

## Slide 1



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**Nov**

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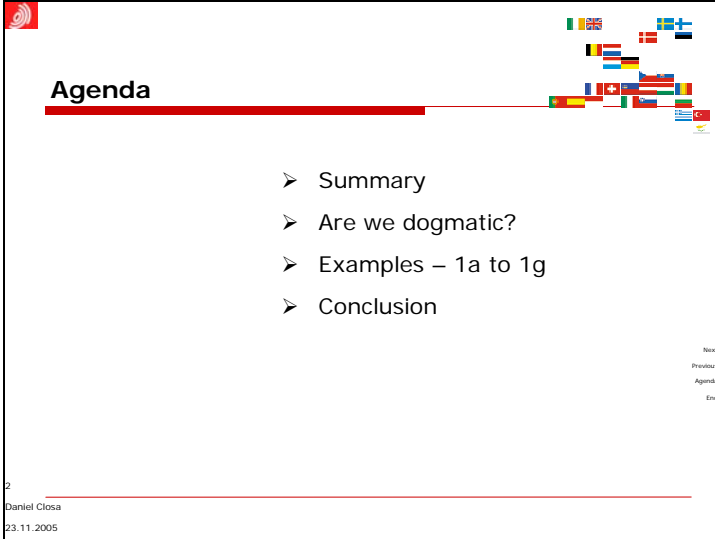
Novel  
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## Daniel Closa

Born 1961, French passport, joined EPO 1987 in Berlin, working in Munich since 1991, examiner in the field of business method since 2000.

## Slide 2



### Agenda

- Summary
- Are we dogmatic?
- Examples – 1a to 1g
- Conclusion

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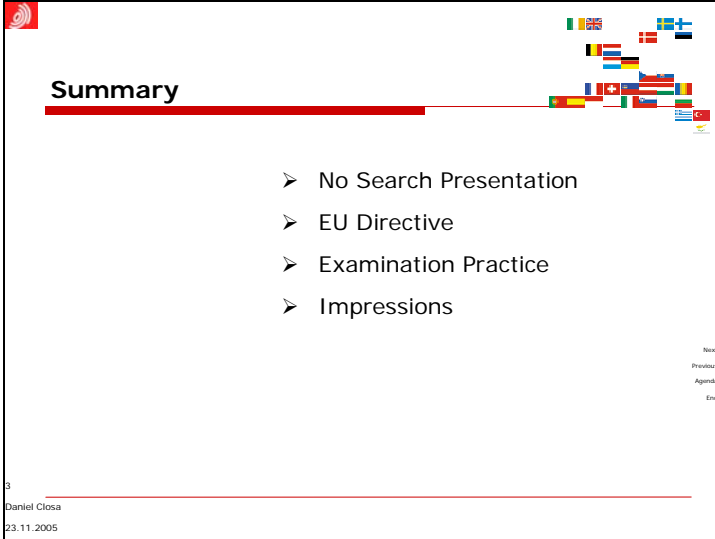
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In view of the previous presentation, you may think that the EPO will never grant a patent with business methods consideration.

That will mean that we dogmatically refuse that type of applications.

In order to clarify this point (are we dogmatic), we will now discuss together a real case and then draw some conclusion.

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### Summary

- No Search Presentation
- EU Directive
- Examination Practice
- Impressions

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We explained to you that we decided in the field of business method to make use of the possibility given by rule 45 EPC.

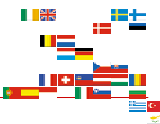
Some thousand of "no-searches" have been sent in the last 4 years.

It is well known that the EU directive which was supposed to bring some clarity was abandoned.

In the Examination practice, we explain you that the Board of Appeal decisions defined some very criteria with the result that the level of refusal is particularly high in this field.

All these presentations can only give you the impression that the impression that the only advice you can give to your clients is don't waste money in filing applications in this field.

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### Are we dogmatic?


- What do you think?
- In fact – We are not

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The good news is in fact you may get a patent even if the background is of business nature.





## Example 1a



- A method of displaying, on an electronic display device, the market depth of a commodity traded in a market, said method comprising :  
dynamically displaying a plurality of bids in the market for said commodity ;  
dynamically displaying of a plurality of asks in the market for said commodity ;  
and statically displaying prices corresponding to said plurality of bids and asks ;  
wherein said pluralities of bids and asks are dynamically displayed in alignment with the prices corresponding thereto

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Read carefully this claim, and then try to imagine yourself as an EPO search examiner.

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### Example 1b

- Search or no search?
- Search Division – no search!
- Applicant came to Examination

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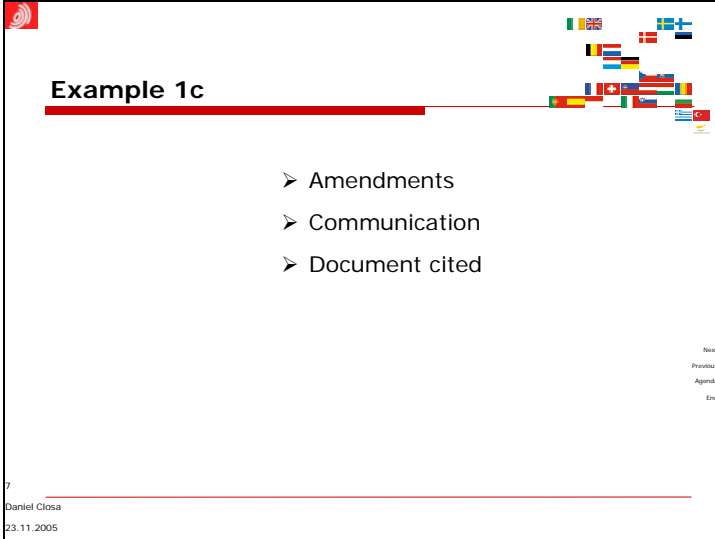
Will you be able a priori to define a technical problem underlying the subject-matter of this claim?

Will you search it?

The examining division was not able to define a priori a technical problem being at the basis of this claim and saw it as a presentation of business information and decided to send a communication according to rule 45 EPC.

The applicant decided to come into examination.

## Slide 7



The slide is titled "Example 1c" and features a red horizontal bar. In the top right corner, there is a cluster of various national flags. The main content area contains a bulleted list with three items: "Amendments", "Communication", and "Document cited". On the right side, there is a vertical navigation menu with the labels "Next", "Previous", "Agenda", and "End". In the bottom left corner, the slide number "7" is displayed, followed by the text "Daniel Closa" and the date "23.11.2005".

**Example 1c**

- Amendments
- Communication
- Document cited

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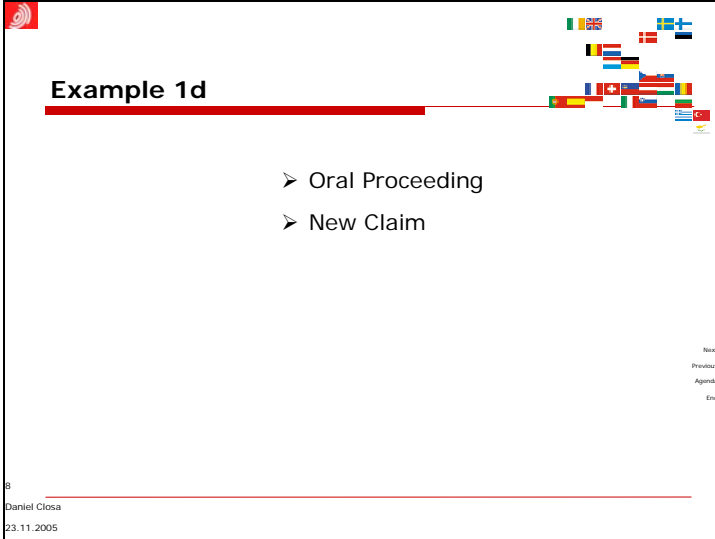
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The applicant filed then a new set of claims with arguments to explain why in his view a technical problem was solved.

The result of these amendments was that the examiner in charge of the file made a search (he was convinced by the arguments concerning the technical character of the application and of new claim 1 in particular).

He did not send a new search report but cited with his communication some documents. (see presentation Examination Practice at the EPO)

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Example 1d

- Oral Proceeding
- New Claim

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The slide features a red spiral icon in the top-left corner and a cluster of various national flags in the top-right corner. A red horizontal line is positioned below the title 'Example 1d'. The navigation links are located in the bottom-right corner, and the slide number and date are in the bottom-left corner.

The applicant filed then again new claims with new arguments and as the examining division was still very negatively minded, an oral proceeding was summoned.

The applicant came and file again during oral proceedings new claims and brouht new arguments.



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### Example 1e

- 1. A client device for receiving commands relating to a commodity being traded on an electronic exchange, comprising:
- an interface for receiving data relating to said commodity from the electronic exchange, the data comprising at least a current highest bid price and a current lowest ask price available for said commodity;
- means for setting a trade order parameter;
- means for displaying a first indicator at a first area aligned with a first price level in a field of static prices, the first indicator being associated with the current highest bid price for said commodity;
- means for displaying a second indicator at a second area aligned with a second price level in the field of static prices, the second indicator being associated with the current lowest ask price for the commodity;
- means for updating the display of the first and second indicators, wherein in response to new data representing a different highest bid price and/or lowest ask price of the commodity received from the interface, at least one of the first and second indicators is moved relative to the field of static prices to a different area aligned with a different price level within the field of static prices; and
- an order entry region comprising a plurality of areas, each area being aligned with a price level in the field of static prices and each area being selectable by a user input means, the order entry region being configured such that selection of one of the plurality of areas sends an order message to the electronic exchange based on the trade order parameter and the price level that is

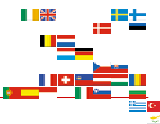
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aligned with the selected area.

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Read carefully new claim 1 and imagine yourself as a patent examiner



### Example 1f

- Decision
  - Presentation of Information?
  - Business Method as such?
  - Technical Problem?

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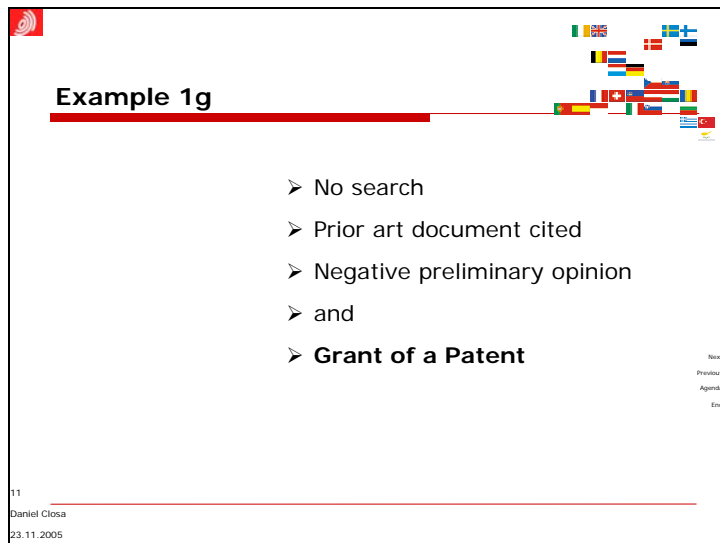
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What do you think?

Does the claim relate to a presentation of information as such?

Does the claim relate to a business method as such?

Does the claim solve a technical problem?



**Example 1g**

- No search
- Prior art document cited
- Negative preliminary opinion
- and
- **Grant of a Patent**

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The examining division decided to grant a patent.

You may agree or disagree to that decision but I will try to explain you the logic followed by the examining division.

Presentation of information,

we have an order entry region and an input device therefore it is more than pure presentation of information (T333/95)

Business method as such,

technical means are involved, it is therefore not a business method as such

technical problem?

The difference to prior art: order performed relative to the static price field

There is a problem!

But is it technical? At first glance, only facilitates a business activity

However...

it only occurs in real-time environment, and there is a need to improve the accuracy of the system which is problem independent of business which is

- two correlated changing measures in a real-time environment
- user needs to perform an action on one measure
  - at a guaranteed level

The problem is technical *even if use in a business field*



The solution is

- decouple the two measures
- make one static
  - perform action on the static field
- move the other relative to the static field

### **Conclusion**

- ✓ Grant

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# Conclusion

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➤ We are not dogmatic

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# Thank you

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