

RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CARDIOCOM, LLC,
Petitioner,

v.

ROBERT BOSCH HEALTHCARE SYSTEMS, INC.,
Patent Owner.

Case IPR2013-00451
Patent 7,587,469 B2

Held: September 9, 2014

Before: STEPHEN C. SIU, JUSTIN. T. ARBES, and MIRIAM L.
QUINN, Administrative Patent Judges.

APPEARANCES:

ON BEHALF OF PETITIONER:

DANIEL W. McDONALD, ESQUIRE
Merchant & Gould
3200 IDS Drive
80 South Eighth Street
Minneapolis, Minnesota 55402-2215

1 ON BEHALF OF PATENT OWNER:
2 DON DAYBELL, ESQUIRE
3 BAS DE BLANK, ESQUIRE
4 Orrick Herrington & Sutcliffe, LLP
5 1000 Marsh Road
6 Menlo Park, California 94025-1015
7
8

9 The above-entitled matter came on for hearing on Tuesday,
10 September 9, 2014, commencing at 10:44 a.m., at the U.S. Patent and
11 Trademark Office, 600 Dulany Street, Alexandria, Virginia.
12
13
14

15 P R O C E E D I N G S

16 - - - - -

17 JUDGE ARBES: Counsel for the Petitioner, you may
18 proceed on the second case. Would you like to reserve time for
19 rebuttal?

20 MR. MCDONALD: Yes. I would like to reserve 15
21 minutes for rebuttal. Thank you.

22 MR. DE BLANK: Your Honor, do you want copies of those
23 slides as well?

24 JUDGE ARBES: Why don't we wait until the end and we
25 will get them all at once.

26 MR. MCDONALD: If we could turn to slide 2, please, for
27 the '469 patent. A similar outline to what I just went through for the
28 '420, but we will talk briefly about the patent itself, summarize the

1 decision granting the *inter partes* review, with the cited grounds,
2 summarize the art that we're relying on here and then go into how it
3 satisfies the claim elements, and then, finally, get through the issue of
4 why it would have been obvious at the time to combine this art to one
5 of ordinary skill in the art.

6 So, if we go to slide 3, this is Figure 1 from the '469 patent.
7 This is essentially a network system here. You see there's a central
8 server that has a communication network that can communicate with a
9 variety of remote apparatuses, and you see that these remote
10 apparatuses can be connected to monitoring devices as well. So, that's
11 kind of the core system here of the '469 patent.

12 This one is not focused on patients. You don't see anything
13 in this figure on patients, and elsewhere, it is not focused on patients
14 as well. So, just to make sure we're drawing that distinction on the
15 heels of the '420 patent, where group overview charts regarding
16 patients were of note. In this patent, that's really not a core issue.

17 So, if we go to slide 4, what that shows here is it's
18 handwritten in at the top middle there, to the left of the word
19 "Display," but it's -- you'll have to trust me on this, "microphone" and
20 "speakers" are the two elements that were added in there. And I show
21 that figure because that's really also part of the elements of the system
22 here that relate to such things, specifically regarding speech
23 recognition and conversion between audio and digital files
24 communicating to a patient and receiving information verbally back
25 from them and converting that.

1 So, if we now go to slide 5 with the core elements of the
2 claim, it's hard to put the whole claim on the slide here in a readable
3 fashion, so I have kind of paraphrased a little bit here, and we will
4 obviously go into detail, as needed, further as we go along. But
5 essentially the elements are this communications channel, the server,
6 and a primary device that receives programs from a server, it converts
7 a digital file into synthesized audio, so it takes it from digital, converts
8 it to something audible, presents that through the speaker, then gets
9 audible responses back, and then has a processor to collect data about
10 the primary device and provide a diagnosis of its performance. So, a
11 lot of things are going on with the primary device.

12 The secondary device is connected operatively to the
13 primary device, receives responses from a user and converts them into
14 a digital file through speech recognition. So, those are your core
15 components here, the primary device basically converting the digital
16 to speaker, audio out, and then the secondary device talks about a user
17 converting speech coming into a digital file.

18 Slide 6, if we can go to that. So, just briefly touching on the
19 prosecution history here, after final rejection, there were amendments
20 to specifically call out the synthesized audio transmission and speech
21 recognition limitations, but those weren't enough to get the claims
22 allowed. They were still rejected. That was also not to be considered
23 to be an advance over the prior art.

24 It was only with an examiner's amendment that the notice of
25 allowance came in, and this was not language that you see in anything

1 that had originally been proffered by the applicant here. This is
2 apparently -- it may have come from a discussion, I don't know for
3 sure, but this is wording that the examiner had proposed to add to the
4 claim to make it allowable, and that's where you see the idea of
5 executing the programs to provide a diagnosis of a performance of the
6 primary device. And then it was allowed.

7 So, slide 7, then, if we can now go forward to the *inter*
8 *partes* review decision. Only certain claims of this patent are at issue
9 in this proceeding. Unlike the prior one, this is just claims 1, 2, and 5
10 through 10, on two grounds: One, the Cohen, Wahlquist obviousness
11 under 103, and the second grounds also includes Jacobs and
12 Neumann, with Cohen and Wahlquist, under 103. So, that's our art,
13 Cohen, Wahlquist, Jacobs, and Neumann. So, let's talk about that art
14 now at slide 8.

15 Here's a drawing of Cohen, a pretty basic drawing here.
16 You've got a -- it's a patient monitoring system, including speech
17 recognition capability. So, just on its face there, you can see it hits on
18 a lot of the elements of the claims that we're talking about here, but
19 you have this system, an outpatient subsystem over to the right there,
20 next to the stick figure, and then you've got this system overall -- it's
21 called a system 11, but it's also got a number of parts inside, are part
22 of it here, and also developed further in some of the other figures of
23 the patent.

24 If we go to slide 9, you'll see this is where the Board had
25 walked through Cohen to some extent, talking about how it did show

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.