Paper No. _____ Filed: November 30, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TRADESTATION GROUP, INC. AND TRADESTATION SECURITIES, INC.

Petitioner

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.

Patent Owner

Case CBM2015-00161 U.S. Patent 6,766,304 B2

REVISED PATENT OWNER'S PRELIMINARY RESPONSE

CONTENTS

PREI	PRELIMINARY STATEMENT1			
OVE	OVERVIEW OF THE CLAIMED INVENTION			
MOR	ADESTATION'S PETITION FAILS TO SHOW THAT IT IS DRE LIKELY THAN NOT THAT THE CLAIMS OF THE '304 TENT ARE UNPATENTABLE UNDER § 112			
A.	TradeStation Fails to Explain that Its § 112 Argument Has Already Been Considered In Litigation, and Rejected9			
B.	The '304 Patent Claims Meet the Written Description Requirement Under 35 U.S.C. § 11212			
	1. The term "static price axis" does not require "non-static" price levels or a price axis with some price levels static and other price levels non-static—non-static price levels are an unclaimed, unrecited feature			
	2. The claims meet the written description requirement14			
TRADESTATION'S PETITION FAILS TO SHOW THAT IT IS MORE LIKELY THAN NOT THAT THE CLAIMS OF THE '304 PATENT ARE PATENT INELIGIBLE UNDER § 101				
А.	TradeStation Fails to Even Mention the District Court Decision Finding the Claims Eligible under 35 U.S.C. § 101			
В.	The District Court Correctly Rejected TradeStation's § 101 Arguments			
C.	TradeStation's Arguments Under § 101 Fail to Consider the USPTO's Most Recent Examination Guidance			
D.	TradeStation's Incomplete Analysis Cannot Be Saved By a Non-Precedential and Non-Final Board Decision that Predates Both DDR and the PTO's Own Updated § 101 Guidance35			
	OVE TRAI MOR PATI A. B. TRAI MOR PATI A. B. C.			

DOCKET

CBM2015-00161

			U.S. Patent No. 6,766,304				
V.	THE PETITION SHOULD BE DENIED UNDER 35 U.S.C § 322(A)(2) AND 35 U.S.C. § 325(A)(1) BECAUSE TRADESTATION FAILS TO SHOW CQG IS NOT AN RPI, WHILE ADMITTING COORDINATED EFFORTS						
	A.	The Admitted Coordination in Preparing Petitions Against TT's Patents Establishes RPI Status for CQG					
	В.		Agreement to Divide the Petition Filings Amongst endants Represents Payment-In-Kind for Those Petitions				
	C.		CQG's Proxy, TradeStation's Petition Should Be Barred er 35 U.S.C. § 325(a)(1)40				
		1.	RPX illustrates why CQG is an RPI42				
		2.	<i>JP Morgan</i> presents different circumstances than this case				
VI.	THE PETITION SHOULD BE DENIED BECAUSE IT REPRESENTS A MISUSE OF THE COVERED BUSINESS METHOD REVIEW PROCESS						
	A.		Board Has the Authority to Deny the Petition for Misuse of CBM Review Process45				
	B.		eStation's Petition Misuses CBM Review Because It osefully Delayed Its Repetition of Arguments47				
VII.			OULD NOT BE INSTITUTED BECAUSE THE '304 S NOT A COVERED BUSINESS METHOD PATENT50				
	A.	Falls "Cov	eStation's Conclusory and Admittedly "[B]rief" Analysis s Short of Establishing That the '304 Patent Claims a vered Business Method" And Is Therefore Within the dictional Scope of Section 1850				
		1.	TradeStation's reliance on the patent's classification fails to establish CBM eligibility				
		2.	TradeStation's reliance on phrases that are "financial in nature" fails to establish CBM jurisdiction				

CBM2015-00161 U.S. Patent No. 6,766,304

	3.	TradeStation cannot establish CBM jurisdiction by ignoring facts that contradict its conclusion that the claimed invention is a covered business method				
	4.		Station technological invention arguments are ent	54		
		a.	TradeStation failed to show that claims do not recite a novel and non-obvious technological invention because it did not address the claimed GUI	55		
		b.	TradeStation cannot establish CBM jurisdiction by ignoring facts contrary to its conclusion that the claims are not for a technological invention	55		
	5.	by po	Station cannot circumvent establishing jurisdiction inting to a prior, non-precedential decision denying ation	58		
B.	Even If the Board Were to Conduct Its Own Analysis, All of the Evidence Shows That the '304 Patent Falls Outside of the Scope of CBM Review					
	1.	The '304 patent does not claim a covered business method				
	2.	The '	304 patent claims a technological invention	66		
		a.	There is no evidence to refute the Examiner's original determination that the claimed combination of GUI features is novel and non-obvious.	68		
		b.	The prior art GUIs' had a speed and accuracy problem	69		
		C.	The inventors solved the prior art GUIs' speed and accuracy problem as well as another technical problem of usability	73		
		d.	The problem previously identified by the Board was incomplete	75		

DOCKET

CBM2015-00161

		U.S. Patent No. 6,766,	,304
VIII.		THRESHOLD JURISDICTIONAL CBM ISSUE IMPACTS NY PATENTS—WARRANTING AN EXPANDED PANEL	76
	A.	The jurisdictional dispute relates to all GUI improvement patents	76
	B.	The CBM issue warrants consideration by an expanded panel	78
IX.		PETITIONS ON THE PATENTS IN THE RELATED GATIONS SHOULD BE DISMISSED	79
X.	CON	CLUSION	80

DOCKET A L A R M



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.