

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KARL WILLIAMS, JEFF WARD,
LLOYD PARKER and WINSTON WATT

Appeal No. 2002-2078
Application No. 09/209,211

ON BRIEF

Before KRASS, BARRETT and SAADAT, Administrative Patent Judges.
KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1-20.

The invention is directed to a system for recruiting personnel for a business entity that has multiple divisions or independent business units that may compete against each other for common candidates.

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Representative independent claim 1, reproduced as follows,
is indicative of the invention:

1. A method for recruiting personnel for a business entity including a plurality of distinct business units each having individual hiring requirements, wherein at least some of said distinct business units' hiring requirements compete for common applicants, said method comprising the steps of:

determining a plurality of hiring needs associated with a business entity including a plurality of distinct business units each having individual hiring requirements;

entering information related to a plurality of hiring needs, each of said plurality of hiring needs being respectively associated with one of said plurality of distinct business units, and information related to a plurality of candidates into a database, respectively;

automatically cross-referencing said information related to said plurality of hiring needs with said information related to said plurality of candidates to identify candidates selected from said plurality of candidates who satisfy entered information indicative of hiring needs; and,

determining whether one of said identified candidates should be offered a job or more than one job associated with said hiring needs;

wherein, when it is determined that one of said identified candidates should be offered more than one job as determined by said hiring needs, all jobs pertinent to said one of said identified candidates are offered substantially simultaneously to said one of said identified candidates for employment within said business entity including a plurality of distinct business units.

The examiner relies on the following references:

Stipanovich et al. (Stipanovich)	5,117,353	May 26, 1992
Parrish et al. (Parrish)	5,416,694	May 16, 1995

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Claims 1, 9, 10, 18 and 19 stand rejected under 35 U.S.C. § 102(b) as anticipated by Stipanovich.

Claims 2-8, 11-17 and 20 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner offers Stipanovich with regard to claim 20, adding Parrish with regard to claims 2-8 and 11-17.

Reference is made to the briefs and answer for the respective positions of appellants and the examiner.

OPINION

An anticipatory reference is one which describes all of the elements of the claimed invention so as to have placed a person of ordinary skill in the art in possession thereof. In re Spada, 911 F.2d 205, 15 USPQ2d 1655 (Fed. Cir. 1990).

Initially, we interpret the claims to be directed to a machine-implemented method because of the steps of "automatically cross-referencing" (claims 1 and 19) and "automatically searching" (claim 10).

The examiner indicates that Stipanovich anticipates the independent claims by pointing to the abstract for a "method of recruiting," to column 5, lines 10-13 for "determining a plurality of hiring needs...", to column 3, lines 29-40, for

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"entering information related to a plurality of hiring needs...",
to column 2, lines 3-9, for "automatically cross-referencing...",
to column 20, lines 3-4, for "determining whether one of said
identified candidates should be offered a job...", and to column
1, lines 13-21, column 2, lines 17-19 and column 5, lines 10-13,
for "when it is determined that one of said identified candidates
should be offered more than one job...all jobs pertinent to said
one of said identified candidates are offered substantially
simultaneously..."

For their part, appellants argue that the examiner
improperly correlated the "hiring needs" of the claims to the
"job orders" of Stipanovich; improperly correlated the "business
entity" of the claims to the "temporary help business or agency"
of Stipanovich; and improperly correlated the "plurality of
distinct business units" of the claims to the "clients" of the
temporary help business of Stipanovich. We disagree.

Even though the environment of the instant invention may
differ from the scheduling of temporary personnel suited to
particular tasks in Stipanovich, as broadly claimed, we agree
with the examiner that the hiring "needs" of a single company
with multiple units is analogous to "job orders" which a company
may send to a temporary employment agency in order to fill hiring

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needs. Such "job orders" stipulate the necessary skills of the temporary employee and, as such, is an indication of "hiring needs." We also fail to see why the temporary help business or "agency" may not be considered a "business entity," as claimed. It is true that the instant claims are directed to recruiting personnel for the business entity; however, the temporary employment agency of Stipanovich does recruit personnel for a *different* agency, or business entity, and, in doing so, the temporary employment agency, in practice, is really recruiting personnel for itself which employees are then forwarded to the requesting business entity as temporary workers.

Further, we also agree with the examiner's correlation of Stipanovich's "clients" of the temporary employment agency to the claimed "plurality of distinct business units" because the temporary employment agency, as the "business entity," is really sending its employees, or recruited personnel, to work in a "plurality of distinct business units" which happen to be clients of the temporary employment agency. Even though they may be independent businesses, these clients are clearly "a plurality of distinct business units," as claimed, and it is certainly reasonable to consider, for the purposes of temporary employment, that the temporary employment agency is a "business entity" which includes "a plurality of distinct business units each having

individual hiring requirements," as its clients.

At page 6 of the principal brief, appellants argue that Stipanovich does not disclose that the vacancies to be filled are for jobs within the temporary job agency. While it is not clear, exactly, what claim language this argument relies upon to distinguish over Stipanovich, as explained supra, the vacancies to be filled may be considered to be jobs within the temporary job agency because the temporary job agency recruits the personnel, i.e., they are employees of the temporary job agency, for work outside the agency.

Moreover, as explained supra, we do not agree with appellants that the temporary help business and the clients of Stipanovich cannot properly be correlated to "a business entity including a plurality of distinct business units" as recited in the claims, or that Stipanovich does not disclose a system for "a business entity including a plurality of distinct business units" for offering employment "within a business entity including a plurality of distinct business units" as recited in the claims.

Having disposed of appellants' arguments in the principal brief as being unpersuasive of non-anticipation, we, nevertheless, will not sustain the rejection of claims 1, 9, 10, 18 and 19 under 35 U.S.C. § 102(b) because we find an argument by appellants in the supplemental brief to be convincing that

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Stipanovich does not disclose each and every limitation set forth in the instant independent claims.

At pages 1-4 of the supplemental brief, appellants point out that the invention is also directed to a solution to the problem of exacerbation of costs inherent in different divisions of the same company competing for the same individuals. The claimed solution to that problem, in part, is in "simultaneous" job offers to each candidate who is qualified for more than one job with different divisions of the employing organization. The simultaneity of the job offers prevents price competition and makes it more likely that some division of the organization will obtain the services of the desirable employee since more than a single choice is offered at the same time.

Each of the independent claims calls for all jobs pertinent to an identified candidate to be "offered substantially simultaneously" to the candidate (claims 1, 19) or that when an identified candidate is to be "offered more than one job," all the pertinent jobs are combined "into a single offer of employment" (claim 10).

The examiner identifies these limitations in Stipanovich as being disclosed somewhere in column 1, lines 13-21, column 2, lines 17-19, or column 5, lines 10-13. However, our review of these portions of Stipanovich reveals a disclosure of "stacking

jobs." This refers to temporary help employees being given a series of jobs, scheduling these jobs so that the employee can expect "uninterrupted work at a series of jobs" (column 1, lines 19-20).

If the examiner is relying on the "stacking jobs" disclosure of Stipanovich to meet the "substantially simultaneously" offered jobs of the instant claimed invention, and we believe that is just what the examiner is contending, we find the examiner's reasoning faulty in this regard. While it *might be* the case that the temporary employee is simultaneously offered a series of jobs to be taken on serially, Stipanovich is unclear that this is the case. It may very well be that the temporary employee does not even know from week to week where he/she will be employed next, and so the employee has no knowledge of these jobs being offered at the same time. The temporary employment agency has a "stacking jobs" policy in order to keep the employee employed uninterruptedly at a series of jobs, by appropriately scheduling jobs for that employee, and the employee may even know of this policy, but this appears quite different from the instant claimed invention where a job candidate is offered all pertinent jobs in a business entity substantially simultaneously so that the candidate may choose one of those jobs.

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We also will not sustain the rejection of claims 2-8, 11-17 and 20 under 35 U.S.C. § 103 because, with regard to claim 20, Stipanovich is devoid of any teaching of a particular claim limitation and the examiner has not explained why the claimed subject matter as a whole would have been obvious to the skilled artisan in view of Stipanovich. With regard to claims 2-8 and 11-17, Parrish does not provide for the deficiency, noted supra, of Stipanovich.

Accordingly, the examiner's decision rejecting claims 1, 9, 10, 18 and 19 under 35 U.S.C. § 102(b) and claims 2-8, 11-17 and 20 under 35 U.S.C. § 103 is reversed.

REVERSED

ERROL A. KRASS)	
Administrative Patent Judge)	
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LEE E. BARRETT)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
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