

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SKYHAWKE TECHNOLOGIES, LLC,

Petitioner

v.

L & H CONCEPTS, LLC,

Patent Owner

Case 2014-00437 and Case 2014-00438 (Patent 5,779,566)

PATENT OWNER'S ORAL ARGUMENT DEMONSTRATIVES

Petitioner Has Not Met Its Burden.

- “[T]he petitioner shall have the burden of proving a proposition of unpatentability by a preponderance of the evidence.”

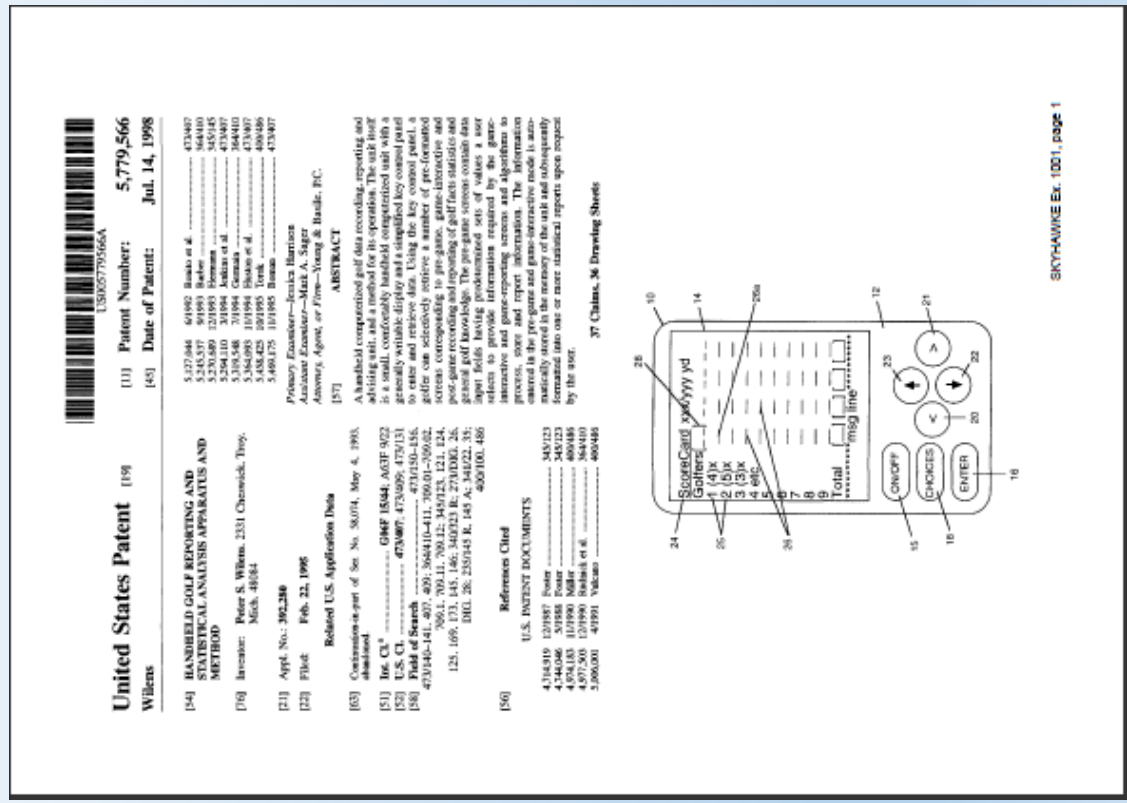
- 35 U.S.C. § 316(e)

NOTE: The exhibits to the 437 and 438 petition overlap quite closely, with some small differences in numbering. To simplify this presentation, Patent Owner refers to exhibits by their numbers from the 437 proceeding.

Why Hasn't Petitioner Met Its Burden?

- **Petitioner's Cited art doesn't disclose pre-game screens or sequential pre-game screens**
- **There is no reason to combine Vanden Heuvel with Palmer and Osamu, the other two references relied upon by Petitioner**
 - a. Petitioner's stated reasons for combination are contradicted by the references, and are unsupportable. P.O.R. at 8.
 - b. Petitioner's combination would not create a predictable result. P.O.R. at 15.
 - c. Testimony of Petitioner's expert is contradictory and lacking and, thus, neither credible nor helpful to the Board. P.O.R. at 24.
 - d. The Vanden Heuvel reference relied on by Petitioner is non-analogous art. P.O.R. at 11.

Claims 4, 5, 8-11, 13, 14, 17, and 18 of the '566 Require Pre-Game Screens



13. An apparatus for recording and reporting sports and game information to increase a player's ability to improve from experience, the apparatus comprising:
 a self-contained computer unit having a memory, a power source and a display for selectively displaying a plurality of information screens and associated data stored in the memory, the information screens including screen-dependent data input fields for the associated data;

a plurality of pre-game, game-interactive and post-game information screens stored in the memory of the computer unit;
 means for displaying a pre-game information screen and prompting entry of data which defines parameters of an upcoming game, and means for subsequently displaying a game-interactive information screen corresponding to a game-interactive mode defined by the parameters selected in the pre-game information screen;

Ex. 1001, col. 19, ll. 3-21, p. 47.

Pre-Game Must be Construed Reasonably

- Petitioner asserts that “pre-game” is essentially every moment in time prior to the game.

Palmer’s personal database would have to be populated before the golf round for the club selection tip feature to work. (Ex. 1033 169:23-170:11.) Thus, there is no dispute in the record that Palmer teaches pre-game screens.

- 437 Reply at 14

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