

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 IPR2013-00468
Case IPR2013-00469
Patent 7,516,192 B2

Held: September 9, 2014

Before: JUSTIN T. ARBES, BRYAN F. MOORE, and TRENTON A.
WARD, 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 3:14 p.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: Thank you. Please be seated.

18 This is the final hearing of the day in Case IPR2013-00468.
19 IPR2013-00469 has been joined with the 468 case. So, we will
20 proceed in the order we have for the other cases. Counsel for
21 Petitioner, you may proceed, and would you like to reserve time for
22 rebuttal?

23 MR. MCDONALD: I would like to reserve 15 minutes,
24 please. Thank you.

25 So, I will go ahead and turn to slide 2 here, and I know we
26 covered some of this ground before, but I also know that we have got
27 a new judge here, so please, especially Judge Ward, if you feel like

1 I'm going too fast for you, please interrupt me and let me know if you
2 have any questions.

3 JUDGE WARD: Thank you for that.

4 MR. MCDONALD: So, we will briefly go through the '192
5 patent and the claims, talk a little about the decision granting the IPRs
6 and -- since they were merged, there's two of them -- then the cited
7 grounds. Then we will go into a little more detail there as to how the
8 cited art that are related to our grounds satisfy the claim elements, talk
9 about why it would have been obvious for one of skill in the art to
10 combine those things. And if I have a couple extra minutes at the end
11 there, I will try to address the secondary considerations.

12 Let's go to slide 3. For the merged proceedings here, claim
13 1 is representative, although this patent, all 37 claims are in the
14 merged proceeding, but we will use claim 1 as representative here.
15 Generally a monitoring system with a user interface that will display
16 messages, queries, or response choices in a data merge program that
17 customizes a generic script program and includes a display command
18 and an input command; and then also databases -- one or more
19 databases that store a generic program and then responses from the
20 user.

21 So, I would say at the core here that the issue being
22 addressed by the '192 patent is the efficiently customizing
23 communications with remote devices. This data merge program is a
24 way to customize these generic programs in a fairly efficient way, I
25 think is the concept at issue with the '192.

1 So, if we go to slide 4, this is just the basic representative
2 figure of it, showing the remote apparatus that will get that
3 customized script program loaded on it, and then coming from the
4 server, which will have the script generator -- has generic scripts
5 stored on it but also custom scripts that are created and derived from
6 the generic scripts, script programs.

7 So, we'll turn now to slide 5, with the decision to institute
8 the IPR. Ground number one was just Wright Jr. by itself as an
9 obviousness grounds under Section 103, where in the Board's decision
10 it found -- Wright talks about creating these forms that can be
11 modified and customized for various uses and found that those
12 executable forms can be considered a customized script program.
13 Wright talks about scripts.

14 And also, Wright discloses a data merge program. There
15 was some effort by Bosch before the IPR was instituted that argued
16 that that merged program had to require that data be entered
17 automatically, but that was rejected as inconsistent with the broadest
18 reasonable construction in the IPR decision. And so Wright was
19 found to bring two sets of data together into one, and so, therefore,
20 would satisfy that data merge program element.

21 And then, finally, the database element was found in the
22 Institution Decision on the basis that Wright teaches that the form can
23 be selected from a list of preexisting forms. You have the duplicate
24 form option, for example, where these forms would be stored, and so
25 that would -- that certainly would indicate a database.

1 So, if we go to slide 6, this is kind of tiny print here, but I
2 will just try to walk through, with Figure 1 of Wright, where you have
3 got a central location, a person can create this form, representing the
4 form. Then they send the form, in that second drawing here that's
5 blown up, to a PDA device. Back then I think the patent talked about
6 Newtons, which are not around anymore, but that's the sort of device
7 that you could then transmit the form to where it would then be filled
8 out. Somebody could tap on Newton to check off boxes or enter a
9 number, et cetera. And then the answers, the form data would be sent
10 back to that central computer.

11 So, with slide number 7, these were some of the findings by
12 the Board that parallel how Wright matches up with the claim
13 elements here. It relates to queries and provides user responses, that's
14 the -- what's on that form that's sent out to those PDAs so the people
15 can respond. That's, I think, called a script in the Wright, Jr. patent,
16 and it was considered to be a script program. And it teaches the other
17 elements as well or at least they would be obvious in view of Wright.

18 And that obviousness, by the way, as we have in our other
19 proceedings here, our person of skill in the art we think is someone
20 with a bachelor's in the computer science or engineering field with a
21 couple of years of programming experience and one year of
22 networking experience. I heard Bosch's counsel indicate earlier that
23 they didn't think there was a dispute about that, and so I guess I don't
24 think there is, but I just want to make sure we're on the same page
25 there. So, that was ground number one.

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.