

**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.**

**TRADING TECHNOLOGIES INTERNATIONAL, INC.  
Patent Owner**

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Case CBM2014-00133  
Patent No. 7,676,411

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**SUPPLEMENTAL DECLARATION OF KENDYL A. ROMÁN  
IN SUPPORT OF PETITIONERS' REPLY FOR  
COVERED BUSINESS METHOD REVIEW OF U.S. PATENT 7,676,411**

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Patent Trial and Appeal Board  
U.S. Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

TDA 1027

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 7,676,411, to Gary Allan Kemp, II, filed October 25, 2006 and issued March 9, 2010, (the “’411 Patent”). I understand that the ’411 Patent is currently assigned to Trading Technologies International, Inc. (“TT”).

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

- a. The ’411 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. My previous declaration (Exh. 1019).
- e. The translation of record of “System for Buying and Selling Futures and Options Transaction Terminal Operational Guidelines” (“TSE”). (Ex. 1007).
- f. U.S. Patent No. 5,136,501 to Silverman et al. (“Silverman”), Exhibit 1005.

g. U.S. Patent No. 5,375,055 to Togher, et al. (“Togher”), Exhibit 1005.

3. Any generic computer could be programmed to perform claim 1 using generic GUI tools and programming languages. It would then perform the repeated operations of receiving data, calculating where to display each data element, receiving user input, and sending orders to the electronic exchange, i.e., the basic functions of a computer. Aside from the requirements to use a “computing device” and other generic computer components, claim 1 could be performed in the human mind or using a pen-and-paper. A person could receive updated market information and plot the data along a price axis drawn onto a piece of paper or a white board, updating it as new market information is received. This price axis would be static unless it was erased and redrawn (or redrawn on a new piece of paper). The person could then point to an area on the hand-drawn graph to indicate the desired price, and then that person (or an observer) could place an order (e.g., over the telephone to a broker) for a default quantity of the commodity at the indicated price.

4. The six data-displaying steps of claim 1 (displaying a bid display region, displaying an ask display region, dynamically displaying the highest bid, updating the highest bid when new data is received, dynamically displaying the lowest ask, updating the lowest ask when new data is received) recite

conventional data-plotting and updating of the plot for the two data points, the lowest ask and the highest bid. When updated data is replotted, it is typically moved “relative to the axis.” This is shown in TSE, which updates its displays (which include the lowest bid and the highest ask) as new data comes in. TSE at 0091, 0107. These steps (aside from the recitation of a generic computing device) could be performed on pen and paper, although it would be easier on a white board because the old data could more easily be erased. Silverman’s FIG. 4 (Ex. 1003) shows a snapshot of a plot displaying the lowest ask (offer) and the highest bid, in addition to other pending orders.

5. I understand that TT asserts moving bid and ask indicators relative to a price axis is “commensurate in scope” to a static price axis. POR at 21. Assuming that a static price axis is “a price column where prices do not normally change positions unless a re-centering command is received,” which is the Board’s adopted definition in the proceeding involving the ’132 patent, I disagree with TT. Under the broadest reasonable interpretation, moving the bid and ask relative to the price axis is broader than having a static price axis. Although it encompasses a static price axis, there could also be relative movement between the bid/ask and the axis if the price axis was also moving. Therefore, under its broadest reasonable interpretation, claim 1 allows for repositioning of the price axis, so long as the bid and ask are moved relative to the axis.

6. A static price axis is nothing new. If I were to plot data on graph paper or a white board, the price axis would be static until I replotted the data (the same or updated data) based on a repositioned axis. Likewise, Silverman plots bids and offers on paper to illustrate a book of orders. Silverman FIG. 4 (Ex. 1005). TSE's uncompressed display uses an electronic static price axis. *See* TSE at 0107. TSE's scroll mode also has a static price axis, even if the screen is uncompressed. *See* TSE at 0110 (describing scroll up, scroll down, and Home button which re-centers and transitions back to the basic board screen); 0115 (the price display position does not automatically change in scroll mode).

7. The "inside market" recited in claim 1 is a common term in the art meaning the highest bid and the lowest ask.

8. Although TSE does not expressly teach a single-action order entry, traders using TSE would have been aggravated if the price changed under their mouse, causing the wrong price to be entered and displayed in the send-order dialogue, and forcing them to edit their trades before sending to the exchange.

9. The motivation to provide single-action order entry is to reduce the amount of time it takes to place an order in a fast-moving market.

10. FIG. 2 of the '411 patent includes two price axes, one for bids (labeled 203, BidPrc) and one for asks (labeled 204, AskPrc).

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