

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.

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

**Case CBM2014-00137
Patent No. 7,685,055**

**SUPPLEMENTAL DECLARATION OF KENDYL A. ROMÁN
IN SUPPORT OF PETITIONERS' REPLY IN
COVERED BUSINESS METHOD REVIEW OF U.S. PATENT 7,685,055**

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TDA 1023

I, Kendyl A. Román, declare as follows:

1. I have been engaged by Sterne, Kessler, Goldstein & Fox P.L.L.C. on behalf of Petitioner, TD Ameritrade Holding Corp., 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. (“TT”).

2. I have reviewed the following documents in making this declaration:

- a. The ’055 patent.
- b. The Board’s Decision to Institute issued on December 2, 2014.
- c. TT’s Patent Owner Response (POR) filed March 6, 2015.
- d. The translation of record of “System for Buying and Selling Futures and Options Transaction Terminal Operational Guidelines” (“TSE”). (Ex. 1008).
- e. Harold Abilock’s translation of Chapter 7 of the TSE document, which is attached to his declaration as an Appendix. I concentrated on

the portions cited herein, but I read the entire chapter. The Abilock declaration is Exhibit 2097 in this proceeding, and his translation of TSE is at pages 74 to 103 of the filed declaration. I also reviewed his revised translation portions of page 7-25 of TSE (i.e., page 0115 of the TSE exhibits 1007 and 1008). Specifically, I reviewed his translation of “bullet 2” (as he calls it), which is the first bullet in the middle of page 7-25 (paragraph 69 at pages 32-33 of his declaration) and the text in the figure at the bottom of page 7-25 (paragraph 77 at page 36 of his declaration).

- f. My previous declaration in this proceeding (Ex. 1003).
- g. U.S. Patent No. 5,136,501 to Silverman et al. (“Silverman”), Exhibit 1005.

3. A computer performing the steps of claim 1 is repeatedly receiving data and then performing repetitive calculations to determine where to display each element, and receiving commands to reposition and adjust the axis. Such repetitive calculations and operations may be performed quickly by a computer, but the claims recite no such requirement. Also, other than the conventional steps of receiving and sending data, claim 1 could be performed by a human using pen-and-paper or a white board. The person could be told the highest bid and offer, which

he or she could plot along a price axis. If the person wanted to adjust the display as recited in claim 1, he or she could do it by redrawing or merely adding additional price levels to the top or bottom as TT illustrated in the POR at page 9. The person could replot with updated data as it came in. If the data plotted off the existing axis (i.e., came within a set number of prices from either end of the axis), the person could reposition the axis by redrawing it.

4. The claims in the '055 patent recite a static price axis, and I understand that the Board has adopted TD Ameritrade's proposed construction of that term to mean "a price column where prices do not normally change positions unless a re-centering command is received." Institution Decision at 13. I apply this definition in this declaration. This "do[es] not normally change positions unless a re-centering command is received" formulation of static price axis is found in the '055 patent at 8:17-18.

5. A static price axis is nothing new. If I were to plot data on graph paper or a white board, the price axis would be static until I replotted the data (the same or updated data) based on a repositioned axis. Likewise, Silverman plots bids and offers on paper to illustrate a book of orders. Silverman FIG. 4 (Ex. 1005).

6. TSE teaches using a static price axis in its uncompressed display. See TSE page 7-17 (page 0107 of Exhibit 1008). TSE also teaches a static price axis when in scroll mode, even if the screen is uncompressed. See TSE at 7-20 (page 0110 of Ex. 1008, describing scroll up, scroll down, and Home button which re-centers and transitions back to the basic board screen); 7-25 (page 0115 of Ex. 1008, stating that the price display position does not automatically change in scroll mode).

7. I have also reviewed Mr. Abilock's translation of Chapter 7 of portions of pages 7-17, 7-20 and 7-25 (see Ex. 2097 at 90, 93, 98), and it does not change my opinion. These portions of Mr. Abilock's translation would have conveyed the same teachings to a person of ordinary skill at the time of the purported invention (which is in the mid to late 2000 timeframe).

8. As in the previous paragraph, my opinion regarding TSE in the following paragraphs is based on the TSE translation of record (Ex. 1008). But I provide parallel citations to the TSE translation of record and Mr. Abilock's translation for convenience, because I also reviewed the corresponding portions of Dr. Abilock's translation (and updated translation for portions of page 7-25), and ensured that each corresponding portion would have conveyed the same teachings

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