Page 1

## IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

TRADING TECHNOLOGIES

INTERNATIONAL, INC.,

Plaintiff,

vs.

Vs.

No. 05-cv-4811

CQG, INC. and CQGT, LLC,

Defendants.

VIDEOTAPED DEPOSITION

STEVEN VAN DUSEN

January 20, 2015

Chicago, Illinois

Reported by:

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Job no: 13170

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|    | Page 106   |  | Page 108  |
|----|--|--|---|
| 1  | market. I believe that this this product is worth X,     | 1  | about with the strategies   |
| 2  | so I'm going to bid below X and I'm going to offer above | 2  | A. Mm-hmm.  |
| 3  | X.   | 3  | Q these general strategies  |
| 4  | Q. Okay. So is it fair to say that the TT                | 4  | A. Right.   |
| 5  | patents are not trying to stop anybody from performing   | 5  | Q that you were talking about   |
| 6  | those strategies?  | 6  | A. Mm-hmm.  |
| 7  | MR. VOLLER: Form.  | 7  | Q is it fair to say that the And you've   |
| 8  | BY MR. GANNON:   | 8  | reviewed the patents, right?  |
| 9  | Q. Is that a fair statement?                             | 9  | A. (Nodding.)   |
| 10 | MR. VOLLER: Form.  | 10                                       | MR. VOLLER: Form.   |
| 11 | BY THE WITNESS:  | 11                                       | BY THE WITNESS:   |
| 12 | A. Is it Is it fair to say that the T TT                 | 12                                       | A. I looked at them, yeah.  |
| 13 | patents are not attempting to prevent anyone from        | 13                                       | Q. Yeah. And you've talked about how they the   |
| 14 | performing those strategies? Aga I'm really I'm          | $\begin{vmatrix} 13 \\ 14 \end{vmatrix}$ | patents deal with a static price column, a dynamic                                      |
| 15 | not even sure what you mean. I'm not even sure how to    | 15                                       | display of depth of bids and asks of each price and                                     |
| 16 | answer that.   | 16                                       |   |
| 17 |  | 17                                       | single-click order entry? A. Yes.   |
| 18 | Q. Well, you mentioned that the technology in the        | 18                                       |   |
| 19 | patents  | 19                                       | Q. Is it fair to say that the that the TT   |
| 20 | A. Well, could I I mean                                  | 20                                       | patents are not trying to stop or preclude anybody from                                 |
| 21 | Q. Yeah.   | 21                                       | doing these strategies of of which you've provided A. The two The two that I mentioned? |
| 22 | A. It seems so obvious, no, it doesn't seem like         | 22                                       | Q. Yeah.  |
| 23 | that, but I guess I want to clarify what you mean.       | 1  |   |
| 24 | I'm just wondering if there's something I'm              | 23                                       | MR. VOLLER: Form.   |
| 24 | missing in the question.                                 | 24                                       | BY THE WITNESS:   |
|    | Page 107   |  | Page 109  |
| 1  | Q. Yeah. No, I understand. I'm just trying to            | 1  | A. I think that is a fair statement.  |
| 2  | figure out   | 2  | Q. Okay. Is it fair to say that the TT patents  |
| 3  | So do you understand that a patent gives                 | 3  | do not attempt to prevent others from performing all                                    |
| 4  | somebody the right to exclude others from doing what the | 4  | forms of electronic trading?  |
| 5  | patent invention what's claimed in the patent? Do        | 5  | MR. VOLLER: Form, scope.  |
| 6  | you have a general understanding of that?                | 6  | BY THE WITNESS:   |
| 7  | MR. VOLLER: Form and                                     | 7  | A. I want to make sure I get this right. Could  |
| 8  | BY THE WITNESS:  | 8  | you please repeat that?   |
| 9  | A. That's my   | 9  | Q. Sure.  |
| 10 | MR. VOLLER: scope.                                       | 10                                       | Is it fair to say that the TT patents do not  |
| 11 | BY THE WITNESS:  | 11                                       | attempt to prevent others from performing all different                                 |
| 12 | A. That's my general understanding, yes.                 | 12                                       | types of electronic trading?  |
| 13 | Q. Right.  | 13                                       | MR. VOLLER: Form, scope.  |
| 14 | That you put information in a patent, and if             | 14                                       | BY THE WITNESS:   |
| 15 | the patent gets issued, the inventor then can go out and | 15                                       | A. My My response to that would be And I'm  |
| 16 | stop people from either making, using, or selling the    | 16                                       | sorry I'm taking so long. It just seems obvious, so I'm                                 |
| 17 | ideas that are in the patents?                           | 17                                       | just wondering if I'm missing something Yes,  |
| 18 | MR. VOLLER: Form and scope.                              | 18                                       | because When were the patients issued? I think,   |
| 19 | BY MR. GANNON:   | 19                                       | '04 '03/'04?  |
| 20 | Q. Is that a fair statement?                             | 20                                       | Q. Yeah. And I have them here if you would like   |
| 21 | A. Based on my my limited understanding of the           | 21                                       | to look at them.  |
| 22 | field, yes.  | 22                                       | A. That's okay. That's okay. And algorithmic  |
| 23 | Q. Yeah.   | 23                                       | trading continued to evolve and grow over that period,                                  |
| 24 | So So getting back to what we were talking               | 24                                       | so obviously those patents did not inhibit that.  |

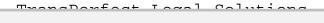
28 (Pages 106 to 109)



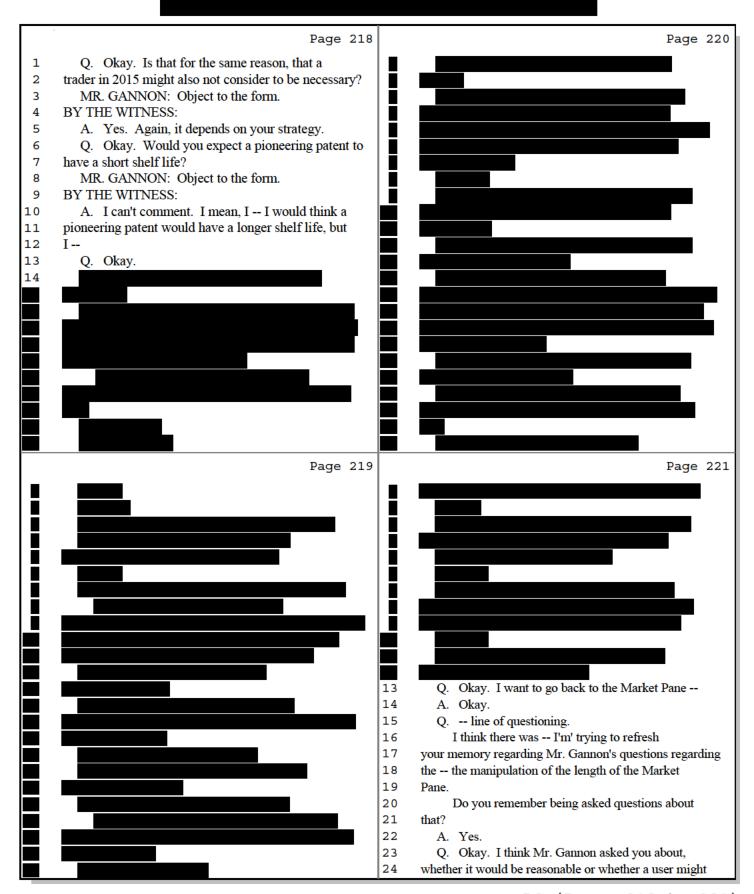
Page 110 Page 112 Q. Yeah. That's what I was getting at, yeah. I 1 future or the ZN, or the S&P 500 future, or -- or any 1 2 2 one of the -- any one of the first -- you know, first appreciate that. 3 3 three or four years of Euro dollars would be highly Is it fair to say that the technology 4 4 described in the patents is directed to a specific type liquid. 5 of graphical user interface for order entry? 5 An illiquid product would be -- Let's talk 6 MR. VOLLER: Form, scope. б about real estate. You know, that's not always very 7 7 liquid. I cited that in my report. I even traded BY THE WITNESS: 8 A. Based on my understanding, yes, point and 8 lumber. I play hockey with a guy that's down there in 9 that pit and I understand that product can get illiquid 9 click, static display of prices, dynamic indicators 10 meaning the size has changed, single-click order entry, 10 too. 11 11 Q. Can you give an example of objects that you yes. 12 12 Q. Right. So the -- Right. trade with a -- with a GUI for an electronic trading 13 13 And so the -- the TT patents are directed to that's in an illiquid product? 14 that specific type of arrangement of elements on a 14 You know, I don't know if that question made 15 graphical user interface, is that a fair statement? 15 sense. 16 MR. VOLLER: Form, scope. 16 A. No. No. No. Let me repeat it back and make 17 BY THE WITNESS: 17 sure I got it correctly. 18 A. That's my understanding, correct. 18 Can I give an example of a product that's 19 Q. Okay. Is it fair to -- in your view, to 19 illiquid where you can use a GUI to trade in? 20 characterize the -- the specific type of graphical user 20 Q. Yeah, that's -- that's right. That's what I 21 interface in the TT patents as a -- as a trading tool? 21 was asking. Very good. 22 MR. VOLLER: Form, scope. 22 A. I'll give -- I'll give you an example. 23 BY THE WITNESS: 23 Q. Okay. A. Is it fair to describe the interface 24 A. Products can be liquid and then illiquid 24 Page 111 Page 113 depict- -- depicted in the patents as a trading tool? during the course of the day. 1 1 2 3 A. I would say that's -- that's a fair statement, 4 yes. 5 Q. And -- And why is that? Just to get your 6 understanding, why do you -- why do you think that? 7 A. Well, there's many tools that you would use in trading. That's one of them that allows to you enter 8 9 orders into the marketplace, allows you to, you know, 10 lift an offer, allows you to place a bid. O. Do you know whether the patents -- the TT 11 12 patents can be used with liquid products? 13 MR. VOLLER: Form, scope. 14 BY THE WITNESS: 15 A. Could you -- Could you clarify what you mean 16 there? What do you mean by liquid products? Q. Yeah. That's -- That's a great question back 17 to me. I should ask you: Do you have an understanding 18 of what a liquid product is in trading versus an 19 illiquid product? 20 21 A. Yes. 22 Q. Okay. So what's -- Let's go with your 22 MR. VOLLER: Form, scope. 23 understanding. 23 THE WITNESS: Sorry. A. Okay. Liquid product would be the ten-year BY THE WITNESS: 24

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Page 214 Page 216 BY THE WITNESS: 1 1 A. Yes. 2 2 A. Yes. Q. And would an electronic trader today require 3 3 the software technology embodied by the asserted patents Q. Okay. Staying on the topic of pioneering but 4 4 moving a little bit off of crowded art, do you consider in order to get out of those positions, or could they 5 TT's asserted patents to be a distinct step forward in 5 use some other software or technology? б б the progress of the art? MR. GANNON: Object to the form. 7 7 MR. GANNON: Object to form. BY THE WITNESS: 8 BY THE WITNESS: 8 A. They could use some other software or 9 9 A. I -- I consider TT's patents to be technology. 10 enhancements and improvements over what was available. 10 11 Q. And are improvements and enhancements, in your 12 opinion, distinct steps forward in the progress of the 13 art? 14 MR. GANNON: Object to the form. 15 BY THE WITNESS: 16 A. An improvement or an enhancement based on my 17 interpretation would be, you know, a logical step. An 18 improvement, it wouldn't be -- it wouldn't enter the 19 realm of a distinct step --20 Q. Okay. 21 A. -- especially when you consider that it's 22 facilitated behavior that was going on before electronic 23 trading. 24 Q. Okay. Mr. Van Dusen, would you consider the Page 215 Page 217 Q. Yeah. And the same line of questions now for 1 software embodied by the asserted patents to be a -- a 1 2 2 necessary tool for an electronic trader today? a hypothetical electronic trader five years ago in 2010. 3 MR. GANNON: Object to the form. 3 would -- would an electronic trader in 2010 consider the BY THE WITNESS: 4 4 technology described in the asserted patents to be 5 5 A. Could you repeat the question? necessary --6 6 MR. GANNON: Object to the form. Q. Sure. 7 7 BY MR. VOLLER: Would electronic traders today consider the 8 technology described in the asserted patents to be a 8 Q. -- tools? 9 9 A. I'm sorry. Could you repeat that? necessary tool? 10 10 MR. GANNON: Object to the form. Q. Sure. 11 11 BY THE WITNESS: You were an electronic trader in 2010, 12 correct? 12 A. I don't believe so. Again, it depends on the 13 trader and -- and the strategy, but it's -- it's my 13 A. That's correct. 14 Q. Okay. Would an electronic trader in 14 opinion that, no, they would not. 15 15 Q. Why not? 2010 consider the technology embodied by the asserted 16 A. It appears to me that there's greater and 16 patents -- and what I mean by that, is the technology 17 described in the asserted patents -- would they senior 17 greater emphasis on automation in the markets. 18 18 consider that technology to be a necessary tool? Q. Okay. And I think you testified earlier that 19 19 some traders that have or that use and algorithmic A. In 2- --20 trading tools sometimes like to have graphical user 20 MR. GANNON: Object to the form. 21 BY THE WITNESS: 21 interfaces to get out of positions, so they don't have 22 to carry them overnight; is that right? 22 A. In 2010? 23 MR. GANNON: Object to the form. 23 Q. Yes. 24 BY THE WITNESS: A. No.



55 (Pages 214 to 217)



56 (Pages 218 to 221)



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