

Paper No. \_\_\_\_  
Filed: March 20, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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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

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Case CBM2015-00179  
U.S. Patent 7,533,056 B2

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**PATENT OWNER'S REQUEST FOR REHEARING**

## I. INTRODUCTION

Patent Owner respectfully requests rehearing on just two issues.<sup>1</sup> First, Patent Owner seeks rehearing on the Board's finding that dependent claims 5-7 of the '056 patent are obvious under 35 U.S.C. § 103. Patent Owner believes that the Board misapprehended and/or overlooked an important fact about the TSE reference, which was the primary referenced relied upon by the Board. Specifically, as demonstrated below, the Board found that TSE's Board Screen shows a user's own order at a location that corresponds to price levels along a price axis, and yet this Board previously found (correctly) in a closely related CBM proceeding involving the '999 patent (CBM2016-00032) that TSE's Board Screen does not show a user's own order placed by the trader, but instead only shows the aggregate quantity of orders in the market.

Thus, the final decision in this proceeding conflicts with this Board's previous findings in connection with the closely related '999 patent. Because the Board correctly found in the '999 CBM proceeding that TSE does not show the

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<sup>1</sup> Patent Owner respectfully disagrees with other determinations made by the PTAB, but has elected not to ask for rehearing on those issues at this time. By doing so, Patent Owner is not waiving its right to take these issues up on appeal at the Federal Circuit.

trader's own orders along a price axis, and because dependent claims 5-7 of the '056 by their plain terms require showing the user's own orders, these dependent claims cannot be rendered obvious by TSE.

Second, Patent Owner seeks rehearing on the Board's finding that these same dependent claims 5-7 do not meet 35 U.S.C. § 101. As demonstrated below, the Board also overlooked that these dependent claims do recite an inventive concept and therefore meet § 101.

In sum, Patent Owner respectfully requests that this Board find that Petitioners have failed to show, by a preponderance of the evidence, that claims 5-7 are unpatentable under § 103. Patent Owner also requests that this Board find that these same dependent claims satisfy § 101.

## **II. TSE CANNOT RENDER CLAIMS 5-7 OF THE '056 PATENT OBVIOUS BECAUSE IT DOES NOT INCLUDE AN ORDER ICON INDICATING THE USER'S ORDER IN THE BOARD SCREEN**

### **A. This Board Previously Rejected Petitioner's Argument in a Related CBM**

The '999 patent at issue in the pending proceeding CBM2016-00032 is closely related to the '056 patent at issue here. They each have the same specification. In fact, the '056 patent is a direct continuation of the '999 patent.

The '999 patent is referred to as the "drag and drop" patent because the claims are generally directed to, among other things, displaying an order icon, selecting that order icon, and then moving (e.g., dragging) that order icon to a

location associated with a price along a price axis to send a trade order.

Specifically, the “order icon” element of the independent claims states that the order icon is “associated with an *order by the user* for a particular quantity of the item.” *IBG LLC et al. v. Trading Technologies Int’l, Inc.*, CBM2016-00032, Paper 16, p. 4-5 (P.T.A.B. Aug. 6, 2016). Notably, the dependent claims 5-7 of the ‘056 patent at issue here have a virtually identical “order icon” limitation, namely, “an order icon at a location that corresponds to the desired price level along the price axis, the order icon *indicating the user’s order* at the electronic exchange.” Ex. 1001, 14:37-48 (emphasis added).

In its ruling denying institution on § 103 grounds in the ‘999 CBM proceeding, the Board first noted that “Petitioner relies upon the quantity numbers in column 12 of TSE’s Board/Quotation Screen to teach the claimed *order icons*. Pet. 43-45.” *IBG*, CBM2016-00032, Paper 16 at 26 (emphasis added). The Board then concluded, “[a]s Patent Owner points out (Prelim. Resp. 30), however, the quantity numbers in column 12 of TSE’s Board Quotation Screen *do not* represent the quantity of *an individual order* placed by the trader but the *aggregate quantity* of orders in the market.” *Id.* (emphasis added). Thus, the Board has already found that TSE only shows aggregate orders and not the user’s order.

**B. Here, The Board Has Concluded That TSE’s Board Screen Discloses Individual User Orders, Contrary to the Previous Conclusion in the ‘999 CBM**

As set forth above, the dependent claims 5-7 of the ‘056 patent require an order icon that indicates the user’s own order. POR at 4, 7-9, 64-67. The Board concluded that TSE has this element. In particular, the Board concluded that “TSE meets all of the elements of the claim limitations with the exception of a default quantity and graphical displays.” Paper 141, p. 49. This conclusion, however, overlooks the fact that TSE only shows aggregate orders and does not indicate the user’s own orders, as the plain language of dependent claims 5-7 requires.

Because claims 5-7 require showing the user’s order at a desired price level along a price axis, and because TSE only shows aggregate order and not the user’s own orders, claims 5-7 cannot be deemed obvious over TSE and the other references of record. As such, Patent Owner respectfully requests that this Board find that Petitioners has failed to show, by a preponderance of the evidence, that claims 5-7 are unpatentable under § 103.

**1. The “Order Icon” In Claim 5 Must Show The User’s Own Orders**

A person of ordinary skill in the art (“POSA”) reading the claims and specification of the ‘056 patent would understand that an “order icon” must show the user’s own individual orders. POR at 4, 7-9, 64-67.

As set forth above, the plain language of claim 5 requires that the “order

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