

NOTE: This disposition is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

CERNER CORPORATION, ATHENAHEALTH, INC.,
Appellants

v.

CLINICOMP INTERNATIONAL, INC.,
Appellee

2020-1853

Appeal from the United States Patent and Trademark
Office, Patent Trial and Appeal Board in Nos. IPR2018-
01634, IPR2019-00926.

Decided: April 20, 2021

SHARON A. ISRAEL, Shook, Hardy & Bacon, LLP, Hou-
ston, TX, for appellant Cerner Corporation. Also repre-
sented by KYLE E. FRIESEN, ROBERT H. RECKERS.

DAVID M. HOFFMAN, Fish & Richardson P.C., Austin,
TX, for appellant athenahealth, Inc. Also represented by
CHRISTOPHER ROBERT DILLON, ANDREW PEARSON, Boston,
MA.

AMARDEEP LAL THAKUR, Manatt, Phelps & Phillips

2 CERNER CORPORATION v. CLINICOMP INTERNATIONAL, INC.

LLP, Costa Mesa, CA, for appellee. Also represented by SHAWN McDONALD; BRUCE R. ZISSER, Los Angeles, CA.

Before LOURIE, O'MALLEY, and STOLL, *Circuit Judges*.

PER CURIAM.

This is not the first time issues presented on appeal do not mirror directly those presented to the lower tribunal. Such is the case here. Because we conclude that the claim construction debate on which this appeal initially turns was never presented to the Patent Trial and Appeal Board (“Board”) and that the Board had substantial evidence to support its assessment of the prior art disclosure at issue, we affirm the Board’s patentability determination.

Cerner Corporation and athenahealth, Inc. (collectively, “Cerner”) appeal from a final written decision of the Board holding claims 1–25 of U.S. Patent 6,665,647 (the “’647 patent”) patentable. Those are the determinations we affirm.

BACKGROUND

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 These established systems are often outdated and too inflexible to support healthcare enterprises in the “modern managed care environment.”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

The enterprise healthcare management system in the '647 patent allows enterprises to “remotely host[] . . . turnkey health care applications” and “provide[s] . . . enterprise users access to the turnkey applications via a public network.” *Id.* at col. 2 ll. 61–65. Enterprises can upgrade existing capabilities and add functionality not available in their current system without significant capital investments. Because the applications are hosted on a public network (i.e., the internet), the healthcare enterprise only needs computing resources sufficient to allow secure, quality access to the internet. The “turnkey” management system adjusts to changes within the enterprise as the system “easily and cost-effectively scales” to respond to an enterprise’s needs. *Id.* at col. 3 ll. 19–23.

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

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

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.

Relevant to this appeal is the “storing” clause in claim 1 of the '647 patent. Claims 2–25 depend from claim 1. Both parties agree that claim 1 of the '647 patent is representative of the claims on appeal. Claim 1, which contains the storing clause, is reproduced below:

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

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

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

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

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

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

generating a query to extract information from the database relevant to a respective one of the first and second healthcare enterprise facilities derived from the healthcare data and the legacy information for managing and tracking a performance of the respective one of the first and second healthcare 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.

'647 patent claim 1 (emphasis added).

Cerner filed a petition to institute an *inter partes* review of claims 1–25 and 50–55 of the '647 patent. The Board instituted an IPR with respect to all claims. Addressing the claims in reverse order in its Final Written Decision, the Board first found claims 50–55—which were claims to the databases of a single healthcare facility and did not claim partitioning or portioning the databases—unpatentable as obvious in view of various combinations of

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