

Paper No. _____
Filed: June 26, 2016

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

PATENT OWNER'S RESPONSE

Contents

I. THE CLAIMED INVENTION1

 A. Independent Claim 11

 B. Dependent Claims 5-73

II. CLAIM CONSTRUCTION4

 A. Price Axis4

 B. Order Icon.....7

 C. Receiving a User Input Indicating a Desired Price for an Order .
 . . by Selection of One of a Plurality of Locations . . . Along the
 Price Axis10

 D. The Desired Price10

III. TT’S CLAIMS ARE NOT DIRECTED TO AN “ABSTRACT IDEA”
 UNDER *ALICE* PRONG ONE.....11

 A. Petitioners Ignore and Overgeneralize the Claim Elements11

 B. TT’s Claims Pass Part I of *Alice* Because They Improve the
 Functioning of the Computer13

 1. GUIs Are Integral Components of Computers, and
 Improvements to GUIs Are Improvements to the
 Computer.....13

 C. TT’s Claims Pass Part I of *Alice* Because They are
 “Undoubtedly Not Abstract”15

 D. TT’s Claims Pass Part I of *Alice* Because They Are Not
 Directed to a Fundamental Economic or Longstanding
 Commercial Practice, A Business Method, Or a Generic GUI.....16

 E. Petitioners’ § 101 Arguments Are Further Deficient for the
 Dependent Claims20

IV. THE CLAIMS PASS PART 2 OF *ALICE* BECAUSE THEY RECITE
 AN INVENTIVE CONCEPT.....21

A.	<i>Alice</i> Prong II: Being Known, and Being Routine and Conventional are Different Concepts, and § 101 is a Different Test Than Anticipation or Obviousness	21
B.	TT’s Claims As A Whole Establish An Inventive Concept.....	25
1.	The Claimed Inventive Concept Improves Technology.....	25
2.	The Inventive Concept Is “Necessarily Rooted in Computer Technology”	26
V.	THE ’056 PATENT IS INELIGIBLE FOR CBM REVIEW.....	28
A.	The ’056 Patent Falls Under the Technological Exception	28
1.	The Claims Recite a Technical Feature that is Novel and Unobvious	29
B.	The ’056 Patent Does Not Claim “Data Processing” or “Other Operation” (e.g., a Business Method).	33
1.	The Claims of the ’056 Patent Are Directed to a GUI Tool, Not “Data Processing”	33
VI.	PETITIONERS’ PRIOR ART ARGUMENTS FAIL.....	34
A.	Petitioners’ TSE Grounds Fail	34
1.	The Petition Fails to Prove TSE Is Prior Art	34
2.	The Invention Was Conceived Prior to Any Alleged Distribution of TSE and Diligently Reduced to Practice.....	41
3.	The Failure of Others to Make the Claimed Combination Demonstrates the Non-obviousness of the Invention	56
4.	TSE Does Not Disclose or Suggest the Claimed “order icon” of Claims 5-7	64
B.	Petitioners’ Silverman Grounds Fail.....	68
1.	Silverman’s Figures 4, 5, and 17 Show Logical Models, Not a GUI.....	68

2.	A POSA Would Not Have Implemented Silverman as a GUI.....	71
3.	Petitioners’ Silverman Grounds Rely on Misinformed Testimony.....	74
4.	Even if Improperly Read as Teaching a GUI, Silverman Does Not Disclose the Claimed “price axis”	76
5.	Petitioners’ Addition of Hogan to the Silverman Ground Does Not Cure Silverman’s Defects, Nor Does it Render the Combination Obvious	77
6.	The Alleged Combination of Silverman, Togher, Cooper, and Hogan Does Not Disclose or Teach the Claimed “Order Icon” Recited in Claims 5-7	79

Table of Authorities

Cases	Page(s)
<i>In re Abele</i> , 684 F.2d 902 (C.C.P.A. 1982)	21
<i>ActiveVideo Networks, Inc. v. Verizon Commc'ns, Inc.</i> , 694 F.3d 1312 (Fed. Cir. 2012)	72
<i>Affinity Labs of Tex., LLC v. DirecTV, LLC</i> , 109 F. Supp. 3d 916, 942 (W.D. Tex. 2015)	22
<i>Alice Corp. v. CLS Bank Int'l</i> , 134 S. Ct. 2347 (2014).....	<i>passim</i>
<i>Atlanta Attachment Co. v. Leggett & Platt, Inc.</i> , 516 F.3d 1361 (Fed. Cir. 2008)	55
<i>Bilski v. Kappos</i> , 130 S. Ct. 3218 (2010).....	15, 16, 17, 18
<i>Blue Calypso, LLC v. Groupon, Inc.</i> , 815 F.3d 1331 (Fed. Cir. 2016)	35, 38, 39
<i>Cooper v. Goldfarb</i> , 154 F.3d 1321,1330 (Fed. Cir. 1998)	43
<i>In re Cronyn</i> , 890 F.2d 1158 (Fed. Cir. 1989)	35, 38
<i>In re Cyclobenzaprine</i> , 676 F.3d at 1073	72, 75
<i>In re Dardick</i> , 496 F.2d 1234 (C.C.P.A. 1974).....	55
<i>DDR Holdings, LLC v. HOTELS.COM</i> , 773 F.3d 1245 Fed. Cir. 2014	<i>passim</i>
<i>Diamond v. Diehr</i> , 450 U.S. 175 (1980).....	17

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.