

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TD AMERITRADE HOLDING CORP., TD AMERITRADE, INC., and TD
AMERITRADE ONLINE HOLDINGS CORP.,
Petitioner,

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.,
Patent Owner.

CBM 2014-00131
Patent 7,533,056 B2

Before SALLY C. MEDLEY, MEREDITH C. PETRAVICK, and
PHILIP J. HOFFMANN, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

DECISION
Request for Rehearing
37 C.F.R. § 42.71

INTRODUCTION

Trading Technologies International, Inc. (“Patent Owner”) filed a Request for Rehearing (Paper 21, “Req. Reh’g”) of the Decision on Institution (Paper 19, “Dec.”), which instituted a covered business method

patent review of claims 1–15 of U.S. Patent No. 7,533,056 B2 (Ex. 1001, “the ’056 patent”). Patent Owner argues that the Board overlooked and misapprehended facts that establish that the ’056 patent does not qualify as a covered business method patent. Patent Owner additionally argues that the Board misapprehended and misapplied the technological invention exception. Req. 1. The Request for Rehearing is *denied*.

ANALYSIS

When rehearing a decision on petition, the Board will review the decision for an abuse of discretion. 37 C.F.R. § 42.71(c). An abuse of discretion may be determined if a decision is based on an erroneous interpretation of law, if a factual finding is not supported by substantial evidence, or if the decision represents an unreasonable judgment in weighing relevant factors. *Arnold Partnership v. Dudas*, 362 F.3d 1338, 1340 (Fed. Cir. 2004). For the reasons that follow, Patent Owner has not shown that the Board abused its discretion.

Patent Owner argues that the Board abused its discretion when it failed to consider “statements by Congress confirming that a patent claiming a novel GUI would be safe from Section 18 review.” Req. Reh’g 4. We did not overlook Patent Owner’s arguments regarding the legislative history. Dec. 6 (“Patent Owner argues that the claims are directed to structural and functional features embodied in a graphical user interface (“GUI”) tool, and not in any business method or practice, directing attention to legislative history in support of Patent Owner’s arguments.”).

In the Decision, we explained that Patent Owner’s arguments regarding structural and functional features that are embodied in a GUI tool are misplaced, because such structure and features are not claimed. Accordingly, Patent Owner failed to persuade us that claim 1¹ is to a novel GUI tool, and, therefore, Patent Owner’s arguments regarding statements made by Congress were found not to be persuasive because such statements were not shown to be commensurate with what is claimed. As stated in the Decision, claim 1 is directed to a method for displaying transactional information and facilitating trading in a system using a computer. As further explained, claim 1 does not recite specific hardware or software for performing the steps of the method of claim 1, or a GUI tool. *Id.* No structure or tools are claimed.

Patent Owner argues that the Board misapplied the technological invention test. Req. Reh’g 7. In particular, Patent Owner argues that we overlooked the novel and unobvious technological features claimed, and that the claims require “a price axis and displaying bid and ask indicators relative to the axis on different portions of a computer screen and enabling a user to provide inputs based on a selection of locations along the axis.” *Id.* at 9–10.

Claim 1 does not recite displaying “bid and ask indicators relative to the axis on different portions of a computer screen.” No computer screen is claimed. No location of bid or ask indicators is specified. Claim 1 does not

¹ As explained in the Decision, a patent only need have one claim directed to a covered business method to be eligible for a covered business method patent review. In the Decision, we focused on claim 1. We focus on claim 1 for purposes of the rehearing decision.

recite a user providing inputs based on a user selecting locations along the axis. Patent Owner's arguments are not commensurate in scope with the breadth of claim 1. Similarly, we are not persuaded by Patent Owner's arguments that claim 1 requires a trader to (1) immediately see rapidly changing activity, such as demand for a commodity, (2) quickly assemble the information, and (3) react quickly and effectively. *Id.* at 10. Claim 1 does not recite rapidly changing activity. No change in activity of what is displayed is claimed. Claim 1 does not recite permitting a trader to quickly assemble information so as to facilitate taking action quickly and effectively. For these reasons, Patent Owner has not shown that the Board abused its discretion in determining that claim 1 does not recite a technological feature that is novel and unobvious over the prior art.

Patent Owner also argues that the Decision improperly failed to address whether claim 1 solves a technical problem using a technical solution. *Id.* at 11. In particular, Patent Owner disagrees with the Decision that claim 1 of informing a trader of certain stock market trends or events is not a technical problem, but rather a financial problem. *Id.* at 12. Patent Owner's arguments, in that regard, reference the arguments already addressed above regarding alleged features that are not claimed. For the reasons provided above, we do not find the arguments persuasive.

Lastly, Patent Owner argues that while using software to create GUIs was known, the specific combination of GUI features claimed in the involved patent was not known. *Id.* at 13. In support of the argument Patent Owner refers to a "novel graphical tool", but Patent Owner has not

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demonstrated that claim 1 recites any novel graphical tool, and, therefore, the argument is not persuasive.

For all of the above reasons, Patent Owner's Request for Rehearing is *denied*.

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