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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/285,125	09/29/2008	Anthony M. Carbonaro	29205.02	4812
37833	7590	03/01/2013	EXAMINER	
LITMAN LAW OFFICES, LTD. PATENT LAW BUILDING 8955 CENTER STREET MANASSAS, VA 20110			LAYNO, BENJAMIN	
			ART UNIT	PAPER NUMBER
			3711	
			MAIL DATE	DELIVERY MODE
			03/01/2013	PAPER

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ANTHONY M. CARBONARO

Appeal 2012-004472
Application 12/285,125
Technology Center 3700

Before EDWARD A. BROWN, ANNETTE R. REIMERS and
BRADFORD E. KILE, *Administrative Patent Judges*.

REIMERS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Anthony M. Carbonaro (Appellant) appeals under 35 U.S.C. § 134 from the Examiner's decision to reject claims 1 and 3-16 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claim 2 has been canceled. Claims 17-24 have been withdrawn from consideration. We have jurisdiction over this appeal under 35 U.S.C. § 6(b).

We REVERSE.

THE INVENTION

Appellant's invention relates to a roulette game having numbers in repeating or random sequences with identical numbers having different colors. Spec., para. [0001]; figs. 7, 9.

Claim 1, the sole independent claim, is illustrative of the claimed invention and reads as follows:

1. A method of playing a roulette game, comprising the steps of:
 - providing a roulette wheel having a plurality of primary wagering positions and at least one supplemental wagering position disposed peripherally about the wheel, each of the primary wagering positions having a numerical indicium and an index indicium combination displayed thereon, the numerical indicium being selected from a set of mutually distinct numerical indicia, the index indicium being selected from a group of at least three mutually distinct background colors, each of said primary wagering positions comprising one of said numerical indicia displayed on a background of at least one of the background colors wherein the primary wagering positions are arranged in at least two sets, each of the sets consisting of ten contiguous wagering positions, each of the ten wagering positions in each set having a numerical indicium displayed on one of the at

least three background colors whereby the at least three background colors appear at least three times in each set;

providing a betting layout including a first betting area having a plurality of betting positions distinguished by unique numerical indicium and index indicium combinations corresponding to the primary wagering positions displayed thereon, and a second betting area having at least one supplemental indicium displayed thereon corresponding to the at least one supplemental wagering position;

placing at least one wager upon at least one of the wagering positions of the roulette wheel, the wager being placed by each participating player on a betting area, wherein the step of placing the wager is executed on a betting layout including a first betting area having a plurality of betting positions distinguished by unique numerical indicium and index indicium combinations corresponding to the primary wagering positions displayed thereon, and a second betting area having at least one supplemental indicium displayed thereon corresponding to the at least one supplemental wagering position;

spinning the roulette wheel, thereby randomly selecting a winning wagering position on the roulette wheel;

collecting the entire wager of each player placing a losing wager;

determining the exact odds of any winning wagers;

and

paying out winning wagers to any winning players in an amount based upon the exact odds.

ANALYSIS

Appellant argues that the rejection of independent claim 1 and its respective dependent claims 3-16 under 35 U.S.C. § 101 is improper. Br. 5-10. According to Appellant, “[Appellant’s] specifically-claimed roulette

wheel and betting areas **are specific to perform the betting steps and the game.**” Br. 10 (emphasis in original). In contrast, the Examiner has determined that the claims have been properly rejected. Ans. 4-11. The Examiner takes the position that “no machine involving more than insignificant extra-solution activity is required to perform the claimed method steps, nor do the steps result in any transformation of a particular article, [the method steps] are indicators that [Appellant is] attempting to patent an abstract idea.” Ans. 11.

We agree with Appellant. Independent claim 1 recites physical steps, which are not abstract ideas or mere mental steps, including: “providing a roulette wheel”; “providing a betting layout”; “placing at least one wager upon . . . the roulette wheel”; “spinning the roulette wheel”; “collecting the entire wager”; and “paying out winning wagers,” and which serve as more than an abstract idea or insignificant extra-solution activity. For these reasons, the rejection of independent claim 1 and its respective dependent claims 3-16 is not sustained.

DECISION

The decision of the Examiner is reversed as to claims 1 and 3-16.

REVERSED

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