

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.
Petitioners

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.
Patent Owner

Patent No. 7,685,055

**DECLARATION OF DAVID RHO
IN SUPPORT OF PETITION FOR
COVERED BUSINESS METHOD REVIEW OF U.S. PATENT 7,685,055**

TDA 1004

I, David Rho, 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 7,685,055, entitled “System and Method for Automatic Repositioning of Market Information in a Graphical User Interface,” by Harris Brumfield, et al., filed May 3, 2006 and issued March 23, 2010 (the “’055 Patent”). I understand that the ’055 Patent is currently assigned to Trading Technologies International, Inc. (“TTI”).

2. I understand the ’055 Patent is a continuation of U.S. Patent Application No. 10/403,881, filed Mar. 31, 2003, which is a continuation of U.S. Patent Application No. 10/125,894, filed on April 19, 2002 now U.S. Pat No. 7,389,268, which is a continuation-in-part of U.S. Patent Application No. 09/971,087, filed Oct. 5, 2001 now U.S. Pat No. 7,127,424, which claims the benefit of U.S. Provisional Application No. 60/238,001, filed Oct. 6, 2000. The U.S. Patent Application No. 10/125,894 is also a continuation-in-part of U.S. Patent Application No. 09/590,692, filed Jun. 9, 2000 now U.S. Pat No. 6,772,132 and U.S. Patent Application No. 09/589,751, filed Jun. 9, 2000 now U.S. Pat No.

6,938,011, both of which claim the benefit of U.S. Provisional Application No. 60/186,322, filed Mar. 2, 2000. U.S. patent application Ser. No. 10/125,894 also claims the benefit of U.S. Patent Application No. 60/325,553, filed Oct. 1, 2001

3. For purposes of the covered business method review, I assume the earliest possible priority date of the '055 Patent is the March 2, 2000 filing date of Provisional Application No. 60/186,322.

4. I have reviewed and am familiar with the specification of the '055 Patent. I understand that the '055 Patent has been provided as Exhibit 1001. I will cite to the specification using the following format ('055 Patent, 1:1-10). This example citation points to the '055 Patent specification at column 1, lines 1-10.

5. I have reviewed and am familiar with the file history of the '055 Patent. I understand that the file history has been provided as Exhibit 1002.

6. I have also reviewed and am familiar with the following prior art used in the Petition for Covered Business Method Review of the '055 Patent:

- U.S. Patent No. 5,077,665 to Silverman et al. ("Silverman"). I understand that Silverman has been provided as Exhibit 1005.
- U.S. Patent No. 5,297,031 to Gutterman et al. ("Gutterman "). I understand that Gutterman has been provided as Exhibit 1006.

- 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 1007, the certified translation provided as Exhibit 1008, and the certification of translation provided as Exhibit 1009.

A complete listing of additional materials considered and relied upon in preparation of my declaration is provided as Exhibit 1015. 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 '055 Patent describes automatic repositioning of market information in a graphical user interface. ('055 Patent, Title.) I am familiar with the technology described in the '055 Patent as of the earliest possible priority date of the '055 Patent (March 2, 2000).

8. I have been asked to provide my technical review, analysis, insights and opinions regarding the '055 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 '055 Patent.

I. QUALIFICATIONS

9. See my Curriculum Vitae provided as Exhibit 1014 for a listing of my qualifications.

II. MY UNDERSTANDING OF CLAIM CONSTRUCTION

10. I understand that, during a covered business method review, claims are to be given their broadest reasonable construction in light of the specification as would be read by a person of ordinary skill in the relevant art.

I. MY UNDERSTANDING OF OBVIOUSNESS

11. I am not a lawyer and will not provide any legal opinions. Although I am not a lawyer, I have been advised certain legal standards are to be applied by technical experts in forming opinions regarding meaning and validity of patent claims.¹

12. I understand that a patent claim is invalid if the claimed invention would have been obvious to a person of ordinary skill in the field at the time of the

¹ I have relied on the Federal Circuit Bar Association Model Patent Jury Instructions, February 18, 2010, as well as my own experience regarding cited cases.

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