

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PHILIPPE E. BERCKMANS

Appeal No. 2003-0138
Application 09/427,426

ON BRIEF

Before HAIRSTON, BARRETT and FLEMING, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1, 3, 5 through 16 and 18 through 28.

The disclosed invention relates to a system and method for graphically representing investment information relating to a financial investment via the display of a cell bar and a dynamic indicator color. The relative size of the cell bar is

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proportional to a first investment parameter, and the color of the dynamic color indicator changes according to a value range of a second investment parameter.

Claim 1 is illustrative of the claimed invention, and it reads as follows:

1. A method for graphically representing investment information relating to a financial investment, the method comprising:

providing an investment cell in an investment table identified with the financial investment;

selectively linking a first cell bar with a first investment parameter, wherein the relative size of said first cell bar is proportional to said first investment parameter;

selectively linking a dynamic indicator color with a second investment parameter, wherein the color of said dynamic indicator color changes according to a value range of said second investment parameter;

displaying said first cell bar within said investment cell;
and

displaying said dynamic indicator color within said investment cell.

The references relied on by the examiner are:

Lyons et al. (Lyons)	4,989,141	Jan. 29, 1991
Marshall	5,675,746	Oct. 7, 1997
Williams et al. (Williams)	5,999,918	Dec. 7, 1999
		(filed Apr. 2, 1997)

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Claims 1, 3, 7, 8, 14 through 16, 18, 19 and 24 through 28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Marshall.

Claims 5, 6 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Marshall in view of Williams.

Claims 9 through 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Marshall in view of Lyons.

Claims 20 through 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Marshall.

Reference is made to the brief (paper number 9) and the answer (paper number 10) for the respective positions of the appellant and the examiner.

OPINION

We have carefully considered the entire record before us, and we will reverse the anticipation rejection of claims 1, 3, 7, 8, 14 through 16, 18, 19 and 24 through 28, and the obviousness rejection of claims 5, 6, 9 through 13 and 20 through 23.

Anticipation is only established when a single prior art reference discloses every limitation of the claimed invention,

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either explicitly or inherently. Glaxo Inc. v. Novopharm Ltd., 52 F.3d 1043, 1047, 34 USPQ2d 1565, 1567 (Fed. Cir.), cert. denied, 516 U.S. 988 (1995).

The examiner has made findings (answer, pages 3 and 4) that Marshall discloses all of the limitations of claims 1, 14, 16, 19 and 24 through 26. Marshall discloses financial investment data via display parameters that include "shape, color, texture and axis" (column 10, lines 28 through 30). Marshall explains (column 10, lines 30 through 39) that a three-sided shaped displayed metaphor may represent stock with small capitalization, a four-sided shaped displayed metaphor may represent stock with medium capitalization, and a five-sided shaped displayed metaphor may represent stock with large capitalization. A color display parameter is used in Marshall to indicate profit or loss of a company (column 6, lines 26 and 27; column 10, lines 37 through 39). According to the examiner (answer, page 3), "shape is analogous to the bar" claimed by appellant.

Appellant argues (brief, pages 4 through 6) that Marshall does not disclose a displayed cell bar whose relative size is proportional to an investment parameter.

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We agree with appellant's argument. The shape in Marshall is not a "cell bar" where the "relative size" is proportional to a parameter, and "analogousness" is not the test for anticipation. Although Marshall discloses (column 6, lines 27 through 29) that the height of a shaped metaphor may vary above or below the plane of the virtual reality display, which may be suggestive of a display device having a size which varies with a parameter, the examiner does not rely on this teaching. We do not see a picture of this in Marshall and, thus, we do not find that the height of the shaped metaphor anticipates the claimed cell bar. Accordingly, the anticipation rejection of claims 1, 3, 7, 8, 14 through 16, 18, 19 and 24 through 28 is reversed.

The obviousness rejections of claims 5, 6, 9 through 13 and 20 through 23 is reversed because the teachings of Williams and Lyons do not cure the noted shortcomings in the teachings of Marshall.

DECISION

The decision of the examiner rejecting claims 1, 3, 7, 8, 14 through 16, 18, 19 and 24 through 28 under 35 U.S.C. § 102(b) is reversed, and the decision of the examiner rejecting claims 5, 6,

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9 through 13 and 20 through 23 under 35 U.S.C. § 103(a) is
reversed.

REVERSED

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
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LEE E. BARRETT)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
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)	
MICHAEL R. FLEMING)	
Administrative Patent Judge)	

KWH:psb

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Stuart T. Langley, Esq.
Holland & Hart LLP
555 17th Street - Suite 3200
P.O. Box 8749
Denver, CO 80201-8749