

**UNITED STATES PATENT AND TRADEMARK OFFICE**

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TD AMERITRADE HOLDING CORPORATION, TD AMERITRADE, INC.,  
AND TD AMERITRADE ONLINE HOLDINGS CORP.

PETITIONERS

V.

TRADE TECHNOLOGIES INTERNATIONAL, INC.

PATENT OWNER

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PATENT NO. 7,676,411

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**DECLARATION OF DAVID RHO**

**IN SUPPORT OF PETITION FOR**

**COVERED BUSINESS METHOD REVIEW OF U.S. PATENT 7,676,411**

I, David Rho declare as follows:

1. I have been engaged by Sterne, Kessler, Goldstein & Fox P.L.L.C. on behalf of Petitioners, TD Ameritrade Holding Corp., TD Ameritrade Inc., TD Ameritrade Online Holding Corp., for the above-captioned covered business method review proceeding. I understand that this proceeding involves United States Patent 7,676,411, entitled “Click based trading with intuitive grid display of market depth,” by Gary Allan Kemp, II, et al., filed October 25, 2006, issued March 9, 2010, (the “’411 Patent”). I understand that the ’411 Patent is currently assigned to Trading Technologies International, Inc. (“TTI”).

2. I understand the ’411 patent claims benefit from U.S. provisional application 60/186,322. For purposes of the covered business method review, I assume the earliest possible priority date of the ’411 patent is the March 2, 2000 filing date of U.S. provisional application 60/186,322.

3. I have reviewed and am familiar with the specification of the ’411 Patent. I understand that the ’411 patent has been provided as Exhibit 1001. I will cite to the specification using the following format (’411 patent, 1:1-10). This example citation points to the ’411 patent specification at column 1, lines 1-10.

4. I have reviewed and am familiar with the file history of the '411 Patent.

I understand that the file history has been provided as Exhibit 1002.

5. I have also reviewed and am familiar with the following prior art used in the Petition for Covered Business Method Review of the '411 Patent:

- U.S. Patent No. 5,077,665 to Silverman *et al.*, (“Silverman”), Exhibit 1003;
- U.S. Patent No. 5,297,031 to Gutterman *et al.*, (“Gutterman”), Exhibit 1004;
- U.S. Patent No. 5,375,055 to Togher *et al.*, (“Togher”), Exhibit 1005;
- A certified translation of “Futures/Option Purchasing System Trading Terminal Operation Guide” (“TSE”); I understand that the original Japanese language document was provided as Exhibit 1006, the certified translation provided as Exhibit 1007, and the certification of translation provided as Exhibit 1008;
- U.S. Patent No. 6,408,282 to Buist, (“Buist”), Exhibit 1026.

6. A complete listing of additional materials considered and relied upon in preparation of my declaration is provided as Exhibit 1025 to this declaration. I

have relied on these materials to varying degrees. Citations to these materials that appear below are meant to be exemplary, but not exhaustive.

7. The '411 Patent describes click based trading with intuitive grid display of market depth. ('411 Patent, Title.) I am familiar with the technology described in the '411 Patent as of the earliest possible priority date of the '411 Patent (March 2, 2000).

8. I have been asked to provide my technical review, analysis, insights and opinions regarding the '411 Patent and the above-noted references that form the basis for the grounds of unpatentability set forth in the petition for Covered Business Method Review of the '411 Patent.

## **I. QUALIFICATIONS**

1. See my Curriculum Vitae, attached as Exhibit 1024, for a listing of my qualifications.

2. My expertise qualifies me to do the type of analysis required in this case.

3. I have graduated from the Massachusetts Institute of Technology (MIT) in 1992 with a Bachelor's Degree in Computer Science with Electrical Engineering.

4. In the 1990's I worked as a Manager of an Educational Computing Facility at MIT, where I created a website having a graphical user interface (GUI) front end and a database backend, for receiving, storing, and displaying data.

5. From November 11, 1999 to March, 2001, I worked at marchFIRST in New York, New York as a Consultant and Manager. At marchFIRST, I worked on trading applications, such as implementing a distributed messaging system for fixed income products for a major market data provider. I have also designed a trading system for a pan-European stock exchange.

6. From March 2001 I have been working as a partner at MMG Partners in New York, New York. At MMG Partners, I have engaged in numerous trading related projects. I designed the front and back office system for four independent broker dealers, determined product offering gaps for a trading system and market data firm for a client as opposed the client's competitions, and advised numerous sell-side and buy-side companies of ways to reduce their market data spending.

7. While at MMG Partners, I have advised a broker/dealer on which order management system would meet their business requirements.

8. Also while at MMG Partners, I have performed due diligence on the NYMEX futures exchange with a large private equity firm and a venture capital firm. I analyzed the trading system from a functional and technical perspective.

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