

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BIN LI

Appeal No. 2003-0854
Application No. 09/640,030¹

HEARD: NOVEMBER 5, 2003

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

DECISION ON APPEAL

This is a decision on appeal from the Examiner's final rejection of claims 1-64, which are all of the claims pending in this application.

We reverse.

BACKGROUND

Appellant's invention is directed to an automated system which analyzes investment chart patterns for determining whether

¹ Application for patent filed August 16, 2000, which claims the filing priority benefit under 35 U.S.C. § 119 of provisional Application No. 60/149,067, filed August 16, 1999.

certain buy or sell indicators related to those investments are present. Representative independent claim 1 is reproduced below:

1. An automated investment chart pattern search system comprising:

a computer;

a historical information database accessible by said computer, said historical information database having historical information for a plurality of investments stored thereon;

a connection to a supply of real-time data, said real time data comprising real-time data relating to a plurality of investments;

a templates database accessible by said computer, said templates database having a plurality of templates stored thereon;

software executing on said computer for generating an investment chart for the investment to be examined based upon the historical information and the real-time data relating to the investment to be examined;

software executing on said computer for retrieving at least one template from said templates database, and for performing geometric projection analysis on the retrieved template and the investment chart to determine if a pattern exists in the investment chart;

software executing on said computer for retrieving at least one template from said templates database, and for performing template matching analysis on the retrieved template and the investment chart to determine if a pattern exists in the investment chart, and

software executing on said computer for performing projection line analysis on the investment chart to determine if a pattern exists in the investment chart.

Appeal No. 2003-0854
Application No. 09/640,030

performing projection of investment in Nevo would have maximized the profits and minimized the losses (answer, page 6).

Appellant argues that, as the Examiner concedes, Nevo provides no teaching related to a template database or software for performing geometric projection analysis, template matching analysis and projection line analysis (brief, page 10).

Additionally, Appellant points to the teachings of Hirota as general template matching and asserts that Hirota disclosure lacks the specific claimed software executing on a computer for generating an investment chart by performing geometric projection or projection line analysis (brief, page 11).

In response to Appellant's arguments, the Examiner indicates that the sensors in Nevo are interpreted to be used for monitoring the parameters which, in turn, require a comparison between the investment chart and graphs of the template database (answer, page 21). The Examiner further asserts that the use of dilations, translations and rotations are well known, as indicated by the pattern analysis and the P & F system of Hirota shown in Figure 5, and would have suggested the claimed analyzing the trends of a mathematical function (answer, pages 22 & 23).

Appeal No. 2003-0854
Application No. 09/640,030

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of presenting a prima facie case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). To reach a conclusion of obviousness under § 103, the examiner must produce a factual basis supported by teaching in a prior art reference or shown to be common knowledge of unquestionable demonstration. Such evidence is required in order to establish a prima facie case. In re Piasecki, 745 F.2d 1468, 1471-72, 223 USPQ 785, 787-88 (Fed. Cir. 1984). The Examiner must not only identify the elements in the prior art, but also show "some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead the individual to combine the relevant teachings of the references." In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).

A review of the applied prior art confirms that Nevo merely teaches a method for determining the trading status of a financial market and for conveying to a user information regarding the significant changes of the market (col. 3, lines 15-30). Nevo uses different sensors to measure values of different financial parameters which are normalized and used to generate security's performance indicator (SPI) (col. 5, lines

Appeal No. 2003-0854
Application No. 09/640,030

44-60) or are used to generate a deviation indicator for each parameter (col. 6, lines 30-32). A comparator compares the values of the deviation indicators and generates one or more status indicators representative of the overall status of the target financial security (col. 6, lines 52-57). Nevo further discloses that the financial status indicators are displayed and presented to a user on a display device for analysis by the user (col. 6, lines 58-65). However, contrary to the Examiner's characterization (answer, page 21), the sensors of Nevo only measure values of certain parameters to further generate their deviation indicators without having anything to do with a template database.

Hiroataka, on the other hand, describes a trading support system for real-time decision making with regard to securities trading. Although Hiroataka extracts characteristic patterns by template matching (English abstract & translation, page 10), we agree with Appellant that the references fails to disclose the claimed geometric projection analysis or projection line analysis on the extracted pattern. The only discussion of template-matching in Hiroataka relates to the comparison between the pattern on a "Point and Figure" (P & F) chart and a specific template wherein the degree of coincidence of the pattern and the

Appeal No. 2003-0854
Application No. 09/640,030

template is checked (translation, page 7). However, the Examiner has failed to point to any teachings in Hiroataka, nor do we find any, that would have taught or suggested the specific claimed analysis for correlating the investment chart to the retrieved template, as recited in the claims.

In view of our analysis above, we find that the Examiner has failed to set forth a prima facie case of obviousness because the necessary teachings and suggestions related to the claimed analysis of an investment chart and a stored template to determine if a pattern exists in the investment chart is not shown. Accordingly, we do not sustain the 35 U.S.C. § 103 rejection of the claims.

Appeal No. 2003-0854
Application No. 09/640,030

CONCLUSION

In view of the foregoing, the decision of the Examiner rejecting claims 1-64 under 35 U.S.C. § 103 is reversed.

REVERSED

ERROL A. KRASS)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
JOSEPH L. DIXON)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
)	
MAHSHID D. SAADAT)	
Administrative Patent Judge)	

MDS/ki

Appeal No. 2003-0854
Application No. 09/640,030

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 Bedford Street
Stamford, CT 06905-5619