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Patent Law Basics – Part 2

Class 5 – October 3, 2008
SI 519 / PubPol 688
Bryce Pilz
Fall 2008
Leapfrog v. Fisher-Price, Mattel

LeapFrog LeadPad
Source: http://www.leapfrog.com/etc/medialib/leapfrog/leappad/leappad0.Par.66010.Image.350.jpg
Learn reading skills & more... with a touch of your finger!

Fisher-Price PowerTouch
<table>
<thead>
<tr>
<th>Claim 25</th>
<th>PowerTouch</th>
</tr>
</thead>
<tbody>
<tr>
<td>An interactive learning device, comprising:</td>
<td>✔</td>
</tr>
<tr>
<td>a housing including a plurality of switches;</td>
<td>✔</td>
</tr>
<tr>
<td>A sound production device in communication with the switches and including a processor and a memory;</td>
<td>✔</td>
</tr>
<tr>
<td>At least one depiction of a sequence of letters, each letter being associable with a switch; and</td>
<td>✔</td>
</tr>
<tr>
<td>A reader configured to communicate the identity of the depiction to the processor,</td>
<td>✔</td>
</tr>
<tr>
<td>Wherein selection of a depicted letter activates an associated switch to communicate with the processor, causing the sound production device to generate a signal corresponding to a sound associated with the selected letter, the sound being determined by a position of the letter in the sequence of letters.</td>
<td>?</td>
</tr>
</tbody>
</table>

Source: Leapfrog Enterprises, Inc. v. Fisher-Price, Inc., 06-1402 (Fed. Cir. 2007)
No infringement

• Each and every element of claim 25 NOT met
• PowerTouch only allows selection of a word rather than a “depicted letter”
Obviousness of Claim 25

• Bevan + TI’s SSR?
• Bevan
  – Electromechanical learning toy
  – Puzzle piece \(\rightarrow\) sound related to piece
• SSR – Roadmap of modern electronics for learning
Obviousness of Claim 25

Source: http://www.datamath.org/Speech/SuperSpeaknRead.htm
Arguments

• Leapfrog: Bevan’s device is merely mechanical (different in structure and interrelation of electronic components)
  – And no motivation to combine Bevan with SSR

• FP: Bevan – teaches reading based on the association of letters with their phonemic sounds
  – SSR teaches modern electronics
Ruling

• “one of ordinary skill in the art of children’s learning toys would have found it obvious to combine the Bevan device with the SSR to update it using modern electronic components in order to gain the commonly understood benefits of such adaption, such as decreased size, increased reliability, simplified operation, and reduced cost.”

Source: Leapfrog Enterprises, Inc. v. Fisher-Price, Inc., 06-1402 (Fed. Cir. 2007)
Ruling (cont.)

- Only the “reader” was lacking and those were well known in the art at the time of Leapfrog’s alleged invention
What this means?

- Common sense
- Mere application of “modern electronics” is not a nonobvious invention
- What does this mean for known processes conducted over the Internet?
Background Materials

- Patent Application Figures
- Anatomy of a Patent
- Using USPTO’s PAIR System to Review Patent Prosecution Contents
Patent Application Figures
Patent Applications Filed

Source: U.S. Patent and Trademark Office
Continuation Applications Filed

Source: U.S. Patent and Trademark Office
Anatomy of a Patent
United States Patent [19]
Wagner

[54] AUTOMATED FUTURES TRADING EXCHANGE

[75] Inventor: Susan W. Wagner, Dallas, Tex.


[21] Appl. No.: 548,319

[22] Filed: Nov. 3, 1983

[51] Int. Cl.* G06F 15/30

[52] U.S. Cl. 364/408; 364/918.8; 364/900

[58] Field of Search 364/200, 900, 300, 408; 340/825.26; 235/375

[56] References Cited
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3,652,795 3/1972 Wolf et al. 179/2 DP
3,848,233 11/1974 Lotan et al. 364/200 X
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OTHER PUBLICATIONS

“ Trading System Falling Apart; Will Exchanges Automate?”, undated article from magazine of unknown origins.

Primary Examiner—Jerry Smith
Assistant Examiner—Jon D. Grossman
Attorney, Agent, or Firm—Sigalos, Levine & Montgomery

[57] ABSTRACT

A computerized open outcry exchange system for transacting sales of a particular futures commodity contract by members of a futures trading exchange wherein bids to purchase or offers to sell the particular commodity contract are made by the members through remote terminals and the exchange computer automatically matches offers and bids to complete the transaction.

42 Claims, No Drawings
Automated Futures Trading Exchange

Inventor: Susan W. Wagner, Dallas, Tex.
Assignee: World Energy Exchange Corporation, Dallas, Tex.

Appl. No.: 548,319
Filed: Nov. 3, 1983

International Cl. G06F 15/30
U.S. Cl. 364/408; 364/918.8; 364/900

Field of Search: 364/200, 900, 300, 408; 340/825.26; 235/375

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Other Publications

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Primary Examiner—Jerry Smith
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Attorney, Agent, or Firm—Sigalos, Levine & Montgomery

Abstract

A computerized open outcry exchange system for transacting sales of a particular futures commodity contract by members of a futures trading exchange wherein bids to purchase or offers to sell the particular commodity contract are made by the members through remote terminals and the exchange computer automatically matches offers and bids to complete the transaction.

42 Claims, No Drawings
• Includes drawings
Specification

- Meets disclosure rationale
  - Enables, shows possession
- Describes and provides understanding of invention
- Does NOT define invention

Also, as represented by block 70 in the trading system 12 of Fig. 2, the trading system 12 can provide communications with traders or members through their remote terminals and report delivery of commodities and any commodity pricing information to any trader or member....

Source: US Patent 4903201
Claims

• Define the invention(s)

• Independent v. dependent

1. A computerized open outcry exchange system for..... comprising:
   a., b., c.,....

1. A system as in claim 1 further including:
   f., g., h.,....

(a, b, c, d, e, f, g, h,..)
General PCT Timeline for Foreign Applications
Introducing the PCT Procedure