UNITED STATES PATENT AND TRADEMARK OFFICE

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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 SUNIL BUDHRANI and SHAHIN KORANGY
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Appeal 2019-003841
Application 14/101,290
Technology Center 3600

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Before JENNIFER D. BAHR, JAMES P. CALVE, and
WILLIAM A. CAPP, *Administrative Patent Judges*.

CALVE, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the decision of the Examiner to reject claims 1–7 and 13–16. Br. 3. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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[1] "Appellant" refers to "applicant" as defined in 37 C.F.R. § 1.42. Appellant identifies Messrs. Sunil Budhrani and Shahin Korangy as the real party in interest. Br. 1.

CLAIMED SUBJECT MATTER

Claims 1, 6, and 7 are independent, with claim 1 reproduced below.

1.   An apparatus for providing services between a recipient and a provider via a server over a communication network, the apparatus comprising:
a computer implemented processor configured for:
        establishing a recipient session connection between a first terminal and said processor, over the communication network;
        receiving recipient information from the first terminal, via the recipient session connection;
        receiving scheduling information from the first terminal for scheduling an appointment for a provider session;
        storing said scheduling information in a data storage device;
        establishing said provider session connection between a second terminal and said processor, over the communication network;
        receiving provider information from the second terminal, via the provider session connection;
        establishing an examination session connection by connecting the recipient session connection with the provider session connection;
        storing the recipient information in a first database record, as stored recipient information, in the data storage device;
        storing the provider information in a second database record, as stored provider information, in the data storage device;
        transmitting the stored recipient information to the second terminal via the examination session connection;
        displaying selective recipient information selected from the stored recipient information, in a first graphical user interface ("GUI") at the first terminal and in a second GUI at the second terminal; and
        displaying selective provider information selected from the stored provider information, in the first GUI and in the second GUI,

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wherein said recipient information comprises information
received at the first terminal including audio-video data,

wherein said provider information comprises information
received at the second terminal including audio-video data,

wherein the recipient session connection comprises a
virtual private network between the processor and the first
terminal,

wherein the provider session connection comprises a
virtual private network between the processor and the second
terminal,

wherein the examination session connection comprises a
virtual private network between the first terminal and the
second terminal via said processor,

wherein the provider information in the second database
record comprises information of a type of provider.

REJECTION[2]

Claims 1–7 and 13–16 are rejected under 35 U.S.C. § 103(a) as
unpatentable over Sadler (US 2009/0240525 A1, pub. Sept. 24, 2009).

ANALYSIS

Claims 1–5

Appellant argues claims 1–5 together. Br. 15–18. We select claim 1
as representative. *See* 37 C.F.R. § 41.37(c)(1)(iv). Regarding claim 1, the
Examiner finds that Sadler disclosing a computer and processor to establish
a session between first and second terminals over a communication network,
store patient and provider information in first and second database records,
and schedule appointments. Ans. 5. The Examiner also determines it would
have been obvious to receive and store scheduling information so that each
participant knows when to attend the virtual conference. Final Act. 11–13.

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[2] A rejection of claims 1–7 and 13–16 as directed to patent-ineligible subject
matter under a judicial exception to 35 U.S.C. § 101 was withdrawn. Ans. 3.

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Provider information in a second database record

Appellant raises two arguments. First, Appellant argues that Sadler only describes one database for storing a patient archive and fails to disclose a second database record that stores provider information such as a medical provider or doctor's information. Br. 16. Appellant also argues that Sadler only stores patient information in the archive database. *Id.*

The Examiner has the better position. The Examiner correctly finds that claim 1 only requires a *single* data storage device. Claim 1 recites "a data storage device" for "storing the recipient information in a first database record . . . in the data storage device" and "storing the provider information in a second database record . . . in the data storage device." Br. 20 (Claims App.). The Examiner correctly finds that Sadler discloses a data storage device as data storage unit 34. Final Act. 12; Sadler ¶ 18, Fig. 1.

Sadler receives information from a patient at terminal 18 and stores the information in electronic health record 72 in database 34, which is a database record for storing "recipient information" as claimed. Sadler ¶¶ 17, 18, 22, Figs. 1, 2. Appellant does not dispute this finding. Br. 16 ("Sadler only describes a general database for storing only patient information.).

In addition to storing patient information, Sadler also stores provider information in a second database *record* as claimed. Sadler stores provider data generated by a medical provider such as medical images, physician's notes, video, audio, and text of telemedicine virtual visits (conferences) so future caregivers may review this material. Sadler ¶¶ 22, 23, 26, 28, 44. Sadler stores a physician's name and identification number (*id.* ¶ 23) as well as consultation information (*id.* ¶ 44) and templates 82, 84 (*id.* ¶ 25). This information is received from consultant's computer 26. *Id.* ¶ 44; *see* Ans. 4.

Sadler teaches that provider information of a caregiver or consultant may be stored in a patient file 72 *or* under a unique identifier assigned by tracking application 62. *Id.* ¶¶ 22, 44. In the former case, Sadler stores the provider information in a patient's medical file 72. Sadler ¶ 17. Even so, file 72 corresponds to "a second database record" when interpreted in light of paragraph 58 of the Specification, which Appellant cites as support for this feature. *See* Br. 5 (Summary of Claimed Subject Matter). Paragraph 58 discloses that "a doctor at the provider terminal can make notes" and the notes "are stored in the patient's EMR [electronic medical record] database at the server." Spec. ¶ 58; *see id.* ¶¶ 8 (information from healthcare services is stored in a patient's EMR), 47 (exam results recorded in patient's EMR).

Because Sadler stores medical provider data (e.g., physician's notes, recorded video, audio, and text) in a patient's electronic medical record 72 in database 34 (Sadler ¶¶ 22, 28), Sadler thus stores provider information in "a second database record" as claimed interpreted in view of the Specification.

The Specification also discloses that provider information is saved in a provider database on the server. Spec. ¶ 75. Even if we limit claim 1 to this embodiment, Sadler discloses this feature as well. Sadler discloses that provider information (medical images, physician's notes, video, audio, and text) "may be stored within (*or in conjunction with*) each patient's record." Sadler ¶ 22 (emphasis added). Thus, provider information may be stored as a separate record with a patient's record. *See id.* ¶¶ 22, 23 (medical records including physician personal information and notes and conference sessions are stored in secure data base 34 with provider authentication information). Provider (consultant) information may be saved in database 34 separately under a unique identifier assigned by application 62. *Id.* ¶¶ 35, 44; Ans. 4.

Sadler also stores medical provider information as documentation templates 82, 84 (e.g., procedural notes, vital sign diagnostic flow sheets, graphs, summaries and care plans) for using during conferences. *Id.* ¶ 24.

Sadler thus stores provider information of a physician or consultant in "a second database record." The provider information may be stored within patient file 72 *or* "in conjunction with" patient file 72 (*see id.* ¶¶ 22, 23) *or* it may be stored separately from patient's medical file 72 as a separate record in database 34 and/or under a unique identifier (*see id.* ¶¶ 23, 26, 44). When stored in patient file 72, the provider information satisfies paragraph 58 of the Specification. When stored "in conjunction with" patient file 72, or as a separate record in database 34, or under a unique identifier, the provider information satisfies the embodiment of paragraph 75 of the Specification, which also allows patient data to be stored in a provider's record.

Receiving and Storing Scheduling Information

Appellant also argues that Sadler fails to disclose receiving scheduling information from a first terminal for scheduling an appointment and storing that scheduling information in the storage device as claimed. Br. 16. In particular, Appellant argues that it would not have been obvious to do so in Sadler because Sadler's teleconference sessions are arranged in real time and are not scheduled, and scheduling information is not stored. Br. 17.

We agree with the Examiner that Sadler discloses that teleconferences "typically" involve providing a number to call into the conference and this information is a type of scheduling information so participants know when to attend a virtual meeting. Ans. 5 (citing Sadler ¶ 4). The Examiner also finds that Sadler records the starting and ending times of meetings and this process involves storing "scheduling information." *Id.* (citing Sadler ¶ 44).

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In addition, the Examiner finds that Sadler receives scheduling information for scheduling an appointment for a provider of services by sending an invitation to a consultant to join a conference. *Id.* (citing Sadler ¶¶ 33–37). Appellant's Specification discloses an appointment process in which an authorized user of the healthcare server uses their graphical user interface to make an appointment by invoking an appointment function on their respective GUI via the appointment module 245, which can store data from each appointment. Spec. ¶ 73. Sadler allows a user to schedule an appointment with a consultant by selecting a consultant from a menu on the system and activating an invite softkey that opens a viewing window and sends a message to website 16 in database 34 to activate a conference handling application 56, 58 for each consultant invited. Sadler ¶ 34. A tracking application 62 of database website 16 maintains a tracking list 64 of consultants and assigns a unique identifier to the conference and patient identifier. *Id.* ¶ 35. A user schedules a conference (appointment) with a consultant by sending a message to website 16, which opens an appointment window to conference with the consultant. *Id.* ¶¶ 33, 34. The consultant accepts the appointment by sending an acceptance message to website 16, which notifies the caregiver's computer 18 of the acceptance of the appointment request. *Id.* ¶ 36. Sadler stores data from each appointment (conference) as discussed above. *See id.* ¶ 44; Ans. 5 (citing *id.* ¶¶ 33–37).

Sadler's use of WebX (Webex) conferencing procedures to schedule conferencing appointments with medical care consultants (*see* Sadler ¶ 33) corresponds to the appointment scheduling and storage recited in claim 1 as interpreted in light of the Specification, which describes a similar process in paragraph 73. If other features are involved, they are not recited in claim 1.

We also agree with the Examiner that claim 1 does not require an appointment to be scheduled at a certain time before the appointment occurs or in a particular format that excludes the appointment procedure of Sadler. *See* Ans. 5. Appellant's argument that "nothing is scheduled and scheduling information is not stored" (Br. 17) does not address the Examiner's findings and does not apprise us of Examiner error. *See* 37 C.F.R. § 41.37(c)(1)(iv) (the Appeal Brief "shall explain why the examiner erred as to each ground of rejection contested by appellant."); *In re Jung*, 637 F.3d 1356, 1365 (Fed. Cir. 2011) (noting the Board's long-standing practice under its rules "to require an applicant to identify the alleged error in an examiner's rejections").

Sadler's disclosure of receiving and storing scheduling information for appointments with consultants renders obvious the claimed appointment system because anticipation is the epitome of obviousness. *See Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1373 (Fed. Cir. 2019); *In re McDaniel*, 293 F.3d 1379, 1385 (Fed. Cir. 2002) (same); *see also In re Gleave*, 560 F.3d. 1331, 1334 (Fed. Cir. 2009) (holding that a prior art reference does not have to satisfy an *ipsissimis verbis* test to disclose claim limitations).

A recipient registers with system 10, signs into system 10, creates an electronic health record 72, and is recognized (Sadler ¶¶ 14–17, 22). Then, conferencing applications 42, 44 allow the recipient to schedule a conference (appointment) with healthcare consultants (e.g., physicians) to consult about a medical issue. *Id.* ¶ 21. The recipient uses an invite softkey to schedule a conference. *Id.* ¶¶ 31–34. System 10 receives the scheduling information from terminal 18 as claimed. *Id.* ¶¶ 26–41. The conference occurs in real time, but its appointment is "scheduled" by terminal 18.

The consultant may accept the appointment to schedule a conference by sending an acceptance message from the consultant to website 16, which sends the message to recipient's terminal 18. *Id.* ¶ 36. Claim 1 does not recite how a meeting is scheduled, when it is scheduled, or how physicians accept an appointment. Ans. 5. Sadler's tracking application also records starting and ending times of appointments (conferences). Sadler ¶¶ 26, 44. Thus, Sadler's system 10 stores scheduling information as claimed. Ans. 5. Appellant has not apprised us of error in the Examiner's findings. Br. 17.

Accordingly, we sustain the rejection of claim 1 and claims 2–5.

Independent Claim 6

Claim 6 recites a method for providing healthcare delivery services over a communication network with similar features as recited in claim 1. The Examiner makes similar findings regarding Sadler's disclosure of these features as for claim 1 above. *See* Final Act. 12–13. Appellant argues that claim 6 is allowable for the same reasons as claim 1, and Sadler's system is used by a patient alone or with a caregiver and thus lacks a network between two healthcare providers that handles scheduling information. Br. 18.

Appellant's reliance on arguments presented above for claim 1 are not persuasive for the rejection of claim 6 for the same reasons discussed above for claim 1. Furthermore, Sadler discloses system 10 being used to establish telemedicine sessions (video and audio teleconferences) between caregiver computer 18 (a first healthcare provider terminal) and consultant computer 26 (a second healthcare provider terminal) via website 16 in system host 24. System 10 allows scheduling of conference(s) 108 between a first healthcare provider (caregiver) at computer 18 and a second healthcare provider(s) (consultant(s)) at computer 26). Sadler ¶¶ 12–15, 21, 22, 26–41, 44, Fig. 1.

Appellant is correct that caregiver computer 18 may be shared by a patient and a caregiver; however, Sadler discloses caregiver computer 18 being used by a patient and/or by healthcare providers. *Id.* ¶¶ 13, 31, 33. In either case, system 10 uses a communication network (VPN 12) to schedule and conduct conferences between a healthcare provider at terminal 18 to receive advice from a consultant (healthcare provider) at computer 26 as discussed above for claim 1. *Id.* ¶¶ 14–16, 21, 22, 26–41, 44, Fig. 1. System 10 also allows a healthcare provider(s) at computer 18 to schedule an appointment with a healthcare provider(s) at computer 26 and conduct audio and video conferences, as discussed above for the rejection of claim 1, to establish an examination session as recited in claim 6. *See Id.*

Thus, we sustain the rejection of claim 6.

Independent Claim 7 and Claims 13–16

Appellant asserts the same arguments for claim 7 as were asserted for claim 1. Br. 18. These arguments are not persuasive for the same reasons as discussed above for claim 7. Thus, we sustain the rejection of claim 7 and its dependent claims 13–16, which are not argued separately. *See id.*

CONCLUSION

Claims Rejected	35 U.S.C. §	Reference/Basis	Affirmed	Reversed
1–7, 13–16	103(a)	Sadler	1–7, 13–16	

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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