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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CLINICOMP INTERNATIONAL, INC.,
Plaintiff,
v.
CERNER CORPORATION,
Defendant.

Case No.: 17-cv-02479-GPC (DEB)
CLAIM CONSTRUCTION ORDER

In the present action, Plaintiff CliniComp International, Inc. (“CliniComp”) asserts a claim of patent infringement against Defendant Cerner Corporation (“Cerner”), alleging infringement of U.S. Patent No. 6,665,647 (“the ’647 Patent”). (Doc. No. 1, Compl.) On February 14, 2022, the parties filed their joint claim construction hearing statement, chart, and worksheet pursuant to Patent Local Rule 4.2, identifying the disputed claim terms from the ’647 Patent. (Doc. No. 63.) On March 28, 2022, the parties each filed their opening claim construction briefs. (Doc. Nos. 70, 71.) On April 11, 2022, the parties each filed their responsive claim construction briefs. (Doc. Nos. 72, 73.) On May 20, 2022, the parties filed an amended joint claim construction chart and worksheet. (Doc. No. 79.)

1 The Court held a claim construction hearing on July 22, 2022.¹ Amardeep Thakur,
2 Bruce Zisser, and Shawn McDonald appeared for Plaintiff CliniComp. Jared Bobrow and
3 Benjamin Austin appeared for Defendant Cerner. After considering the parties' briefing
4 and the arguments present at the hearing, the Court issues the following claim construction
5 order.

6 I. BACKGROUND

7 CliniComp is the owner of the '647 Patent by assignment. (Doc. No. 1, Compl. ¶
8 2.) In the present action, CliniComp alleges that Cerner directly infringes one or more
9 claims of the '647 Patent, including but not limited to independent claim 1, by making,
10 using, selling, and/or offering to sell within the United States Cerner's hosting and
11 monitoring services, including at least its Remote Hosting Option ("RHO"), its Enterprise
12 Solution Hosting ("eHosting"), and its Enterprise Cloud Services. (Doc. No. 1, Compl. ¶¶
13 15-16.)

14 The '647 Patent is entitled "Enterprise Healthcare Management System and Method
15 of Using Same." U.S. Patent No. 6,665,647, at (54) (filed Dec. 16, 2003). The Federal
16 Circuit described the '647 Patent as follows:

17 The '647 patent describes a healthcare management system for
18 healthcare enterprises. The purpose of the '647 patent is to allow healthcare
19 enterprises to consolidate legacy software applications and new software
20 applications together on one software platform. Many healthcare enterprises
21 utilize legacy systems for managing data related to a variety of uses, including
22 patient care, accounting, insurance, and administrative functions. These
23 established systems are often outdated and too inflexible to support healthcare
24 enterprises in the "modern managed care environment." '647 patent at col. 1
25 ll. 58–62. The healthcare management system described in the '647 patent
26 allows healthcare enterprises to preserve existing legacy applications while
27 simultaneously phasing in new or updated applications on the same system.

28 The enterprise healthcare management system in the '647 patent allows
enterprises to "remotely host[] . . . turnkey health care applications" and

¹ Prior to the July 22, 2022 claim construction hearing, the Court provided the parties with a tentative claim construction order.

1 “provide[s] . . . enterprise users access to the turnkey applications via a public
2 network.” *Id.* at col. 2 ll. 61–65. Enterprises can upgrade existing capabilities
3 and add functionality not available in their current system without significant
4 capital investments. Because the applications are hosted on a public network
5 (i.e., the internet), the healthcare enterprise only needs computing resources
6 sufficient to allow secure, quality access to the internet. The “turnkey”
7 management system adjusts to changes within the enterprise as the system
8 “easily and cost-effectively scales” to respond to an enterprise’s needs. *Id.* at
9 col. 3 ll. 19–23.

10 The information collected by the enterprise from its applications may
11 be stored in a searchable database. Specifically, the ’647 patent discloses a
12 clinical data repository that stores information from applications within the
13 suite of applications on the system. The clinical data repository stores
14 “multidisciplinary information on a wide variety of enterprise functions.” *Id.*
15 at col. 6 ll. 31–40. For example, the clinical data repository stores
16 pharmaceutical, radiology, laboratory, and clinical information data utilized
17 by other applications of the application suite.

18 The ’647 patent discloses that “the clinical data repository is a database
19 that is partitioned” and that “the database portion may be configured as either
20 a logical partition or a physical partition.” *Id.* at col. 9 ll. 60–64. The
21 healthcare management system is also capable of supporting multiple
22 enterprises, in which case “the information related to each of the separate
23 healthcare enterprises is stored in a separate partition of the database.” *Id.* at
24 col. 10 ll. 6–10. As such, when multiple enterprises are involved with using
25 the system, the clinical data repository may have multiple partitions, with each
26 partition holding healthcare management information for the respective
27 enterprise.

28 Among other things, the ’647 patent describes the partitioning of data
for multiple enterprises so as to allow the storing of “[the] first healthcare data
in a first portion of the database associated with the first healthcare enterprise
facility” and separately storing “[the] second healthcare data in a second
portion of the database associated with the second healthcare enterprise
facility.” *Id.* at col. 14 ll. 24–29. The system allows two (or more)
independent healthcare enterprises to share access to certain applications
while maintaining sole access to their respective unique healthcare
applications. The databases are effectively “partitioned” or “portioned” in this
way.

Cerner Corp. v. Clinicomp Int’l, Inc., 852 F. App’x 532, 532–33 (Fed. Cir. 2021).

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1 Independent claim 1 of the '647 Patent, the only independent claim asserted by
2 CliniComp in this action,² recites:

3 1. A method of operating an enterprise healthcare management system for a
4 first healthcare enterprise facility and a second healthcare enterprise facility
5 independent of the first healthcare enterprise facility, comprising:

6 establishing a first secure communication channel via a public network
7 between an application server and a first end user device in the first enterprise
8 facility and establishing a second secure communication channel via the
9 public network between the application server and a second end user device
10 in the second enterprise facility, the application server remotely hosting a
11 healthcare application and having a database;

12 receiving first healthcare data from the first end user and second healthcare
13 data from the second end user;

14 processing the first healthcare data and the second healthcare data with the
15 healthcare application;

16 storing the processed first healthcare data in a first portion of the database
17 associated with the first healthcare enterprise facility and storing the
18 processed second healthcare data in a second portion of the database
19 associated with the second healthcare enterprise facility;

20 configuring the database to accept legacy information derived from a legacy
21 application operating at each of the first and second healthcare enterprise
22 facilities, wherein the functions in the healthcare application are not
23 duplicative of the legacy application; and

24 generating a query to extract information from the database relevant to a
25 respective one of the first and second healthcare enterprise facilities derived
26 from the healthcare data and the legacy information for managing and tracking
27 a performance of the respective one of the first and second healthcare
28 enterprise facilities,

wherein healthcare data in the first portion of the database is only accessible
to the first end user device and healthcare data in the second portion of the
database is only accessible to the second end user device.

²'647 Patent at col. 14 ll. 8-45.

On December 11, 2017, CliniComp filed a complaint for patent infringement against

² (See Doc. No. 71-2, Ex. C at C-3.)

1 Defendant Cerner, alleging infringement of the '647 Patent. (Doc. No. 1, Compl.) On
2 May 16, 2018, the Court granted Cerner's motion to dismiss Clinicom's claims for willful
3 infringement and indirect infringement as well as the relief sought in connection with these
4 claims of injunctive relief, treble damages, and exceptionality damages. (Doc. No. 18 at
5 21.) On June 25, 2018, Cerner filed an answer to CliniComp's complaint. (Doc. No. 19.)

6 On March 5, 2019, the Patent Trial and Appeal Board ("PTAB") instituted an *inter*
7 *partes* review ("IPR") as to claims 1-25 and 50-55 of the '647 Patent. (Doc. No. 30-1, Ex.
8 A.) On March 7, 2019, the Court granted a stay of the action pending completion of the
9 IPR proceedings. (Doc. No. 31.) On March 26, 2020, the PTAB issued a final written
10 decision, determining that claims 50-55 of the '647 Patent are not patentable in light of the
11 prior art, but that claims 1-25 of the '647 Patent are patentable.³ (Doc. No. 32, Ex. A at
12 93-94.) On April 20, 2021, the Federal Circuit affirmed the PTAB's determination that
13 claims 1-25 of the '647 Patent are patentable.⁴ (Doc. No. 38-2, Ex. B at 10.) On June 24,
14 2021, the Court granted the parties' joint motion to lift the stay of the action. (Doc. No.
15 44.)

16 On July 23, 2021, Cerner filed an amended answer to CliniComp's complaint. (Doc.
17 No. 52.) On October 7, 2021, the Court issued a scheduling order in the action. (Doc. No.
18 55.) By the present claim constructions briefs, charts, and worksheets, the parties request
19 that the Court construe six disputed claim terms from the '647 Patent. (Doc. Nos. 70, 71,
20 72, 73, 79.)

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23 ³ Specifically, the PTAB concluded that Cerner had shown by a preponderance of the evidence that:
24 (1) claims 50-52 are not patentable based on Evans; (2) claims 53 and 54 are not patentable based on
25 Evans and Rai; (3) claims 50-53, and 55 are not patentable based on Johnson and Evans; and (4) claim 54
26 is not patentable based on Johnson, Evans, and Rai. (Doc. No. 32, Ex. A at 93-94.) The PTAB further
concluded that Cerner had not shown by a preponderance of the evidence: (1) that claims 1-5, 10-13, and
15-25 are unpatentable based on Johnson and Evans; or (2) that claims 6-9, and 14 are unpatentable based
on Johnson, Evans, and Rai. (*Id.* at 93.)

27 ⁴ On November 15, 2021, the PTO issued an *inter partes* review certificate for the '647 Patent,
28 stating: "Claims 1-25 are found patentable" and "Claims 50-55 are cancelled." (Doc. No. 71-2, Ex. A at
A-20-21.)

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