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**Datasheet for the decision
of 13 November 2018**

Case Number: T 2491/12 - 3.5.01

Application Number: 05853787.9

Publication Number: 1839254

IPC: G06Q40/00

Language of the proceedings: EN

Title of invention:

METHOD AND SYSTEM FOR TRACKING DERIVATIVES POSITIONS AND
MONITORING CREDIT LIMITS

Applicant:

TRADEWEB MARKETS LLC

Headword:

Tracking derivative positions / TRADEWEB

Relevant legal provisions:

EPC Art. 56, 84, 123(2)

Keyword:

Inventive step - (no) - main request and auxiliary requests 1 to 6
Inventive step - mixture of technical and non-technical features - making financial information available in real time (no - not a credible technical effect) - common general knowledge
Claims - clarity (no) - auxiliary requests 2 and 3
Amendments - added subject-matter (yes)

Decisions cited:

T 1194/97, T 0641/00, T 0258/03

Catchword:

The claimed invention is not directed to a real-time problem in the sense of improving a technical process, but rather to automation in the sense of making (non-technical) financial information available quickly. This automation is achieved by mapping the financial concept of derivative transactions on a client-server computer system (see reasons, point 8.2).



Beschwerdekammern
Boards of Appeal
Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0
Fax +49 (0)89 2399-4465

Case Number: T 2491/12 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 13 November 2018

Appellant: TRADEWEB MARKETS LLC
(Applicant) Harborside Financial Center
2200 Plaza Five
Jersey City, NJ 07311-4993 (US)

Representative: Piotrowicz, Pawel Jan Andrzej
Venner Shipley LLP
Byron House
Cambridge Business Park
Cowley Road
Cambridge CB4 0WZ (GB)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted on 20 June 2012
refusing European patent application No.
05853787.9 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman W. Chandler
Members: M. Höhn
C. Schmidt

Summary of Facts and Submissions

- I. This appeal is against the decision of the examining division refusing European patent application No. 05853787.9 pursuant to Article 97(2) EPC on the ground of lack of inventive step (Article 56 EPC).

This decision refers to the following prior art publication:

D1: US 6347307 B1.

- II. In the statement setting out the grounds of appeal, the appellant requested that the appealed decision be set aside and that a patent be granted on the basis of the main request or auxiliary request 1 on which the decision is based, or on the basis of auxiliary requests 2 and 3, both submitted with the statement setting out the grounds of appeal. Oral proceedings were requested as an auxiliary measure if the main request was not allowed.
- III. In the annex to the summons to oral proceedings, the Board expressed its preliminary opinion that all requests lacked inventive step (Article 56 EPC). The Board also introduced document US 6347307 A (D1) mentioned in the International Search Report as evidence of the use of GUIs. In addition, some requests were considered not to be clear (Article 84 EPC) and/or contain added subject-matter (Article 123(2) EPC).
- IV. In a reply, the appellant filed amended auxiliary requests 1 to 3. The former auxiliary requests were renumbered as auxiliary requests 4 to 6.
- V. Oral proceedings were held on 13 November 2018.

The Chairman indicated that the Board was inclined to admit the new auxiliary requests 1, 2 and 3 since they overcame the clarity objections raised in the Board's communication.

The appellant requested that the decision under appeal be set aside and that the patent be granted on the basis of the main request rejected by the contested decision, or on the basis of one of the auxiliary requests 1 to 6, filed respectively with letter dated 12 November 2018 (auxiliary requests 1, 2 and 3), with letter dated 20 February 2012 (auxiliary request 4, originally filed as auxiliary request 1) and with the letter setting out the grounds of appeal dated 26 October 2012 (auxiliary requests 5 and 6, originally filed as auxiliary requests 2 and 3).

VI. Independent claim 1 of the main request reads as follows:

"1. A system for monitoring derivatives transactions, comprising:
a trading engine (10) capable of communication with a plurality of counterpart computers (50, 55) and enabling the execution of the derivatives transactions;
a trade history database (20) communicatively connected to the trading engine and capable of communication with the plurality of counterpart computers, the trade history database configured to store a set of records of at least a portion of the derivatives transactions executed on the trading engine; and
wherein the trading engine is configured to enable an unwinding of a derivatives transaction, initiate a record of the unwinding to be stored in the trade

history database, and send a notification of the unwinding of the derivatives transaction."

Claim 1 of auxiliary request 1 reads as follows:

"1. A trading system, comprising:
a plurality of counterpart computers (50, 55); and
a system for monitoring derivatives transactions between counterpart computers, comprising:
a trading engine (10) capable of communication with the plurality of counterpart computers and enabling the execution of the derivatives transactions; and
a trade history database (20) communicatively connected to the trading engine and capable of communication with the plurality of counterpart computers, the trade history database configured to store a set of records of at least a portion of the derivatives transactions executed on the trading engine;
wherein the counterpart computers are configured to provide a set of graphical user interfaces (200, 300, 400) that enable control of a plurality of trading-related functions and to transmit information entered into the counterpart computers through the set of graphical user interfaces to the trading engine for processing, the graphical user interfaces include a position-tracking interface (200) comprising at least a set of derivatives positions for one of the counterparts and a trade ticket interface (300) for use in unwinding the derivatives transaction and which pre-selects an original counterpart and allows selection of one or more additional counterparts to which to send a trade request;
wherein the trading engine is configured to enable an unwinding of a derivatives transaction, initiate a record of the unwinding to be stored in the trade history database, and send a notification of the

unwinding of the derivatives transaction including transmitting the trade request to the one or more additional counterparts."

Claim 1 of auxiliary request 2 reads as follows:

"1. A trading system, comprising:
a plurality of counterpart computers (50, 55); and
a system for monitoring derivatives transactions between counterpart computers, comprising:
a centralized trading engine (10) comprising a server system (15) capable of handling flow of data on a real-time basis and of communication with a plurality of counterpart computers (50, 55) and enabling the execution of the derivatives transactions; and
a trade history database (20) communicatively connected to the server system and capable of communication with the plurality of counterpart computers, the trade history database configured to store a set of records of at least a portion of the derivatives transactions executed on the trading engine;
wherein the trading engine is configured to enable an unwinding of a derivatives transaction, initiate a record of the unwinding to be stored in the trade history database, and send a notification of the unwinding of the derivatives transaction, whereby counterparts are able to monitor derivative positions in real time."

Claim 1 of auxiliary request 3 reads as follows:

"1. A system for monitoring derivatives transactions between counterpart computers, comprising:
a centralized trading engine (10) comprising a server system (15) capable of handling flow of data on a real-time basis and of communication with a plurality of

counterpart computers (50, 55) and enabling the execution of the derivatives transactions; a trade history database (20) communicatively connected to the server system and capable of communication with the plurality of counterpart computers, the trade history database configured to store a set of records of at least a portion of the derivatives transactions executed on the trading engine; and wherein the trading engine is configured to monitor an unwinding of a derivatives transaction by initiating a record of the unwinding to be stored in the trade history database and send a notification of the unwinding of the derivatives transaction, monitor and update a credit position of at least one party to a derivatives transaction to reflect the derivatives transaction and compare the updated credit position with a set credit level wherein the updating in (*sic*) done in real time."

Claim 1 of auxiliary request 4 reads as follows:

"1. A system for monitoring derivatives transactions, comprising:
a plurality of counterpart computers (50, 55);
a trading engine (10) capable of communication with the plurality of counterpart computers and enabling the execution of the derivatives transactions;
a trade history database (20) communicatively connected to the trading engine and capable of communication with the plurality of counterpart computers, the trade history database configured to store a set of records of at least a portion of the derivatives transactions executed on the trading engine;
wherein the counterpart computers are configured to provide a set of graphical user interfaces (200, 300, 400) that enable control of a plurality of trading-

related functions and to transmit information entered into the counterpart computers through the set of graphical user interfaces to the trading engine for processing, the graphical user interfaces include a position-tracking interface (200) comprising at least a set of derivatives positions for one of the counterparts and a trade ticket interface (300) for use in unwinding the derivatives transaction and which pre-selects an original counterpart and allows selection of one or more additional counterparts to which to send a trade request;

wherein the trading engine is configured to enable an unwinding of a derivatives transaction, initiate a record of the unwinding to be stored in the trade history database, and send a notification of the unwinding of the derivatives transaction including transmitting the trade request to the one or more additional counterparts."

Claim 1 of auxiliary request 5 reads as follows:

"1. A system for monitoring derivatives transactions, comprising:

a centralized trading engine (10) comprising a server system (15) capable of handling flow of data on a real-time basis and of communication with a plurality of counterpart computers (50, 55) and enabling the execution of the derivatives transactions;

a trade history database (20) communicatively connected to the server system and capable of communication with the plurality of counterpart computers, the trade history database configured to store a set of records of at least a portion of the derivatives transactions executed on the trading engine; and

wherein the trading engine is configured to enable an unwinding of a derivatives transaction, initiate a

record of the unwinding to be stored in the trade history database, and send a notification of the unwinding of the derivatives transaction, whereby counterparts are able to monitor derivative positions in real time."

Claim 1 of auxiliary request 6 reads as follows:

"1. A system for monitoring derivatives transactions, comprising:
a centralized trading engine (10) comprising a server system (15) capable of handling flow of data on a real-time basis and of communication with a plurality of counterpart computers (50, 55) and enabling the execution of the derivatives transactions;
a trade history database (20) communicatively connected to the server system and capable of communication with the plurality of counterpart computers, the trade history database configured to store a set of records of at least a portion of the derivatives transactions executed on the trading engine; and
wherein the trading engine is configured to monitor an unwinding of a derivatives transaction by initiating a record of the unwinding to be stored in the trade history database and send a notification of the unwinding of the derivatives transaction, monitor and update a credit position of at least one party to a derivatives transaction to reflect the derivatives transaction and compare the updated credit position with a set credit level wherein the updating in (*sic*) done in real time."

VII. The appellant essentially argued that the contribution of the invention was a real-time operation (see point 1.2.3.4 of the statement setting out the grounds of appeal). The "configuration" of using a trading engine

and a trade history database communicatively connected to each other and to counterpart computers enabled a real-time operation. The objective problem was therefore how to allow parties to monitor derivatives transactions in real time. Further details regarding the appellant's arguments are dealt with in the reasons for the decision.

Reasons for the Decision

Introductory remarks

1. The present main request corresponds to the set of claims on which the decision under appeal is based.

The assessment of inventive step in the decision under appeal considered a general purpose networked computer system as described in the description of the present application to be the closest prior art.

2. Article 56 EPC - Inventive step

The Board agrees with the decision under appeal that the subject-matter of independent claim 1 lacks an inventive step.

- 2.1 The claim is directed to a mix of technical and non-technical features. The Board does not dispute that the system according to claim 1 appears in a technical context. The system for monitoring derivatives transaction can be considered to be performed by technical means, because it involves a computer with means for storing data, means for processing data and means for transmitting and receiving data, and, therefore, has technical character. Accordingly, the

claimed subject-matter is an invention in the sense of Article 52(1) EPC (see T 258/03 "Auction method/HITACHI").

2.2 However, the question of inventive step requires an assessment of whether the invention makes a technical contribution over the prior art. Features which do not make such a contribution cannot support the presence of an inventive step (see T 641/00 "Two identities/COMVIK", Headnote I).

2.3 In the Board's view the unwinding of derivative transactions within the system for monitoring derivatives transactions pertains to a business related administrative method, i.e. to the non-technical part of claim 1. The processing of the underlying non-technical financial data merely maps the business related administrative concept of derivative transactions.

2.4 Furthermore, the Board does not consider that the "configuration" of using a trading engine and a trade history database communicatively connected to each other and to counterpart computers provide for a real-time operation as argued by the appellant (see point 1.2.3.4 of the statement setting out the grounds of appeal).

There is no disclosure on a technical level in the application as filed which supports such a point of view. In particular, there is no disclosure or corresponding features of the claims which contribute to making a technical process faster. The problem of difficulties for market counterparties (such as customers and dealers) to monitor outstanding transactions (such as tear-ups and assignments) are

solved by establishing a notification system on the basis of a networked client-server computer system. This solves the problem that it may take several days for a certain dealer A to become aware that it no longer has a position with a particular customer, who has assigned a contract to another dealer B (see e.g. paragraph [005] of the description). This problem is solved by a messaging system based on a client-server system involving databases for a financial application without a further technical effect.

Consequently, the Board does not agree with the appellant's formulation of the problem as how to allow parties to monitor derivatives transactions in real time (see point 1.2.3.6 of the grounds of appeal)

In fact, the appellant admits that the real-time effect might only be achieved "in part" (see point 1.2.3.4 of the grounds of appeal).

2.5 The contribution of the invention lies rather in the way of associating information with financial trading data. Such data, however, in the Board's view, is not technical, since it is cognitive data, not functional data (see T 1194/97 Data structure product/PHILIPS, OJ EPO 2000, 525). Storage, selection and processing of such data is an implementation of an administrative measure, such as would be performed by a human when unwinding a derivatives transaction, making use of general purpose computer functions (e.g. storing and retrieving information in electronic form) without creating a further technical effect.

2.6 The only technical features of claim 1 which the Board can identify are those of a networked client-server system labeled with the underlying functions (trading

engine, trade history database, counterpart computers etc.), which merely map the business related administrative concept of derivative transactions.

The fact that the monitoring derivatives transactions financial concept is performed automatically is an obvious consequence of using a computer system.

2.7 The Board therefore agrees with the decision under appeal that the closest prior art can be considered a general purpose networked computer system (see points 1.3 and 1.5 of the decision), which was generally known before the priority date. The problem to be solved is the implementation of the claimed business related administrative concept (see point 5.3 above and point 1.5 of the decision) on such a general purpose networked computer. The person skilled in the art within the meaning of Article 56 EPC, a computer expert provided with the complete description of the non-technical abstract administrative concept, would have considered the claimed implementation obvious in view of the normal skills and the general knowledge of computer programming.

2.8 Furthermore, the use of a centralised server system and the need for real-time operation were known in the art. For example, D1 discloses (see column 3, lines 54 to 64):

"The server-side functionality enables system users to interactively and seamlessly: engage in financial instrument trades; perform portfolio management, analysis, and reporting; obtain real-time market data and news; communicate with the system and other users via electronic mail, chat, and message boards; and maintain a calendar. The server-side includes

interactive system servers that host such user activities, as well as one or more system databases, and an automated messaging server that controls communication with the automated back-end systems of clients."

D1 discloses an infrastructure with all the technical features of claim 1, on which the implementation of the business related financial trading concept does not involve an inventive technical contribution.

2.9 The appellant's arguments to the contrary provided with the statement setting out the grounds of appeal do not convince for the aforementioned reasons.

2.10 Accordingly, in the absence of any technical contribution beyond the straight-forward computer-implementation, the subject-matter of claim 1 does not involve an inventive step (Article 56 EPC) over the common general knowledge or D1 in view of the normal skills in computer programming.

Auxiliary request 1

3. Claim 1 of this request further specifies that the counterpart computers (now part of the claim) provide a set of graphical user interfaces (GUIs) for enabling control of trading-related functions and for transmitting entered information to the trading engine.

4. Article 56 EPC - Inventive step

4.1 The appellant argued that the use of GUIs for the claimed purpose was not known and formulated the objective technical problem as how to provide an

improved user interface (see points 2.2.2 and 2.2.5 of the grounds).

- 4.2 The Board does not agree. The use of a GUI was commonly known in the field (see e.g. D1, column 4, line 20 onwards, and column 6, line 29 onwards) and there is no disclosure found in the original application for a specific implementation of the claimed user interface on a technical level, except for the functionality of the GUI which is derived from the underlying financial business concept.
- 4.3 The argument that the appellant presented during oral proceedings, that a preselection of a counterpart computer was foreseen according to claim 1, does not convince. This is considered a mere design option not overcoming any technical hurdles or involving an inventive activity. Either an input field on the screen is originally left blank or it is filled with a suitable value, which can be edited by the user.
- 4.4 The subject-matter of claim 1 according to this request hence still does not involve an inventive step (Article 56 EPC).

Auxiliary request 2

5. Claim 1 of this request adds to the main request that the trading engine is a centralised server system capable of handling flow of data on a real-time basis. Counterpart computers are able to monitor derivative positions in real time.

6. Article 84 EPC - Clarity

6.1 The real-time function of the server system and of the counterpart computers are merely defined by the result to be achieved ("capable of..."; "able to..."). Technical features as to how exactly a real-time operation is achieved are not found, neither in the claim nor in the description. Claim 1 therefore lacks clarity for this reason.

7. Article 123(2) EPC - Basis for amendments

For the same reason, an antecedent basis for the additional feature is missing. Paragraph [0020] referred to by the appellant does not provide enabling information for monitoring transactions in real time. There is no direct and unambiguous disclosure for such a real-time processing. The requirements of Article 123(2) EPC are therefore not fulfilled.

8. Article 56 EPC - Inventive step

8.1 The appellant formulated the objective problem as how to allow parties to monitor a derivatives transaction in real time (see point 4.2.1 of the grounds). This problem, however, is not solved for the aforementioned reasons (see in particular point 2.4 above).

8.2 The claimed invention, in the Board's view, is not directed to a real-time problem in the sense of improving a technical process, but rather to automation in the sense of making (non-technical) financial information available quickly. This automation is achieved by mapping the business related administrative concept of derivative transactions on a client-server

computer system, which the Board regards as obvious for the reasons given above (see point 2).

- 8.3 In the absence of any technical contribution beyond the straight-forward computer-implementation, the subject-matter of claim 1 still does not involve an inventive step (Article 56 EPC) over the common general knowledge or D1 in view of the normal skills in computer programming.

Auxiliary request 3

9. Claim 1 of this request further specifies monitoring and updating a credit position of at least one party to a derivatives transaction to reflect the derivatives transaction and compare the updated credit position with a set credit level wherein the updating is done in real time.
- 9.1 The fact that the updating is done in real time is specified by the result to be achieved, again without indicating specific technical features resulting in a lack of clarity (Article 84 EPC).
- 9.2 The appellant referred to paragraphs [008] and [0034] of the description. While [008] is silent with regard to real-time issues, [0034] only deals with monitoring customer positions, but not with updating in real time. The requirements of Article 123(2) EPC are therefore not fulfilled for the additional features.
- 9.3 The further added features are regarded as part of the overall non-technical financial concept, which do not contribute to inventive step (Article 56 EPC) for the same reasons as given for the main request.

Auxiliary requests 4 to 6

10. Claim 1 of these requests corresponds to auxiliary requests 1 to 3 with the only difference that some features related to the counterpart computers have been omitted. The claimed subject-matter is therefore even broader and lacks inventive step for the same reasons given with regard to auxiliary requests 1 to 3.
11. Thus, none of the requests fulfils the requirements of the EPC.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



C. Rodríguez Rodríguez

W. Chandler

Decision electronically authenticated