



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/008,577	05/25/2007	6766304	95549/99998	6362

39310 7590 01/07/2008

MBHB/TRADING TECHNOLOGIES  
300 SOUTH WACKER DRIVE  
SUITE 3200  
CHICAGO, IL 60606

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 01/07/2008

Please find below and/or attached an Office communication concerning this application or proceeding.



**DO NOT USE IN PALM PRINTER**

(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

JAMES L. KATZ  
BRINKS HOFER GILSON & LIONE  
NBC TOWER SUITE 3600  
NORTH CITY FRONT PLAZA DRIVE  
CHICAGO, IL 6061

**EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. 90/008,577.

PATENT NO. 6766304.

ART UNIT 3993.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

**Notice of Intent to Issue  
Ex Parte Reexamination Certificate**

<b>Control No.</b> 90/008,577	<b>Patent Under Reexamination</b> 6766304	
<b>Examiner</b> Jeanne Clark	<b>Art Unit</b> 3993	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1.  Prosecution on the merits is (or remains) closed in this *ex parte* reexamination proceeding. This proceeding is subject to reopening at the initiative of the Office or upon petition. Cf. 37 CFR 1.313(a). A Certificate will be issued in view of
  - (a)  Patent owner's communication(s) filed: \_\_\_\_\_.
  - (b)  Patent owner's late response filed: \_\_\_\_\_.
  - (c)  Patent owner's failure to file an appropriate response to the Office action mailed: \_\_\_\_\_.
  - (d)  Patent owner's failure to timely file an Appeal Brief (37 CFR 41.31).
  - (e)  Other: Patent owner did not file comments after order grant.Status of *Ex Parte* Reexamination:
  - (f) Change in the Specification:  Yes  No
  - (g) Change in the Drawing(s):  Yes  No
  - (h) Status of the Claim(s):
    - (1) Patent claim(s) confirmed: 1-40.
    - (2) Patent claim(s) amended (including dependent on amended claim(s)): \_\_\_\_\_
    - (3) Patent claim(s) cancelled: \_\_\_\_\_.
    - (4) Newly presented claim(s) patentable: \_\_\_\_\_.
    - (5) Newly presented cancelled claims: \_\_\_\_\_.
2.  Note the attached statement of reasons for patentability and/or confirmation. Any comments considered necessary by patent owner regarding reasons for patentability and/or confirmation must be submitted promptly to avoid processing delays. Such submission(s) should be labeled: "Comments On Statement of Reasons for Patentability and/or Confirmation."
3.  Note attached NOTICE OF REFERENCES CITED (PTO-892).
4.  Note attached LIST OF REFERENCES CITED (PTO/SB/08).
5.  The drawing correction request filed on \_\_\_\_\_ is:  approved  disapproved.
6.  Acknowledgment is made of the priority claim under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All b)  Some\* c)  None of the certified copies have
    - been received.
    - not been received.
    - been filed in Application No. \_\_\_\_\_.
    - been filed in reexamination Control No. \_\_\_\_\_.
    - been received by the International Bureau in PCT Application No. \_\_\_\_\_.

\* Certified copies not received: \_\_\_\_\_.
7.  Note attached Examiner's Amendment.
8.  Note attached Interview Summary (PTO-474).
9.  Other: \_\_\_\_\_.

cc: Requester (if third party requester)

U.S. Patent and Trademark Office

**STATEMENT OF REASONS FOR PATENTABILITY AND/OR CONFIRMATION**

The following is an examiner's statement of reasons for patentability and/or confirmation of the claims found patentable in this reexamination proceeding: The prior art of record fails to teach a method, or computer readable medium having a dynamic display of bid and ask regions in a commodity market positioned along a common static price axis, such that when the inside market changes, the price levels along the common static price axis do not move in combination with the other claim limitations in independent claims 1 and 27. Dependent claims 2-26 and 28-40 are found patentable for the same reason.

Although TSE (Orientation) A, TSE (Operation) B, Amazon, and Friesen raised a substantial new question of patentability as set forth in the order granting reexamination dated August 2, 2007, these references do not anticipate the above-mentioned claim limitations and do not render the claims obvious. TSE (Orientation) A and TSE (Operation) B clearly teach that the display of prices is automatically updated every three seconds so as to keep the "center price" in the middle of the screen. This teaching is directly counter to the static display of U.S. Patent No. 6,766,304, which uses the static common static price axis so that the user does not accidentally place an order at the unintended price (see column 2 lines 60-68). The requester relies on the one statement in TSE (Operation) B on page 640, which states that in the scroll screen the price display locations do not change automatically, for the teaching of a common "static" price axis. This teaching does not meet the claim limitations, as it is only a teaching that the automatically centering of the "center price" does not occur when the user is in the scroll mode. If it did, the user would not be able to scroll to the desired price, because the scrolling would result in the

Art Unit: 3993

“center price” not being in the center of the screen. Amazon and Friesen also do not teach such claim limitations nor render the claims obvious.

Any comments considered necessary by PATENT OWNER regarding the above statement must be submitted promptly to avoid processing delays. Such submission by the patent owner should be labeled: "Comments on Statement of Reasons for Patentability and/or Confirmation" and will be placed in the reexamination file.

### **Court related documents**

On October 24, 2007, Patent owner's representative and the examiner discussed the submission of court related documents and documents material to the examination. To date, the Patent owner has not submitted any such documents. While the examiner does not disagree with the patent owner's summary of the interview on October 24, 2007, the examiner would like to clarify that the representative was informed that unduly large submissions of documents “may” be returned or not entered in accordance with MPEP 2282. In addition, the examiner is unclear what the patent owner's representative is suggesting in the last paragraph of their summary. To the extent that the patent owner's representative is suggesting that the examiner stated that they are excused from their duty of disclosure under 37 CFR 1.56 and 1.555, such is not the case. The examiner has no authority to do so. The patent owner is advised that entry of prior art submissions or any other documents related to the merits of the proceedings must be filed with a petition under 37 CFR 1.182 in accordance with MPEP 2287.

# 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.