

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL G. BRADLEY, JAMES D. GORDON
and DOUGLAS A. MCMANUS

Appeal No. 1999-2609
Application No. 08/730,289

Heard: November 7, 2001

Before KRASS, DIXON, and BLANKENSHIP, **Administrative Patent Judges**.
DIXON, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-20, which are all of the claims pending in this application.

We REVERSE.

BACKGROUND

The appellants' invention relates to a method for combining house price forecasts. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. A method of estimating the value of a real estate entity comprising the steps, performed by a data processor, of:
 - accessing real estate data and a plurality of predictive models;
 - forming a plurality of estimates for the value of the real estate entity based on the predictive models;
 - selecting a plurality of best estimates according to a predetermined criteria;
 - converting the best estimates into weighted estimates according to the predetermined criteria; and
 - combining the weighted estimates into a final estimate for the value of the real estate entity.

No prior art references of record are relied upon by the examiner in rejecting the appealed claims.

Claims 1-20 stand rejected under 35 U.S.C. § 101 as being directed to nonstatutory subject matter, i.e. an abstract idea without limitation to a practical application.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the examiner's

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answer (Paper No. 13, mailed Mar. 25, 1999) for the examiner's reasoning in support of the rejections, and to the appellants' brief (Paper No. 12, filed Feb. 16, 1999) and reply brief (Paper No. 14, filed May 24, 1999) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

Appellants argue that the claimed invention is directed to a process and apparatus performed by a data processor (brief at page 2) and that the claimed invention is directed to a useful, concrete and tangible result which defines a practical application within the technological arts. (See brief at pages 13-14.) We agree with appellants. Appellants argue that the real estate property entity of the claimed invention is no less physical, tangible or concrete than the share portfolio of the hub and spoke system in **State Street Bank & Trust Co. v. Signature Fin. Group, Inc.**, 149 F.3d 1368, 1374-75, 47 USPQ2d 1596, 1602 (Fed. Cir. 1998). (See brief at page 14.) We agree with appellants that the claimed computer implemented process and apparatus producing a final estimate for the value of the real estate entity has real world value and produces a useful, concrete and tangible result.

The examiner maintains that the limitations of claim 1 are directed to a “process performed by a computer, a process that performs a purely mathematical algorithm is non statutory despite the fact that it has usefulness in the real estate market analysis.” (See answer at page 4.) The examiner further maintains that the claimed invention is a mathematical algorithm and that there is no activity outside the computer in response to the calculated estimate of a real estate entity. (See answer at page 4.) We disagree with the examiner’s conclusions. From our review of the claimed invention as interpreted in light of the disclosed invention, we find that the claimed invention is directed to more than a mere abstract invention disassociated from an application in the technological arts. At oral hearing appellants’ representative argued that in a subsequent case, **AT & T Corp. v. Excel Communications Inc.**, 172 F.3d 1352, 1357, 50 USPQ2d 1447, 1451 (Fed. Cir. 1999), the Federal Circuit established that claims to an apparatus or process are to be treated similarly when making a determination of the presence of statutory subject matter. The Court went on to find that it does not matter whether the claimed invention is directed to a process or machine and that the scope of 35 U.S.C. § 101 is the same for either claimed invention (since both were disclosed in the specification). (**AT & T** at 1451.) We agree with appellants that the computer implemented process of independent claim 1 for determining value of the real estate entity should be treated similar to an apparatus to carry out a similar claimed scope. Appellants argue that the claims define a “transformation.” (See brief at page 15.) We

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disagree that the manipulation of the real estate data is a “transformation” outside the computer, but we agree with appellants that the manipulation of the real estate data to generate a weighted final estimate of the valuation of the real estate entity would be a “useful, concrete, and tangible result” as identified in **State Street Bank & Trust Co. v. Signature Fin. Group, Inc.**, 149 F.3d 1368, 1374-75, 47 USPQ2d 1596, 1602 (Fed. Cir. 1998). Therefore, independent claim 1 is directed to more than a mere abstract idea which has not been applied in the technological arts, and we will not sustain the rejection under 35 U.S.C. § 101.

Appellants argue that the apparatus of independent claim 11 is directed to statutory subject matter and argues that claim 11 is drafted in means plus function format and must be interpreted in light of the structure disclosed in the specification. (See brief at pages 16-17.) We agree with appellants and find that this claim is directed to a “useful, concrete, and tangible result.” Therefore, independent claim 11 is directed to more than a mere abstract idea which has not been applied in the technological arts, and we will not sustain the rejection under 35 U.S.C. § 101.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1-20 under

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35 U.S.C. § 101 is reversed.

REVERSED

ERROL A. KRASS)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JOSEPH L. DIXON)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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)	
HOWARD B. BLANKENSHIP)	
Administrative Patent Judge)	

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