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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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DETAILED ACTION

Claims 21-37 presented for examination, applicant canceled claims 1-20, previously pending and added new claims 21-37. After careful consideration of the new claims, the examiner essentially establishes new grounds of rejection. As such, this is a final rejection of the claims.

Claim Objections

1. Claim 31 objected to because of the following informalities:

Claim 31 (c) recites; “permitting sellers and bidders to execute securities trades.” An auction is a forum where bidders bid for something, in this case a security. The term securities trades connotes trading as opposed to auctions. The examiner assumes that securities trades are basically exchanging securities for money.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 21-26, 35-37 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 13-17 a variety of web related auction trading methods.. Based on Supreme Court precedent, a proper process must be tied to another statutory class or transform

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underlying subject matter to a different state or thing (*Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876)). Since neither of these requirements is met by the claim, the method is not considered a patent eligible process under 35 U.S.C. 101. To qualify as a statutory process, the claim should positively recite the other statutory class to which it is tied, for example by identifying the apparatus (computer implemented method for example) that accomplished the method steps or positively reciting the subject matter that is being transformed, for example by identifying the material that is being changed to a different state. In this case, the method claims should be “computer implemented methods” and the body of the claims must incorporate computers and hardware.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 21-37 Rejected under 35 USC 112 2nd.

Claims Independent claims 21, 29, 32, 35 pre-amble's disclose a secondary market application for trading. However, the pre-amble of the claim does not have any patentable weight. As such, the use of Secondary market securities makes the claims unclear as, the bodies of the claims includes “securities” though it is not clear if these are secondary market securities. The examiner has added McCarthy which discloses securities which are not initial offering (examiner’s interpretation of securities). If the

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applicant intends to claim secondary market offerings, the body of the claim need to be modified to address secondary market type securities as opposed to "securities" which could include any security including secondary market securities.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-25,27-28,32-36 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6161099 to Harrington in view of US Patent Publication 20020161690 to McCarthy

As per claim 21, Harrington discloses;

(a) using a website on the Internet to list specific lots of outstanding securities for sale and request bids from participants to buy the securities; (Harrington Col. 6, lines 19-45)

(b) displaying on said website bids from said participants for buying said specific lots of securities (Harrington (col. 9, lines 1-15, col. 4, lines 35-45)

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including the price of said bids such that said bids including the bid prices thereof are available to all participants immediately upon entry of said bids and throughout the auction; (Harrington col.9, lines 1-5, col. 4, lines 35-45)

(c) providing real-time dynamic updating on said web site of information

pertaining to the auction including whether or not the securities traded; (col. 7, lines 30-47, view auction results, this clause is interpreted such that whether or not the securities were purchased by a participant_

whereby all participants have equal access to and knowledge of bids to enable informed trading decisions. (col. 9, lines 10-20)

The examiner notes that col. 6, lines 10-30, that the invention while directed to bonds states that it is applicable to equities and other securities. Likewise, specific lots of securities, could be a lot of 1 singular security.

Harrington does not explicitly disclose a quantity of securities;

McCarthy discloses quantities of securities. (0058)

It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the disclosures of Harrington which include a variety of embodiments with the explicitly security quantity teachings of McCarthy for the motivation of providing access to a wide range of securities and a competitive market.

(0005)

As per claim 22 Harrington discloses;

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further including the step of dynamically updating the display of new bids, including the amount and price of said bids, in real-time on said web site wherein said web site and the data thereof is

accessible to all bidders or participants as the auction proceeds such that all participants have equal, open access to all the bids. (col. 12, lines 45-50)

As per claim 23, Harrington discloses;

further including the step of providing a host computer network including a computer having databases and programs comprising said web site to be accessed by participants. (col. 6, line 40-50)

As per claim 24, Harrington discloses;

further including the step of searching on an auction search screen of said web site through a database of available auction items, using specified criteria, to find the type of security desired to be traded, wherein the results of said search are displayed on said web site. (col. 7 lines 30-35)

As per claim 25, Harrington discloses;

further including the step of accessing an auction detail screen of the computer network showing all bids made in priority order and other information pertinent to the auction, including links to other functions concerning the status of the auction and the securities being auctioned including links to:

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(c) links to calculations, (col. 8, lines 60-65)

(d) links to historical bid, offering and trade data, (col. 9, lines 10-21)

(e) forms for submitting bids, (col.7, lines 20-25)

(f) forms for selling orders, (col. 7, lines 20-25)

whereby substantially all information available on a specific auction and the securities thereof and substantially any permissible action which may be taken by a participant are accessible from a single location by all participants. (col. 7, lines 1-25, website, the term location is interpreted to be a single website)

Harrington does not explicitly disclose;

(a) independent evaluations,

(b) spreads to indicative yield curves,

McCarthy teaches;

(a) independent evaluations, (McCarthy 0078, credit ratings)

(b) spreads to indicative yield curves, (McCarthy 0104, yield spreads)

It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the disclosures of Harrington with the teachings of McCarthy for the motivation of providing access to a wide range of securities and a competitive market. (0005)

As per claim 29, Harrington discloses;

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(a) listing securities to request bids from participants; (col. 6, lines 19-45)

(b) displaying bids from participants to all participants during an auction; (col. 9, lines 1-15, col. 4, lines 35-45)

(c) automatically updating all bids while said bids are displayed on a real-time basis such that all participants have equal, open access to all the bids as the auction proceeds. (col. 12, lines 45-50)

Harrington does not explicitly disclose a secondary market (after initial offering) though the examiner noted that Harrington is applicable to any securities, see col. 6)

McCarthy teaches a trading system which is applicable to non-primary offering securities (0043).

It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the disclosures of Harrington with the teachings of McCarthy for the motivation of providing access to a wide range of securities and a competitive market. (0005)

As per claim 30, Harrington discloses;

wherein said computer has databases and programs for searching information on the securities and auctions, and for alerting participants as to activity pertaining to the auction. (col. 6 lines 40-42)

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As per claim 31, Harrington discloses;

(a) submitting items for auction, (col. 6, lines 19-45, items could be bonds)

(b) submitting bids,

(col. 7, lines 20-25)

Harrington does not explicitly disclose securities trades in the sense that it is an auction, as the applicant appears to be claiming. Securities trades could be trading money for a bond. If interpreted in this manner, Harrington further discusses this.

(c) permitting sellers and bidders to execute securities trades. (also, col. 2, lines 25-30 reference Silverman which is a trade matching system.

As per claim 32, Harrington discloses;

(a) a computer system including a website containing specific lots of securities to be auctioned; (col. 6, lines 16-45, applicability to equities which are sold in lots also disclosed)

(b) said web site providing graphic user interfaces for potential buyers of said specific lots of securities to enter bids for purchasing said specific lots of securities; (col. 6, lines 16-45, see fig. 13, the term lots could be interpreted to be a single security such as a bond, see further references to equity trades, col. 2, lines 25-30

(c) said computer system having programs for displaying all bids,

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immediately upon entry and throughout the auction, (col. 7, lines 30-47, view auction results, this clause is interpreted such that whether or not the securities were purchased by a participant)

received for said lots of securities on said web site such that the bids, including the bid prices are accessible to all bidders and observers whereby potential buyers are enabled to have knowledge of the status of the auction as it proceeds

and to assist the potential buyers in deciding whether to enter a bid and the price of the bid to be entered. (websites disclosed in Harrington Fig. 10, website information helps buyer)

(col. 7, lines 30-47, view auction results, this clause is interpreted such that whether or not the securities were purchased by a participant

whereby all participants have equal access to and knowledge of bids to enable informed trading decisions. (col. 9, lines 10-20)

Harrington does not explicitly disclose a quantity of securities;

McCarthy discloses quantities of securities. (0058)

It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the disclosures of Harrington which include a variety of embodiments with the explicitly security quantity teachings of McCarthy for the motivation of providing access to a wide range of securities and a competitive market.

(0005)

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As per claim 33, Harrington discloses bids and offers of securities and a website to accept orders (fig 13). Harrington does not explicitly disclose;

The use of CUSIP numbers to identify securities.

McCarthy teaches a variety of securities information including CUSIP. (0068)

It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the disclosure of Harrington with the bond oriented detail of McCarthy for the motivation of creating a a market in fixed income trading. (0002)

As per claim 34, Harrington discloses;

wherein potential buyers and sellers of securities may access said web site of said computer system with a standard JavaScript enabled web browser on a computer via the Internet or through a proprietary direct connection wherein full functionality of the system, including dynamic real-time updating of content, is available. (col. 6, lines 60-65)

As per claim 35, Harrington discloses;

(b) displaying said specific lots of securities to be sold on a website; (Harrington (col. 9, lines 1-15, col. 4, lines 35-45, lots of securities, could be a bond, lots can be singular,

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further there are references in the background to several systems which trade lots and applicability to equity as previously mentioned)

(c) receiving and displaying on said website bids to purchase each said specific lot of securities; (col. 9, lines 1-15, col. 4, lines 35-45)

(d) displaying all said bids immediately upon entry on said website such that all bidders, potential bidders and sellers have access to said bids as the auction proceeds. (col. 7, lines 30-47, view auction results, this clause is interpreted such that whether or not the securities were purchased by a participant_

Harrington does not explicitly disclose;

(a) a potential seller requesting bids for specific lots of securities wherein said request requires the submission of data including a CUSIP or other unique identifier and the par amount of each said specific lot of securities; (though the examiner believes bonds are likely to be identified by an identifier such as a cusip)

McCarthy teaches a variety of securities information including CUSIP and PRINCIPAL VALUE. (0068) (Harrington also disclose principal (PAR) in fig. 6)

It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the disclosure of Harrington with the bond oriented detail of

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McCarthy for the motivation of creating a market in fixed income trading. (0002)

As per claim 36, Harrington discloses;

further including the step of the seller reviewing the bids on the website and, at said sellers discretion, entering into said website that said specific lot of securities are for sale at a price bid by the highest bidder wherein the current trade status of the lot of securities is explicitly displayed to all participants and updated as necessary. (col. 6, lines 40-45, bids on website, col. 7, lines 30-35, items for sale, ie. Multiple security lots taught by McCarthy more explicitly)

Claims 29-31 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6161099 to Harrington

Claims 25-26,37 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6161099 to Harrington in view of US Patent Publication 20020161690 to McCarthy further in view of US Patent Publication 20020095369 to Kaplan.

As per claim 26, Harrington and McCarthy do not explicitly disclose;;

further including the step of accessing a program alert screen

wherein criteria is selected for notification of activity pertaining to the auction or the overall market, including activity of participants, specific securities or types of securities.

(0123) It would therefore have been obvious to combine the disclosures of Harrington

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with Kaplan for the motivation of determining a market price through mutual competition.

(0004)

As per claim 27, Harrington discloses;

further including the step of accessing the computer network using a standard

JavaScript enabled web browser. (col. 6, lines 60-65)

As per claim 28, Harrington discloses; further including the step of a seller optionally executing a trade within a specified time frame wherein all data pertinent to the sale of the securities including the prices of all bids is displayed on a screen accessible to all participants. (col. 7, 45-50)

As per claim 37,

Harrington does not explicitly disclose;

(a) entering a bid equal to or greater than the current high bid plus a

predetermined increment;

(b) entering a maximum bid where said maximum bid is not disclosed to any

participants;

(c) automatically increasing the bid in one or more predetermined increments to top out

a new submitted competitive high bid but not to exceed said maximum bid; whereby a

bidder may implement a predetermined decision to automatically increase bids based

on market competition.

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McCarthy teaches;

(b) entering a maximum bid where said maximum bid is not disclosed to any participants; (0063)

It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the disclosure of Harrington with the bond oriented detail of McCarthy for the motivation of creating a a market in fixed income trading. (0002)

Harrington and McCarthy do not explicitly disclose;

(a) entering a bid equal to or greater than the current high bid plus a predetermined increment;

(c) automatically increasing the bid in one or more predetermined increments to top out a new submitted competitive high bid but not to exceed said maximum bid; whereby a bidder may implement a predetermined decision to automatically increase bids based on market competition.

Kaplan teaches;

(a) entering a bid equal to or greater than the current high bid plus a predetermined increment; (0065)

(c) automatically increasing the bid in one or more predetermined increments to top out a new submitted competitive high bid but not to exceed said maximum bid; whereby a bidder may implement a predetermined decision to automatically increase bids based on market competition. Kaplan is not fully automated, It would be obvious to automate a semi-automated feature as such and one of ordinary skill in the art would be able to automate this feature. (0065)

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It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the bond auction of Harrington with the bid topping features of Kaplan for the motivation of (determining the market price through mutual competition. (0004)

Response to Arguments

4. Claims 21-37 presented for examination, applicant canceled claims 1-20, previously pending and added new claims 21-37. Applicant's arguments with respect to claim 21-37 have been considered but are moot in view of the new ground(s) of rejection.

- Applicant lists numerous arguments and rationale in regards to the previously canceled claims, now rewritten in some form to the new claims 21-37.
- Applicant's main argument is that Harrington is for new issues and not for secondary market trading. The Examiner notes, Harrington states that the process is applicable to commercial paper, bonds, notes, treasury auctions, equity offerings, any financial instrument. (col. 6, lines 10-20) The examiner has further noted that the references to secondary market are in the pre-ambles resulting in 35 USC 112 2nd issues and further that the reference to secondary markets has no patentable weight. However, McCarthy specifically trades in non initial issue type securities.

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- The examiner added McCarthy to further encompass a reference which discloses CUSIPs and live market type of activity.
- The applicant has made some assertions as to the inventions specific uses and benefits, however, applicant's invention as claimed does not necessarily incorporate all of the novel items of the applicant's invention. One of ordinary skill in the art at the time of the invention could apply references of Harrington and McCarthy to devise a similar forum for securities auctions / trading.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRUCE I. EBERSMAN whose telephone number is (571)270-3442. The examiner can normally be reached on 630am-5pm, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Alexander Kalinowski/
Supervisory Patent Examiner, Art Unit 3691

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