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EXAMINER

LAM, ELIZA ANNE

ART UNIT PAPER NUMBER

3626

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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

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DETAILED ACTION

This communication is in response to the appeal brief filed on 11/20/2014. Claims 2-6, 8-12, 14-18 are pending.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 2-6, 8-12, 14-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to a judicial exception (i.e., a law of nature, a natural phenomenon, or an abstract idea) without significantly more. Claims 2-6, 8-12, 14-18 is directed to the abstract idea of comparing new and stored information and using rules to identify options. While the claim does not explicitly recite “comparing new and stored information and using rules to identify options”, the concept of “comparing new and stored information and using rules to identify options” is described by the defining and comparing steps in claims 2, 8, and 14.

The claim does not include additional elements that are sufficient to amount to significantly more than the judicial exception because the computer as recited is a generic computer component that performs functions (i.e., gathering data and analyzing the data). These are generic computer functions (i.e., obtaining data, performing a calculation, and issuing automated instructions) that are well-understood, routine, and conventional activities previously known to the industry. The claim does not amount to significantly more than the underlying abstract idea of comparing new and stored information and using rules to identify options. Accordingly, claims 2-6, 8-12, 14-18 is ineligible.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 7,930,195 to *Heyns et al.* in view of “**Coder Productivity: Tapping Your Team's Talents to Improve Quality And Reduce Accounts Receivable**” by *Dunn*.

8. **As to claim 2, 8, and 14** *Heyns* a method, and non-transitory computer readable medium to optimize the performance of a health care organization comprising a plurality of departments wherein each department comprises a plurality of individuals comprising

Defining for said organization budgets for accounts receivable A/R days for said organization (*Heyns* column 9 lines 1-20 see measuring performance against targets of numbers of days of accounts receivable);

Comparing actual A/R days with budgeted A/R days for said organization (*Heyns* column 9 lines 1-20 see measuring performance against targets of numbers of days of accounts receivable).

However *Heyns* does not explicitly teach applying the technique to days in coding and DNFB days. *Dunn* teaches tracking DNFB days and days in coding (suspense period). It would

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have been obvious to apply the comparison to a budget as in *Heyns* to the metrics of *Dunn* to ensure timely billing and payment of claims (*Dunn* 59-60).

9. **As to claim 4, 10, and 16** see the discussion of claim 3, additionally, *Heyns* discloses ascertaining data (*Heyns* column 8 lines 14-67).

However, *Heyns* does not expressly inputs of a number of crises during a last five year period, an average crisis recovery time during the last five year period, and a number of organization CEOs during the last five year period.

However these differences are only found in the non-functional information stored and accessed by the system. The inputs of a number of crises during a last five year period, an average crisis recovery time during the last five year period, and a number of organization CEOs during the last five year period are not functionally related to the functions of the system. Thus, this descriptive information will not distinguish the claimed invention from the prior art in terms of patentability, see Cf. *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 40, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to request different types of data in the system as taught by *Heyns* and *Dunn* because such information does not functionally relate to the computations performed by the system and merely using different stored data from that in the prior art would have been obvious matter of design choice. See *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

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10. **As to claim 5, 11, and 17** see the discussion of claim 4, additionally, *Heyns* discloses selecting data acquisition parameters to carry out said comparing step, said determining steps, and said ascertaining steps (*Heyns* column 9 lines 1-20);

selecting variables responsive to said data acquisition parameters (*Heyns* column 9 lines 1-20)

setting weights for each of said variables (*Heyns* column 11 lines 7-29); and

selecting a sampling regime (*Heyns* column 9 lines 59-67 and column 10 lines 1-15).

11. **As to claim 6 and 18** see the discussion of claim 4, additionally, *Heyns* discloses the method wherein said forming step further comprises:

generating data for each of said plurality of individuals, wherein said data is responsive to said data acquisition parameters (*Heyns* column 9 lines 59-67 and column 10 lines 1-15)

12. **As to claim 12**, see the discussion of claim 11, additionally, *Heyns* discloses the article of manufacture wherein said computer readable program code further comprises a series of computer readable program steps to effect:

generating data for each of said plurality of individuals, wherein said data is responsive to said data acquisition parameters (*Heyns* column 9 lines 59-67 and column 10 lines 1-15)

calculating for said plurality of individuals a centroid data point (*Heyns* column 9 lines 59-67 and column 10 lines 1-15 see industry average or sector average).

13. **Claims 1-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 7,930,195 to *Heyns et al.* in view of “**Coder Productivity: Tapping Your Team's Talents to Improve Quality And Reduce Accounts Receivable**” by *Dunn*. in view of U.S. Patent 6,802,810 to *Ciarniello et al.*

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14. **As to claim 3, 9, and 15** see the discussion of claim 2, additionally, *Heyns* discloses determining if a manual exists (*Heyns* column 9 lines 21-43 see periodic budget and financial reports), determining if a newsletter exists (*Heyns* column 9 lines 21-43 see supermarket surveys), determining if that organization's budgets for are reviewed and discussed with individuals within that organization (*Heyns* column 9 lines 1-20 see report).

However, *Heyns* and *Dunn* do not explicitly teach determining for said organization if that organization's clinical goals are reviewed and discussed. *Ciarniello* discloses determining for said organization if that organization's clinical goals are reviewed and discussed (*Ciarniello* column 8 lines 12-19).

It would have been obvious to one of ordinary skill in the art at the time of the invention to review clinical goals as in *Ciarniello* in the system of *Heyns* and *Dunn* to ensure that proper patient care is being rendered.

Response to Arguments

1. Applicant's arguments filed 11/20/2014 have been fully considered.
2. Prosecution is reopened to present new rejections under 35 USC 101 and 103.
3. Applicants arguments are moot in view of new grounds of rejection under *Heyns* and *Ciarniello*.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZA LAM whose telephone number is (571)270-7052. The examiner can normally be reached on Monday through Friday 8 am - 4 pm Pacific Standard Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fonya Long can be reached on 571-270-5096. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ELIZA LAM/
Primary Examiner, Art Unit 3626