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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., Petitioner

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.

Patent Owner

Case CBM2014-00137

Patent No. 7,685,055

DECLARATION OF RICHARD HARTHEIMER

I, Richard Hartheimer, declare as follows:

1. Introduction

1. I have been retained by the law firm of Finnegan, Henderson, Farabow, Garrett & Dunner, LLP on behalf of Trading Technologies International, Inc. as an independent expert consultant in the above-referenced proceeding. Although I am being compensated at my usual hourly rate for the time I spend on this matter, no part of my compensation depends on the outcome of this proceeding, and I have no other interest in this proceeding.

2. I understand this proceeding involves U.S. Patent No. 7,685,055 (“the ’055 patent”) (Ex. 1001). I understand that the ’055 patent is assigned to Trading Technologies.

3. I have been asked to consider certain documents, and to provide my opinions regarding these documents. My opinions are set forth below.

2. Qualifications

4. My resume is attached to this declaration as Appendix A.

5. Briefly, I have more than 25 years of experience in the design, development, and implementation of trading systems, including both user interfaces and system architecture. I have significant expertise in the design of user interfaces that are uniquely tailored to the desires and needs of professional traders, as well as

various other aspects of trading system design, development, and implementation.

Based on my experience designing, developing, and implementing trading systems, I also have an intimate understanding of both trader perspectives and marketplace needs.

6. My accomplishments include designing, developing, and implementing a trading system that is now the largest broker worldwide for interbank Spot currency trading, designing and commercializing a flagship trading system that is utilized by the entire FX brokerage community, managing the creation of an FRA trading product, creating an institutional banking product where corporate clients consolidate daily statements from multiple banks and effect payments and other banking instruments from their own offices well before the eCommerce era, and designing and developing a news distribution system for a major financial institution. I am also a named inventor on 12 issued U.S. patents in the field of electronic trading.

7. I have considerable experience and expertise designing trader interfaces. I was instrumental in designing the user interface for an interbank trading system in 1988 and again in 1992. I chaired a committee of traders and developers in 1991 where we collaborated to come up with a trading user interface superior in many ways to anything available at the time. This interface served as a model for several later electronic trading product user interfaces. Subsequently in 2005 I designed a user

interface for a broking system that was the cornerstone of my company's product set. More recently in 2012, I designed and managed the development of a trader interface to make an aggregated dealing market available to a bank's internal traders.

3. Information Considered

8. In forming my opinions, I have reviewed the following materials: U.S. Patent No. 7,533,055 (Ex. 1001), along with its file history (Ex. 1002); Petitioner's Petition for Covered Business Method Patent Review of US Patent No. 7,685,055 Under 35 U.S.C. § 321 and § 18 of the Leahy-Smith America Invents Act (Paper 1) and associated materials, including Declaration of Kendyl A. Román (Ex. 1003, "Román Decl."), Declaration of David Rho (Ex. 1004, "Rho Decl."), U.S. Patent No. 5,297,031 to Gutterman et al. (Ex. 1006, "Gutterman"), Petitioner's Translation of "Futures/Option Purchasing System Trading Terminal Operation Guide" (Ex. 1008, "TSE"); Patent Owner's Preliminary Response (Paper 17); and Decision Institution of Covered Business Method Patent Review 37 C.F.R. § 42.208 (Paper 19).

4. Person of Ordinary Skill in the Art

9. In my opinion, one of ordinary skill in the art for purposes of this proceeding is a person having (1) a bachelor's degree or equivalent experience, and (2) two years of experience designing and/or developing user interfaces, including experience designing and/or developing graphical user interfaces for electronic

trading based on input from a person with knowledge of the needs of an electronic trader. I have more than the level of ordinary skill in the art described above.

However, because of my background and my extensive dealings with people having ordinary skill in the art, I am fully capable of speaking about what one of ordinary skill in the art would have understood from reading the specification of the '055 patent and the other documents discussed in this declaration.

5. The “adjusting” of independent claims 1 and 17

10. I understand Petitioner is alleging that TSE renders claims 1, 3, 4, and 6-19 obvious. Supporting this allegation is the Petitioner’s explanation of why TSE renders claims 1 and 17 obvious. Within this the Petitioner alleges that “TSE discloses ‘adjusting the first plurality price levels’ limitation [1C],[17C].” Petition at 20-22. I disagree.

11. Claims 1 and 17 of the '055 patent state, “displaying a first plurality of price levels along a static price axis...” (emphasis added). This clause immediately precedes the clause “... adjusting the first plurality price levels among a range of price levels to an adjusted plurality of price levels....” For this reason, one of ordinary skill in the art would recognize that claims 1 and 17 require that the first plurality of price levels be displayed along a static price axis before the adjustment.

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