UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TRADING TECHNOLOGIES INTERNATIONAL, INC.,	)
	)
Plaintiff,	)
	)
v.	) No. 04 C 5312
	)
eSPEED, INC., eSPEED INTERNATIONAL, LTD., ECCO LLC, and ECCOWARE, LTD.,	) Chicago, Illinois
	) October 4, 2007
Defendants.	) 10:30 o'clock a.m.

VOLUME 17-A
TRIAL TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JAMES B. MORAN, and a JURY

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14:39:34 1 basically what their testimony was. They had the TT

14:39:40 2 patent and the TT claims in front of them, and they

14:39:44 3 said, Oh, I find this part in the prior art. Oh, I find

14:39:52 4 this part over here.

14:39:52 5 That is hindsight. That is not what Judge

14:39:57 6 Moran is going to tell you you need to do when you look

14:39:59 7 at obviousness.

14:40:00 8 Then the other thing that they were fond of

14:40:03 9 doing in their testimony is that they took the patent,

14:40:06 10 TT's own patent, and used it as a road map to argue

14:40:11 11 that, Well, once I know what the invention is, I would

14:40:16 12 know how to build it. Well, that is right, that is

14:40:16 13 right.

14:40:20 14 TT, once Harris Brumfield came up with the

14:40:24 15 idea for the combination, was able to build it for him,

14:40:28 16 although it took many months to work out the software

14:40:31 17 kinks. But that is legally improper to say, Once I know

14:40:39 18 about the invention, I can build it. That is the wrong

14:40:41 19 approach.

14:40:42 20 eSpeed's expert also just want to ignore

14:40:46 21 the many disadvantages with Mr. Brumfield's proposal:

14:40:56 22 Might miss the market, slower than the conventional grid

14:41:00 23 screen, less accurate for orders at the market, you are

14:41:03 24 using up a lot of screen real estate.

14:41:06 25 They want to ignore those disadvantages

14:41:12	1	because they undercut the obviousness argument we are
14:41:13	2	trying to make here and they want to minimize the
14:41:19	3	benefits.
14:41:19	4	These are all benefits that they enjoy in
14:41:19	5	their product that they copied from MD Trader: The
14:41:22	6	user has a better view of the market place, what it is
14:41:26	7	doing.
14:41:26	8	The user, trader, has increased confidence
14:41:28	9	that he or she is going to get the right price, and
14:41:32	10	overall, it is a faster trading tool, a more profitable
14:41:37	11	trading tool.
14:41:38	12	They want to ignore that real world
14:41:41	13	evidence, and instead, they want you to focus on four
14:41:44	14	things that have a static price axis -- and they do, we
14:41:51	15	never disputed that. But what they don't have, these
14:41:57	16	four things, is single-action order entry; they don't
14:41:57	17	have working orders in alignment; they don't have
14:42:02	18	single-action cancellation; and two of them, Midas
14:42:06	19	Kapiti and Trade Pad, aren't even prior art.
14:42:19	20	They also want to ignore what happened in
14:42:19	21	the Patent Office. Mr. Godici had to agree. The Patent
14:42:24	22	Office considered the combination of static and
14:42:25	23	single-action. Not only considered it, but found that
14:42:28	24	this was the closest prior art.
14:42:30	25	The first patent was one that showed static

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