

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TRADING TECHNOLOGIES INTERNATIONAL, INC.)	Case No. 10 C 715
)	(Consolidated with:
)	10 C 716, 10 C 718,
Plaintiff,)	10 C 720, 10 C 721,
)	10 C 726, 10 C 882,
v.)	10 C 883, 10 C 884
)	10 C 885, 10 C 929,
BCG PARTNERS, INC.)	10 C 931)
)	
Defendant.)	Judge Virginia M. Kendall

**DEFENDANTS' REPLY MEMORANDUM OF LAW IN SUPPORT OF
JOINT MOTION FOR SUMMARY JUDGMENT THAT THE '056
PATENT IS INVALID UNDER 35 U.S.C. § 112 ¶ 1 FOR LACK OF
WRITTEN DESCRIPTION**

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PRELIMINARY STATEMENT

As set forth in detail in Defendants' Memorandum of Law in Support of Joint Motion for Summary Judgment (Dkt. 374), the written description of U.S. Patent No. 7,533,056 (the "'056 Patent") fails to provide support, as required under 35 U.S.C. § 112, ¶ 1, for the following limitation which is part of every claim of the '056 Patent:

A method of operation used by a computer for displaying transactional information and facilitating trading in a system where orders comprise a bid type or an offer type, the method comprising:

... receiving a user input indicating a default quantity to be used to determine a quantity for each of a plurality of orders to be placed by the user at one or more price levels.

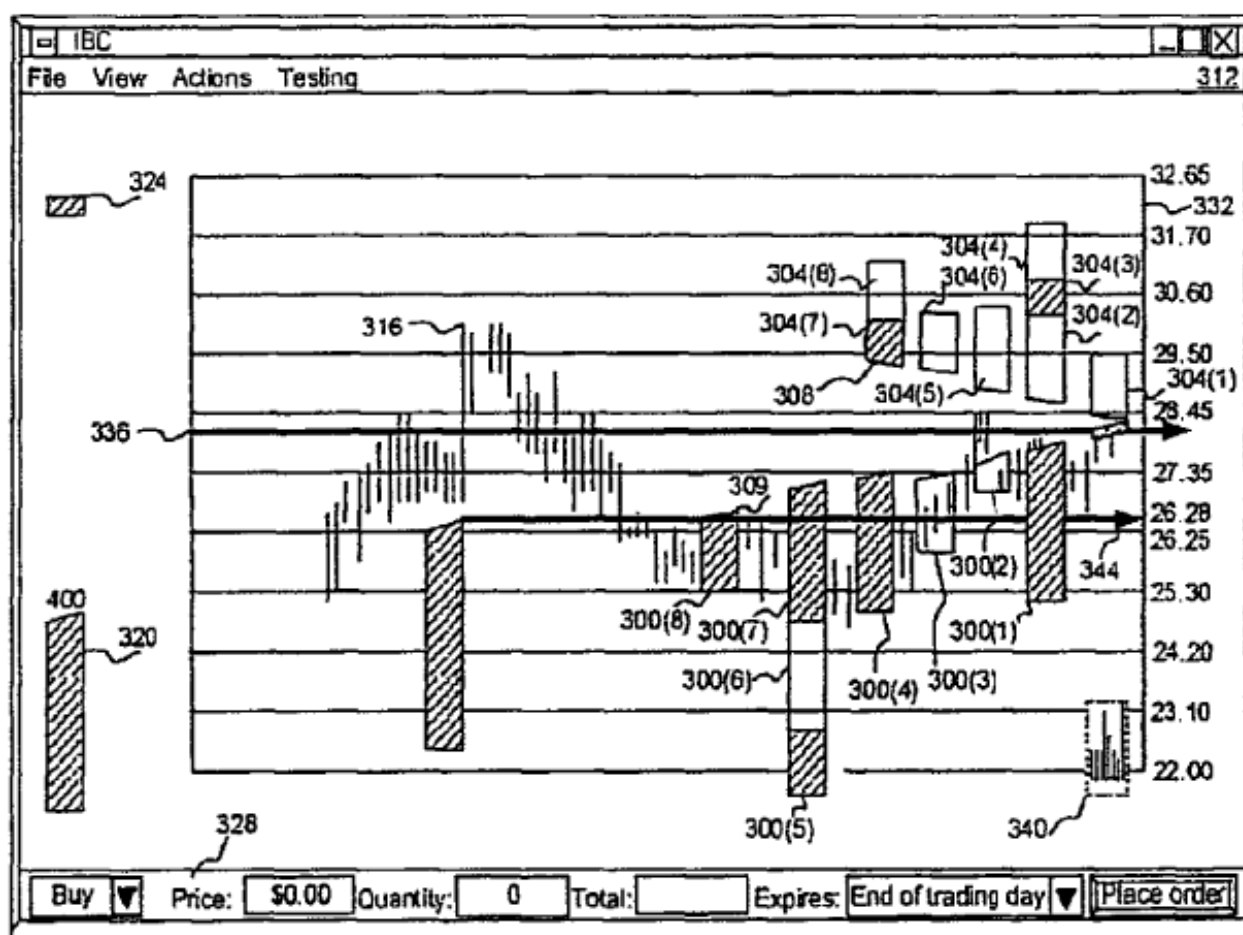
In light of TT's acknowledgement that it relied upon this limitation to overcome the PTO's prior art rejections of the claims that later issued in the '056 Patent, it is remarkable to see the lengths to which TT must go to find even the slightest hint of support for just one fragment of this key limitation – “the concept of a default quantity to be used for multiple orders.” (Hartheimer Decl., ¶ 25) But the claims-in-suit require more than just the bare “concept of a default quantity to be used for multiple orders.” The claims very specifically require a computer-implemented methodology that includes the step of “receiving a user input indicating a default quantity” that is “to be used to determine a quantity for each of a plurality of orders to be placed by the user at one or more price levels.”

TT's expert, as explained more fully below, only opines that there is disclosure of the bare concept of a default quantity, and points to no disclosure of the actual method step at issue. TT's various attempts to paper over this glaring deficiency in its Brief and Rule 56.1 Statement fail. Where, as here, the moving party has challenged the validity of a patent on the grounds that it lacks adequate written description, and the patentee fails to come forward with evidence

showing adequate written description, there is no triable issue of fact and summary judgment of invalidity should be granted.

ARGUMENT

TT's position relies entirely on the disclosure of one of the methods of order entry available in the "Priority View" embodiment of the invention, *i.e.*, using a graphical "order token" 320, 324 to generate an "order icon" 300(), 304 () that represents the desired quantity and dropping it at a position on a "value axis" 332 that corresponds to the desired price, as illustrated in Figure 3A:



Specifically, TT argues, based on various inferences that it draws from Figures 3A-3C, that the order tokens 320, 324 have "predetermined" sizes which do not change "between

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