

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

PATENT NO. 6,772,132

DECLARATION OF DAVID RHO

IN SUPPORT OF PETITION FOR

COVERED BUSINESS METHOD REVIEW OF U.S. PATENT 6,772,132

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 6,772,132, entitled “Click based trading with intuitive grid display of market depth,” by Gary Allan Kemp, II, filed June 9, 2000, issued August 3, 2004, (the “’132 Patent”). I understand that the ’132 Patent is currently assigned to Trading Technologies International, Inc. (“TTI”).

2. I understand the ’132 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 ’132 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 ’132 Patent. I understand that the ’132 patent has been provided as Exhibit 1001. I will cite to the specification using the following format (’132 patent, 1:1-10). This example citation points to the ’132 patent specification at column 1, lines 1-10.

4. I have reviewed and am familiar with the file history of the '132 Patent. I understand that the file history has been provided as Exhibit 1002-1004.

5. I have also reviewed and am familiar with the following prior art used in the Petition for Covered Business Method Review of the '132 Patent:

- U.S. Patent No. 5,077,665 to Silverman *et al.*, (“Silverman”), Exhibit 1007;
- U.S. Patent No. 5,297,031 to Gutterman et al., (“Gutterman ”), Exhibit 1008;
- U.S. Patent No. 6,014,627 to Togher et al., (“Togher ”), Exhibit 1009;
- CA Publication No. CA 2,305,736 to May, (“May”), Exhibit 1010;
- A certified translation of “System for Buying and Selling Futures and Options Transaction Terminal Operational Guidelines” (“TSE”) and the original figures in the Japanese-language original. The translation is Exhibit 1013, and the original is Exhibit 1014.
- Declaration of the TSE President, (“TSE Decl.”), Exhibit 1015;

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 '132 patent describes electronic trading, using a graphical user interface (“GUI”) “for displaying the market depth of a commodity” and placing orders on an electronic exchange. ('132 patent; 3:11-13.) I am familiar with the technology described in the '132 patent as of the earliest possible priority date of the '132 patent (March 2, 2000).

8. I have been asked to provide my technical review, analysis, insights and opinions regarding the '132 patent and the above-noted references that form the basis for the grounds of rejection set forth in the Petition for the Covered Business Method Review of the '132 patent.

I. QUALIFICATIONS

1. See my Curriculum Vitae, attached as Exhibit 1023, 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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