

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

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Ex parte GREGORY J. MESAROS

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Appeal No. 2006-0659  
Application No. 10/370,237

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HEARD APRIL 25, 2006

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Before FRANKFORT, CRAWFORD, and BAHR, Administrative Patent Judges.  
CRAWFORD, Administrative Patent Judge.

**DECISION ON APPEAL**

This is a decision on appeal from the examiner's final rejection of claims 1 to 4, 6 to 16 and 18 to 31, which are all of the claims pending in this application.

The appellant's invention relates to a e-commerce volume pricing methodology (specification, p. 1). A copy of the claims under appeal is set forth in the appendix to the appellant's brief.

THE PRIOR ART

The prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

Pallakoff                            6,269,343 B1                            July 31, 2001

THE REJECTION

Claims 1 to 4, 6 to 16 and 18 to 31 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Pallakoff.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejection, we make reference to the answer (mailed August 22, 2005) for the examiner's complete reasoning in support of the rejection, and to the brief (filed June 28, 2005) and reply brief (filed October 24, 2005) for the appellant's arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art reference, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

The examiner has rejected the claims under 35 U.S.C. § 102(e). A claim is anticipated only if each and every element as set forth in the claim is found, either

expressly or inherently described, in a single prior art reference. Verdegaal Bros. Inc. v. Union Oil Co., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir.), cert. denied, 484 U.S. 827 (1987).

The examiner's findings regarding the rejection as it applies to claim 1 can be found on page 3 of the answer.

The appellant argues that Pallakoff does not describe "offering a product for sale to select buyers in a private deal room, access which is being limited at least in part to buyers who accept a seller's terms and conditions" (claim 1, lines 2 to 3).

We agree with the appellant and thus we will not sustain this rejection.

As described in appellant's specification, the method of the present invention limits access to a private deal room to buyers who have registered. This registration process includes providing personal information such as name and address and approval for a line of credit (specification at page 13). Once approved, a buyer is provided with a user ID and a password which are used to gain access to a screen from which a buyer can select one of several private deal rooms (specification at page 14). Once the buyer selects the private deal room of interest, the buyer must agree to the conditions set by the seller (specification at page 15). If the buyer agrees to the conditions of the seller, they have access to a private deal room which contains an offer to buy products including the description of the products, minimum order quantity, price etc. As such, the appellant's method offers the products for sale only to those buyers

who have (1) registered, which includes having been approved for a line of credit, and  
(2) agreed to the conditions set by the seller.

In contrast, Pallakoff provides an offer to all who access the web page. There is no limitation on those who view the offer information, such as description of product, price and demand threshold (col. 3, lines 28 to 45). While it is true that only those who join the Buy Team can purchase the products, such does not amount to offering the product to select buyers in a private deal room. The method of Pallakoff amounts to offering products for sale to all buyers in a public deal room and limiting the purchase of products to select buyers.

In view of the foregoing, we will not sustain the rejection of claim 1 and claims 2 to 4, and 6 to 9 dependent thereon. We will likewise not sustain the rejection as it is directed to claims 10, 18, 21 and 29 and the remaining claims which are dependent on either claim 10, 18, 21 or 29 because each of claims 10, 18, 21 and 29 require a private deal room access of which is limited to select buyers that meet and accept seller's terms and conditions.

The decision of the examiner is reversed.

REVERSED

CHARLES E. FRANKFORT Administrative Patent Judge	)
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MURRIEL E. CRAWFORD Administrative Patent Judge	) BOARD OF PATENT
	) APPEALS
	) AND
	) INTERFERENCES
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JENNIFER D. BAHR Administrative Patent Judge	)
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**Comment [jvn1]:** Type address

MEC/jrg