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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 IPR2013-00468
Patent 7,516,192

CORRECTED PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE WITH RESPECT TO U.S. PATENT NO. 7,516,192

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I. Introduction

Every claim of the '192 patent is rendered obvious by the disclosure of Wright Jr., Goodman, and/or Wahlquist. Patent Owner (hereinafter "Bosch") portrays the '192 patent as narrowly focused on communicating with individuals, ignoring that it more generally teaches "gathering data from remotely located devices." Bosch also contends Wahlquist, in contrast, is "completely divorced" from communicating with individuals, ignoring Wahlquist's teachings of communications with individuals before, during, and after the diagnostic process.

Additionally, contrary to Bosch's assertions, one of ordinary skill would have been motivated to combine the cited art. Goodman teaches the use of computerized "algorithms" to gather data based on treatment plans. Similarly, Wright teaches that it "finds use in any application in which data is collected procedurally or algorithmically." Goodman relates to using script programs to gather data from devices associated with individuals; so does Wahlquist.

Bosch's assertions of secondary considerations fall far short in many ways, including a lack of a nexus between the purported evidence and the claims. Additionally, its contentions regarding missing elements fail to fully consider the express teachings of the prior art and the common sense of one of ordinary skill. In short, the '192 claims are combinations of familiar elements that yield predictable results. The Board should find that claims 1-37 of the '192 patent are unpatentable.

II. The Cited Art Is Analogous and Would Be Combined By One Of Ordinary Skill In The Art.

Bosch claims that Wahlquist is not analogous art because Wahlquist's solution eliminates the user from the process and that "the entire diagnosis process itself is completely divorced from any participation by the user." Resp. 29; David Decl. ¶ 284. Bosch's expert, Dr. David, failed to defend those sweeping and wrong assertions on cross examination. David Dep. (Ex. 1041) 69:6-9; 71:2-72:7; 75:2-11; 486:21-487:2; 489:22-490:2-18 (conceding Wahlquist interacts with a user before, *during*, and after the diagnosis process); Stone Rep. ¶¶ 57-60;189-201, 220 (Ex. 1022).

Both Wahlquist and the '192 patent's claims involve communication, including transmitting computer programs, between computing devices. *Id*. at 37:17-24; 42:19-43:7; Stone Rep. ¶¶ 38-47. Dr. David ignored the '192 patent specification when assessing the issue of analogous art. *Compare id.* at 69:6-12 *with* 71:2-24. His opinions and Bosch's arguments thus are flawed as a matter of law. *See In re Bigio*, 381 F.3d 1320, 1325-26 (Fed. Cir. 2004) (must consider "the invention's subject matter in the patent application, including the embodiments, function, and structure of the claimed invention."). Wahlquist also does not "teach away." While an example in Wahlquist teaches not using a prompt, other examples teach exactly that functionality, and there is nothing in Wahlquist suggesting prompts would be nonfunctional. Stone Rep. ¶ 199. Wahlquist is in the same field

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