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14 June 2011

Dear Sirs,

European Patent Application No. 01920183.9
Opposition to EP1319211
Trading Technologies International, Inc.
Our ref: JFW/41797OPP1

We attach our response to the communication pursuant to Article 101(1) and Rule 81(2) to (3) EPC dated 1 December 2010.

Yours faithfully,


Jan Walaski
Authorised Representative

TDA 1030
TD Ameritrade v. TT
CBM2014-00137

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The document(s) listed below is (are) subsequently filed documents pertaining to the following application:

Application number

01920183.9

Applicant's or representative's reference

JFW/41979OPP1

	Description of document	Original file name	Assigned file name
1	Reply to examination report	Exhibit TT1.PDF	EXRE3-1.PDF
2	Reply to examination report	Exhibit TT2.PDF	EXRE3-2.PDF
3	Reply to examination report	Exhibit TT3.PDF	EXRE3-3.PDF
4	Reply to examination report	Exhibit TT4.PDF	EXRE3-4.PDF
5	Reply to examination report	Exhibit TT5.PDF	EXRE3-5.PDF
6	Reply to examination report	Exhibit TT7.PDF	EXRE3-6.PDF
7	Reply to examination report	20110614 Letter to EPO Munich 41797OPP1.PDF	EXRE3-7.PDF
8	Reply to examination report	Exhibit TT6.PDF	EXRE3-8.PDF
9	Reply to examination report	20110614-Response to communication 41797OPP1.pdf	EXRE3-9.pdf

Signatures

Place: **London**
 Date: **14 June 2011**
 Signed by: **/Jan Walaski/**
 Capacity: **(Representative)**

Response to Communication Pursuant to Article 101(1) and Rule 81(2) to (3) EPC dated 1 December 2010 (the “Article 101(1) Communication”)

The proprietor’s response to the Article 101(1) Communication is set out below using the same numbering as is used within that communication. We have also sought to address additional issues raised by Opponent I in its response dated 30 March 2011. However, where any point raised has not been specifically addressed, this should not be taken to mean that we agree with Opponent I on that point.

General

As a general point, we note that the term “inside market” used in our application is a term of art that is understood by the skilled person as referring to the combination of the highest bid price and the lowest ask price (page 8, lines 2 to 3 of the application as filed). References by the Opposition Division to the “internal market” are therefore taken to be references to the “inside market”.

Article 100(c) EPC 1973 – Added subject-matter

The arguments raised by the Opposition Division with respect to the subject matter extending beyond the content of the application as filed are addressed below. We will also address certain generalisation issues in an expert declaration to be filed later.

4. Article 100(c) EPC 1973 – Independent claim 1

4.1 Display of market depth (deletion)

We agree with the Opposition Division that claim 1 as granted does not extend beyond the content of the application as filed in relation to the fact that the feature of the display of the market depth in addition to the inside market is not recited in claim 1.

We note that Opponent I has made no further comment on this point.

4.2 “Field of static prices”

We agree with the Opposition Division that claim 1 as granted does not extend beyond the content of the application as filed with respect of the use of the term above.

We note that Opponent I has made no further comment on this point.

4.3 First and second indicators

We disagree with the conclusion of the Opposition Division that claim 1 as granted extends beyond the content of the application as filed on the basis that this is an impermissible generalisation of the embodiments illustrated in Figures 3 and 4, in which the display of the inside market is allegedly intimately tied to the display of bid and ask quantities.

The first and second indicators show the best prices, namely, the best bid price and the best ask price. They do this by placing some sort of indication at a location in alignment with the best bid price and the best ask price in the field of static prices. For instance, the paragraph bridging pages 7 and 8 of the application as filed describes that the “inside market” is the highest bid price and the lowest ask price. The paragraph bridging pages 14 and 15 of the application goes on to state that “[t]he inside market and market depth ascend and descend as prices in the market increase and decrease.” The paragraph continues: “[m]arket depth similarly ascends and descends the price column, leaving a vertical history of the market.” The same paragraph states: “Figure 4 shows a screen displaying the same market as that of Figure 3 but at a later interval where the inside market, cells 1101, has risen three ticks.” The application continues to state throughout that the market “ascends and descends” the price column. In addition, the second full paragraph at page 15 of the application states: “Just as the market ascends and descends the vertical Mercury display shown in Figures 3 and 4, the market will move left and right in the horizontal Mercury display.” (emphasis added). At least based on Figures 3 and 4 of the application as filed, a user will see the indicators associated with the inside market being moved – these are the claimed movable indicators and the application as filed, and the figures, describe this movement.

It is not the actual numbers that move between the cells of the display. Opponent I supports that in paragraph 14 of the Opponent I's response. (see, e.g., "However, the bid quantity 18 which represents the quantity of bids at price 89 does not move."). Rather, it is the indication aligned with a price that moves. An analogy can be drawn with the mercury rising and falling in a thermometer to indicate whether the temperature has gone up or down, without the need to look at the precise temperature values. Because the particular numbers are not actually moving (changing positions), it is the indicators that allow the user to see the market movement (e.g., as the best bid price indicator or the best ask price indicator moves up or down in the vertical example). Furthermore, the references in the application as filed to the market moving in the display as the inside market prices increase and decrease provide an explicit disclosure of the movable indicators rather than movable numbers.

The Opposition Division in the fifth paragraph on page 18 of the Article 101(1) Communication states (emphasis added):

In this embodiment, there is no explicit display of the internal market but the user can identify the internal market by identifying the highest price in the price column 1004 for which a bid quantity is displayed in the BidQ column 1003 and the lowest price in the price column for which an ask quantity is displayed in the AskQ column 1005.... The internal market is thus conveyed to the user in an implicit manner on the basis of the display of the bid and ask quantities in the BidQ and the AskQ columns and their relative positions with respect to the prices in the price column.

While the Opposition Division is using the term "convey" in the paragraph quoted above, it could equally well have used the term "indicate". Additionally, displaying the quantities is not even necessary to convey the inside market.

While a number (here quantity) itself gives some information, the presence or absence of the number in a cell also provides information that is separate from the value of the number and is capable of indicating the highest or lowest bid/ask price. We submit that it

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