Paper No. ____
Filed: May 1, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

IBG LLC; INTERACTIVE BROKERS LLC;
TRADESTATION GROUP, INC.; TRADESTATION SECURITIES, INC.;
TRADESTATION TECHNOLOGIES, INC.; and
IBFX, INC.

Petitioners

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.

Patent Owner

Case CBM2015-00172[1]
U.S. Patent 7,783,556

PATENT OWNER'S REQUEST FOR REHEARING

[1] CBM2016-00040 has been joined with this proceeding.

I. INTRODUCTION

Patent Owner respectfully requests rehearing because the Board misapprehended that the Federal Circuit's analysis in *Trading Techs. Int'l, Inc. v. CQG, Inc.*, No. 2016-1616, 2017 WL 192716 (Fed. Cir. Jan. 18, 2017) ("*CQG*") squarely applies here. While the Board declined to apply the rationale from *CQG* because of its belief that the case was on the line, the sole basis for this assertion is dicta that does not address the claims in that case. When applying the *CQG* analysis to the claims here, the claims are properly viewed as being directed to patent eligible subject matter.

II. THE '556 PATENT CLAIMS PATENT-ELIGIBLE SUBJECT MATTER

The Federal Circuit's recent decision in *CQG* supports the eligibility of the claims of the '556 patent, as TT raised in supplemental briefing authorized by this Board and filed on January 30, 2017. Paper 80, at 2-5.

Nonetheless, the PTAB found that the claims of the '556 patent are directed to an abstract idea, misapprehending that the Federal Circuit has already detailed exactly how the *Alice* framework applies to claims like those in the '556 patent.

In *TT v. CQG*, the Federal Circuit found eligible under both steps of *Alice*, patents that claimed "a specific, structured graphical user interface paired with a prescribed functionality directly related to the graphical user interface's structure that is addressed to and resolves a specifically identified problem in the prior state

of the art." *CQG* at *3. Further, the Federal Circuit stated that "specific technologic modifications to solve a problem or improve the functioning of a known system generally produce patent-eligible subject matter." *Id.*

The PTAB misapprehended the Federal Circuit's opinion in *TT v. CQG*. For instance, the Decision stated that with respect to *TT v. CQG*, "the Federal Circuit referred to even those narrower claims [of the '132 and '304 patents] as on the line between patent eligibility and ineligibility." Decision at 34. Yet this ignores that *TT v. CQG* was a unanimous decision, held that the '132 and '304 patents were patent eligible under *either* step of Alice, and decided promptly after oral argument. There was nothing close about that decision.

Like the '304 and '132 patents, the '556 patent is not directed to an abstract idea because it claims a specific, structured graphical user interfaces that solves problems with visualization and usability in prior graphical user interface tools. The '556 patent provides a new application that is "not simply the generalized use of a computer as a tool to conduct a known and obvious process, but instead is an improvement to the capability of the system as a whole." *CQG* at *3.

III. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests that this Board reconsider its Decision and find that the '556 patent is directed to patent-eligible subject matter.

Respectfully submitted,

Date: May 1, 2017

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP

/Michael D. Gannon/

Michael D. Gannon,
Back-Up Counsel, Reg. No. 36,807

Counsel for Patent Owner

300 South Wacker Drive
Chicago, Illinois 60606
(312) 913-0001

CERTIFICATE OF SERVICE

Pursuant to 37 CFR §§ 42.6(s)(4) and 42.205(b), the undersigned certified that on March 24, 2017, a complete and entire copy or this PATENT OWNER'S REQUEST FOR REHEARING was provided via email to the Petitioners by serving correspondence address of record as follows

John C. Phillips
phillips@fr.com

Kevin Su
CBM41919-0002CP1@fr.com

Michael T. Rosato
mrosato@wsgr.com

Matthew A. Argenti
margenti@wsgr.com

Robert E. Sokohl
rsokohl@skgf.comt

Dated: May 1, 2017

By: /Cole B. Richter/
Cole B. Richter,
Counsel for Patent Owner,
Reg. No. 65,398