

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

Case CBM2014-00137
Patent 7,685,055

**PETITIONERS' OBJECTIONS TO PATENT OWNER'S
EVIDENCE PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

Mail Stop "PATENT BOARD"
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Petitioners TD Ameritrade Holding Corp., TD Ameritrade, Inc., and TD Ameritrade Online Holdings Corp. ("Petitioners") object to the admissibility of the following evidence Trading Technologies International, Inc. ("Patent Owner") submitted with its Patent Owner's Response. 37 C.F.R. § 42.64. Petitioners ask the Patent Trial and Appeal Board to deny the admission and consideration of the following documents on the following bases:

Trading Tech Exhibit 2202 - Patent Eligible Subject Matter presentation

Petitioners object to this document as irrelevant under FRE 401 and thus inadmissible under FRE 402, or as confusing or a waste of time under FRE 403, because cited portions are not relevant to any issue remaining in this proceeding, such as patentability of the subject matter, written description of the invention, broadest reasonable interpretation of the claims, indefiniteness of the claims, anticipation of the claims by the prior art, or obviousness of the claims in view of the prior art.

To the extent Patent Owner relies on the contents of this document for the truth of the matter asserted, Petitioners object to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805 or 807.

Petitioners object to this document as not properly authenticated under FRE 901 because Patent Owner has not presented any evidence that the document is authentic nor that the document is self-authenticating under FRE 902.

Petitioners object to the document for lack of foundation. Patent Owner has not shown that the declarant has personal knowledge of the subject matter of the testimony as required by FRE 602.

To the extent Patent Owner relies on the contents of this document to prove the content of the original document, Petitioners object to this document as not being an original document under FRE 1002, an authentic duplicate under FRE 1003, nor a document that falls under any exceptions to the original-document requirement, including those of FRE 1004.

Petitioners object to this document under FRE 1006 as an improper summary because Patent Owner has not shown that the contents of the original cannot be conveniently examined in court nor made the original or duplicates available for examination or copying.

Petitioners object to the document as an improper demonstrative. Patent Owner has not established a proper foundation for the evidence set forth in the document.

Trading Tech Exhibit 2203 - Untitled Video

Petitioners object to this document as irrelevant under FRE 401 and thus inadmissible under FRE 402, or as confusing or a waste of time under FRE 403, because cited portions are not relevant to any issue remaining in this proceeding, such as patentability of the subject matter, written description of the invention, broadest reasonable interpretation of the claims, indefiniteness of the claims, anticipation of the claims by the prior art, or obviousness of the claims in view of the prior art.

To the extent Patent Owner relies on the contents of this document for the truth of the matter asserted, Petitioners object to such contents as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805 or 807.

Petitioners object to this document as not properly authenticated under FRE 901 because Patent Owner has not presented any evidence that the document is authentic nor that the document is self-authenticating under FRE 902.

To the extent Patent Owner relies on the contents of this document to prove the content of the original document, Petitioners object to this document as not being an original document under FRE 1002, an authentic duplicate under FRE 1003, nor a document that falls under any exceptions to the original-document requirement, including those of FRE 1004.

Petitioners object to this document under FRE 1006 as an improper summary because Patent Owner has not shown that the contents of the original cannot be conveniently examined in court nor made the original or duplicates available for examination or copying.

Petitioners object to the document to the extent it offers opinion under FRE 701 - 703. The declarant is not qualified to offer expert testimony, the testimony is not based on sufficient facts or data, and there is no indication that declarant has the expertise necessary to apply the law to the facts as would be necessary to opine under FRE 702. Further, there is no indication that the declarant based those opinions on facts or data upon which an expert in the relevant field would reasonably rely. FRE 703. Further, testimony at these paragraphs falls outside acceptable lay opinion testimony under FRE 701. A party may not evade the expert witness requirements of FRE 702 by simply designating the testimony as lay testimony under FRE 701.

Petitioners object to the document for lack of foundation. Patent Owner has not shown that the declarant has personal knowledge of the subject matter of the testimony as required by FRE 602.

Petitioners object to the document as an improper demonstrative. Patent Owner has not established a proper foundation for the evidence set forth in the document.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.