

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 IPR2013-00431
Patent 7,921,186 B2

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

SIU, *Administrative Patent Judge.*

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. BACKGROUND

Cardiocom, LLC (“Petitioner”)¹ filed a Petition (Paper 2) (“Pet.”) seeking *inter partes* review of claims 1–16 of U.S. Patent No. 7,921,186 B2 (Ex. 1001, “the ’186 patent”) pursuant to 35 U.S.C. §§ 311–319. On

¹ Petitioner indicates that Medtronic, Inc. also is a real party-in-interest in this proceeding. Paper 21.

January 16, 2014, the Board instituted an *inter partes* review of claims 1–16 (Paper 22) (“Dec. on Inst.”).

Subsequent to institution, Robert Bosch Healthcare Systems, Inc. (“Patent Owner”) filed a Patent Owner Response (Paper 37) (“PO Resp.”),² and Petitioner filed a Reply (Paper 44) (“Pet. Reply”). Patent Owner filed a Motion to Exclude Evidence (Paper 54), Petitioner filed an Opposition to Patent Owner’s Motion to Exclude (Paper 58), and Patent Owner filed a Reply (Paper 59). Petitioner filed a Motion to Exclude Evidence (Paper 52), Patent Owner filed an Opposition to Petitioner’s Motion to Exclude (Paper 56), and Petitioner filed a Reply (Paper 60). Patent Owner also filed a Motion for Observation (Paper 53) (“Obs.”) on certain cross-examination testimony of Petitioner’s declarant, Dr. Robert Stone, and Petitioner filed a Response (Paper 57) (“Obs. Resp.”).

The Board has jurisdiction under 35 U.S.C. § 6(c). This final written decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73.

For the reasons that follow, we determine that Petitioner has shown by a preponderance of the evidence that claims 1–16 of the ’186 patent are unpatentable.

A. *The ’186 Patent (Ex. 1001)*

The ’186 patent describes methods for collecting data relating to the health status of patients and communicating information to patients.

Ex. 1001, 4:8–17.

² We cite to the Corrected Patent Owner’s Response, filed April 25, 2014, Paper 37.

B. Illustrative Claim

Claim 1 of the '186 patent is reproduced below:

1. An apparatus for interactively communicating with an individual regarding health related information, the apparatus comprising:

a first communication interface to communicate with a monitoring device, wherein said monitoring device is configured to (i) produce physiological information regarding said individual, and (ii) transmit said physiological information to said apparatus;

a second communication interface to (i) receive programming information from a server via a communication network, and (ii) transmit said physiological information from said apparatus to said server via said communication network, wherein said programming information comprises at least one of (a) a query, (b) a message corresponding to said individual from a health care professional associated with said individual, (c) a computer program customized using personal data relating to said individual, and (d) information specific to said individual;

a display for presenting one or more of said query, said message, and said information to said individual; and

a user interface for said individual to provide responses to said query, said message, or said information presented on said display;

wherein (i) said responses are transmitted to said server through said communication network, (ii) said server assigns said programming information to said individual based upon input from said health care professional associated with said individual, and (iii) said programming information is related to a health condition of the individual, (iv) said apparatus is remotely situated from said server, (v) said programming information is presented to said individual by executing said computer program on said apparatus and (vi) said computer program comprises a custom script program (a) designed specifically for said individual, (b) associated with said individual by a unique identification code, and (c) configured to control said monitoring device.

C. Cited Prior Art

The pending grounds of unpatentability in this *inter partes* review are based on the following prior art:

Wahlquist	US 5,367,667	Nov. 22, 1994	(Ex. 1003)
Goodman	US 5,827,180	Oct. 27, 1998	(Ex. 1005)
Lyons	US 5,623,656	Apr. 22, 1997	(Ex. 1006)

D. Instituted Grounds of Unpatentability

This *inter partes* review involves the following asserted grounds of unpatentability:

References	Basis	Claims Challenged
Goodman and Wahlquist	§103	1–6 and 8–15
Goodman, Wahlquist, and Lyons	§103	7 and 16

E. Claim Interpretation

The parties appear to agree with the interpretation of various claim terms of the '186 patent as described in the Decision on Institution. Patent Owner explains that Petitioner “filed a new petition seeking *inter partes* review of related U.S. Patent No. 7,587,469” in which Petitioner “advances a very different construction” for the term “script program.” PO Resp. 2. However, Petitioner does not advance a different construction for the term “script program” in this proceeding.

We adopt our previous analysis for the non-disputed claim terms, and interpret certain claim terms as follows:

Term	Interpretation
“communication interface”	any component through which two or more devices or systems may communicate
“script program”	a program that contains a set of instructions capable of being executed and interpreted
“monitoring device”	a device that monitors

See Dec. on Inst. 5–8.

II. ANALYSIS

A. *Grounds Based at Least in Part on Goodman and Wahlquist*

For at least the foregoing reasons, we conclude that Petitioner has demonstrated that claims 1–6 and 8–15 are unpatentable over Goodman and Wahlquist, and that claims 7 and 16 are unpatentable over Goodman, Wahlquist, and Lyons, under 35 U.S.C. § 103(a).

1. Server

Claim 1, for example, recites a “server.” Wahlquist discloses a help desk representative selecting diagnostic tests based on a user’s request. Ex. 1003, 2:8–10, 11; 2:17–18, 22–23. Goodman discloses a host computer in communication with a health care provider’s computer and a patient’s computer. Ex. 1005, 1:11–13, 2:45–49. Fig. 1 of Goodman is reproduced below.

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