

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

TRADING TECHNOLOGIES)
INTERNATIONAL, INC.,)
Plaintiff,)
vs.) No. 05-cv-4811
CQG, INC. and CQGT, LLC,)
Defendants.)

VIDEOTAPED DEPOSITION

OF

JOHN PHILLIP MELLOR, PH.D.

January 16, 2015

Reported By:

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Ref: 13116

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1 trader, correct?
 2 MR. VOLLER: Form.
 3 BY THE WITNESS:
 4 A. That's not correct. That's, I think,
 5 that's exactly what I described in my report here
 6 is that I did have an understanding of -- of
 7 electronic trading and trading in general and I
 8 think I have an extensive background in graphical
 9 user interfaces. And the combination of those two
 10 things, I think it's very straight forward to
 11 understand what the needs of an electronic trader
 12 are.
 13 Q. Just based on knowing how to design a
 14 graphical user interface, is that what you are
 15 saying, if you know how to design a graphical user
 16 interface, then by definition you know the needs of
 17 a professional electronic trader?
 18 MR. VOLLER: Form.
 19 BY THE WITNESS:
 20 A. That's not what I said. I said
 21 understanding -- having a basic understanding of
 22 trading and electronic trading and the graphical
 23 user interface background, that together is
 24 sufficient.

1 interface, that's a different matter.
 2 BY MR. GANNON:
 3 Q. Okay. But you agree that you are not an
 4 expert in electronic trading?
 5 MR. VOLLER: Form.
 6 BY THE WITNESS:
 7 A. I'm not exactly sure what your
 8 definition of an expert in electronic trading is,
 9 but depending on what that -- what your definition
 10 is, I'm not sure that I would consider myself an
 11 expert in electronic trading.
 12 BY MR. GANNON:
 13 Q. Okay. You know a Chris Thomas, right?
 14 MR. VOLLER: Form.
 15 BY THE WITNESS:
 16 A. I've met him briefly, yes.
 17 BY MR. GANNON:
 18 Q. Okay. Have you looked at his expert
 19 report?
 20 A. I have.
 21 Q. Have you looked at his qualifications?
 22 MR. VOLLER: Form.
 23 BY THE WITNESS:
 24 A. I have.

1 BY MR. GANNON:
 2 Q. Okay. You are not a professional
 3 electronic trader yourself, correct?
 4 A. No, I am not.
 5 Q. And you've had no experience as a
 6 professional electronic trader, correct?
 7 MR. VOLLER: Form.
 8 BY THE WITNESS:
 9 A. That is correct.
 10 BY MR. GANNON:
 11 Q. You've never traded on an electronic
 12 exchange, correct?
 13 MR. VOLLER: Form.
 14 BY THE WITNESS:
 15 A. That's correct.
 16 BY MR. GANNON:
 17 Q. You are not an expert in electronic
 18 trading, correct?
 19 MR. VOLLER: Form.
 20 BY THE WITNESS:
 21 A. I would not say that I'm an expert in
 22 electronic trading, but I understand the needs of a
 23 trader as it relates to the issues in this case,
 24 which is the matter here is a graphical user

1 BY MR. GANNON:
 2 Q. Would it be fair to say that Mr. Thomas
 3 has more experience than you in the field of
 4 electronic trading?
 5 MR. VOLLER: Form.
 6 BY MR. GANNON:
 7 Q. Is that a fair statement?
 8 MR. VOLLER: Form.
 9 BY THE WITNESS:
 10 A. Perhaps. It depends on how you define
 11 the field of electronic trading.
 12 BY MR. GANNON:
 13 Q. Well, how do you define the field of
 14 electronic trading?
 15 MR. VOLLER: Form, relevance.
 16 BY THE WITNESS:
 17 A. I'm not sure I have a definition sitting
 18 here.
 19 BY MR. GANNON:
 20 Q. Well, let me ask -- let me ask you this
 21 way:
 22 Why does it depend on how you define the
 23 field of electronic trading? What do you mean by
 24 that?

1 MR. VOLLER: Form.
 2 BY THE WITNESS:
 3 A. Well, I think I'm just trying to
 4 understand the question and be able to make a --
 5 you know, give you an honest -- you know, an honest
 6 answer about what I think.
 7 BY MR. GANNON:
 8 Q. Well, I asked you, "Would it be fair to
 9 say that Mr. Thomas has more experience than you in
 10 the field of electronic trading?" And you said,
 11 "Perhaps. It depends on how you define the field
 12 of electronic trading."
 13 MR. VOLLER: Form.
 14 BY MR. GANNON:
 15 Q. Do you see that?
 16 MR. VOLLER: Form.
 17 BY THE WITNESS:
 18 A. Do I see that?
 19 BY MR. GANNON:
 20 Q. Did you testify to that? Is that a fair
 21 statement?
 22 MR. VOLLER: Form.
 23 BY THE WITNESS:
 24 A. I think it's -- it sounds like what I

1 A. I did.
 2 BY MR. GANNON:
 3 Q. Okay. And you're familiar with the
 4 patents in this case, right?
 5 A. I am.
 6 Q. I mean, you rendered an opinion on the
 7 patents, right?
 8 A. I did.
 9 Q. And you spent a lot of time analyzing
 10 the patents, right?
 11 A. I did.
 12 Q. And your testimony is the patents relate
 13 to the field of electronic trading, correct?
 14 MR. VOLLER: Form.
 15 BY THE WITNESS:
 16 A. I did say that they are related.
 17 BY MR. GANNON:
 18 Q. Okay. So using that definition of the
 19 field of electronic trading, wouldn't it be fair to
 20 say that Mr. Thomas has more experience than you in
 21 the field of electronic trading?
 22 MR. VOLLER: Form, asked and answered.
 23 BY THE WITNESS:
 24 A. I'm -- again, I'm still a little -- I'm

1 said.
 2 BY MR. GANNON:
 3 Q. Do the patents-in-suit relate to the
 4 field of electronic trading?
 5 MR. VOLLER: Form.
 6 BY THE WITNESS:
 7 A. I think it would be fair to say that
 8 they relate to electronic trading.
 9 BY MR. GANNON:
 10 Q. Okay. With that understanding then,
 11 would it be fair to say that Mr. Thomas has more
 12 experience than you in the field of electronic
 13 trading?
 14 MR. VOLLER: Form.
 15 BY THE WITNESS:
 16 A. I'm not -- I'm not sure how that
 17 relates, helps me answer the question, so I'm
 18 having trouble sorting that out.
 19 BY MR. GANNON:
 20 Q. Well, you said the field of electronic
 21 trading -- or the patents relate to the field of
 22 electronic trading, right?
 23 MR. VOLLER: Form.
 24 BY THE WITNESS:

1 not understanding what you're asking. You know,
 2 the field of electronic trading is very broad.
 3 There is a lot of stuff in it. Not all of that
 4 seems to be applicable to the patents-in-suit, and
 5 so that's what I'm having trouble kind of trying to
 6 parse and understand how that relates.
 7 BY MR. GANNON:
 8 Q. Would it be fair to say that Mr. Thomas
 9 has more experience than you in the field of
 10 graphical user interfaces for electronic trading?
 11 MR. VOLLER: Form.
 12 BY THE WITNESS:
 13 A. I'm not sure that would be a fair
 14 characterization.
 15 BY MR. GANNON:
 16 Q. Why not?
 17 A. Because I think that the underlying
 18 technology is the graphical user interface, there
 19 are -- you know, every graphical user interface
 20 application has sort of needs and goals and I have
 21 extensive experience in graphical user interfaces.
 22 And as I sort of detail in my report, it's over my
 23 career there have been numerous instances where
 24 I've been asked to create a graphical user

1 interface in a domain that I had no prior
2 experience.

3 Q. And what domain was that? Because I
4 meant to ask you about that. You mentioned you
5 design GUIs in other areas. What other areas?

6 MR. VOLLER: Form.

7 BY THE WITNESS:

8 A. Well, they're -- they are cataloged in
9 my expert report, but there is a number of those.
10 I've built graphical user interfaces for
11 helicopters, I've built graphical user interfaces
12 for human computer interaction, graphical user
13 interfaces for insurance adjustment, using
14 satellite photographs. There is a number of others
15 and they are detailed in my report.

16 BY MR. GANNON:

17 Q. Okay. The graphical user interface you
18 designed -- did you say for a helicopter?

19 A. That's correct.

20 Q. Is that graphical user interface being
21 used in a helicopter, do you know?

22 A. That is correct.

23 Q. Which helicopter?

24 A. CH-47 Chinook helicopters.

1 Q. When you designed that graphical user
2 interface, did you need to get up to speed on the
3 need of a helicopter pilot or did you -- or did
4 that not matter?

5 MR. VOLLER: Form.

6 BY THE WITNESS:

7 A. Well, over the course of building that
8 graphical user interface, I certainly learned
9 about, you know, sort of the needs of -- of pilots.
10 Most of the concerns, I think, were pretty straight
11 forward.

12 BY MR. GANNON:

13 Q. But it was a -- strike that.

14 It was important to understand the needs
15 of a helicopter pilot prior to designing a GUI for
16 the helicopter, right?

17 MR. VOLLER: Form.

18 BY THE WITNESS:

19 A. I don't think that's what I said. I
20 said over the course of constructing it.

21 BY MR. GANNON:

22 Q. I'm sorry.

23 A. So I didn't -- I didn't know anything
24 about the heli- -- a helicopter pilot and nor do I

1 know how to fly a helicopter, but I still built
2 that graphical user interface and it is in use.

3 Q. And when you built it, though, you did
4 have to understand the needs of a pilot, the
5 helicopter pilot at some point, right?

6 MR. VOLLER: Form.

7 BY THE WITNESS:

8 A. As I -- as I described, over the course
9 of building it, I certainly learned of some -- I
10 discovered things about the helicopter pilots and
11 what they do, yes.

12 BY MR. GANNON:

13 Q. Okay. So when you designed the
14 graphical user interface for the helicopter, I
15 presume you talked to pilots who were helicopter
16 pilots, professional helicopter pilots?

17 MR. VOLLER: Form.

18 BY THE WITNESS:

19 A. No, actually, I did not.

20 BY MR. GANNON:

21 Q. What does the graphical user interface
22 do in the helicopter that you designed?

23 MR. VOLLER: Form.

24 BY THE WITNESS:

1 A. It includes the primary flight displays
2 and mission displays.

3 BY MR. GANNON:

4 Q. And I -- is that important to be able to
5 fly the helicopter?

6 MR. VOLLER: Form.

7 BY THE WITNESS:

8 A. It is safety critical.

9 BY MR. GANNON:

10 Q. Okay. What do you mean "safety
11 critical"?

12 A. Well, there are some pretty stringent
13 rules about how software for safety critical
14 systems are built and there's -- there is a
15 classification, there is sort of five different
16 levels of classification, and it -- there are a
17 variety of processes that you need to follow to get
18 sort of final approval, final certification for the
19 software. Level A software is sort of the highest
20 level of criticality, and so those -- those
21 portions of the software are designated Level A
22 because if that software system were to fail or
23 give an incorrect or improper indication, it could
24 result in loss of life.