Paper No. 38

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HAMID A. WASTI
and KRISTIN R. MEYERS

Appeal No. 1998-0931
Application No. 08/139,619[1]

ON BRIEF

Before THOMAS, BARRETT, and LEVY, Administrative Patent Judges.
LEVY, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 15-20, which are all of the claims pending in this application.

BACKGROUND

Appellants' invention relates to a color video display controller for multi-player gaming systems. An understanding

[1] Continuation of U.S. Application Serial No. 07/722,918, filed June 28, 1991, now abandoned.

of the invention can be derived from a reading of exemplary claim 15, which is reproduced as follows:

15. A wagering system, comprising:

a central computer system for managing at least one of entry validation and crediting of winning entries in a wagering game having a plurality of players at diverse locations;

a plurality of agent terminals in data communication with the central computer system, the agent terminals each being operable for managing input of player data and issue of player entries for a plurality of successive players involved commonly in said wagering game, the agent terminals being operable interactively for accepting entries from the players in said wagering game as a point of sale terminal, and paying on winning entries at a conclusion of said wagering game, in each case subject to supervisory control by the central computer;

at least a subset of the agent terminals each having a display controller coupled thereto, the display controller including a digital processor having means for data communication with an external system operable to supply encoded data to the digital processor to be displayed for presenting to the players information respecting said wagering game, said information representing progress of said wagering game apart from management of said input of the player data and said issue of the player entries via the agent terminal;

data memory means and program memory means coupled to the digital processor, the data memory means including random access memory for storage of information at least partly defining an image to be displayed, under control of the digital processor, and the digital processor being operable to produce image data therefrom;

a control logic circuit coupled to the digital processor, operable to feed said image data into means for storing a pixel field;

video encoder means coupled to the control logic circuit, for converting the pixel field into a composite video output;

a plurality of video buffers coupled to the composite video output of the video encoder means, operable to transmit video information in a standard commercial television format; and,

a plurality of standard commercial television receivers coupled respectively to the video buffers, and operable to display said image, said receiver being non-interactive with players and limited to display of said information respecting progress of said wagering game.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Hedges et al. (Hedges)	4,339,798	Jul. 13, 1982
Yamamura	5,059,955	Oct. 21, 1991 (Filed Aug. 30, 1988)
Tillery et al. (Tillery)	5,114,155	May 19, 1992 (Filed Feb. 20, 1991)

Claims 15 and 18-20 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hedges in view of Tillery. Claims 16 and 17 stand rejected under 35 U.S.C. § 103 as unpatentable

over Hedges in view of Tillery as applied to claims 15 and 18-20 above, and further in view of Yamamura.

Rather than reiterate the conflicting viewpoints advanced by the examiner and appellants regarding the above-noted rejections, we make reference to the examiner's answer (Paper No. 32, mailed August 5, 1996) and supplemental examiner's answer (Paper No. 34, mailed January 7, 1997) for the examiner's complete reasoning in support of the rejections, and to appellants' brief (Paper No. 31, filed May 13, 1996) and reply brief (Paper No. 33, filed October 9, 1996) and supplemental reply brief (Paper No. 35, filed February 12, 1997) for appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have carefully considered the subject matter on appeal, the rejections advanced by the examiner, and the evidence of obviousness relied upon by the examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, appellants' arguments set forth in the briefs along with the examiner's rationale in

support of the rejections and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would not have suggested to one of ordinary skill in the art the invention as set forth in claims 15-20. Accordingly, we reverse.

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the examiner to establish a factual basis to support the legal conclusion of obviousness. See In re Fine, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the examiner is expected to make the factual determinations set forth in Graham v. John Deere Co., 383 U.S. 1, 17, 148 USPQ 459, 467
(1966), and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044,

1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985); ACS Hosp. Sys., Inc. v. Montefiore Hosp., 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the examiner are an essential part of complying with the burden of presenting a prima facie case of obviousness. Note In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If that burden is met, the burden then shifts to the applicants to overcome the prima facie case with argument and/or evidence. Obviousness is then determined on the basis of the evidence as a whole. See id.; In re Hedges, 783 F.2d 1038, 1039, 228 USPQ 685, 686 (Fed. Cir. 1986); In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984); and In re Rinehart, 531 F.2d 1048, 1052, 189 USPQ 143, 147 (CCPA 1976).

We consider first the rejection of claims 15 and 18-20 under 35 U.S.C. § 103 based on the teachings of Hedges and Tillery. We begin with independent claim 15.

The examiner takes the position (answer, page 5) that "Hedges does not show a plurality of the terminal agents"

[sic, agent terminals]. Additionally, we infer from the examiner's statements (answer, pages 5, 7, and 8) that the examiner also takes the position that Hedges does not disclose a plurality of receivers which are non-interactive with players and are limited to display of information regarding the progress of the game.

To overcome these deficiencies of Hedges, the examiner (answer, page 5) turns to Tillery for teachings of "a plurality of the terminal agents (30) in data communication with the central computer system (10)." According to the examiner (id.) "Tillery also teaches a plurality of receivers (50) being non-interactive with players and limited to display of the information respecting of progress of the game." The examiner concludes (id.) that it would have been obvious "to have provided a plurality of terminal agents [sic] as taught by Tillery to the wagering device of Hedges so as to allow a plurality of player[s] to participat[e] in wagering game from the hotel room." Moreover, the examiner asserts (answer, pages 8 and 9) that the recitation "'receivers being non-interactive with players' is so broad that it reads on each of

[the] players independently inputting the information to the non-master dart games or receivers (50)."

Appellants assert (brief, page 11) that the rejection does not address the invention as a whole. Appellants argue that both Hedges and Tillery teach displays used to operate their respective games, and that the displays are interactive and player operated. According to appellants (id.), if a person of ordinary skill in the art sought to increase the number of terminals in a gaming system such as Hedges, "the terminals would all be useful for operating the game as parts of an interactive station at which data is entered and data is displayed." With respect to Tillery, appellants point out that Tillery (col. 5, lines 57-59) discloses the non-master dart games 50 to "include visual displays for providing players with directions, game scores, and the like." Appellants conclude (id. at pages 11 and 12) that the examiner has not met the burden of presenting a prima facie case of obviousness because the cited references lack "the appendage of a display controller and associated auxiliary noninteractive displays to a lottery network of interactively operable terminals including displays."

In addition, appellants provide two declarations under 37 CFR 1.132 in order to establish the commercial success of the invention.

We find that Hedges discloses a wagering system, such as Keno (col. 1, lines 8-10), having a central computer system 32 (Figure 1 and col. 3, line 12) and 201 (Figure 11 and col. 8, lines 7-19) for managing entry validation and crediting of winning entries, etc., in a wagering game having a plurality of players at diverse locations (col. 1, lines 8-10). From this disclosure of Hedges, we do not agree with the examiner (answer, page 4) that croupier station 11 represents a central computer system.

Hedges further discloses (figure 1 and col. 2, line 66 through col. 3, line 1) a plurality of agent terminals in the form of player stations 10, each having a playboard 20 and a TV 21, on which the player will observe the game in progress. The croupier station 11 includes one or more gaming tables which are monitored by television cameras 12, 13 which provide player station 10 a display of a game in progress via digital coaxial bus 22 (col. 3, lines 1-8). Display 122 of the croupier station is large enough that the game result entered

by the croupier will be readily visible to the television cameras 12, 13 which provide results to the remote gaming terminals (col. 7, lines 49-56). Hedges further discloses (col. 3, lines 23-37)

> The live game display **44** includes a remotely controlled color television monitor such as monitor **21** of **FIG. 1**, which is connected by a standard closed circuit TV coaxial cable system **22** as depicted in **FIG. 1**, which is in turn connected to TV cameras **12**, **13** placed to monitor live wagering games in progress at a selected one of a plurality of croupier stations in the casino.
>
> The TV signals are transmitted over cable **22** using standard cable-TV frequencies and modulation techniques through modulator **14** whereby monitor **21** can receive and select the desired game at the playing station **10** of **FIG. 1**. Monitor **21** can be equipped with a remote control so that the player may remotely select a game to be played. The remote control device is part of the playboard **40** of the RGT **20** and is connected via bus interface to the processor via bus **50**, as described below.

Of note is that figure 1 of Hedges discloses bus 22 directly connecting from modulator 14 to both playboard 20 and to TV 21. Figure 2, which represents a block diagram of the remote gaming terminal of figure 1 (col. 2, lines 27 and 28) does not show the direct connection of bus 22 to both the playboard (referred to as playboard 20 in figure 1 and now referred to by Hedges as playboard 40) and the live game

display 44. Figure 2 shows live game display 44. As stated, supra, Hedges discloses live game display 44 to include a remote controlled television monitor such as the monitor 21 of figure 1. It is not altogether clear from the disclosure of Hedges as to whether TV 21 and live game display 44 are the same, since TV 21 is the television viewed by the player using the playboard. We find it unlikely that the player would be simultaneously viewing two TVs displaying the same information, and consider both 21 and 44 to represent a display of a live game in the casino.

We additionally find that in figure 2 of Hedges, numeral 20, indicating remote gaming terminal 20, should actually reflect remote player station 10, and that playboard 20 of figure 1 is the same as playboard 40 of figure 2. Hedges further discloses that the playboard 20-3 (figure 6) displays the wagering possibilities, accepts the wagers from the player, and displays the result of the game (col. 3, lines 40-45). In figure 9, the processor 41 of figure 2 is disclosed in greater detail (col. 2, lines 45 and 46). Figure 9 discloses microprocessor 90, program memory 91, and temporary storage memory 92, which provides means for accessing the

playboard and communication devices (col. 6, lines 34-36). Figure 7 discloses a schematic of the playboard controller (col. 2, lines 41 and 42). Figure 3A discloses an implementation of the playboard 40 which includes CRT display 60 which is connected, via buses 62-64 to CRT controller 61. Controller 61 generates a composite video signal necessary for display of a game (col. 3, line 61 through col. 4, line 1) e.g., Keno (figure 6). Hedges further discloses (col. 4, lines 14-28) that:

> In **FIG. 7**, controller **61** generates the display under control of a sequence of control bytes of data which are stored in a display storage memory **92**. Both the processor **41** and controller **61** have the ability to access the display storage memory **92** via data bus **96**. Processor **41** stores the appropriate control bytes into the display storage memory via address bus **95,97** and decode logic **93**, as determined by the game selected and the subsequent play of the game. Controller **61** of **FIG. 3A** reads the stored data from display storage memory **92** of **FIG. 7** once every 1/30th of a second and generates the appropriate TV signals on buses **62-64, 67** to cause the display of the particular game selected on monitor **60** by the processor determined information.

From these teachings of Hedges, we find that the circuitry of processor 41 is for processing data relating to the playboard display and not the TV 21 or live game display

44, with the exception of the player using the remote control on the playboard to change games. Accordingly, we find that in Hedges, the processor 41 interacts with the player and the wagering system, whereas TV 21 and live game display 44 show, via a digital coaxial bus or coaxial cable system (col. 3, line 26), display the video feed from the croupier station. We thus find that the operation of the playboard to be interactive, while the operation of the TV 21 and live game display is non-interactive, because the players only observe, and do not interact with the TV 21 and live game display 44. In addition, the display of the TV 21 and live game display 44 only display information respecting progress of the wagering game. We do not find the use of a remote control for changing games to be interactive as the player does not change the feed from the TV 21 or live game display 44. By analogy, using the remote control of a TV to change channels does not make the TV interactive with the user because the content of the displayed data is not changed by the player.

With respect to the statement of the examiner that Hedges does not disclose plural agent terminals, we find that this limitation is met by playboard 40.

The examiner states (answer, page 5) that "Hedges teaches a video buffer (168) and a standard commercial television receiver (21) coupled to the video buffer (168) and operable [to] display the image." Hedges discloses (col. 11, lines 9-15) that:

> The functions of the display control program **212** are depicted in **FIG. 15** in which the inputs are displaying descriptor lists and the status of the CRT controller **61**. The outputs include bit patterns for the display storage area **168** of RAM **92** and commands to direct the operation of the controller **61** of **FIG. 3A**."

As shown in figures 3a an 15, CRT controller 61 generates a composite video signal for displaying a game on monitor 60, which is the display of playboard 40. Monitor 60 does not display a livegame in progress on TV 21 or live game display 44. Rather, monitor 60 displays a game (figure 6).

Claim 15 requires, inter alia, that the display controller has a digital processor for displaying encoded data for presenting to the players "information" respecting the wagering game. This "information" is defined in claim 15 as information representing progress of the wagering game apart from management of the input of the player data and the issue

of the player entries via the agent terminal. In Hedges, the display controller and digital processor display information relating to the management of the game, and not information representing progress of the wagering game, as required by claim 15. Similarly, the data memory means 92, program memory means 91, control logic circuit 93, etc., are operable to display information relating to the management of the wagering game and not the display of information respecting progress of the wagering game, as required by claim 15.

Turning to Tillery, with regard to the statement by the examiner that Tillery discloses plural agent terminals, this feature is met by playboard 20 of figure 1 of Hedges, and we need not rely upon Tillery for this feature. With regard to the examiner's assertion that receivers 50 of Tillery are non-interactive displays, we agree with appellants for the reasons set forth in the brief (page 11) that the non-master dart games 50 of Tillery are interactive with the player because they represent a game that is played, and provide players with game scores, etc. Thus, we find that Tillery lends nothing to the teachings of Hedges.

In sum, we find that the examiner has failed to establish a prima facie case of obviousness of the invention set forth in claim 15. Because the examiner has not set forth a prima facie case of obviousness, we need not reach the two declarations filed under 37 CFR § 1.132. Accordingly, the rejection of claim 15 and dependent claims 18-20 is reversed.

We turn next to the rejection of claims 16 and 17 under 35 U.S.C. § 103 as unpatentable over the teachings of Hedges and Tillery, further in view of Yamamura. As Yamamura does not overcome the deficiencies of the basic combination of Hedges and Tillery, the rejection of claims 16 and 17 under 35 U.S.C. § 103 is reversed.

CONCLUSION

To summarize, the decision of the examiner to reject claims 15-20 under 35 U.S.C. § 103 is reversed.

REVERSED

JAMES D. THOMAS Administrative Patent Judge	)	
LEE E. BARRETT Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
STUART S. LEVY Administrative Patent Judge	)	

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