

PATENT OWNER'S DEMONSTRATIVES

IPR2023-00268

US Patent No. 11,200,779

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DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

1

THREE KEY ARGUMENTS

Petitioner's argument fails for **any** of three reasons:

- 1 Scott does not disclose “**continuously retrieve ... data in real time.**” It only retrieves at predetermined points of its games, contrary to the DRP's guidance on Claims 1 and 16.
- 2 Scott does not disclose a **plurality of bettors wagering on the same event** via a single trading engine module, as required by Claim 16.
- 3 Scott does not disclose a “**fixed odds single**” in Claims 5, 7, or 23 on either party's construction.

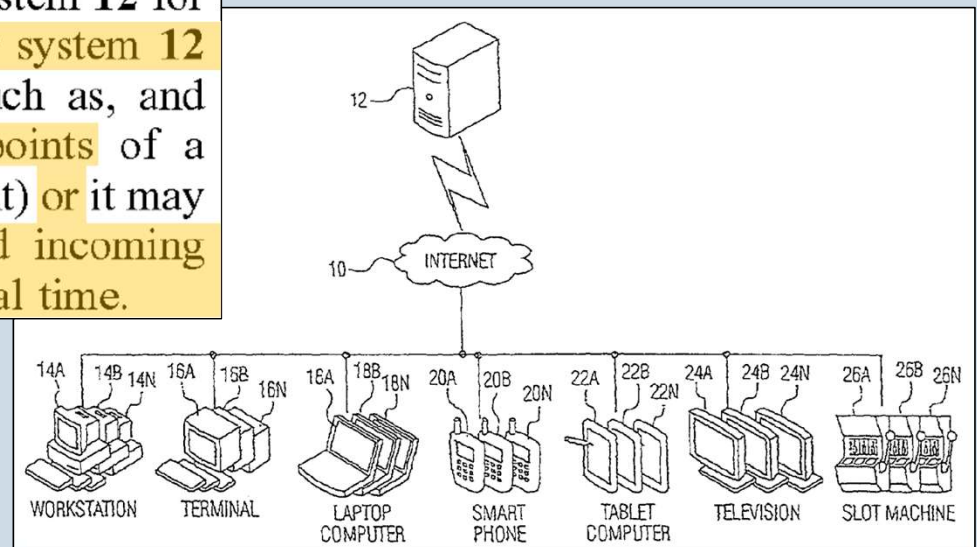
OVERVIEW OF THE '779 PATENT

DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

'779 PATENT

The server system 12 may make a determination of what the appropriate value would be to make an offer to cash out to one or more players (as disclosed herein, in other examples one or more other sources may also be used in addition to, or as an alternative to, the server system 12 for determining the appropriate value). The server system 12 may make this determination at any time, such as, and without limitation, at certain discrete time points of a wagering event (e.g., halftime of a sporting event) or it may continuously evaluate the wagering event and incoming wagers and make multiple determinations in real time.

'779 Patent



'779 Patent (EX1001) at Figure 1 and 17:47-57 (annotations added)
DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

APPLIES TO A VARIETY OF COMPLEX EVENTS, WITH NUANCED, OFTEN FLUID DEVELOPMENTS

As a result, it should be understood that the present disclosure has application to any type of event, including but not limited to, any event where betting may or may not be utilized or where play is just for fun, and further can be applied to any sporting and non-sporting games. Such scope

'779 Patent

3. The system of claim 1, wherein the wagering event comprises one or more of an entire event, a partial event, a divisible component of an event, multiple independent events occurring sequentially or concurrently, and a compilation of related events, including one or more probabilistic events, sporting events, eSports, e-sports, competitive gaming, electronic sports, fantasy events, real games, virtual games, fantasy games, slot machines, keno, poker, video games, racing, lotteries, live events, pre-recorded events, online events, broadcast events, card games, politics, sales, stocks, celebrity gossip, movies, reality TV, football ("soccer"), American football, Australian rules football, baseball, cricket, basketball, golf, hockey, auto racing, legends, rugby, wrestling, surfing, mixed and martial arts.

Changes that may affect wager odds
(per PO's expert):

current score

which team has possession

field and weather conditions

location on field

time

in-game momentum

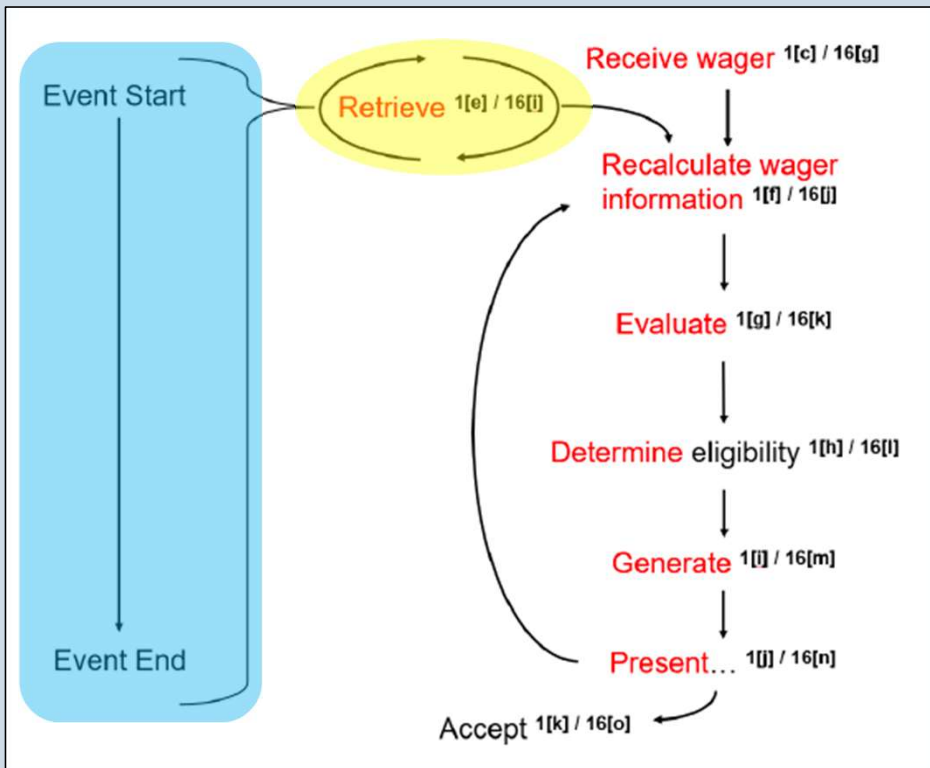
team status

player status

etc.

'779 Patent (EX1001) at 4:21–25 and Claim 3 (annotations added); Patent Owner Response (Paper 28) at 9–11; Vancura Declaration (EX2007) at ¶¶ 50–51, 57, 71
DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

CLAIMED SYSTEM CONTINUOUSLY RETRIEVES IN REAL TIME, REGARDLESS OF OTHER STEPS



75. The relationship between the “continuously retrieve” element and other elements of Claims 1 and 16 is also important. In both Claim 1 and Claim 16, the data “continuously retrieve[d]... in real time” regarding the progress of the wagering event forms the foundation for the other elements of the claim and, importantly, “continuous[] retriev[al]... in real time” is **ongoing regardless of the other claim elements.**

PO’s Expert

PO’s Expert

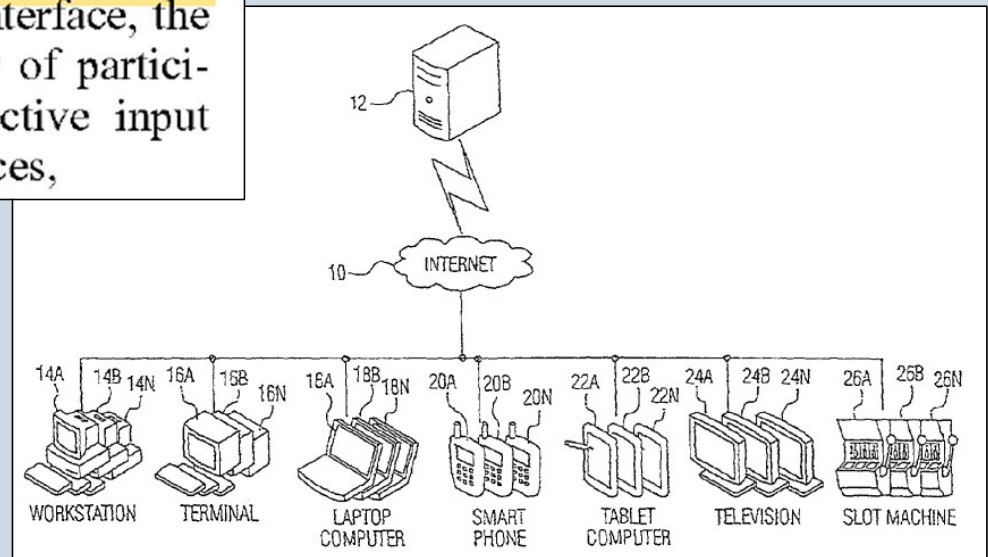
Vancura Declaration (EX2007) at ¶¶ 75–76 (annotations added); Patent Owner Response (Paper 28) at 28–29
DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

VERSATILITY: ALLOWS A PLURALITY OF PARTICIPANTS AND WAGERS ON A SHARED WAGERING EVENT

'779 Patent Claim 16

receive, by the trading engine module, a plurality of wagers on the wagering event from the plurality of input devices via the communications interface, the plurality of wagers input by a plurality of participants via the user interfaces of respective input devices from the plurality of input devices,

'779 Patent

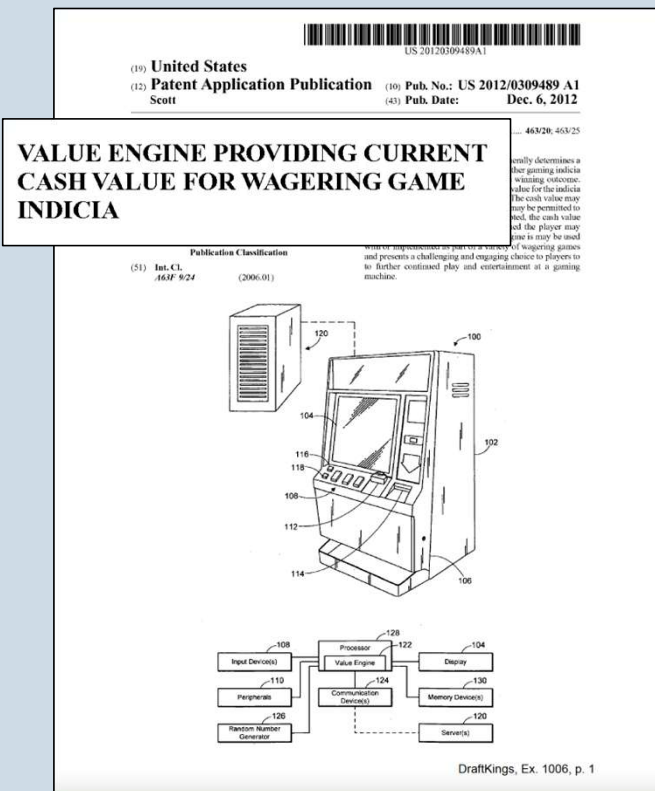


'779 Patent (EX1001) at Figure 1, Claim 16 (annotations added); Patent Owner Response (Paper 28) at 11
DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

THE ASSERTED PRIOR ART (SCOTT)

DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

EXHIBIT 1006 – SCOTT



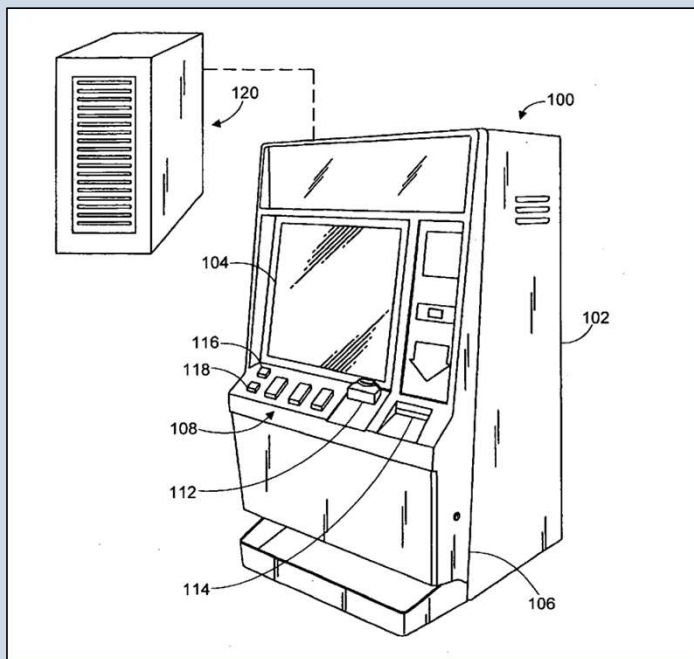
- 1 Scott is a gaming machine where a player plays pay-table games (like poker or slots), with easily calculable odds for various outcomes.
- 2 Scott operates in discrete stages, e.g., when a card is flipped or a die is rolled.
- 3 Scott is a single-person game kiosk, not a multi-user interactive system for betting on a common wagering event.

Scott

Scott (EX1006) at I; Patent Owner Response (Paper 28) at 17–18, 30–33, 40–44
 DEMONSTRATIVE EXHIBIT – NOT EVIDENCE



SCOTT IS A GAMING MACHINE



Scott

[0010] The gaming machine may present various games, such as poker games, card games, or slot games. For example, it is noted that the paytable may comprise one or more poker hands and the game symbols may be numbered playing card symbols. Alternatively, the paytable may comprise one or more sets of slot symbols and the game symbols in such case may be slot symbols.

Scott

Scott (EX1006) at Figure 1A, ¶ [0010]
DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

2

SCOTT OPERATES IN DISCRETE STAGES

Fig. 4

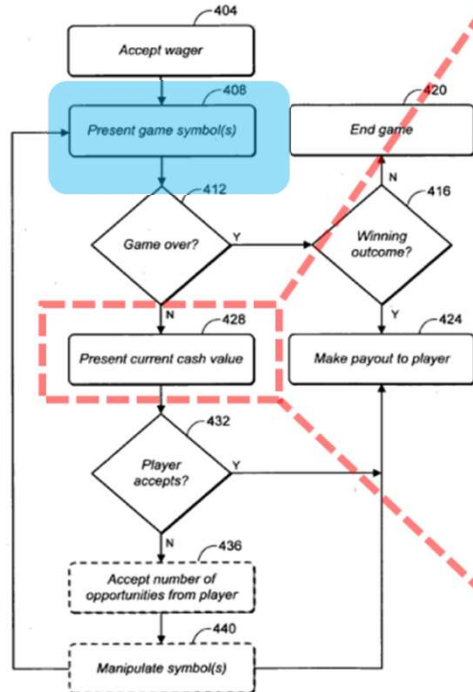
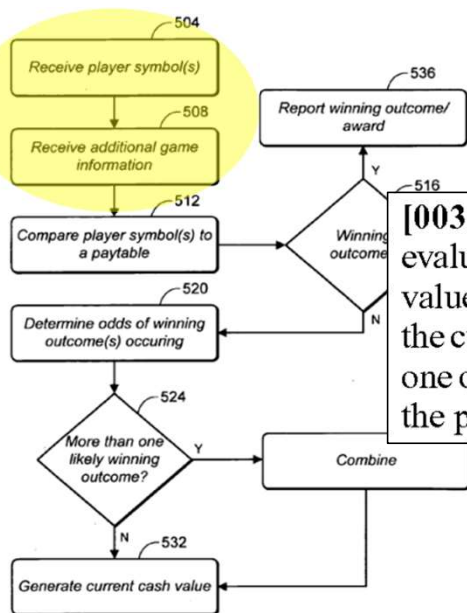


Fig. 5



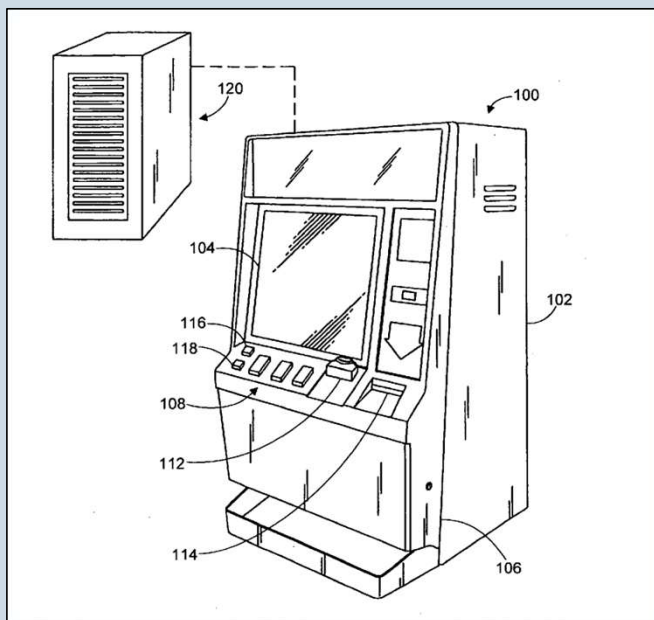
[0033] In general, the value engine herein is configured to evaluate game outcomes at various stages of a game. The value engine can then determine a monetary or cash value for the current game outcome and present this value to a player. In one or more to embodiments, the cash value may be offered to the player in exchange for something.

Scott

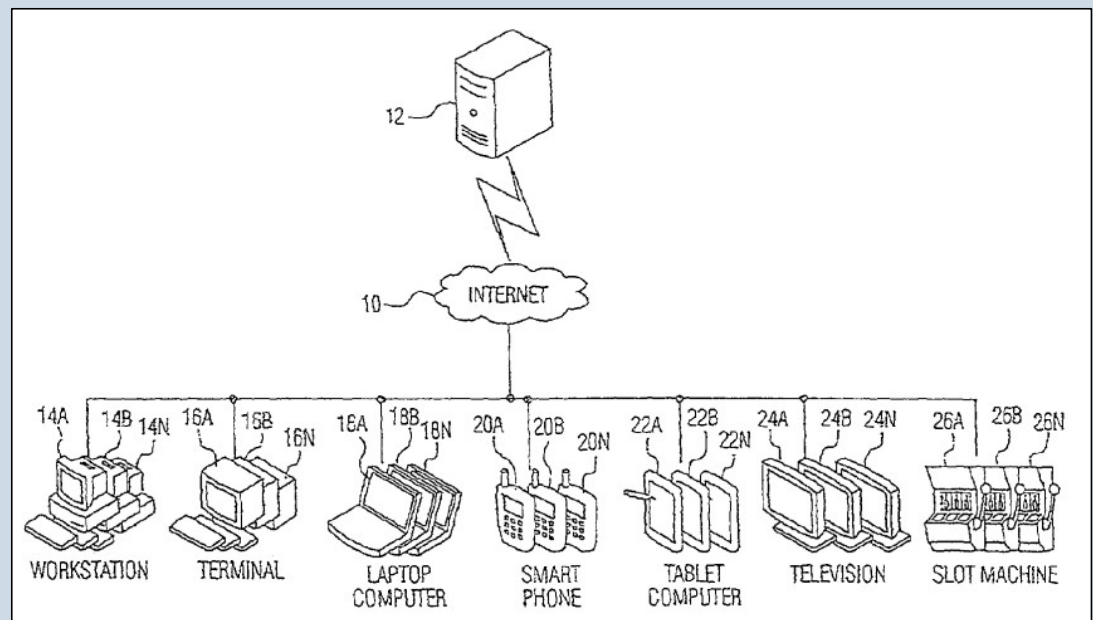
Vancura Declaration (EX2007) at ¶¶ 114–32 (annotations added at ¶ 119); Scott (EX1006) at Figures 4,5 and ¶ [0033] (annotations added); Patent Owner Response (Paper 28) at 30–33
 DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

3

SCOTT IS A SINGLE-PERSON GAME KIOSK



Scott



'779 Patent

Scott (EX1006) at Figure 1A; '779 Patent (EX1001) at Figure I; Patent Owner Response (Paper 28) at 40-44
DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

**“CONTINUOUSLY RETRIEVE ... IN
REAL TIME”**

DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

CLAIM LANGUAGE

Element 1[e]

continuously retrieve, by the system controller, data in
real time related to a progress of the wagering event;

'779 Patent

Element 16[i]

continuously retrieve data in real time related to a
progress of the wagering event,

'779 Patent

Requires data to be retrieved both “continuously” and “in real time”

DRP GUIDANCE I: “CONTINUOUSLY”

Based on these portions of the '799 patent specification, on the evidence and arguments presently before us, we construe the phrase “continuously retrieve . . . data . . . related to a progress of the wagering event” to encompass “repeatedly retrieving data related to the progress of the wagering event as developments occur that may affect the odds of the wager.” This construction does not encompass retrieving data on a pre-determined time schedule (i.e., discrete time points of the wagering event) that is independent of the occurrence of developments that may affect the odds, such as capturing data at halftime of a sporting event. Similarly, we

DRP

WHAT IS EXCLUDED FROM “CONTINUOUSLY”?

- a. “Continuously” **excludes** performing tasks at predetermined time points *of the wagering event* that are independent of the occurrence of developments that may affect the odds, such as at halftime of a sporting event.⁵ DRP Decision at pp. 14, 15.
- b. “Continuously” **does not exclude** performing tasks at “discrete time points” altogether, as “computers necessarily perform tasks at discrete time points” based on the computer’s clock.⁶ DRP Decision at pp. 15, 16.

PO’s Expert

Vancura Declaration (EX2007) at ¶ 67; Patent Owner Response (Paper 28) at 26; Patent Owner Sur-Reply (Paper 34) at 3–5; DRP Decision (Paper 14) at 14–16
DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

DRP GUIDANCE 2: “IN REAL TIME”

Ex. 1001, 51:28–32, 51:39–43. This claim language indicates that the term “in real time” relates to the time and frequency of the data retrieval, wager recalculation, and option generation during the wagering event.

DRP

Ex. 1001, 17:52–57 (emphasis added). This passage suggests that determinations “in real time” must be made with sufficient frequency to promptly capture developments that may affect the odds of the event, and cannot cover only discrete determinations, such as the end of a period or halftime during a sporting event.

DRP

WHAT IS EXCLUDED FROM “IN REAL TIME”?

69. Noting that “in real time” is used in the ’779 Patent specification in conjunction with “continuous” (EX-1001 at 17:52-57), the DRP Decision contrasts actions performed “in real time” with actions that are conducted only “at discrete time points during the wagering event.” DRP Decision at p. 19. The DRP Decision expressly states that “determinations ‘in real time’... *cannot cover only discrete determinations*, such as the end of a period or halftime during a sporting event.” DRP Decision at p. 19 (emphasis added). The DRP thus notes an *important distinction between actions undertaken *only* at discrete points of an event and actions undertaken “continuously... in real time”* as discussed in the ’779 Patent.

PO’s Expert

Vancura Declaration (EX2007) at ¶ 69 (annotations added); Patent Owner Response (Paper 28) at 27–28
DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

TAKEN TOGETHER, THESE TERMS SUGGEST A “POLLING” OPERATION—A SCHEDULE

70. The DRP Decision finds that “in real time,” as used with “continuously” in the ’779 Patent, denotes retrieving information “*with sufficient frequency to promptly capture developments* that may affect the odds.” DRP Decision at p. 19 (emphasis added). The use of “frequency” and “capture” are, in my opinion, important. “Frequency” suggests a repetitive operation at regular intervals. In computing, frequency refers to cycles per unit of time and can be measured in Hertz (Hz), for example. Retrieving — *i.e.*, going and getting something — at a frequency sufficient to “capture” suggests a polling operation, at regular intervals.

PO’s Expert

THE BROAD APPLICABILITY OF THE '779 PATENT SUGGESTS RETRIEVAL AT A FREQUENCY – I.E., “POLLING”

3. The system of claim 1, wherein the wagering event comprises one or more of an entire event, a partial event, a divisible component of an event, multiple independent events occurring sequentially or concurrently, and a compilation of related events, including one or more probabilistic events, sporting events, eSports, e-sports, competitive gaming, electronic sports, fantasy events, real games, virtual games, fantasy games, slot machines, keno, poker, video games, racing, lotteries, live events, pre-recorded events, online events, broadcast events, card games, politics, sales,

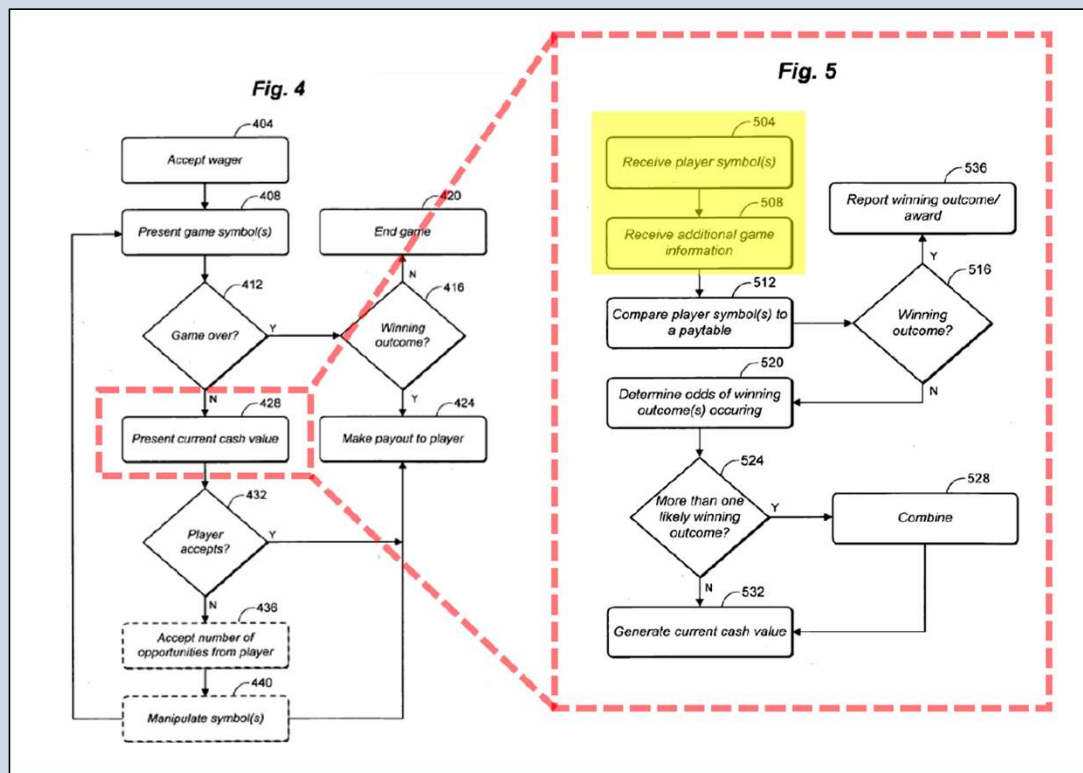
'779 Patent

teams strategically use “time-outs” to preserve “time on the clock.” Time is a fluid in-game metric which continuously affects the odds, even when no discrete in-game events (a basket, a foul, a change in possession, etc.) occur.⁷

PO's Expert

'779 Patent (EX1001) at Claim 3 (annotations added); Vancura Declaration (EX2007) at ¶ 72 (annotations added); Patent Owner Response (Paper 28) at 36
DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

SCOTT “RETRIEVES” ONLY AT PREDETERMINED STAGES



Scott, annotated by PO's Expert

[0035] The value engine is advantageous in that it adds a new element to wagering games that is compatible with a wide variety of wagering games. It is contemplated that the value engine may be used with any wagering game where game symbols or indicia (e.g., playing card symbols, slot symbols, keno numbers, bingo numbers, etc . . .) are revealed in subsequent stages or steps of a game. For example, in a keno type game, the value engine may generate a cash value for a player's keno card based on the numbers the player currently has marked. The value engine may reevaluate the keno card as additional numbers are marked to determine a cash value as each keno number is revealed and/or as individual numbers are marked on the keno card.

[0036] It can be seen from the above example, that determination of a current cash value can be triggered by various events. This is advantageous in that some events that occur during a wagering game may change the odds or other characteristics of a game without changing the game symbols or indicia. For example, in the keno example, the odds of a player winning may be altered when each subsequent number is revealed, even though each number is not marked on the player's keno card (i.e., the player's keno card remains unchanged).

Scott

PETITIONER: ONLY TWO TIMES SCOTT “RETRIEVES”

operation, or both. POR, 30-33; EX1006, ¶[0067]; EX1001, 17:52-57. Specifically, Scott states that a cash value may be presented after “each card or other game symbol is dealt to a player” or “[a]lternatively, current cash value may be determined and presented at the end of each dealing stage of the game.” EX1006, ¶[0067]. Indeed,

Petitioner’s Reply

Both are discrete (stage-based) triggers – not “continuous” and “real-time” retrieval as required by the ’779 claims.

Petitioner’s Reply (Paper 33) at 12 (annotations added); Patent Owner Sur-Reply (Paper 34) at 8–9
DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

SCOTT DOES NOT “RETRIEVE” AT A “FREQUENCY TO PROMPTLY CAPTURE”

Retrieval at a “**frequency** to promptly **capture**” is required by the DRP’s guidance.

Scott’s retrieval is not at a “frequency”; it is only as triggered at predetermined time points of its games, as excluded by the DRP.

In Reply, Petitioner suggests applying only half of the DRP’s guidance on “continuously” and “in real time” (to ignore its guidance on “in real time” including “frequency to promptly capture”).

Patent Owner Response (Paper 28) at 26–28; DRP Decision (Paper 14) at 13–15, 18–19; Vancura Declaration (EX2007) at ¶¶ 69–70;
Petitioner’s Reply (Paper 33) at 11; Patent Owner Sur-Reply (Paper 34) at 4–7
DEMONSTRATIVE EXHIBIT - NOT EVIDENCE

“PLURALITY”

DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

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CLAIM 16: MULTIPLE PARTICIPANTS – SHARED WAGERING EVENT – SINGLE “TRADING ENGINE MODULE”

16. A system for conducting a wagering event among one or more participants in real time, the system comprising:
a system controller comprising a trading engine module;
a database;
a plurality of input devices each having a user interface;
and
a communications interface for facilitating communications between the system controller and the plurality of input devices;
the system controller configured to:
receive, by the trading engine module, a plurality of wagers on the wagering event from the plurality of input devices via the communications interface, the plurality of wagers input by a plurality of participants via the user interfaces of respective input devices from the plurality of input devices,
store the plurality of wagers in a record within the database, the record comprising wager information for the plurality of wagers associated with the plurality of participants,

continuously retrieve data in real time related to a progress of the wagering event,
recalculate the wager information in real time based on the continuously retrieved data,
continuously evaluate the recalculated wager information,
determine that one or more participants of the plurality of participants is eligible to win an award based on their respective one or more wagers and a potential outcome of the wagering event,
generate one or more options in real time for the one or more participants to cash out prior to a conclusion of the wagering event for at least a portion of the award,
cause the one or more options to be presented to the one or more participants via the user interfaces of the respective one or more input devices,
receive a selection of an option from the one or more options for a participant from at least one input device from the one or more input devices prior to conclusion of the wagering event, and
cause the at least the portion of the award to be presented to the at least one participant, such that the user interface displays one or more of a confirmation that the option has been selected and a value of the at least the portion of the award.

'779 Patent

'779 Patent (EX1001) at Claim 16 (annotations added)
DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

PETITIONER'S ARGUMENTS

- 1 Scott discloses a wagering “marketplace”
- 2 The wagering event in Claim 16 can be several different events
- 3 Scott discloses a single trading-engine module receiving wagers from a plurality of input devices

NOT RAISED IN THE PETITION

Petition (Paper 2) at 77–78; Petitioner's Reply (Paper 33) at 16–19; 37 C. F. R. § 42.23(b)
DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

SCOTT'S MARKETPLACE: PLAYERS ARE TRADING SYMBOLS, NOT WAGERING ON THE SAME EVENT

[0096] In a similar vein, it is contemplated that a player may sell his or her symbols in one or more embodiments. For example, a player having achieved a particular set of symbols (e.g., playing card or slot symbols) may decide that he or she is better off selling the hand to another player than to take the current cash value or to attempt to achieve a winning outcome from the symbols. It is contemplated that the player may engage a “sell” button or the like to suspend the current game and solicit wagers or credits from other players who may purchase the symbols from the player. The player’s symbols may then enter an electronic marketplace for sets of symbols. The player may play a new game at this point, while awaiting the sale of the symbols. Alternatively, the player could simply wait for the symbols to be sold before playing again. With a number of players electronically connected, it can be seen that a substantial marketplace for non-final sets of game symbols may be constructed. It is noted that sets of symbols may

Scott

142. I disagree that paragraph [0096] of Scott discloses the “plurality” elements of Claim 16. Read in context, this paragraph refers to an “electronic marketplace” where players of Scott’s wagering games may buy or sell non-final sets of game symbols (for example, a partial poker hand in video poker), but it says nothing about the players participating in the same underlying wagering event. EX-1006 at ¶[0096]. If a player wishes to sell his hand to another player via Scott’s electronic

PO’s Expert

Scott (EX1006) at ¶ [0096] (annotations added); Vancura Declaration (EX2007) at ¶ 142 (annotations added)
Petition (Paper 2) at 77–78; Patent Owner Response (Paper 28) at 41–43
DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

SCOTT'S MARKETPLACE SUSPENDS ITS GAME(S) – UNWORKABLE FOR EXTERNAL OR MULTIPLAYER EVENTS

PO's Expert

purchase the symbols from the player. The player's symbols may then enter an electronic marketplace for sets of symbols. The player may play a new game at this point, while awaiting the sale of the symbols. Alternatively, the player could simply wait for the symbols to be sold before playing again. With a

Scott

144. If they were, it would not be practical for a single player to “suspend” the game for all players, potentially indefinitely, in order to sell his set of game symbols.

This approach makes sense in the context of Scott's disclosure, which is focused on slot games and similar stand-alone games that are generated and controlled by the gaming machine itself, but it would be unworkable for an external wagering event such as a sporting event. Even for a system-controlled multiplayer game like keno, this would be impractical because of the necessary time delay and loss of player engagement.

NEW ARGUMENTS

- 2 The wagering event in Claim 16 can be several different events
- 3 Scott discloses a single trading-engine module receiving wagers from a plurality of input devices

2

“A”/ “THE” WAGERING EVENT “AMONG” THE PARTICIPANTS IS SINGULAR – AND SHARED

“a” wagering event (singular) is shared “among” participants

“a plurality of participants” (multiple) place “a plurality of wagers” on “the wagering event” (singular)

Subsequent references throughout the claim are to “the wagering event” (singular)

16. A system for conducting a wagering event among one or more participants in real time, the system comprising:
 a system controller comprising a trading engine module;
 a database;
 a plurality of input devices each having a user interface;
 and
 a communications interface for facilitating communications between the system controller and the plurality of input devices;
 the system controller configured to:
 receive, by the trading engine module, a plurality of wagers on the wagering event from the plurality of input devices via the communications interface, the plurality of wagers input by a plurality of participants via the user interfaces of respective input devices from the plurality of input devices,
 store the plurality of wagers in a record within the database, the record comprising wager information for the plurality of wagers associated with the plurality of participants,
 continuously retrieve data in real time related to a progress of the wagering event,

'779 Patent (EX1001) at Claim 16 (annotations added); Patent Owner Sur-Reply (Paper 34) at 9-11
 DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

'779 Patent

2

“A”/ “THE” WAGERING EVENT “AMONG” THE PARTICIPANTS IS SINGULAR – AND SHARED

Petitioner's expert agreed with this construction

17 Q. So Claim 16 starts with: A system for
18 conducting a wagering event among one or more
19 participants.

20 Do you see that?

21 A. Yes.

22 Q. Refers to a wagering event, the singular?

23 A. Was that a question?

24 Q. Yes.

25 A. It says a wagering event, yes.

Page 36

1 Q. And that's the singular?

2 A. That is the singular.

Petitioner's Expert

2

“A”/ “THE” WAGERING EVENT “AMONG” THE PARTICIPANTS IS SINGULAR – AND SHARED

to that subset of bettors. Read in full and in context, Claim 16 is directed to a system where multiple bettors place wagers on a *common*, or shared, wagering event that is conducted “*among*” them. Whether the “wagering event” they bet on comprises more than one event (e.g., the World Series) is immaterial. A wagering event cannot be conducted “among” one participant.

Patent Owner’s Sur-Reply

3

SCOTT DOES NOT HAVE A “SINGULAR” TRADING ENGINE MODULE RECEIVING MULTIPLE WAGERS

'779 Patent

16. A system for conducting a wagering event among one or more participants in real time, the system comprising:
a system controller comprising a trading engine module;
a database;
a plurality of input devices each having a user interface;
and
a communications interface for facilitating communications between the system controller and the plurality of input devices;
the system controller configured to:
receive, by the trading engine module, a plurality of wagers on the wagering event from the plurality of input devices via the communications interface, the plurality of wagers input by a plurality of participants via the user interfaces of respective input devices from the plurality of input devices,

'779 Patent (EX1001) at Claim 16 (annotations added); Patent Owner Sur-Reply (Paper 34) at 11-14
DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

3 PETITIONER SAYS SCOTT'S "VALUE ENGINE" CORRESPONDS TO THE "TRADING ENGINE" OF THE '779 PATENT

player.” EX[1006] ¶¶[0033], [0070], [0075]. Scott’s disclosure of the “value

engine” corresponds exactly to the ’779 Patent’s description of a “trading engine.”

EX[1001] 9-26-31. A POSITA would therefore also find it obvious to implement

Scott’s value engine as a “trading engine module.”

Petition

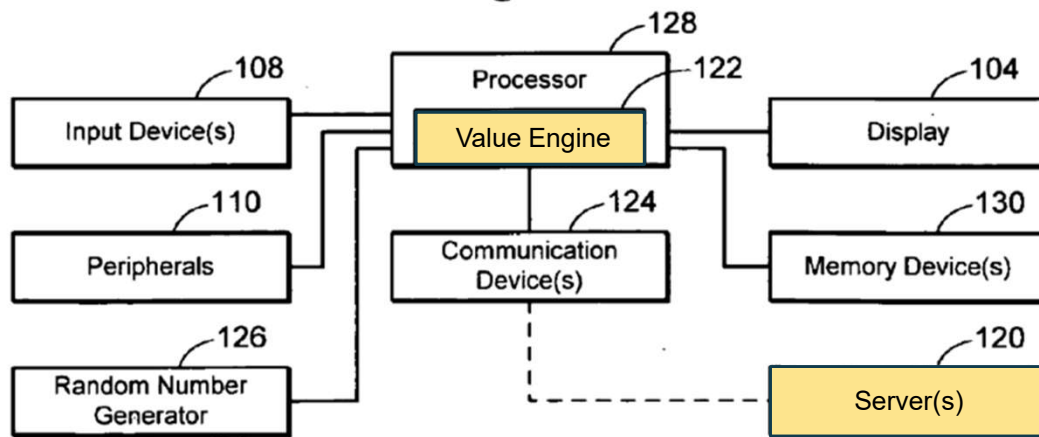
3

SCOTT'S VALUE ENGINE OPERATES WITHIN AN INDIVIDUAL GAMING MACHINE

[0025] FIG. 1B is a block diagram of an exemplary gaming machine having the value engine;

Scott

Fig. 1B



Scott

Scott

[0073] At the decision step 412, if the game is not over, at a step 428, a current cash value for the player's current game symbols may be generated and presented by the value engine of the gaming machine. It is noted that the player's game

Scott (EX1006) at Figure 1B, ¶¶ [0025], [0073] (annotations added)
DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

3

PETITIONER'S EXPERT: 779 REQUIRES SINGLE TRADING ENGINE MODULE; SCOTT HAS PLURAL

20 Q. So there's a single trading engine module?

21 A. I'll refer back to 1(c). It's referring to
22 the trading module on the system that's doing the
23 calculations. So it would be one of those, yes.

24 Q. So it's singular, a trading engine module?

25 A. For a given system, yes.

Petitioner's Expert (re Scott)

11 Q. You refer in Paragraph 197 to a plurality of
12 trading engine modules in Scott. Your words are each of
13 the trading engine modules would operate. It's pretty
14 simple. It's your Declaration. We've had a little bit
15 of a break here while you looked through things. Your
16 words are modules, plural?

17 A. Yes, they are modules, plural.

Petitioner's Expert (re '779 Claims)

“FIXED ODDS SINGLE”

DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

37

CLAIM LANGUAGE

'779 Patent Claim 5

5. The system of claim 1, wherein the wager comprises one or more of an accumulator, parlay, fixed odds single or fixed odds multiple wager comprising one or more combinations, wherein the one or more combinations are selectable by at least one of a participant, a third party, and the system controller, and wherein at any time before completion of the wagering event, at least one further offer is initiated to any number of the one or more participants remaining eligible to win the at least one award.

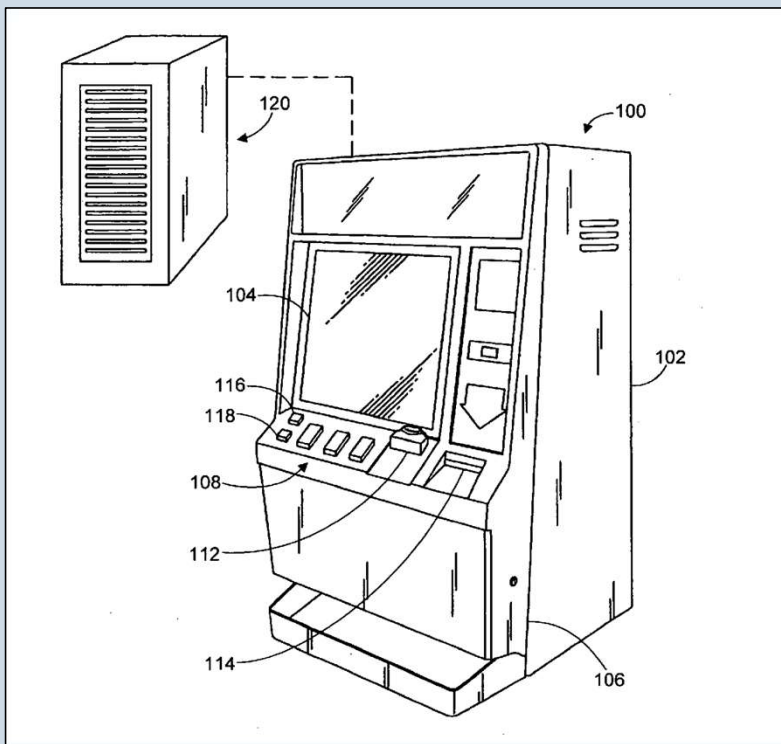
'779 Patent Claim 7

7. The system of claim 1, wherein the wager comprises one or more of fixed odds single wagers, multiple wagers, full cover wagers, full cover wagers with singles, 'Any to Come' (ATC) or 'if cash' wagers, specialty wagers, forecasts, fixed, variable, guaranteed, parimutuel wagering, tote wagering, fixed-odds wagering, accumulator or parlay wagering, fixed odds, a pool, progressive, fixed pool, variable pool or guaranteed pool.

'779 Patent Claim 23

23. The system of claim 16, wherein the plurality of wagers comprise one or more of fixed odds single wagers, multiple wagers, full cover wagers, full cover wagers with singles, 'Any to Come' (ATC) or 'if cash' wagers, specialty wagers, forecasts, fixed, variable, guaranteed, parimutuel wagering, tote wagering, fixed-odds wagering, accumulator or parlay wagering, fixed odds, a pool, progressive, fixed pool, variable pool or guaranteed pool.

SCOTT DOES NOT DISCLOSE “FIXED ODDS SINGLE”



Scott

“Fixed odds single” is a sportsbook wager, not a wager type a POSITA would associate with slots, poker, keno or bingo (the games in Scott)

Undisputed that Scott does not disclose sportsbook wagers / any wager on an underlying competitive event independent of the bettor

Scott’s games do not have “fixed odds” wagers on “single outcomes” under either party’s construction

Scott (EX1006) at Figure 1; Patent Owner Response (Paper 28) at 44-52; Patent Owner Sur-Reply (Paper 34) at 2, 14-19
DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

“FIXED ODDS SINGLE”: A TYPE OF WAGER ON AN EVENT INDEPENDENT OF THE BETTOR, LIKE SPORTS

81. A POSITA would recognize the group of wager types in claim 5 (*i.e.*, accumulators, parlays, fixed odds singles and fixed odds multiples) as most commonly associated with sportsbooks (operators that take bets on sporting events).¹⁰ These wagers involve a bettor making selections on a competitive underlying event that is independent of the bettor. I will refer to these as “competitive event-based wagers.”

PO’s Expert

Undisputed that Scott does not disclose sportsbook wagers or wagers on an underlying competitive event

PO’s Expert

83. A fixed odds single (as claimed in claims 5, 7, and 23 of the ’779 Patent) involves a bettor making a selection on a competitive underlying event that is independent of the bettor. A fixed odds single is not a wager on a game being *played* by the bettor and therefore is not a wager type a POSITA would associate with slot type games, poker type games, keno games or bingo games (like those in Scott).

“FIXED ODDS” REQUIRES A FIXED PAYOUT THAT IS A MULTIPLE OF THE AMOUNT WAGERED

80. In my opinion, a POSITA would understand the plain and ordinary meaning of “fixed odds single” to be a wager on a single outcome of or within a competitive event, wherein a bettor is offered a fixed multiplier⁸ for a wager upon a given outcome. As such, the potential payout is determined and fixed at the time the bettor places their wager (*i.e.*, the bettor chooses the amount of their wager and the winning payout is calculated by multiplying the payout odds by the amount of the wager).⁹

These multipliers are often expressed in different ways [...] (e.g., +150 odds means that, if you bet \$1 on an outcome, and that outcome happens, you will receive \$1.50 in profit — that is, a \$2.50 total payout)

PO’s Expert

“single” involves the bettor wagering an amount of their outcome, which is “priced” by a person or company (*i.e.*, a

The terminology “fixed odds” reflects the fact that a bettor can “lock in” a price (*i.e.*, fix) at the time of the wager, and the multiplier (*i.e.*, odds) will remain the same regardless of what has happened before or what happens after the wager is placed.

SCOTT FAILS EVEN UNDER PETITIONER'S INCORRECT CONSTRUCTION OF “FIXED ODDS”

Bingo does
not have
“fixed odds”

The probability of
winning changes
before and during
the game

or later developed.”). A POSITA would know that all bingo cards have the same odds of winning no matter what numbers are on them at the initiation of the game, and therefore the wager on a bingo game would be a “fixed odds single” wager when placed because the odds of winning are fixed, and the wager is on a single outcome—obtaining “BINGO.” Therefore, Scott’s disclosure of wagering on a bingo game

Petitioner’s
Expert

134. I also disagree with Mr. Crevelt’s opinion that the probability of winning in bingo is fixed. In bingo, the probability is simply *calculable* at a point in time, and it is immediately subject to change. A player’s chance of winning is a function of (a) how many cards the player has purchased, (b) how many other cards are in play,¹⁷ and (c) what letter/number combinations are drawn over the course of the bingo game. A given card’s probability of winning is subject to all other cards purchased before and after. It is never “fixed.”

PO’s Expert

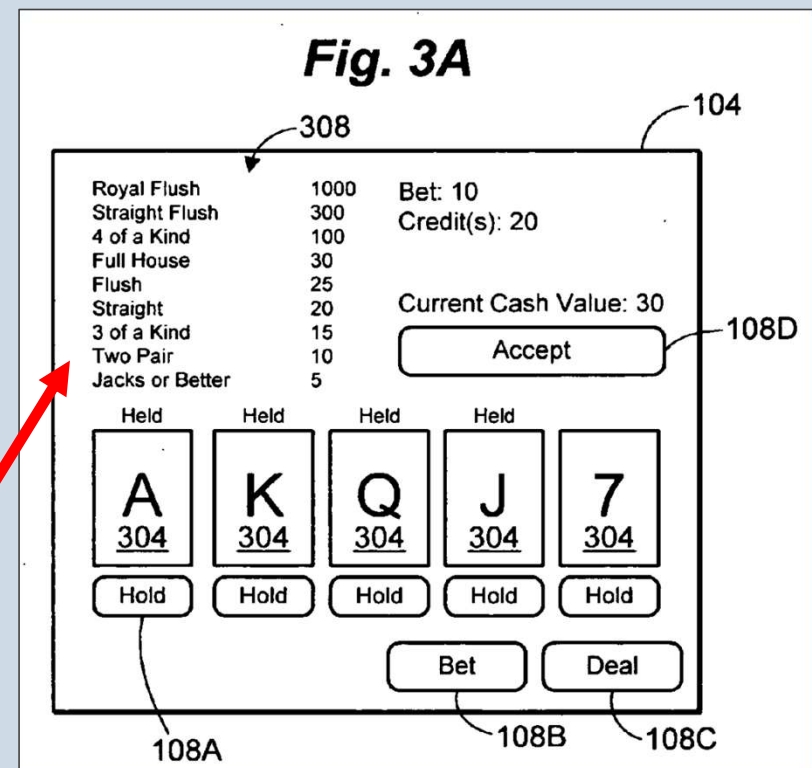
Crevelt Declaration (EX1007) at ¶ 160 (annotations added); Vancura Declaration (EX2007) at ¶ 134 (annotations added);
Patent Owner Response (Paper 28) at 50–52; Patent Owner Sur-Reply (Paper 34) at 17–18
DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

SCOTT'S OTHER GAMES DO NOT HAVE A WAGER ON A SINGLE OUTCOME

The other games of Scott are **not on a single (or given) outcome**

EX[1007] ¶160. Similarly, a POSITA would have known that various other wagering games disclosed in Scott involved “fixed odds single” wagers, or that it would be obvious to implement them as fixed odds games, like certain video poker games and slot games in that all players have an equal chance of obtaining a winning outcome at the initiation of the game. *Id.* In fact, with certain respect to card games, for example, Scott discloses that specific actions are taken “so as to preserve the odds of the game.” EX[1006] ¶[0077]. And a POSITA would know that preserving

But these games necessarily have multiple possible outcomes and are therefore excluded under Petitioner’s construction.



Scott

Petition (Paper 2) at 68 (annotations added); Scott (EX1006) at Figure 3A; Patent Owner Sur-Reply (Paper 34) at 18-19
DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

CONCLUSION

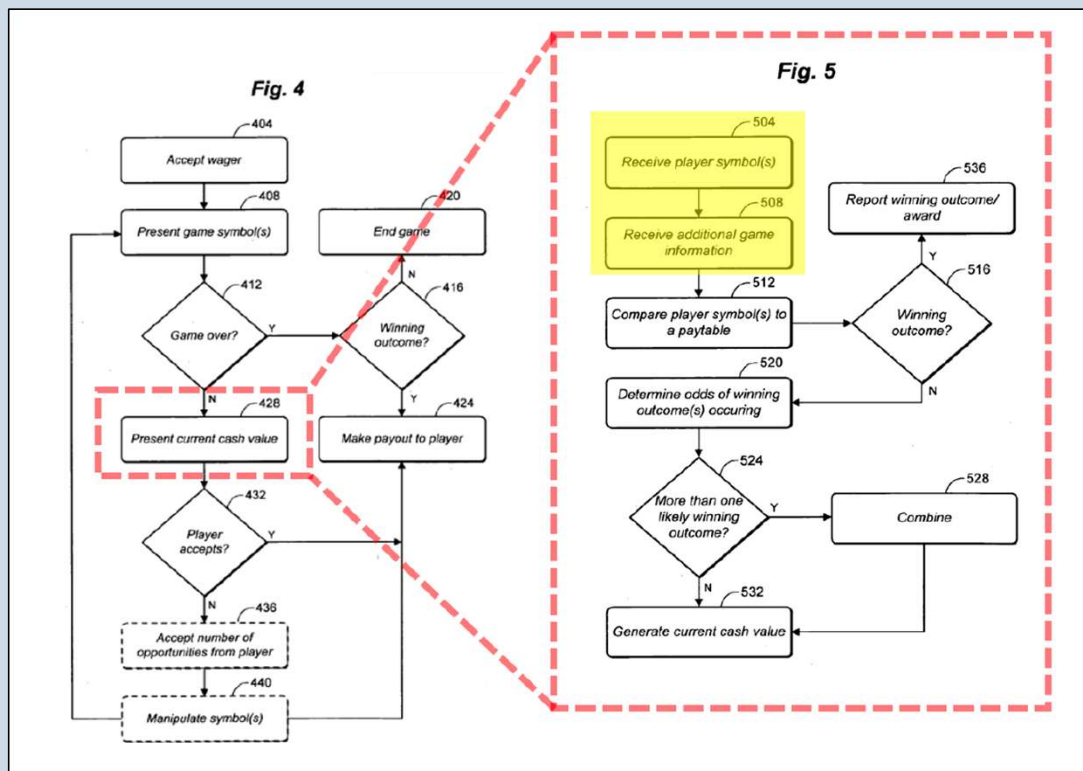
Petitioner's argument fails for **any** of three reasons:

- 1 Scott does not disclose “**continuously retrieve ... data in real time.**” It only retrieves at predetermined points of its games, contrary to the DRP's guidance on Claims 1 and 16.
- 2 Scott does not disclose a **plurality of bettors wagering on the same event** via a single trading engine module, as required by Claim 16.
- 3 Scott does not disclose a “**fixed odds single**” in Claims 5, 7, or 23 on either party's construction.

RESERVE SLIDES

DEMONSTRATIVE EXHIBIT - NOT EVIDENCE

PETITIONER'S IDENTIFICATION OF "RETRIEVAL" IN SCOTT



Scott, annotated by PO's Expert

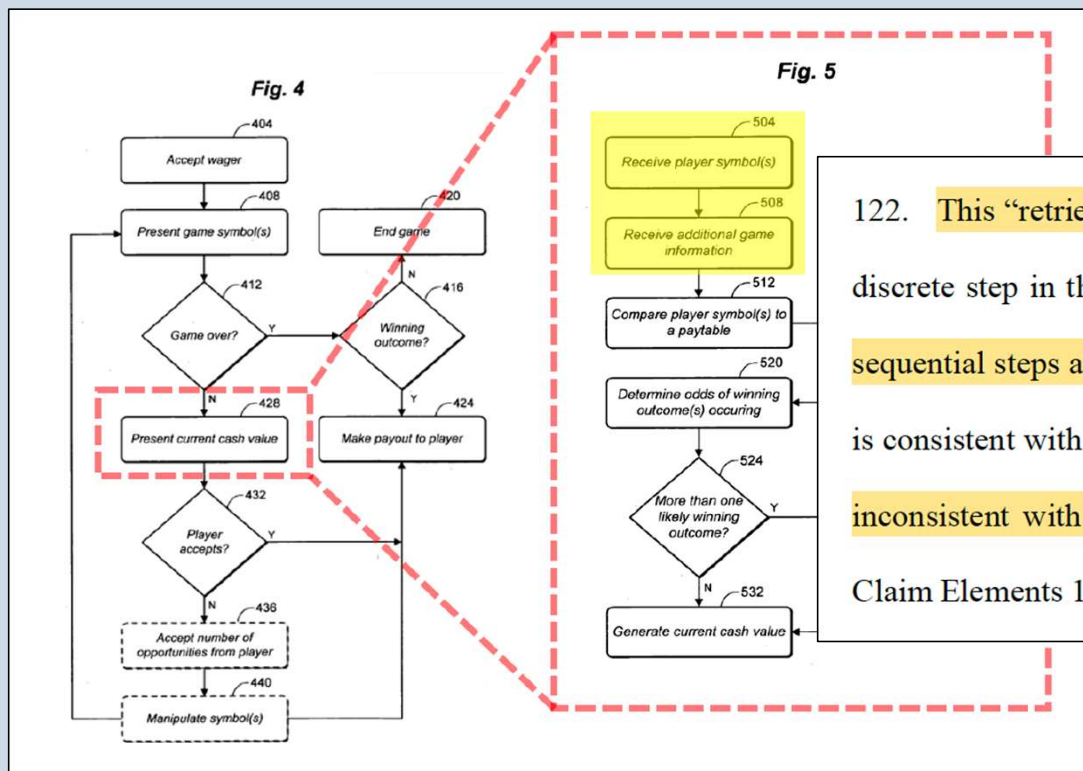
Vancura Declaration (EX2007) at ¶ 119 (annotations added); Scott (EX1006) at Figures 4, 5; Crevelt Deposition (EX2014) at 33:2–4; Petition (Paper 2) at 41
 DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

Petitioner's expert:

2 Q. And you'd agree with me, then, that Figure 5
 3 is a sub-process? It's a sub-process of 428?
 4 A. Yes. It's a sub-process, yes.

The only "retrieve" functionality Petitioner identifies in Scott are Steps 504 and 508, which are invoked by Step 428.

SCOTT “RETRIEVES” ONLY AT PREDETERMINED STAGES



122. This “retrieval” (at Steps 504 and 508) thus utilizes a form of triggering via a discrete step in the game, as disclosed by Scott, and it does not repeat until other sequential steps are carried out leading to another “retrieval,” if any. This operation is consistent with Scott’s use of the term “trigger” (e.g., at paragraph [0036]) but is inconsistent with the claimed “continuously retrieve... in real time” required by Claim Elements 1[e] and 16[i] of the ’779 Patent as construed by the DRP Decision.

PO’s Expert

Scott, annotated by PO’s Expert

Vancura Declaration (EX2007) at ¶¶ 102–04, 107, 114, 119 (annotations added), 121–22; Scott (EX1006) at Figures 4, 5; Patent Owner Response (Paper 28) at 32–34
 DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

PO EXPERT APPLIED THE DRP GUIDANCE

65. The DRP Decision was issued after I made that initial declaration. The DRP Decision includes construction of the '779 Patent's "continuously" and "real time" elements. Below, I discuss "continuously," then "real time," and then what these terms mean together as they appear in Claim Elements 1[e] and 16[i], based on the DRP Decision.

PO's Expert

DRP GUIDANCE: “CONTINUOUSLY” AND DISCRETE POINTS

We disagree with the construction of “continuously” performing a task, which “exclude[s] performing that task at discrete time points.” *See* Paper 9, Majority Op. 14–15. This construction does not specify what is meant by “discrete time points,” which may create confusion because, as the Dissent points out, operations performed by a computer necessarily perform tasks at discrete time points based on executing instructions according to the computer’s clock speed. *See* Paper 9, Dissenting Op. 4. Thus, taken

DRP

PETITIONER'S INCORRECT ARGUMENT: READING THE DRP'S GUIDANCE ON BOTH "CONTINUOUSLY" AND "IN REAL TIME" IS "WRONG"

PO implicitly contends that this portion of the DRP Decision was limited to the term "continuously" and that the "in real time" term modifies the DRP's construction of the overall limitation. POR, 27. This is wrong. The DRP addressed

The DRP's commentary under the heading *I. The "Continuously" Limitations*

To be sure, the DRP also addresses the "in real time" term under a separate heading. DRP Decision, 18. But that section merely addresses "[t]he issue of whether claim 1 is limited to 'live' wagering events" under the "in real time" heading. *Id.* In finding that the challenged claims applied to both "live" and "pre-

"continuously retrieve...in real time"

MUST APPLY THE DRP'S COMMENTARY ON BOTH "CONTINUOUSLY" AND "IN REAL TIME"

DRP Decision

1. The "Continuously" Limitations

The term "continuously" is used in two limitations of claim 1, which recite as follows:

continuously retrieve, by the system controller, data in real time related to a progress of the wagering event;

...

continuously evaluate, by the system controller, the recalculated wager information;

PO Sur-Reply

The DRP goes on to construe "continuously," saying "we construe the phrase 'continuously retrieve ... data ... related to a progress of the wagering event' to encompass ... [and not encompass...]." Paper 14 at 14. The DRP here omits the "in real time" language, which it construes separately under the next subheading.

2. "In Real Time"

The issue of whether claim 1 is limited to "live" wagering events is intertwined with the construction of the term "in real time." Claim 1 of the '779 patent uses the term "in real time" in several phrases, as recited below:

continuously retrieve, by the system controller, data **in real time** related to a progress of the wagering event;
recalculate, by the system controller, the wager information **in real time** based on the continuously retrieved data;

DRP Decision

PO Sur-Reply

The DRP does reject the notion that "in real time" implies a live wagering event. But it also provides its own construction: operations "'in real time' must be made with *sufficient frequency* to promptly capture developments that may affect the odds of the event, and *cannot cover only discrete determinations*, such as at the end of a period or halftime during a sporting event." Paper 14 at 19 (emphasis

DRP Decision (Paper 14) at 13, 18; Patent Owner Sur-Reply (Paper 34) at 4-7
DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

CLAIM CONSTRUCTION DISPUTE

Patent Owner:

- “fixed odds single” = a term of art associated with sportsbook wagers / a wager on a single outcome of or within an underlying event where bettor is not a participant
- “fixed odds” = fixed payout, where a bettor can “lock in” a payout when placing the wager, as a multiple of the amount wagered

Petitioner:

- “fixed odds” = “equal chance of obtaining a winning outcome”
- “fixed odds single” = wager with “fixed probability of winning” on a single outcome

SERVERS IN SCOTT DO NOT RECEIVE WAGERS

20:65-21:7, 23:43-45, 24:40-44 (“person to person betting exchange”), 35:50-57. PO provides no reason that Scott’s parallel disclosures of a “marketplace” should be excluded from Claim 16. Indeed, the “trading engine module” of Claim 16 and **does nothing more than receive “wagers”**—Claim 16 does not recite or require participants wager[ing] on the same wagering event” as PO alleges.

Petitioner’s Reply

Scott

[0055] The gaming machine **100** may be configured as a stand-alone device or be in communication with one or more external devices at one or more times, such as through one or more communication devices **124**. For example, the gaming machine **100** may be configured as a client-type device and obtain game code or game outcome information from a remote server **120** through network or other communications. **These one or more gaming servers 120 may be configured to perform accounting, player tracking, bonusing, game generation, random number generation, or other functions.** To illustrate, in some embodiments, the gaming machine **100** need not have a random number generator **126** since such functionality may be provided by a gaming server **120**.

PETITIONER'S CONSTRUCTION IS WRONG: "FIXED ODDS SINGLE" IS A UNITARY TERM OF ART

17 but that's the way it means here. But when you
18 combine the phrase "fixed odds singles" with the way
19 that the '779 talks about what fixed odds singles
20 are or "fixed odds" and then "singles" and then -- I
21 think cumulatively, in terms of how '779 uses these
22 terms, uses these terms together and groups these
23 terms, to me, it's -- to me, it's associated with
24 sportsbooks. That's what's meant here in claim 5.