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13/027,042	02/14/2011	Steven Dennis Flinn	MW-20B	6020
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MANYWORLDS, INC. IP DEPARTMENT 4718 CASTLEWOOD STREET SUGAR LAND, TX 77479			BHARADWAJ, KALPANA	
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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* STEVEN DENNIS FLINN and  
NAOMI FELINA MONEYPENNY

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Appeal 2013-002476  
Application 13/027,042  
Technology Center 2100

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Before ALLEN R. MacDONALD, JOHN G. NEW, and  
ADAM J. PYONIN, *Administrative Patent Judges*.

MacDONALD, *Administrative Patent Judge*.

DECISION ON APPEAL

## STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

### *Exemplary Claims*

Exemplary claims 1 and 18 under appeal read as follows:

1. A computer-implemented experimentation method, comprising:

selecting a first experiment, wherein the selecting of the first experiment is based, at least in part, on an expected value of information of the experiment;

performing the first experiment, wherein the first experiment is executed on a processor-based computing device;

inferring automatically a user preference from a plurality of user behaviors that occur after execution of the first experiment; and

selecting a second experiment based, at least in part, on the inferred preference.

18. An adaptive decision method, comprising:

simulating on a processor-based computing device an experimental infrastructure, wherein the simulating comprises applying a plurality of probabilities;

determining a value of information that is expected to be generated by an implementation of the experimental infrastructure based, at least in part, on the simulation of the experimental infrastructure; and

generating an expected value of the experimental infrastructure based on the expected value of information and an expected cost of the experimental infrastructure.

*Rejections on Appeal*

The Examiner rejected claims 1–20 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Miyake (US 2009/0055147 A1; Feb. 26, 2009) and Bankes (US 2006/0004558 A1; Jan. 5, 2006) (Final Action 2).

*Appellants' Contentions*

1. Appellants contend that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103(a) because:

There is no teaching or suggesting in Miyake of selecting an experiment based on an expected value of information of the experiment. The Examiner's argument that Miyake paragraph 0052, "cell of experimental interest" discloses "expected value of information" (Final Office Action, page 3 paragraph 1) is an unreasonable reading of "expected value of information." "Value of information" is a term of art in the field of decision analysis (and is sometimes also referred to as "value of clairvoyance") that is described in Appellant's specification, and would have been known by one of ordinary skill in the art at the time of the invention . . . . Simply reciting the specifying of a cell or any other object of experimental interest does not, under any reasonable interpretation, teach or suggest the claimed feature of expected value of information.

App. Br. 9.

2. Appellants present for claim 11 (App. Br. 21) and claim 18 (App. Br. 28) contentions analogous to above contention 1.

*Issues on Appeal*

Did the Examiner err in rejecting claims 1, 11, and 18 as being obvious?

## ANALYSIS

Value of information is a recognized term of art that correlates to pricing or other financial measurements:

Value of information - Maximum price one should pay for knowing the actual value of an uncertainty before deciding on a course of action. ([www.businessdictionary.com](http://www.businessdictionary.com), retrieved from archive.org (Dec. 22, 2010)).

Value of information (VOI or VoI) is the amount a decision maker would be willing to pay for information prior to making a decision. (Wikipedia.com, *see* [https://en.wikipedia.org/w/index.php?title=Value\\_of\\_information&oldid=383852270](https://en.wikipedia.org/w/index.php?title=Value_of_information&oldid=383852270) (2010)).

Value-of-information (VOI) methods determine the worth of acquiring extra information to help the decision-maker. From a decision analysis perspective, acquiring extra information is only useful if it has a significant probability of changing the decision-maker's currently preferred strategy. The penalty of acquiring more information is usually valued as the cost of that extra information, and sometimes also the delay incurred in waiting for the information. (VOSE Software web page, *see* [http://vosesoftware.com/ModelRiskHelp/index.htm#Risk\\_Management/Value\\_of\\_information.htm](http://vosesoftware.com/ModelRiskHelp/index.htm#Risk_Management/Value_of_information.htm), copyright 2007).

As to above contentions 1 and 2, we agree with Appellants' contentions that Miyake's "cell of experimental interest" does not teach or suggest an "expected value of information," as claimed. *See* App. Br. 9.

## CONCLUSIONS

(1) Appellants have established that the Examiner erred in rejecting claims 1–20 as being unpatentable under 35 U.S.C. § 103(a).

(2) On this record, these claims have not been shown to be unpatentable.

DECISION

The Examiner's rejection of claims 1–20 is reversed.

REVERSED<sup>1</sup>

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<sup>1</sup> Appellants' Specification at page 6 discloses that this invention is directed to "financial metrics," and at page 15 discloses that "actions" in the invention include "financial and other business modeling."

Should there be further prosecution of this application (including any review for allowance), the Examiner may wish to review the claims for compliance under 35 U.S.C. § 101 in light of the Director's examination guidance on patent eligible subject matter. *See 2014 Interim Guidance on Patent Subject Matter Eligibility*, 79 Fed. Reg. 74619 (Dec. 16, 2014)(and any updates thereof), which supplements the "Preliminary Examination Instructions in view of the Supreme Court Decision in *Alice Corporation Pty. Ltd. v. CLS Bank International, et al.*," Memorandum to the Examining Corps, June 25, 2014.