

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.

TRADING TECHNOLOGIES INTERNATIONAL, INC.,  
Patent Owner

---

Case CBM2014-00133  
Patent 7,676,411

---

**PETITIONERS' REPLY  
TO PATENT OWNER'S RESPONSE**

***Mail Stop "PATENT BOARD"***  
Patent Trial and Appeal Board  
U.S. Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

**TABLE OF CONTENTS**

I. Introduction..... 1

II. Claim 1 is not patent-eligible under 35 U.S.C. § 101 ..... 1

    A. The claims are directed to the abstract idea of placing an order based on observed market information, as well as updating market information (Step 1) ..... 3

        1. TT cannot avoid the abstract idea by arguing its claims recite a GUI improvement ..... 4

        2. TT’s claims use many words, but recite little substance ..... 5

        3. Claim 1 did not solve any GUI problems ..... 8

    B. Beyond the abstract idea, the claims recite only insignificant post-solution activity and data gathering (Step 2)..... 10

    C. The claims preempt the abstract idea despite any alleged non-infringing alternatives ..... 12

    D. Overcoming computer problems does not necessarily confer patent eligibility ..... 14

    E. TT’s reliance on the *CQG* case is misplaced ..... 17

III. Dependent claims 4, 9, and 10 are not patent-eligible ..... 19

IV. The Board has jurisdiction over this proceeding ..... 20

    A. The CBM statute does not exempt all GUIs from CBM review..... 20

    B. Claim 1 recites a method for performing data processing used in the practice of a financial product or service ..... 23

    C. Claim 1 does not fall into the technological invention exception..... 23

        1. Claim 1 does not recite a novel and nonobvious technological feature..... 23

2. Claim 1 is not directed to a technological invention solving a technical problem.....24

V. Conclusion .....25

**Table of Authorities**

**Cases**

*Alice Corp. Pty. Ltd. v. CLS Bank Int’l*,  
134 S.Ct. 2347 (2014)..... passim

*Bancorp Servs., LLC v. Sun Life Assurance Co.*,  
687 F.3d 1266 (Fed. Cir. 2012) .....16

*Bloomberg v. Markets-Alert*,  
CBM2013-00005, Paper 18 (P.T.A.B. Mar. 29, 2015) .....21

*CyberSource Corp. v. Retail Decisions*,  
654 F.3d 1366 (Fed. Cir. 2011) .....4, 7

*DDR Holdings v. Hotels.com*,  
773 F.3d 1245 (Fed. Cir. 2014) ..... 15, 16

*Exxon Mobil Corp. v. Allapattah Servs., Inc.*,  
545 U.S. 546 (2005).....21

*Intellectual Ventures I v. Mfrs. & Traders Trust Co.*,  
2014 WL 7215193 (D. Del. Dec. 18, 2014) .....17

*Intellectual Ventures v. Capital One Financial Corp.*,  
2014 WL 1513273 (E.D. Va. Apr. 16, 2014).....17

*Mims v. Arrow Fin. Servs.*,  
132 S.Ct. 740 (2012).....22

*OpenTV, Inc. v. Netflix Inc.*,  
2014 WL 7185921 (N.D. Cal. Dec. 16, 2014) .....17

*Smartflash, LLC, et al. v. Apple, Inc., et al.*,  
No. 6:13-cv-447-JRG-KNM (E.D. TX. January 21, 2015).....17

*Trading Technologies International, Inc. v. CQG, Inc., et al.*,  
No. 1:05-04811 (N.D. Ill Apr. 15, 2015)..... 14, 17, 18

*Xianli Zhang v. United States*,  
640 F.3d 1358 (Fed. Cir. 2011) .....21

**Statutes**

35 U.S.C. § 101 ..... 1, 6, 8

**Other Authorities**

157 Cong. Rec. S1360.....22  
157 Cong. Rec. S5402..... 21, 22, 23  
79 Fed. Reg. 74618 (Dec. 16, 2014) ..... 13  
AIA § 18.....20  
AIA § 18(d)(1) ..... 21, 23  
AIA § 18(d)(2) .....22

**Regulations**

37 C.F.R. § 42.301(a).....21  
37 C.F.R. § 42.301(b) ..... 22, 23

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.