

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TD AMERITRADE HOLDING CORP., TD AMERITRADE, INC., and TD
AMERITRADE ONLINE HOLDINGS CORP.,
Petitioner,

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.,
Patent Owner.

Case CBM2014-00133
Patent No. 7,676,411 B2

Before SALLY C. MEDLEY, MEREDITH C. PETRAVICK, and
PHILIP J. HOFFMANN, *Administrative Patent Judges*.

HOFFMANN, *Administrative Patent Judge*.

DECISION

Institution of Covered Business Method Patent Review
37 C.F.R. § 42.208

I. INTRODUCTION

A. Background

TD Ameritrade Holding Corp., TD Ameritrade, Inc., and TD
Ameritrade Online Holdings Corp. (collectively, “Petitioner”) filed a
Petition (Paper 1, “Pet.”) on May 19, 2014, which requests review under the

transitional program for covered business method patents of U.S. Patent No. 7,676,411 B2 (Ex. 1001, “the ’411 patent”). Trading Technologies International, Inc. (“Patent Owner”) filed a Preliminary Response (Paper 18, “Prelim. Resp.”) on September 3, 2014. We have jurisdiction under 35 U.S.C. § 324, which provides that review may not be instituted “unless . . . the information presented in the petition . . . would demonstrate that it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable.”

Petitioner challenges the patentability of claims 1–28 (“the challenged claims”) of the ’411 patent under 35 U.S.C. §§ 101 and 103. We determine that the Petition demonstrates it is more likely than not that the challenged claims are unpatentable under 35 U.S.C. § 101, and, therefore, we institute a covered business method patent review of claims 1–28 of the ’411 patent.

B. Related Matters

Petitioner and Patent Owner identify numerous related U.S. District Court cases. *See* Pet. 2; *see also* Paper 7, 2–5.

Patent Owner also states that related U.S. Patent No. 6,772,132 is the subject of *TD Ameritrade Holding Corp. v. Trading Technologies International, Inc.*, Case CBM2014-00135 (PTAB); that related U.S. Patent No. 6,766,304 is the subject of *TD Ameritrade Holding Corp. v. Trading Technologies International, Inc.*, Case CBM2014-00136 (PTAB); and that related U.S. Patent No. 7,685,055 is the subject of *TD Ameritrade Holding Corp. v. Trading Technologies International, Inc.*, Case CBM2014-00137 (PTAB). Paper 7, 5. Patent Owner further states that related U.S. Patent No. 6,766,304 was the subject of Reexamination, Control No. 90/008,577,

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and that related U.S. Patent No. 6,772,132 was the subject of Reexamination, Control No. 90/008,576 and of Reexamination, Control No. 90/011,250. *Id.*

C. The '411 Patent (Ex. 1001)

The '411 patent is titled “Click Based Trading with Intuitive Grid Display of Market Depth,” and issued March 9, 2010, from Application No. 11/585,907, filed October 25, 2006. Ex. 1001, 1. Application No. 11/585,907 claims priority to (as a continuation of) Application No. 11/415,163, filed May 2, 2006, which claims priority to (as a continuation of) Application No. 10/237,131, filed September 9, 2002, which claims priority to (as a continuation of) Application No. 09/590,692, filed June 9, 2000, which issued as related U.S. Patent No. 6,772,132. *Id.*

The '411 patent discloses a “Mercury” display and method of using the Mercury display to trade a commodity. *Id.* at Abstract; col. 3, ll. 9–10. The Mercury display is a graphic user interface (“GUI”) that dynamically displays the market depth of a commodity traded in a market and allows a trader to place an order in an efficient manner. *See id.* at col. 3, ll. 11–28.

The Mercury display is depicted in Figure 3 of the '411 patent, which is reproduced below.

	E/W	10:48:44	BidQ	AskQ	Prc	LTQ
1009	L	3		104	99	
1010	R	5		24	98	
1011		720		33	97	
1012	X	10		115	96	
1013		0		32	95	
1014		10 1H		27	94	
		50 3H		63	93	
1007	S 0 W 24	1K 5H		45	92	
	S 0 W 7	CLR		28	91	
1015	X	10		20	90	10
1016		17		18	89	
1008	B 0 W 15	CXL		97	88	
	B 0 W 13	+ -		30	87	
1017		NET 0		43	86	
1018	B 0 W 17	NET REAL		110	85	
1019				23	84	
				31	83	
1021				125	82	
				21	81	

Fig. 3 depicts the Mercury display of the '411 patent

The Mercury display includes a plurality of columns. Column 1005 is a static price axis, which includes a plurality of price values for the commodity. *See id.* at col. 7, ll. 55–66. Columns 1003 and 1004 are aligned with the static price axis and dynamically display bid and ask quantities, respectively, for the corresponding price values of the static price axis. *See id.* at col. 7, l. 54–col. 8, l. 16. Column 1002 contains various parameters and information used to execute trades, such as the default quantity listed in cell 1016. *See id.* at col. 8, l. 35–col. 9, l. 3.

A trader executes trades using the Mercury display by first setting the desired commodity and default parameters, such as default quantity. *See id.* at col. 9, ll. 36–50; Fig. 6, step 1302. Then, a trader can send a buy order or sell order to the market with a single action, such as clicking on the

appropriate cell in column 1003 or 1004. *See id.* at col. 9, l. 36–col. 10, l. 22; Fig. 6, steps 1306–1315.

Claim 1 of the '411 patent is illustrative of the challenged claims and is reproduced below:

1. A method of displaying market information relating to and facilitating trading of a commodity being traded on an electronic exchange, the method comprising:

receiving, by a computing device, market information for a commodity from an electronic exchange, the market information comprising an inside market with a current highest bid price and a current lowest ask price;

displaying, via the computing device, a bid display region comprising a plurality of graphical locations, each graphical location in the bid display region corresponding to a different price level of a plurality of price levels along a price axis;

displaying, via the computing device, an ask display region comprising a plurality of graphical locations, each graphical location in the ask display region corresponding to a different price level of the plurality of price levels along the price axis;

dynamically displaying, via the computing device, a first indicator representing quantity associated with at least one trade order to buy the commodity at the current highest bid price in a first graphical location of the plurality of graphical locations in the bid display region, the first graphical location in the bid display region corresponding to a price level associated with the current highest bid price;

upon receipt of market information comprising a new highest bid price, moving the first indicator relative to the price axis to a second graphical location of the plurality of graphical locations in the bid display region, the second graphical location corresponding to a price level of the plurality of price levels associated with the new highest bid price, wherein the second graphical location is different from the first graphical location in the bid display region;

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