UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC., Patent Owner

Case CBM2014-00135 Patent 6,772,132

PETITIONERS' MOTION TO EXCLUDE

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

DOCKET

A L A R M Find authenticated court documents without watermarks at <u>docketalarm.com</u>.

Table of Contents

I.	Relief Requested1	
II.		Board should exclude TT's district court demonstratives (Exs. 2007 and)
	A.	These two documents are demonstratives from District Court proceedings used here to show the truth of the matters asserted2
	В.	The Board should exclude these demonstratives as inadmissible hearsay
	C.	The Board should exclude these presentations for lack of personal knowledge and as improper expert testimony4
	D.	The Board should exclude these demonstratives for lack of authenticity and as improper summaries
III.	The Board should exclude all of one Thomas Report and portions other (Exs. 2010 and 2201)	
	A.	Because Mr. Thomas adopted only parts of Ex. 2201 as his testimony in this proceeding, the Board should exclude all of Ex. 2010 and the unadopted parts of Ex. 2201 as inadmissible hearsay
	В.	The Board should exclude as hearsay the portions of the Thomas Reports that act as a conduit for the expunged Brumfield hearsay7
	C.	The Board should exclude as hearsay the portions of the Thomas Reports that act as a conduit for other hearsay statements
IV.	The Board should exclude TT's video animations (Exs. 2012, 2014, 2 2049, 2203)	
	A.	These video clips are short cartoons that are used to show how actual products operated, but there is no evidence that they accurately do so 9
	B.	The Board should exclude these animations as inadmissible hearsay 10

DOCKET

		CBM2014-00135
		U.S. Pat. No. 6,772,132
	C.	The Board should exclude these animations for lack of personal knowledge and as improper expert testimony10
V.		Board should exclude the X_Trader webpage as hearsay and for lack of nticity (Ex. 2015)
VI.	The Board should exclude the 31 declarations purportedly from a 2004 litigation as inadmissible hearsay and for lack of authenticity (Exs. 2016 - 2046)	
VII.	The E	Board should exclude TT's HCI website printouts (Exs. 2053 - 2061).13
	А.	These documents are printout of web pages allegedly describing HCI programs, and are used to show that HCIs are technological
	B.	The Board should exclude these printouts as inadmissible hearsay14
	C.	The Board should exclude these printouts for lack of authenticity14
VIII.	The Board should exclude TT's invalidity contention response in the CQG litigation as hearsay (Ex. 2084)	
IX.	Conclusion15	

CBM2014-00135 U.S. Pat. No. 6,772,132

Table of Authorities

CBM2014-00135 U.S. Pat. No. 6,772,132

Exhibit List

Exh. No.	Description
1001	U.S. Patent No. 6,772,132 to Kemp, II et al. ("'132 patent")
1002	Petition to Make Special Under 37 C.F.R. § 1.102(d) for Ser. No. 09/590,692, filed August 21, 2000
1003	Request for Reexamination of U.S. Patent No. 6,772,132, Control No. 90/011,250, filed September 22, 2010
1004	Order Denying Request for Reexamination of U.S. Patent No. 6,772,132, Control No. 90/011,250, mailed December 14, 2010
1005	Expert Declaration of Kendyl A. Román ("Román Decl.")
1006	Expert Declaration of David Rho ("Rho Decl.")
1007	U.S. Patent No. 5,077,665 to Silverman et al. ("Silverman")
1008	U.S. Patent No. 5,297,031 to Gutterman et al. ("Gutterman")
1009	U.S. Patent No. 5,375,055 to Togher et al. ("Togher")
1010	CA Publication No. CA 2,305,736 to May ("May")
1011	U.S. Patent No. 5,263,134 to Paal <i>et al.</i> ("Paal")
1012	"Futures/Option Purchasing System Trading Terminal Operation Guidelines," Tokyo Stock Exchange ("TSE JP")
1013	Certified Translation of "System for Buying and Selling Futures and Options Transaction Terminal Operational Guidelines" ("TSE")
1014	Certificate of Translation for "System for Buying and Selling Futures and Options Transaction Terminal Operational Guidelines" ("TSE Certificate")
1015	Memorandum from James M. Hilmert to eSpeed file regarding direct examination of TSE's 30(b)(6) witness, dated December 5, 2005 ("Depo. Letter")
1016	Deposition Transcript of Atsushi Kawashima, <i>Trading Technologies</i> <i>International, Inc., v. eSPEED, Inc.</i> , Case No. 04-cv-5312, United States District Court, Northern District of Illinois, Eastern Division, dated November 21, 2005 ("Depo. Transcript")
1017	Robert Deel, "The Strategic Electronic Day Trader," 2000 ("Deel")

- iv -

DOCKET

A L A R M Find authenticated court documents without watermarks at <u>docketalarm.com</u>.

DOCKET A L A R M



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.