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 CBM2015-00172 U.S. Patent 7,783,556

REVISED PATENT OWNER'S PRELIMINARY RESPONSE



CONTENTS

I.	PRE	ELIMINARY STATEMENT				
II.	OVE	OVERVIEW OF THE CLAIMED INVENTION				
III.	TRADESTATION'S PETITION FAILS TO SHOW THAT IT IS MORE LIKELY THAN NOT THAT THE CLAIMS OF THE '556 PATENT ARE INELIGIBLE UNDER § 101					
	A.	The '556 Patent Claims Satisfy Part One of the Alice Test				
		1.	The '556 Patent Claims Are Not "Directed to" TradeStation's Alleged Abstract Idea	11		
		2.	The '556 Patent Claims Are Directed to an Improvement in Computer Technology—a Patent-Eligible GUI	20		
	B.	The '556 Claims Recite an Inventive Concept, Satisfying Part Two of the <i>Alice</i> Test				
		1.	TradeStation's Petition Is Fundamentally Flawed Because It Provides No Evidence Disproving the PTO's Original Conclusion that the Claims Contain an Inventive Concept	25		
		2.	TradeStation's Remaining Arguments Fail to Address the Inventive Concept in the Claims	29		
		3.	The Inventive Concept in the '556 Patent Claims Is "Necessarily Rooted in Computer Technology"	31		
	C.	Claims 12-22 Are Not Outside the Four Permissible Statutory Classes of Patentable Subject Matter				
IV.	THE BOARD SHOULD DENY THE PETITION UNDER 35 U.S.C. § 322(a)(2) BECAUSE TRADESTATION FAILS TO SHOW IBG IS NOT AN RPI AFTER ADMITTING COORDINATED EFFORTS					
	A.	It Is TradeStation's Burden to Show IGB Is Not an RPI and Failing to Meet Its Burden Requires Denial of Institution				
	B.	The Admitted Coordination in Preparing Petitions Against TT's Patents Establishes IBG's RPI Status				



V.	THE PETITION SHOULD BE DENIED BECAUSE IT REPRESENTS A MISUSE OF THE CBM REVIEW PROCESS40					
	A.		Board Has the Power to Exercise Its Discretion and Deny Petition	40		
	B.		eStation's Petition Misuses CBM Review Because It osefully Delayed Its Repetition of Arguments	42		
VI.	THE BOARD SHOULD DENY INSTITUTION BECAUSE THE '556 PATENT IS NOT A CBM PATENT					
	A.	A. GUI Design Is a Technology4				
	B.	The Statutory Definition of CBM Requires More Than a Recitation of Financial Activity or a Financial Purpose48				
	C.	Even If the '556 Patent Were a CBM, It Falls Within the Technological Invention Exception Because Novel and Nonobvious Improvements to GUIs Necessarily Fall Within the Technological Invention Exception				
		1.	Novel and Nonobvious Improvements to GUIs Necessarily Claim Novel and Nonobvious Technology	53		
		2.	Novel and Nonobvious Improvements to GUIs Necessarily Claim Technological Solutions to Technological Problems	57		
VII.	THE THRESHOLD JURISDICTIONAL CBM ISSUE IMPACTS MANY PATENTS—WARRANTING AN EXPANDED PANEL58					
	A.	The jurisdictional dispute relates to all GUI improvement patents		58		
	B.	The C	CBM issue warrants consideration by an expanded panel	60		
VIII.	ALL PETITIONS ON PATENTS IN THE RELATED LITIGATIONS SHOULD BE DISMISSED61					
IX.	CONCLUSION6					



TABLE OF AUTHORITIES

Page(s) **Cases** Alice Corp. v. CLS Bank Int'l, Achates Reference Publ'g, Inc. v. Apple Inc., 803 F.3d 652 (Fed. Cir. 2015)60 Bancorp Servs., L.L.C. v. Sun Life Assur. Co., Bilski v. Kappos, Classen Immunotherapies, Inc. v. Biogen IDEC, CyberSource Corp. v. Retail Decisions, Inc., DDR Holdings, LLC v. Hotels.com, L.P., Mayo Collaborative Servs. v. Prometheus Labs., Inc., In re Nuijten, Parker v. Flook, 98 S. Ct. 2522 (1978)......21, 26 Phillips v. AWH Corp., Research Corp. Techs. v. Microsoft Corp., 627 F.3d 859 (Fed. Cir. 2010)33 Ultramercial, Inc. v. Hulu, LLC,



Versata Dev. Grp., Inc. v. SAP Am., Inc., 793 F.3d 1306 (Fed. Cir. 2015)53	3, 60
Statutes	
35 U.S.C. § 101	ssim
35 U.S.C. § 322(a)(2)	7, 38
35 U.S.C. § 324(a)), 41
35 U.S.C. § 325(d)	, 42
AIA Sec. 18	, 52
Other Authorities	
37 C.F.R. § 42.208), 42
37 C.F.R. § 42.301	52
37 C.F.R. § 42.302	37
157 Cong. Rec. S5428 (daily ed. Sept. 8, 2011)50), 51
77 Fed. Reg. 48,756, 48,759 (Aug. 14, 2012)	38
Aceto Agric. Chems. Corp. v. Gowan Co., IPR2015-01016, Paper 15 (PTAB Oct. 2, 2015)	7, 38
Amazon.com, Inc. v. Appistry, Inc., IPR2015-00480, Paper 18 (PTAB July 13, 2015)	37
Google Inc. v. Network-1 Techs., Inc., CBM2015-00113, Paper 7 (PTAB Oct. 19, 2015)11, 15	5, 33
<i>In re Guan</i> , Control No. 95/001,045, Decision Vacating Filing Date, 2008 WL 10682851, at *8 (PTO. May 26, 2008)	38
1 James Wm. Moore et al., <i>Moore's Federal Practice</i> § 3.02[4][a] (3d	20



DOCKET

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.

