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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/125,821	04/25/2011	Charles Lagor	2008P01686WOUS	7922
24737	7590	06/29/2020	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS 465 Columbus Avenue Suite 340 Valhalla, NY 10595			KANAAN, MAROUN P	
			ART UNIT	PAPER NUMBER
			3686	
			NOTIFICATION DATE	DELIVERY MODE
			06/29/2020	ELECTRONIC

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CHARLES LAGOR, CORNELIS VAN ZON,
and WILLIAM P. LORD

Appeal 2020-001234¹
Application 13/125,821
Technology Center 3600

Before HUBERT C. LORIN, NINA L. MEDLOCK, and
MATTHEW S. MEYERS, *Administrative Patent Judges*.

MEYERS, *Administrative Patent Judge*.

DECISION ON APPEAL
STATEMENT OF THE CASE

Appellant² appeals under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1, 3, 4, 6–12, 14, and 16–20, which constitute all the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Our decision references Appellant's Appeal Brief (“Appeal Br.,” filed July 11, 2019) and Reply Brief (“Reply Br.,” filed December 3, 2019), and the Examiner's Answer (“Ans.,” mailed October 3, 2019) and Final Office Action (“Final Act.,” mailed March 22, 2019).

² Appellant identifies “KONINKLIJKE PHILIPS N.V.” as the real party in interest. Appeal Br. 2.

CLAIMED INVENTION

Appellant's claimed invention relates "to a system and method for interpreting a computer-readable representation of clinical guidelines."

Spec. ¶ 12.

Claims 1, 11, and 20 are the independent claims on appeal. Claim 1, reproduced below with bracketed matter and emphasis added, is illustrative of the claimed subject matter:

1. A method, comprising:

[(a)] receiving patient information via a user interface such that it is recorded;

[(b)] processing the patient information based in part on sorting and ranking the patient information to generate an initial worklist, wherein the initial worklist comprises a list of tasks based on the patient information and a computer-readable and accessible representation of a clinical guideline written in a computer-interpretable guideline language, wherein the clinical guideline prescribes a series of steps for treating a patient based on a combination of the patient information entered, wherein the initial worklist further comprises tasks ranked by urgency based on the patient information, data stored in the guideline;

[(c)] displaying the initial worklist;

[(d)] receiving a first user input indicating that a task on the initial worklist has been completed;

[(e)] processing the first user input to *generate an updated worklist based on the patient information, the urgency of each task, the guideline, and further user input indicating tasks that have been completed*;

[(f)] displaying the updated worklist, wherein the display of the updated worklist includes an indication of the completed task;

[(g)] receiving a second user input comprising new patient information;

[(h)] updating the list of tasks based on the new patient information and the computer-readable representation of the clinical guideline, wherein the clinical guideline prescribes a

different series of steps for treating the patient in light of the new patient information;

- [(i)] processing the second user input to generate an altered updated worklist comprising the updated list of tasks;
- [(j)] displaying the altered updated worklist; and
- [(k)] *generating an audit trail to indicate the tasks that have been completed.*

REJECTION

Claims 1, 3, 4, 6–12, 14, and 16–20 are rejected under 35 U.S.C. § 103 as unpatentable over Brandt et al. (US 2003/0045958 A1, pub. Mar. 6, 2003) (“Brandt”), Hussain (US 2006/0282302 A1, pub. Dec. 14, 2006), and Hahn et al. (US 2006/0212317 A1, pub. Sept. 21, 2006).

ANALYSIS

Claims 1, 3, 4, 7–12, 14, and 16–20

Appellant argues claims 1, 3, 4, 7–12, 14, and 16–20 as a group (*see* Appeal Br. 4–8; Reply Br. 2–6). We select independent claim 1 as representative. Claims 3, 4, 7–12, 14, and 16–20 stand or fall with independent claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

We are not persuaded by Appellant’s argument that the Examiner erred in rejecting independent claim 1 under 35 U.S.C. § 103(a) because the combination of Brandt, Hussain, Hahn fails to disclose or suggest the subject matter of claim 1 (*see* Appeal Br. 4–8; Reply Br. 2–6).

Instead, we agree with, and adopt, the Examiner’s findings and rationales as our own (*see* Final Act. 3–7; Ans. 3–4). We add the following discussion for emphasis.

In rejecting claim 1, the Examiner finds that Brandt discloses a method of receiving and processing patient information to generate an initial

worklist based on the patient information and a clinical guideline, and that Brandt’s worklist is dynamic and continuously updated based on user input (Final Act. 3–6). In particular, the Examiner finds that Brandt discloses claim 1 limitations (b) and (e), including “tasks that have been completed,” but the Examiner acknowledges that Brandt does not explicitly teach “sorting and ranking the patient information” and “wherein the initial worklist further comprises tasks ranked by urgency based on the patient information, data stored in the guideline” (i.e., limitation (b)) and “wherein the updated worklist is based on the urgency of each task, the guideline, and further user input indicating tasks that have been completed” (i.e., limitation (e)) (Final Act. 4–5). The Examiner finds that Hussain discloses these limitations and the Examiner determines that it would have been obvious to one of ordinary skill in the art to modify the workflow system of Brandt to include ranking tasks in a worklist by urgency as taught in Hussain (*id.*; Ans. 3) (citing Hussain ¶¶ 62–63, 66).

Appellant argues that paragraphs 62, 63, and 66 of Hussain, on which the Examiner relies, “merely disclose prioritizing tasks within a list of tasks associated with a patient wherein tasks are completed in series” (Appeal Br. 6). Appellant characterizes Hussain as being “concerned with determining the priority of tasks to determine which tasks need to be completed prior to others” and argues that “[t]here is simply no disclosure in Hussain that teaches or suggests updating a worklist based on all the recited factors” (*id.*).

Responding to Appellant’s argument in the Answer, the Examiner states that “Brandt teaches tasks [that] have been completed” and “Hussain

in paragraphs 62–63 teaches wherein tasks are prioritized based on urgency; i.e. based on urgency of each task and the guidelines” (Ans. 3).

In the Reply Brief, Appellant argues that “Hussain merely discloses that tasks may be placed higher on the list because of dependencies” (Reply Br. 4). According to Appellant, claim 1 distinguishes over Hussain’s prioritizing of tasks because “[i]n contrast, the urgency of each task as recited in the present claims indicates that the task is either an emergency or not and thus requires immediate attention irrespective of any dependencies” (*id.*).

We are not persuaded of error in the Examiner’s rejection. As to Appellant’s argument that the claimed “urgency of each task” “indicates that the task is either an emergency or not” (Reply Br. 4), we do not see, and Appellant does not point to any support in the Specification for that interpretation. In the absence of an express definition of a claim term in the specification or a clear disclaimer of scope, the claim term is interpreted as broadly as the ordinary usage of the term by one of ordinary skill in the art would permit. *See In re ICON Health & Fitness, Inc.*, 496 F.3d 1374, 1379 (Fed. Cir. 2007); *see also In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997). Here, Appellant fails to direct us to any specific definition in the Specification for the term “urgency.” Indeed, we note that the Specification does not use the term “urgency” even once. Thus, the term “urgency” is given its broadest reasonable interpretation consistent with the Specification. *See In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004) (“[d]uring examination [of a patent application, a pending claim is] given [the] broadest reasonable [construction] consistent with the specification, and . . . claim language should be read in light of the specification as it

would be interpreted by one of ordinary skill in the art”) (internal citation and quotations omitted).

As to Appellant’s argument that Hussain is limited to prioritizing tasks based on dependencies, we do not agree. *See, e.g.*, Hussain ¶ 39 (“Tasks may be linked (e.g., one must occur before another is started) ***or they may be independent of one another.***”) (emphasis added).

In paragraph 62, Hussain discloses:

A creator of tasks (e.g. a physician) can also determine which tasks have priority over others within the list of tasks associated with a patients. For example, the physician may judge that the x-ray is a higher priority task than getting blood for clinical laboratory tests. Setting priorities allows the receiver of tasks to prioritize their work; furthermore, the system can also automate prioritization once algorithms are employed. In this scenario, the list for receivers of tasks can automatically be ordered by priority.

Appellant has not persuasively explained how the claimed “urgency of each task” distinguishes over the priority of tasks as determined by a creator (e.g., a physician) in Hussain. A person of ordinary skill in the art would understand that a physician would assign priorities to tasks based on the urgency of each task in view of the patient information. In the example provided in paragraph 62 of Hussain, “the physician may judge that the x-ray is a higher priority task than getting blood for clinical laboratory tests.” In other words, the physician has determined that it is more urgent to obtain x-ray images of a particular patient than to obtain blood from that patient for clinical laboratory tests. Accordingly, we agree with the Examiner that

Hussain discloses ranking tasks based on the urgency of each task under a broadest reasonable interpretation in light of the Specification.³

Appellant further argues that Hahn does not disclose “generating an audit trail to indicate the tasks that have been completed” (limitation (k)) (Appeal Br. 7–8). Appellant contends that paragraph 164 of Hahn, on which the Examiner relies (Final Act. 7), “discloses two different types of audits” (Appeal Br. 7). According to Appellant, “the first type of audit is a system that generates audit reports on mammography management systems” (*id.*) (reproducing paragraph 162 of Hahn). Appellant characterizes this first type of audit as “a once a year review of mammogram diagnoses to determine statistics related to the diagnoses” (*id.*) (citing Hahn ¶ 163), and contends that this first type of audit “has no relationship” to the claimed audit trail. According to Appellant, the second type of audit disclosed in Hahn is “the recording of access to specific records” (*id.* at 8) (quoting paragraph 164 of Hahn). Appellant contends that “[t]he accessing of a record does not indicate one way or another whether a task has been completed” (Reply Br. 5).

In paragraph 164, Hahn discloses that “the mammography management system creates an audit trail throughout normal usage by tracking, storing, and identifying users’ access of specific records.” Hahn further describes this audit trail in paragraph 73:

After the exam information is collected the front-desk or other user may either create the exam and cause the patient’s status to change to ‘Arrived’ 1220 by pressing the ‘Create Exam’ button or create the exam and then go to the ‘start exam’ page directly

³ See also Hussain ¶ 61 (“all open tasks can be sorted . . . by ‘acuity’ (i.e. a term used to rate how sick a patient is when presenting to the department)”).

by pressing the ‘Create & Start Exam’ button. When either button is pushed the following actions occur: an exam record is transmitted to and created in a mammography management system database, the patient’s exam status is set to ‘Arrived’ 1220, an exam audit log entry is made to indicate the creation of the exam, the exam is displayed in the facility dashboard arrived patients section, the exam is displayed on the arrived patients screen for the facility.

Given that Hahn discloses creating an exam audit log entry in response to the creation of an exam, we do not agree with Appellant that Hahn’s audit log or trail is simply limited to tracking access to records. We also note that claim 1 is not limited to any particular type of task, and Appellant has not explained why accessing a record is not itself a task (e.g., a task of accessing of a patient’s medical record assigned to a staff member at a hospital).⁴

In view of the foregoing, we sustain the Examiner’s rejection of claim 1 under 35 U.S.C. § 103(a). We also sustain the Examiner’s rejection of claims 3, 4, 7–12, 14, and 16–20, which fall with claim 1.

Claim 6

Claim 6 depends from claim 1 and further recites “wherein the initial worklist, the updated worklist, and the altered updated worklist include a list of recommended tasks derived from the patient information and ranked by urgency.”

Similar to the discussion above, the Examiner’s position is that Hussain discloses ranking tasks by urgency (Final Act. 8; Ans. 4).

⁴ For example, Hussain discloses that steps of a task of writing a prescription for a patient may include “[c]heck for patient allergy to the selected medication” (Hussain ¶ 47) and “[r]ecord the prescription information in medical record” (*id.* ¶ 54).

Appellant argues that “[t]here is simply no disclosure in Hussain that teaches or suggests generating a recommended list of tasks ranked based on urgency for a specific user” (Appeal Br. 9). According to Appellant, “Hussain is not concerned with ranking the recommended list of tasks by urgency” and “[a]t no point does Hussain indicate the level of urgency of a task delegated to a specific user, requiring the user to reshuffle the tasks at hand to perform the most urgent task first.” (Reply Br. 6).

We are not persuaded of error in the Examiner’s rejection for substantially the same reasons discussed above. We further note that claim 6 does not recite “a task delegated to a specific user” or “requiring the user to reshuffle the tasks” and Appellant’s arguments in that regard are not commensurate with the scope of the claim.

In view of the foregoing, we sustain the Examiner’s rejection of claim 6 under 35 U.S.C. § 103(a).

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 3, 4, 6–12, 14, 16–20	103(a)	Brandt, Hussain, Hahn	1, 3, 4, 6–12, 14, 16–20	

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