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Applicants: Joseph J. Caldas
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Examiner: Bruce I. Ebersman
Art Unit: 3691

Watchung, New Jersey
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AMENDMENT A

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed September 4, 2008, please amend this application as follows:

CLAIMS: Amendments to the claims begin on page 2 of this paper.

REMARKS: Remarks begin on page 9 of this paper.

Claims

The following is a listing of all claims in the application with their status and the text of all active claims.

1-20 (CANCELED)

21. (NEW) A method of conducting a secondary market securities auction, including the steps of:

- (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;
- (b) displaying on said website bids from said participants for buying said specific lots of securities 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;
- (c) providing real-time dynamic updating on said web site of information pertaining to the auction including whether or not the securities traded;

whereby all participants have equal access to and knowledge of bids to enable informed trading decisions.

22. (NEW) The method defined in claim 21, 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.

23. (NEW) The method defined in claim 21, 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.

24. (NEW) The method defined in claim 23, 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.

25. (NEW) The method defined in claim 24, 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:

- (a) independent evaluations,
- (b) spreads to indicative yield curves,
- (c) links to calculations,
- (d) links to historical bid, offering and trade data,
- (e) forms for submitting bids,

(f) forms for selling orders,
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.

26. (NEW) The method defined in claim 25, 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.

27. (NEW) The method defined in claim 23, further including the step of accessing the computer network using a standard JavaScript enabled web browser.

28. (NEW) The method defined in claim 23, 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.

29. (NEW) A secondary market securities auction system, including a computer having programs providing the means for:

- (a) listing securities to request bids from participants;
- (b) displaying bids from participants to all participants during an auction;

(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.

30. (NEW) The system defined in claim 29 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.

31. (NEW) The system defined in claim 30 wherein said databases and programs dynamically create and display to participants of the auction, various graphic user interfaces comprising the means for:

- (a) submitting items for auction,
- (b) submitting bids,
- (c) permitting sellers and bidders to execute securities trades.

32. (NEW) A system for secondary market securities trading, including in combination:

- (a) a computer system including a website containing specific lots of securities to be auctioned;
- (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;

(c) said computer system having programs for displaying all bids, immediately upon entry and throughout the auction, 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.

33. (NEW) The system defined in claim 32 wherein said computer system has programs for receiving and displaying requests for bids by a potential seller of specific lots of securities wherein said lots of securities are inserted in the system by submitting data pertinent to said lots of securities including a CUSIP or other unique identifier and the par amount.

34. (NEW) The system defined in claim 32 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.

35. (NEW) A method of trading securities in the secondary market, including the steps of:

- (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;
- (b) displaying said specific lots of securities to be sold on a website;
- (c) receiving and displaying on said website bids to purchase each said specific lot of securities;
- (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.

36. (NEW) The method defined in claim 35, 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.

37. (NEW) The method defined in claim 35, further including the steps of:

- (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.

Remarks

By this amendment the applicant has modified the claims to put this application in full and clear condition for allowance. The applicant has corrected punctuation in all presented claims to indicate where the preamble ends, he has modified the claim language of claims 10 and 12 to explicitly invoke a 35 U.S.C. 112 6th paragraph means plus function type claim, he has canceled claims 4, 14 and 19 and has rewritten claims 1-3, 5-13, 15-18 and 20 as new claims 21-37 to more particularly define the invention in a patentable manner over the cited prior art.

The Rejection to Claims 1, 13, 17 Under 35 U.S.C. 102(b) as Being Unpatentable Over Harrington is Overcome

The Office Action rejected claims 1, 13, 17 as unpatentable over Harrington. The applicant has rewritten claims 1,13,17 as new claims 21, 32, 35 respectively to more clearly define the intended field of endeavor of the applicant's invention and to more particularly define the invention in a patentable manner over the cited prior art. The applicant requests reconsideration of this rejection as now applicable to claims 21, 32, and 35 for the following reasons:

New claim 21 recites: "a method of conducting a secondary market securities auction". New claim 32 recites: "a system for secondary market securities trading". New claim 35 recites: "a method of trading securities in the secondary market". This language distinguishes over Harrington because Harrington does not show any method or system capable of performing trades in the secondary market. Harrington specifically

teaches away from this (col. 2, lines 50-60). The applicant respectfully disagrees with the inference of equivalence drawn from the prior art reference for the reasons given here. The Office Action notes that Harrington discloses the following:

- (1) using a web site on the Internet to list the securities for sale and request bids from participants to buy the securities (col. 6, lines 19-45);
- (2) displaying on a web site bids from the participants for buying the securities including the prices of the bids such that the bids including the bid prices are available to all participants during the auction (col. 9, lines 1-15 and col. 4 lines 35-45);
- (3) updating on a website information pertaining to the auction including whether or not the securities were purchased by a participant (col. 7, lines 30-47).

While the terminology used is similar the process of Harrington teaches a completely different process than the present invention: underwriting as opposed to trading, performed on completely different material: new issues as opposed to fungible commodities, with completely different results: creation of new securities as opposed to commerce in the secondary market.

To the first reference: To list securities for sale and to request bids in the secondary market on a web site on the Internet or for that matter in any forum of the secondary market requires that the securities already exist. Securities traded in the secondary market have completed the underwriting process. Harrington refers to these as (col. 2, lines 50-60) "fungible commodities" and does not provide for the listing of

outstanding securities nor is there a provision to bid on specific lots of outstanding securities.

To the second reference: Bids entered on the present invention are immediately displayed to all participants without selectivity thereby guaranteeing all participants equal advantage. Harrington does not do this (col. 9, lines 10-20) "selected bid information is predetermined by the issuer prior to the auction...displaying a current best bid, which is optional".

To the third reference: With regard to whether or not the securities were purchased by a participant. This information is always displayed in the present invention along with the price of all bids submitted on the specific lot of securities. Harrington does not do this (col. 7, lines 45-47). The display of this information in Harrington is discretionary.

The Novel Physical Features of New Claims 21, 32, 35 Are Unobvious and Patentable Under 35 U.S.C. 103

These distinctions noted above are additionally submitted to be of patentable merit under section 103 because:

- (1) The results achieved by the non-discretionary nature of the display of auction information are new and superior in that they level the playing field for all participants in every transaction. When a bidder knows they have full and complete disclosure of relevant data they are better enabled to make informed, discriminative trading decisions.

- (2) Harrington lacks any suggestion that it should be modified in a manner required to provide an auction for trading of previously issued securities in the secondary market. In fact Harrington teaches to the contrary (col. 2, lines 50-60) "The present invention is directed to original issuer auctions, which involve distinctly different issues than those associated with the secondary market."
- (3) The invention solves a long-felt and unsolved need for increased transparency in over-the-counter securities trading. Much work has been done in this area with the focus on the reporting and dissemination of trade data after the trade occurs. The present invention shifts that focus to the pre-trade environment.
- (4) The invention utilizes a new principle of operation in the non-discretionary, real-time display of bids as the auction proceeds.
- (5) The prior art structure of Harrington is not capable of performing the intended use as recited in the preamble of the claims of the present invention that being functioning in the secondary securities market.
- (6) The applicant's invention solves a different problem than Harrington and such different problem is recited in the claims. Secondary market trading is the problem addressed in the applicant's invention, whereas the cited prior art is concerned with underwriting securities in the primary market.

**The Dependent Claims 3,5,6,8,9,15,16,18 Overcome Rejection
Under 35 U.S.C. 102(b) as Being Unpatentable Over Harrington
for These Reasons and More.**

The applicant requests reconsideration of this rejection as now applicable to dependent claims 23, 24, 25, 27, 28, 33, 34, and 36 for the following reasons:

Claim 3 is Rewritten as Claim 23

Claim 3 has been rewritten as claim 23 to more clearly define the elements of the claim as: specific components comprising the web site of claim 21. Claim 23 incorporates all the same subject matter as claim 21 and adds additional subject matter, which make it independently patentable over the references.

The Office Action notes that Harrington discloses:

- (1) providing a host computer network including a computer having databases and programs to be accessed by participants or bidders through a connection established through the Internet. (col. 6, lines 40-42).

Claim 23 recites: "providing a host computer network including a computer having databases and programs comprising said web site to be accessed by participants".

The language distinguishes over Harrington in that it shows specific structure that comprises the web site.

Claim 4 is Canceled

Dependent claim 4 has been canceled due to the coverage afforded by the remaining claims.

Claim 5 is Rewritten as Claim 24

Claim 5 has been rewritten as new claim 24 to more particularly define the invention in a patentable manner over the cited prior art. Claim 24 incorporates all the same subject matter as claim 23 and adds additional subject matter, which make it independently patentable over the references. Claim 24 recites: "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." Harrington does not do this. Harrington provides for the display of auctions by the status of the auction (col.7 lines 30-35). This claim has to do with searching, by specific criteria, for securities for auction with characteristics that match said criteria and the display of the results thereof.

Claim 6 is Rewritten as Claim 25

Claim 6 has been rewritten as new claim 25 to properly describe the auction detail screen of the present invention as to more particularly define the invention in a patentable manner over the cited prior art. Claim 25 incorporates all the same subject matter as claim 24 and adds additional subject matter, which make it independently patentable over the references. Claim 25 recites: "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:

- (a) independent evaluations,
- (b) spreads to indicative yield curves,
- (c) links to calculations,
- (d) links to historical bid, offering and trade data,
- (e) forms for submitting bids,
- (f) forms for selling orders,

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 during an auction are accessible from a single location by all participants.”

The Office Action notes that Harrington discloses:

- (1) accessing an auction detail screen of the computer network showing all bids made in price order (col. 9, lines 30-35);
- (2) other information pertinent to the auction and including links to other functions concerning the auction or the securities being auctioned (col. 8, lines 60-65);
- (3) including forms for submitting bids and forms for selling orders (col. 7, lines 20-25).

To the first reference: Harrington teaches that the display of data is optional. It does not teach full, equal disclosure of all relevant data to all participants.

To the second reference: This reference discloses links to offering documents and rules of the system from a verification page, required before the bidder may enter the auction. The links in the claim are relevant to the actual auction and are not a precursor to viewing or participating in the auction. All participants in the auction of the present invention are pre-qualified as “authorized” prior to being granted access (0049). The validation of a bidder as described in the cited reference is not the subject matter of this claim.

To the third reference: Harrington does not provide one screen available to all participants from which bids may be entered and sell orders submitted. The applicant respectfully submits that the reference cited in Harrington (col. 7, lines 20-25) does not teach what the Examiner relies upon it as supposedly teaching. It shows a registration form where “Parties must register so that their credentials can be verified prior to issuance of security information enabling them to make legitimate bids.” The language of claim 25 distinguishes from this in that the forms included in the auction detail screen are: “forms for submitting bids” and “forms for submitting orders”.

Claim 8 is Rewritten as Claim 27

Claim 8 has been rewritten as new claim 27 to correct punctuation. Claim 27 incorporates all the same subject matter as claim 23 and adds additional subject matter, which make it independently patentable over the references. Claim 27 recites: “accessing the computer network using a standard JavaScript enabled web browser.” The applicant respectfully submits that the reference to Harrington (col. 6 lines, 60-65)

is a misunderstood reference. The reference teaches: "In an alternative embodiment, portions of the source code implementing certain features remains resident on the user's computer, e.g. in the form of applets written in the JAVA language."

JavaScript is often confused with the JAVA programming language. They are, in fact, completely different. JavaScript is a scripting language most commonly used on client side web development; it provides an interface to a range of browser capabilities and can be interpreted by commonly used web browsers. Whereas the code written in the JAVA language, used to create an applet, is compiled and interpreted by a virtual machine installed on the end users computer. The applicant teaches the use of different combined technologies intended to solve the problems, inherent to Harrington and other prior art, in the specification of the current application (0012 and 0038). This is discussed further in the Comparative Example provided later in the response to the rejection of claim 10 on page 24 of this amendment.

Claim 9 is Rewritten as Claim 28

Claim 9 has been rewritten as new claim 28 to more clearly define the conditions in which a trade may be executed thereby to more particularly define the invention in a patentable manner over the cited prior art. Claim 28 incorporates all the same subject matter as claim 23 and adds additional subject matter, which make it independently patentable over the references.

The Office Action notes that Harrington discloses:

(1) steps wherein the seller executes a trade and wherein the sale of securities is recorded on a screen accessible to all participants or bidders (col. 7 lines 45-50).

Claim 28 recites: "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."

The reference cited in the Office Action does not meet the elements of the claim as amended. Harrington does not provide the display of results to all participants (col. 7, lines 45-53). Harrington does not provide for the optional execution of a trade (col. 12, lines 26-30) Additionally, the present invention provides for a specified time frame for execution (0035). The prior art makes no provision for such a time frame.

Claim 15 is Rewritten as Claim 33

Claim 15 has been rewritten as new dependent claim 33 and incorporates all the same subject matter as claim 32 and adds additional subject matter, which makes it independently patentable over the references. Claim 33 was rewritten to clearly define the system wherein auction items are entered in the system and to specify some of the required data points to accomplish this task thereby to more particularly define the invention in a patentable manner over the cited prior art. Claim 33 recites: " wherein said computer system has programs for receiving and displaying requests for bids by a potential seller of specific lots of securities wherein said lots of securities are inserted in the system by submitting data pertinent to said lots of securities including a CUSIP or

other unique identifier and the par amount.” The present invention solves a different problem than the reference cited in the rejection.

The Office Action notes that Harrington discloses:

- (1) wherein said computer system has means for receiving and displaying requests for bids by a potential seller of securities (col. 9, lines 1-20).

This reference pertains to the preparation and submission of a bid and the display of predetermined data related to the bid, whereas stated above claim 33 of the present invention pertains to the submission of auction items for which bids are desired “requests for bids” and the display thereof. Harrington addresses this problem in (col. 12 lines 7-13) however Harrington does not teach receiving or displaying requests for bids on specific lots of securities in the secondary market from potential sellers of said lots of securities nor does Harrington teach the use of CUSIP or other unique identifier in the process.

Claim 16 is Rewritten as Claim 34

Claim 16 has been rewritten as new dependent claim 34 and incorporates all the same subject matter as claim 32 and adds additional subject matter, which makes it independently patentable over the references. Claim 34 additionally recites: “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.”

The Office Action notes that Harrington discloses:

(1) buyers and sellers using a web site via the Internet (col.6 lines 40-45)

This reference specifies, “connected to a network such as the Internet” but does not specify the use of a JavaScript enabled browser, nor does it specify the availability of full functionality of their system. While it may seem obvious to assume such availability, the comparative example, provided on page 24 of this amendment in the response to the rejection of claim 10, proves such an assumption invalid, especially with respect to the dynamic real-time update of content on a web site.

Claim 18 is Rewritten as Claim 36

The dependent claim 18 has been rewritten as new dependent claim 36 and incorporates all the same subject matter as claim 35 and adds additional subject matter, which makes it independently patentable over the references. Claim 36 has been rewritten to include the discretionary option on the part of the seller to trade auction items and to include the explicit display of the trade status to all participants. Claim 36 additionally recites: “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.”

The Office Action notes that Harrington discloses:

(1) reviewing bids on a web site (col. 6, lines 40-45),

(2) enters into a web site that the securities are for sale at a price bid by the highest bidder (col. 7, lines 30-35, items for sale, method of winning would be disclosed if not apparent from the auction type).

Harrington does not teach the discretionary execution on part of the seller of a trade on a specific lot of securities on a web site.

To the first reference: The cited reference does not meet the element of the claim. This claim specifically has to do with the seller reviewing bids for specific items they have out for auction on the web site and entering into the web site whether the securities are for sale or not, at the sellers discretion. The cited reference discloses an auctioneer maintaining a web site accessed by users.

To the second reference: The method of winning an auction in the present invention is to be the high bid on a specific lot of securities that the seller has decided to trade, as described in this claim and the specification (0054). These two conditions must be present for a trade to transpire. This claim pertains to the discretionary decision to sell an auction item, and the non-discretionary display of the result of that decision. Harrington does not teach this.

Claim 19 is Canceled

Dependent claim 19 has been canceled.

**Obviousness Rejection to Claims 2,7,10,11,12,20 is Overcome
Including A Real World Comparative Example**

Claim 10 is Rewritten as Claim 29

In response to the rejection of claim 10 under 35 U.S.C. 103(a) as being unpatentable over Harrington in view of Kaplan the applicant has rewritten claim 10 as new claim 29 to more particularly define the invention in a patentable manner over the cited prior art. The applicant requests reconsideration of this rejection as now applicable to claim 29 for the following reasons:

The Office Action notes that the prior art does the following:

Harrington discloses:

- (1) using a web site on the Internet to list the securities for sale and request bids from participants to buy the securities;
- (2) displaying on a web site bids from the participants for buying the securities including the price of the bids such that the bid prices are available to all participants during the auction;
- (3) and means for automatically updating all bids on a screen on a real-time basis such that participants have access to all the bids as the auction proceeds (col. 7, lines 30-47, whether or not the securities were purchased by a participant, interpreted as a display of results).

Kaplan teaches:

- (4) real time auction displays in financial securities trading.

Obvious Combination:

- (5) It would be obvious to combine the bond auction of Harrington with the real time teachings of Kaplan.

As For Harrington

The applicant disagrees with the inference of equivalence drawn from the prior art reference for the following reasons.

To the first reference: To list securities for sale and to request bids in the secondary market on a web site on the Internet or for that matter in any forum of the secondary market requires that the securities already exist. Harrington refers to these as “fungible commodities” and does not provide for the listing of outstanding securities nor is there a provision to bid on specific lots of outstanding securities. (col. 2, lines 53-60).

To the second reference: Bids entered on the present invention are immediately displayed to all participants without selectivity thereby guaranteeing all participants equal advantage. Harrington does not do this (col. 9, lines 10-20) “selected bid information is predetermined by the issuer prior to the auction...displaying a current best bid, which is optional.”

With regard to the third reference: The present invention explicitly teaches away from discretionary display of data to specific participants. Harrington does the exact opposite. (col. 7, lines 30-47, The display of this information is discretionary).

As for Kaplan

The applicant discusses in the specification (0011-0013) and in the remarks of this response to the rejection of claim 8 on page 16 of this Amendment the “open access” element of claim 29. Kaplan (0101) does not achieve this as is apparent from the comparative example provided below. Furthermore the Kaplan reference is

inoperative as stated. It is fact that a JAVA applet does indeed have special firewall and installation requirements, as well as potential additional network requirements especially on the sophisticated networks common in the financial industry.

Comparative Example

The applicant has implemented, in the production environment of a Municipal Securities Alternative Trading System (ATS), the alert system disclosed in the specification of the present invention (0045) for the purpose of real-time data display. The application was created in two versions, as a JAVA applet and in the form taught in the application of the present invention. Both versions utilize the same database and market data and perform identical functions including the display of bids. The JAVA applet version was the first released. Traders at many major firms such as Merrill Lynch, Morgan Stanley, JP Morgan, Citigroup, Bank of America and other firms who employ strict security controls over their networks or utilize proxy servers, common in this industry, were unable to access the program. The applicant then implemented a version of the program created in the manner taught in the present invention. The implementation of the present invention's version substantially eliminated these problems with no degradation in performance to the client. The alert application of the present invention provided superior results in the aspect of open access, which is critical to the teachings of the present invention. Additionally, review of the prior art indicates that this problem was not even recognized let alone solved.

Harrington in View of Kaplan Does Not Meet the Claim

Evident from the above comparative example, the prior art elements do not perform the identical function specified in the claim in substantially the same way, and do not produce substantially the same results as the corresponding elements disclosed in the specification.

If combined, the references would not teach or suggest all the claim limitations. The differences of the individual references listed above would be inherent in the combination. The combination would not provide for:

- (1) listing secondary market securities to request bids from participants;
- (2) display bids to ALL participants;
- (3) update bids such that all participants have equal open access.

Claim 2 is Rewritten as Claim 22

In response to the rejection of claim 2 under 35 U.S.C. 103(a) as being unpatentable over Harrington in view of Kaplan the applicant has rewritten claim 2 as new dependent claim 22 to more particularly define the invention in a patentable manner over the cited prior art. It incorporates all the same subject matter as claim 21 and adds additional subject matter, which makes it independently patentable over the references. Claim 22 recites: "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."

The applicant requests reconsideration of this rejection as now applicable to claim 22 for the following reasons:

As for Harrington

The Office Action notes that Harrington does the following:

- (1) Discloses real-time auction technology for bonds;
- (2) Does not explicitly reveal if the real-time bidding includes real-time display though it is implied.

To the first reference: The auction technology of Harrington is for original issuer financial instruments. The distinction between this and secondary market securities “fungible commodities” as described in Harrington is critical. Harrington does not, in any manner, provide for secondary market securities trading. Harrington specifically teaches away from secondary market trading (col. 2 lines 53-60)

To the second reference: Contrary to what is noted in the Office Action, Harrington does explicitly reveal the manner of display; (Col.11, lines 32-36 “The observation pages are updated throughout the auction by clicking the "Refresh" button. In an alternative embodiment, the observation pages are continuously updated.”) This does not produce substantially the same results as the corresponding element disclosed in the specification. Even the alternative embodiment would require some predetermined, finite interval to be programmatically specified to update the page as opposed to dynamic updating of specific elements on the page to produce real-time display.

As For Kaplan

The same argument and Comparative Example presented in response to the objection to claim 10, on page 24 of this amendment, is relevant here.

As For The Combination

Each reference is complete and functional in itself. There would be no reason to use parts from, or add or substitute parts to any reference. If the references were to be combined there would be substantially no advantage to the combination. The problems of Kaplan, specifically the lack of open access due to network configuration and software requirements for functionality, proved in the comparative example provided above, would remain in the combination. Additionally, the incorporation of dynamic content update in real-time would provide no improvement in Harrington, due to the response time required in preparing, completing and submitting a bid in the original issue market (col. 8, lines 44-67 and col. 9, lines 1-10). The refresh feature of Harrington is adequate for its purpose. If combined, the references would not teach or suggest all the claim limitations. The combination would not:

- (1) display bids to ALL participants;
- (2) update bids such that all participants have equal open access;

The prior art references do not contain any suggestion that they be combined or that they be combined in the manner suggested. Additionally, each reference achieves without combination in their respective space, the motivation suggested in the Office Action of “determining a market price through mutual competition” which is an

“important principal” in any auction process (Kaplan 0004). This is discussed in more detail later in the last paragraph of the response to the rejection of claim 20.

Claim 14 is Canceled

Dependent claim 14 has been canceled due to the coverage afforded by the remaining claims.

Claim 7 is Rewritten as Claim 26

In response to the rejection of claim 7 under 35 U.S.C. 103(a) as being unpatentable over Harrington in view of Kaplan the applicant has rewritten claim 7 as new dependent claim 26 that incorporates all the same subject matter as claim 25 and adds additional subject matter, which makes it independently patentable over the references. Claim 26 recites “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.”

The Office Action notes that Kaplan teaches an alert feature (0123), which would be obvious to combine with Harrington.

The applicant requests reconsideration of this rejection as now applicable to claim 26 for these reasons:

- (1) The claim language now clearly distinguishes over the cited prior art. Claim 26 pertains to programming an alert discussed in the current application (0042-0044). Kaplan does not teach this. Kaplan (0127) shows the Bond

Alert as “notification to interested buyers of certain securities, that such securities are being offered for sale” The Alert system of the present invention provides for notification of trades, changes in market conditions, bids and various other activity available to all. It is not merely a messaging system used by sellers to send anonymous messages to interested buyers of certain securities.

(2) The prior art elements do not perform the identical function specified in the claim in substantially the same way, and do not produce substantially the same results as the corresponding elements disclosed in the specification as noted above.

(3) If combined the references would not teach or suggest the claim limitations. The combination would not provide for the selection of criteria for notification of activity pertaining to the auction or the overall market, including activity of participants, specific securities or types of securities.

Claim 11 is Amended to Claim 30

In response to the rejection of claim 11 under 35 U.S.C. 103(a) as being unpatentable over Harrington the applicant has amended claim 11 as new dependent claim 30 that incorporates all the same subject matter as claim 29 and adds additional subject matter, which makes it independently patentable over the references. The Office Action notes that Harrington discloses the subject matter that claim 30 recites: “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.” The applicant requests reconsideration of this rejection as now applicable to claim 26 for these reasons:

- (1) Harrington (col.6 lines 40-42) shows “the auctioneer is provided with a computer/server 10 connected to a network such as the Internet 12. The auctioneer maintains a web site on the Internet through the server that may be accessed by users” This reference does not meet the claim limitations. It does not provide for programs for searching and for alerting participants.
- (2) The prior art discloses a computer web site on the Internet. It does not pertain to databases or programs much less their function.

Claim 12 is Amended to Claim 31

In response to the rejection of claim 12 under 35 U.S.C. 103(a) as being unpatentable over Harrington the applicant has rewritten claim 12 as new dependent claim 31 to more particularly define the invention in a patentable manner over the cited prior art. Claim 31 incorporates all the same subject matter as claim 30 and adds additional subject matter, which makes it independently patentable over the references. Claim 31 recites: “wherein said databases and programs dynamically create and display various graphic user interfaces, to participants of the auction comprising the means for:

- (a) submitting items for auction,
- (b) submitting bids,
- (c) permitting sellers and bidders to execute securities trades.

The applicant respectfully submits that the cited reference is misunderstood. It does not teach what the Examiner relies upon it as supposedly teaching. The forms cited in Harrington (col. 7, lines 20-25) are for registration “forms to be completed by those interested in submitting bids”. This claim is concerned with the means to create and display dynamic forms to enable the user to interact with the auction process. The reference does not meet any of the claim limitations as presented.

Claim 20 is Amended to Claim 37

In response to the rejection of claim 20 under 35 U.S.C. 103(a) as being unpatentable over Harrington in view of Kaplan the applicant has rewritten claim 20 as new dependent claim 37 to more particularly define the invention in a patentable manner over the cited prior art. Claim 37 incorporates all the same subject matter as claim 35 and adds additional subject matter, which makes it independently patentable over the references. Claim 37 recites: the steps of:

- (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 predetermine to automatically increase bids based on new competitive bids.

As For Modifying Kaplan

The Office Action notes that Kaplan teaches a bid topping technology that is not automated and that it would be obvious to one of ordinary skill in the art to automate the feature. The prior art lacks any suggestion that the reference be modified in a manner required to meet the claim. The motivation for the "Top Bid" feature of Kaplan is clearly stated (0065). The applicant's invention solves a different problem than the reference and such different problem is recited in the claims. Harrington, Kaplan or other cited prior art do not even recognize the problem that is solved in an electronic securities auction by the elements of claim 37 whereby a bidder may predetermine to automatically increase bids based on new competitive bids. Inherent to this element would be the ability to implement such discriminative trading decisions on multiple simultaneous auctions. Even if the "Top Bid" feature of Kaplan were to be modified in the manner suggested an element of the prior art device has been omitted: Kaplan (0110) "Upon submission of subsequent bids, the cancellation clock is started for the corresponding buyer". There is no provision for a cancellation clock in the present invention

As For Harrington

The applicant disagrees with the inference of equivalence drawn from the prior art reference for all the reasons noted in the response to the rejection of claims 10 and 17 in this amendment.

As For The Combination

The prior art references do not contain any suggestion (express or implied) that they be combined. The motivation supplied in the Office Action of “determining a market price through mutual competition” Kaplan (0004) is shown as “the important principle in auctioning”. The applicant respectfully submits it would be improper to apply a generalized, broad motivation directly to such a specific element of the invention. If this motivation were valid, it could be applied to any auction process, component or improvement thereof and would render them obvious and therefore unpatentable under 103. Furthermore each reference is complete and functional in itself so there would be no reason to use parts from any other reference. Both Harrington and Kaplan each address bidding in a manner appropriate to their respective fields of endeavor. If the references were to be combined they would not meet the elements of claim 35 that are incorporated into this claim.

Conclusion

For all the reasons given in this document the applicant respectfully submits that the errors cited in the Office Action have been corrected. The claims comply with section 112 because they have been modified as suggested to overcome objections, The claims define over the prior art under section 102 because: the method and system claimed in the present invention improves the knowledge and transparency of an electronic securities auction and effectively eliminates network, connectivity and maintenance problems encountered with prior methods, thereby creating a novel and innovative trading method and system previously unknown. The claimed distinctions are of patentable merit under section 103 because, in addition to all the reasons already given in this paper, the transparent, dynamic and open aspects of the present invention have been mutually exclusive until this disclosure. The new results provided are greater than those possible by the modification or combination of any cited prior art. The applicant has reviewed the cited prior art, including that which was not applied in the Office Action, and has found nothing that shows the present invention or would render it obvious. Accordingly, the applicant submits that this application is now in full condition for allowance, which he respectfully solicits. If the Examiner agrees but does not believe the present claims technically adequate, the applicant requests the Examiner write acceptable claims pursuant to MPEP 707.07(j) in order that the undersigned may place this application in allowable condition as soon as possible without the need for further proceedings. If the Examiner believes that discussing the application, in person or over the phone, might advance the prosecution the applicant welcomes such opportunity.

The applicant would like to thank the Examiner for the clear and understandable Office Action to which he has made his best effort to respond.

Very respectfully,

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