, although the generic idea of summarizing information existed prior to the claimed invention, the claims were directed to a particular manner of summarizing and presenting information in electronic devices. *Core Wireless Licensing* at 9. The claims at issue restrained the type of data that can be displayed in a summary window, which is a specific manner of displaying a limited set of information to the user.

Req. 2.

According to Appellants, “the present claims are not directed to the generic idea of summarizing information, but rather are directed to a particular manner of summarizing and presenting information in an electronic device comprising a data storage and a digital processing device. *Id.* at 3. For example, regarding claim 1, Appellants argue

The recited particular manner of summarizing patient data includes grouping the nodes of the clinical guideline into care phases, associating patient data with patient care phases selected from those care phases of the clinical guideline, and determining patient care phase time intervals for the patient care phases based on acquisition date information for the patient data associated with the patient care phases. These patient care phase time intervals are selected such that that [sic] no more than two patient care phase time intervals overlap at any point in time and such that each patient care phase time interval includes all acquisition dates for the patient data associated with the patient care phase.

*Id.* (emphasis omitted).

According to Appellants

In *Core Wireless Licensing*, the court held the claims at issue, which were directed to an improved user interface for computing devices, to be patent eligible. Specifically, the Court held that, although the generic idea of summarizing information existed prior to the claimed invention, the claims were directed to a particular manner of summarizing and presenting information in electronic devices. *Core Wireless Licensing* at 9. The claims at issue restrained the type of data that can be displayed in a summary window, which is a specific manner of displaying a limited set of information to the user. *Id.* The Court held that these claims recited a specific improvement over prior systems, resulting in an improved user interface for electronic devices, and thus were directed to statutory subject matter.

*Id.* at 2.

Likewise, the present claims are not directed to the generic idea of summarizing information, but rather are directed to a particular manner of summarizing and presenting information in an electronic device.

*Id.* at 3.

Appellants argue claim 1’s “particular manner of summarizing information in an electronic device overcomes deficiencies in conventional CDSS<sup>2</sup> summarization.” Request. 3–4. According to Appellants

the particular manner of summarizing information in the electronic device (i.e. CDSS) per claim 1 overcomes deficiencies in conventional CDSS summarization which do not provide a readily comprehensible presentation of temporal context of patient data. Claim 1 thus does not merely recite some generic idea of summarizing information, but rather claim 1 is directed to a particular manner of summarizing information in electronic devices, and hence is patent eligible as per *Core Wireless Licensing*.

*Id.* at 4.

In our Decision, we were not persuaded by Appellants’ arguments set forth in the Briefs and agreed instead with the Examiner’s conclusion that the claims are directed to abstract ideas and patent-ineligible concepts. Decision 6–9. In particular, the claims are directed to the abstract idea of “creating and updating patient care time intervals by creating or updating a clinical workflow patient care plan using phase time intervals.” *Id.* at 6–7. We also agreed with the Examiner’s conclusion that the claims do not

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<sup>2</sup> Appellants describe “A clinical decision support system (CDSS) is an interactive electronic system that provides guidance for a physician or other medical personnel in diagnosing and treating a patient.” Spec. 1:4–6.

present additional elements that amount to significantly more than the abstract idea. *Id.* at 5–9.

We are not persuaded by Appellants’ arguments that *Core Wireless Licensing* is applicable to the claims before us. For example, to the extent there is an improvement in claim 1, the improvement is to the abstract idea-- and this improvement is implemented by processing with conventional computer equipment. *Id.* at 7. Although *Core Wireless Licensing* is “directed to a particular manner of summarizing and presenting information in electronic devices,” resulting in an improved user interface, claim 1 does not recite an improved user interface, in contrast to *Core Wireless Licensing*. See *Core Wireless Licensing* at 9–10. As stated in *Core Wireless Licensing*,

Claim 1 of the ’476 patent requires “an application summary that can be reached directly from the menu,” specifying a particular manner by which the summary window must be accessed. The claim further requires the application summary window list a limited set of data, “each of the data in the list being selectable to launch the respective application and enable the selected data to be seen within the respective application.” This claim limitation restrains the type of data that can be displayed in the summary window. Finally, the claim recites that the summary window “is displayed while the one or more applications are in an un-launched state,” a requirement that the device applications exist in a particular state. These limitations disclose a specific manner of displaying a limited set of information to the user, rather than using conventional user interface methods to display a generic index on a computer. Like the improved systems claimed in *Enfish*, *Thales*, *Visual Memory*, and *Finjan*, these claims recite a specific improvement over prior systems, resulting in an improved user interface for electronic devices.

*Id.*

In *Core Wireless Licensing* the Specification confirmed the improved user interface and, in particular, that the claims are “directed to an

improvement in the functioning of computers, particularly those with small screens.” *Id.* at 10. Because *Core Wireless Licensing* held the claims are not directed to an abstract idea, the second step of the *Alice* inquiry was not addressed. *Id.*

In view of the above, the current claims are distinguishable from *Core Wireless Licensing* and, as discussed in our Decision, the claims are also distinguishable from *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327 (Fed. Cir. 2016), and *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1249 (Fed. Cir. 2014). Decision 6–8. *See also Electric Power Group, LLC v. Alstom S.A.*, 830 F.3d 1350 (Fed. Cir. 2016), in which the court characterized the claims as directed to the abstract idea of collecting information, analyzing it, and displaying certain results of the collection and analysis. *Id.* at 1354.

We are not persuaded by Appellants’ arguments regarding claim 1. We are also not persuaded by Appellants’ similar arguments for independent claims 9 and 16. Appellants present similar arguments for dependent claims 2, 3, 12, 14, 16, and 17. Request. 5–6. We note dependent claims 2, 14, and

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17 recite displaying (or display) patient data. We are not persuaded by Appellants' arguments for the same reasons discussed, *supra*.

In view of the above, we find no error in the 35 U.S.C. § 101 rejection of claims 1–5, 7, 9–14, and 16–23 and in our affirmance of that rejection.

#### CONCLUSION

Nothing in Appellants' Request has persuaded us that our Decision should be modified in view of *Core Wireless Licensing*. Accordingly, we deny the Request for Rehearing.

#### DECISION

To summarize, our decision is as follows:

We have considered the Request but DENY the request that we reverse the Examiner as to claims 1–5, 7, 9–14, and 16–23.

#### DENIED