

**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.,  
TD AMERITRADE ONLINE HOLDINGS CORP.  
Petitioners**

v.

**TRADING TECHNOLOGIES INTERNATIONAL, INC.  
Patent Owner**

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Case CBM2014-00136  
Patent No. 6,766,304 B2

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**PETITIONERS' REQUEST FOR REHEARING**

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

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## I. Relief Requested

Petitioners and real parties-in-interest, TD Ameritrade Holding Corp., TD Ameritrade, Inc., and TD Ameritrade Online Holdings Corp., (“TD Ameritrade”) respectfully ask the Board to reconsider its decision to not institute review of U.S. Patent No. 6,766,304 B2 (“the ’304 patent”) (Ex. 1001), owned by Trading Technologies International, Inc. (“TTI”), on the asserted grounds that claims 1-40 are unpatentable under 35 U.S.C. §§ 102 & 103 over the TSE grounds and the Silverman/Gutterman grounds.

## II. Introduction

TD Ameritrade petitioned (paper 4) (“Pet.”) the Board seeking CBM Review of the ’304 patent on the following grounds:

	Claims	Ground
1	1-40	§ 101
2	1-3, 5-9, 11-15, 20-23, 26-40	§ 102 TSE (Ex. 1002/1003)
3	4, 10	§ 103 TSE
4	16-19, 24, 25	§ 103 TSE, Gutterman (Ex. 1007)
5	1-25, 27-40	§ 103 Silverman (Ex. 1008), Gutterman
6	26	§ 103 Silverman, Gutterman, Paal (Ex. 1009)

Pet. 8.

In its Decision (paper 19), the Board denied instituting review of all grounds. Decision 21. TD Ameritrade therefore seeks rehearing of the Board's decision to not institute review on the asserted grounds 2- 6, *i.e.*, that claims 1-40 are unpatentable over the TSE grounds (grounds 2-4), and that claims 1-40 are unpatentable over the Silverman/Gutterman grounds (grounds 5 and 6).

**III. The Board should have instituted review of the asserted grounds that claims 1-40 are unpatentable over the TSE grounds and over the Silverman/Gutterman grounds.**

In denying review of claims 1-40 over the TSE grounds and over the Silverman/Gutterman grounds, the Board misapprehended the scope of the “selection of a particular location” limitation, applying an overly-narrow interpretation that required a single action that: selects a particular location, sets a plurality of parameters for a trade order, *and* sends the trade order to the electronic exchange. The Board also misapprehended the asserted Silverman/Gutterman grounds as relying on Gutterman *alone* to meet the “selection of a particular location” limitation, and thus overlooked the Petition's arguments that the graphical user interface (“GUI”) produced by combining Silverman and Gutterman meets the limitations of independent claim 1 and 27.

**A. The Board misapprehended the scope of the “selection of a particular location” limitation recited in the independent claims.**

Independent claims 1 and 27 of the '304 patent recite, “in response to a selection of a particular location of the order entry region by a single action of a user input device, setting a plurality of parameters for a trade order relating to the commodity and sending the trade order to the electronic exchange.” '304 patent 12:62-13:3, 15:8-16. The Board interpreted this limitation to mean that a single action: selects the particular location, sets a plurality of parameters for a trade order, *and* sends the trade order to the electronic exchange. *See* Decision 17 (“The limitation requires that both the setting of the parameters and the sending of the order occur *in response* to a selection of *a particular location of the order entry region by a single action of a user input device.*”). The Board misapprehended the scope of this limitation.

The explicit language of the claim – “in response to a selection of a particular location of the order entry region by a single action of a user input device” – only requires the selection of a particular location of the order entry region be achieved by a single action. The selection of the particular location then triggers functions of “setting a plurality of parameters for a trade order” and “sending the trade order to the electronic exchange.” But the limitation does not specify that the single action achieves the “setting” and “sending” functions.

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