

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 CBM2014-00135
Patent No. 6,772,132 B1

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 4, “Pet.”) on May 19, 2014, which requests review under the

transitional program for covered business method patents of U.S. Patent No. 6,772,132 B1 (Ex. 1001, “the ’132 patent”). Trading Technologies International, Inc. (“Patent Owner”) filed a Preliminary Response (Paper 17, “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 1–56 (“the challenged claims”) of the ’132 patent under 35 U.S.C. §§ 101, 103, and 112. 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 1–56 of the ’132 patent.

B. Related Matters

Petitioner and Patent Owner identify numerous related U.S. District Court cases. *See* Pet. 2–3; *see also* Paper 7, 2–5.

Patent Owner also states that related U.S. Patent No. 7,676,411 is the subject of *TD Ameritrade Holding Corp. v. Trading Technologies International, Inc.*, Case CBM2014-00133 (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

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No. 6,766,304 was the subject of Reexamination, Control No. 90/008,577, and that the '132 patent was the subject of Reexamination, Control No. 90/008,576 and Reexamination, Control No. 90/011,250. *Id.*

C. The '132 Patent (Ex. 1001)

The '132 patent is titled “Click Based Trading with Intuitive Grid Display of Market Depth,” and issued August 3, 2004, from Application No. 09/590,692, filed June 9, 2000. Ex. 1001, 1. Application No. 09/590,692 claims priority to Provisional Application No. 60/186,322, filed March 2, 2000. *Id.*

The '132 patent discloses a “Mercury” display and method of using the Mercury display to trade a commodity. *Id.* at Abstract; col. 3, ll. 5–6. 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. 7–24.

The Mercury display is depicted in Figure 3 of the '132 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 '132 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. 36–48. 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, ll. 35–51. 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, ll. 3–37.

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. 3–17; 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. 7–col. 10, l. 3; Fig. 6, steps 1306–1315.

Claim 1 of the '132 patent is illustrative of the challenged claims and is reproduced below:

1. A method of placing a trade order for a commodity on an electronic exchange having an inside market with a highest bid price and a lowest ask price, using a graphical user interface and a user input device, said method comprising:

setting a preset parameter for the trade order

displaying market depth of the commodity, through a dynamic display of a plurality of bids and a plurality of asks in the market for the commodity, including at least a portion of the bid and ask quantities of the commodity, the dynamic display being aligned with a static display of prices corresponding thereto, wherein the static display of prices does not move in response to a change in the inside market;

displaying an order entry region aligned with the static display prices comprising a plurality of areas for receiving commands from the user input devices to send trade orders, each area corresponding to a price of the static display of prices; and

selecting a particular area in the order entry region through single action of the user input device with a pointer of the user input device positioned over the particular area to set a plurality of additional parameters for the trade order and send the trade order to the electronic exchange.

D. Alleged Grounds of Unpatentability

Petitioner sets forth grounds of unpatentability of the challenged claims as follows:

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