

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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Patent No. 6,766,304

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**DECLARATION OF KENDYL A. ROMÁN  
IN SUPPORT OF PETITION FOR  
COVERED BUSINESS METHOD REVIEW OF U.S. PATENT 6,766,304**

TDA 1017  
CBM of U.S. Pat. No. 6,766,304

I, Kendyl A. Román, declare as follows:

1. I have been engaged by Sterne, Kessler, Goldstein & Fox P.L.L.C. on behalf of Petitioners, TD Ameritrade Holding Corporation, TD Ameritrade, Inc., and TD Ameritrade Online Holdings Corp. (“Petitioners”) for the above-captioned covered business method review proceeding. I understand that this proceeding involves United States Patent 6,766,304, entitled “Click based trading with intuitive grid display of market depth,” by Gary Allan Kemp, II, filed June 27, 2001 and issued July 20, 2004, (the “’304 Patent”). I understand that the ’304 Patent is currently assigned to Trading Technologies International, Inc. (“TTI”).

2. I understand the ’304 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 ’304 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 ’304 Patent. I understand that the ’304 Patent has been provided as Exhibit 1001. I will cite to the specification using the following format (’304, 1:1-10). This example citation points to the ’304 Patent specification at column 1, lines 1-10.

4. I have reviewed and am familiar with the file history of the ’304 Patent. I understand that the file history has been provided as Exhibit 1022.

5. I have also reviewed and am familiar with the following prior art used in the Petition for Covered Business Method Review of the '304 Patent:

- U.S. Patent No. 5,297,031 to Gutterman et al. (“Gutterman ”). I understand that Gutterman has been provided as Exhibit 1007.
- U.S. Patent No. 5,077,665 to Silverman et al. (“Silverman”). I understand that Silverman has been provided as Exhibit 1008.
- A certified translation of “Futures/Option Purchasing System Trading Terminal Operation Guide” (“TSE”). I understand that the original Japanese language document was provided as Exhibit 1002, the certified translation provided as Exhibit 1003, and the certification of translation provided as Exhibit 1004.
- U.S. Patent No. 5,263,134 to Paal et al. (“Paal”). I understand that Paal has been provided as Exhibit 1009.

6. A complete listing of additional materials considered and relied upon in preparation of my declaration is provided as Exhibit 1019. 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 '304 Patent describes click based trading with intuitive grid display of market depth. ('304 Patent, Title.) I am familiar with the technology described in the '304 Patent as of the earliest possible priority date of the '304 Patent (March 2, 2000).

8. I have been asked to provide my technical review, analysis, insights and opinions regarding the '304 Patent and the above-noted references that form the basis for the grounds of unpatentability set forth in the petition for Covered Business Method Review of the '304 Patent.

## **I. QUALIFICATIONS**

9. See my Curriculum Vitae provided as Exhibit 1018 for a listing of my qualifications. This includes a list of publications for the past 10 years or more.

10. My expertise qualifies me to do the type of analysis required in this case. Of particular relevance, I have been involved in the design, implementation, testing, and analysis of computer software, firmware, and hardware for over thirty years, including software architecture, graphical user interfaces, trading systems, and other networked, data-driven, client-server systems. My work has included analysis of trading systems including source code and user interfaces. In addition, I have practical experience in the design and programming of a variety of computer

systems ranging from handheld devices, to laptops and desktop computers, to large multi-layer networked database systems.

11. As a freshman at Brigham Young University (“BYU”) in 1976, I started writing programs for IBM computers.

12. In 1980, I worked with Apple II computers and wrote computer programs having graphic user interfaces.

13. In the late 1960’s and 1970’s the University of Utah was known for its pioneering work in computer graphics (and the Internet<sup>1</sup>). At BYU, I got involved with computer graphics and wrote graphics programs. Many of my BYU professors had been at the University of Utah during its computer science pioneering years. One of my BYU professors, Alan Ashton, and a fellow computer science student, Bruce Bastian, worked together on word processing software with graphical display. Later, Professor Ashton and Bruce Bastian founded WordPerfect.

14. I graduated with High Honors from Brigham Young University where I received a Bachelor of Science degree in Computer Science. My formal studies

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<sup>1</sup> In 1969, University of Utah was one of the first four nodes on the Internet.

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