UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TD AMERITRADE HOLDING CORPORATION, TD AMERITRADE, INC., and
TD AMERITRADE ONLINE HOLDINGS CORP.,
Petitioners

v.

TRADE TECHNOLOGIES INTERNATIONAL, INC.
Patent Owner

_____

Case CBM2014-00131
Patent No. 7,533,056

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SUPPLEMENTAL DECLARATION OF KENDYL A. ROMÁN IN SUPPORT OF PETITIONERS' REPLY FOR COVERED BUSINESS METHOD REVIEW OF U.S. PATENT 7,533,056

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TDA 1042

I, Kendyl A. Román, declare as follows:

1.   I have been engaged by Sterne, Kessler, Goldstein & Fox P.L.L.C. on behalf of Petitioner, TD Ameritrade Holding Corp., for the above-captioned covered business method review proceeding involving U.S. Patent 7,533,056, to Friesen, et al. titled "User Interface for an Electronic Trading System." I understand that the '055 Patent is currently assigned to Trading Technologies International, Inc. ("TT").

2.   I have reviewed the following documents in making this declaration:

    a. The '056 patent.

    b. The Board's Decision to Institute issued on December 2, 2014.

    c. TT's Patent Owner Response (POR) filed March 6, 2015.

    d. The translation of record of "System for Buying and Selling Futures and Options Transaction Terminal Operational Guidelines" ("TSE"). (Ex. 1004).

    e. Harold Abilock's translation of Chapter 7 of the TSE document, which is attached to his declaration as an Appendix. I concentrated on the portions cited herein, but I read the entire chapter. The Abilock declaration is Exhibit 2097 in this proceeding, and his translation of

TSE is at pages 74 to 103 of the filed declaration. I also reviewed his revised translation portions of page 7-25 of TSE (i.e., page 0115 of the TSE exhibits 1003 and 1004). Specifically, I reviewed his translation of "bullet 2" (as he calls it), which is the first bullet in the middle of page 7-25 (paragraph 69 at pages 32-33 of his declaration) and the text in the figure at the bottom of page 7-25 (paragraph 77 at page 36 of his declaration).

f. My previous declaration in this proceeding (Ex. 1032).

g. U.S. Patent No. 5,136,501 to Silverman et al. ("Silverman"), Exhibit 1010.

h. U.S. Patent No. 5,375,055 to Togher, et al. ("Togher"), Exhibit 1008)

3. I understand that TT alleged that its claims speed up data gathering and display so that a user may "quickly ascertain the current state of the market." POR at 3-4. The claims do not recite any speed or time limitations, so claim 1 encompasses a system that is so slow as to be unsatisfactory for the typical trader, so long at that system performs the recited steps of receiving bids and offers from the exchange, displaying those bids and offers, receiving a user input for a default quantity, receiving a user input for a desired price, and sending the order to the exchange. A computer performing these steps is repeatedly receiving data and

then performing repetitive calculations to determine where to display each element, and receiving user input for an order and sending it to the exchange. Such repetitive calculations and operations may be performed quickly by a computer, but the claims recite no such requirement. Also, other than the conventional steps of receiving and sending data, claim 1 could be performed by a human using pen-and-paper. The person could be told the bids and offers, which he or she could plot along a price axis. The person could mentally determine that his or her default order is of a given size (e.g., 100 shares). The person could then point to the location along the graph to indicate his or her desired price, and could then place an order (e.g., over the telephone to his broker) at that price for the default quantity.

4.   I understand that TT alleged that certain products do not infringe. POR at 14-17. Specifically, TT identified TD Ameritrade's "thinkorswim" product and FIG. 2 of TT's own '132 patent as noninfringing. TT did not explain why they do not infringe. It is not clear from TT's arguments and the material TT provided in the POR, but I do not see any disclosure that these products include the conventional and routine steps of setting a default value, receiving a selected price for an order, or sending the order to the exchange. I understand from my work in the proceedings from the proceedings involving the '132 and '411 patents, however, that the product illustrated by FIG. 2 includes single-action order entry.

5. I understand that TT argues (and its expert testifies) that it would be bad design to use a last-entered value in a system that also uses a default value that survives shutdown. That is incorrect. When first started, the system would use the default value that survived shutdown, and the last-entered value for subsequent operations. This default value may have been modified (typically by using a settings dialog or similar), and such modifications typically survive shutdown. But if the user modifies the value or setting, the system may user that setting the next time, but that last-entered value will not typically survive shutdown. Cooper at 187-188 ("Instead of choosing a hard-wired default, the program can use the previous setting as the default and it will have much better chance of giving the user what he wanted.") (Ex. 1015); *see also* Open Look at 47 (recording and using icon's new position after moved from default location); 60 (same for window) (Ex. 1021). This is also seen in common applications such as Microsoft Word, where the print command uses the default printer until the user switches to another printer. Word keeps that last-used printer until Word is shut down. Upon subsequent start-up, Word has forgotten the last-used printer, and instead defaults to the default printer.

6. The patent does not explain what it means to "indicate" a user's order as recited in claim 5. But one of ordinary skill would have understood that

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