

TRADING TECHNOLOGIES INTERNATIONAL, INC. v. IBG LLC., Appeal No. 2017-2323 (Fed. Cir. April 30, 2019). Before Moore, Clevenger, and Wallach. Appealed from PTAB.

Background:

IBG petitioned the Board for *inter partes* review of the claims of a Trading Technologies patent pursuant to the Transitional Program for Covered Business Method Patents ("CBM review"). The claims of the patent were generally directed to a method for displaying a plurality of market information along an axis of a graphical user interface.

The AIA excludes technological inventions from CBM review. To determine if the patent is a technological invention, 37 C.F.R. § 42.301(b) requires consideration of whether the claimed subject matter as a whole recites a technological feature that is novel and unobvious over the prior art ("first prong"), and solves a technical problem using a technical solution ("second prong").

During the proceedings, the Board determined that the patent solved a business problem, not a technical one, using known technologies. Thus, the Board concluded that the patent was a Covered Business Method, and was not a technological invention as defined by 37 C.F.R. § 42.301(b). The Board then instituted the CBM review, during which it found the claims to recite ineligible subject matter under 35 USC § 101. Among other issues, Trading Technologies appealed the Board's finding that the patent was not a technological invention because the Board applied an improper definition of "technological invention."

Issue/Holding:

Did the Board err in finding that the patent was a Covered Business Method? No, affirmed.

Discussion:

Trading Technologies argued on appeal that the proper definition of "technological invention" lies in a portion of the first prong of the analysis, i.e. a claim including a technological feature. Thus, Trading Technologies reasoned that the patent did not qualify for CBM review because representative claim 1 included a technological feature.

The Federal Circuit found that the first prong of the technological invention analysis need not be decided because the patent failed to satisfy the second prong of the technological invention analysis by failing to solve a technical problem. In its analysis, the Federal Circuit cited the specification to determine the problem the Trading Technologies patent sought to solve, which was providing "highly relevant information" that is "not normally provided in an electronic exchange's data feed nor displayed by a trading screen" to a trader. Additionally, the Federal Circuit noted that the "highly relevant information" was displayed on a known technology as illustrated in Fig. 2 of the drawings, which was designated as prior art. Trading Technologies argued that the "highly relevant information" improved the usability, visualization, and efficiency of prior art screens and was thus a technical solution.

The Federal Circuit disagreed, and explained that the patent merely provided a trader with new or different information on an existing trading screen, which was not a technical solution to a technical problem. Thus, the Federal Circuit held the Board's finding that the Trading Technologies patent was a Covered Business Method patent was not arbitrary and capricious.