

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.,
Petitioner,

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.,
Patent Owner.

Case CBM2015-00181
Patent 7,676,411 B2

Before SALLY C. MEDLEY, MEREDITH C. PETRAVICK, and
JEREMY M. PLENZLER, *Administrative Patent Judges*.

PLENZLER, *Administrative Patent Judge*.

DECISION
Institution of Covered Business Method Patent Review
37 C.F.R. § 42.208

INTRODUCTION

A. Background

IBG LLC, Interactive Brokers LLC, TradeStation Group, Inc., TradeStation Securities, Inc., TradeStation Technologies, Inc., and IBFX, INC. (collectively, “Petitioner”) filed a Petition on September 11, 2015 requesting covered business method patent review of claims 1–28 (the “challenged claims”) of U.S. Patent No. 7,676,411 B2 (Ex. 1001, “the ’411 patent”). Paper 7 (“Pet.”). On December 30, 2015, Trading Technologies International, Inc. (“Patent Owner”) filed a Preliminary Response. Paper 22 (“Prelim. Resp.”).

We have jurisdiction under 35 U.S.C. § 324, which provides that a covered business method patent review may not be instituted “unless . . . it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable.”

Upon consideration of the Petition and Preliminary Response, we determine that Petitioner has demonstrated that it is more likely than not that the challenged claims are unpatentable. Accordingly, we institute a covered business method review of claims 1–28 of the ’411 patent.

B. Expanded Panel Request

Patent Owner suggests that the decision on institution be made by an expanded panel of administrative patent judges. Prelim. Resp. 80. Discretion to expand a panel rests with the Chief Judge, who, on behalf of the Director, may act to expand a panel on a suggestion from a judge or panel. *AOL Inc. v. Coho Licensing LLC*, Case IPR2014-00771, slip op. at 2 (PTAB Mar. 24, 2015) (Paper 12) (informative). Patent Owner’s suggestion was considered by the Acting Chief Administrative Patent Judge, who declined to expand the panel.

C. Related Proceedings

The parties indicate that the '411 patent is the subject of numerous related U.S. district court proceedings. Pet. 2; Paper 11, 2–6.

The '411 patent was the subject of a petition for covered business method patent review in *TD Ameritrade Holding Corp. v. Trading Technologies International, Inc.*, CBM2014-00133 (PTAB), for which trial was instituted, but later terminated.

Numerous patents are related to the '411 patent and the related patents are or were the subject of numerous petitions for covered business method patent review and reexamination proceedings.

D. Asserted Grounds

Petitioner contends that the challenged claims are unpatentable under 35 U.S.C. §§ 101 and 103 based on the following grounds (Pet. 14–80).

References	Basis	Claims Challenged
N/A	§ 101	1–28
Silverman ¹ , Gutterman ² , Belden ³ , and Togher ⁴	§ 103	1–10 and 12–28
Silverman, Gutterman, Belden, Togher, and Paal ⁵	§ 103	11
TSE ⁶ , Belden, and Togher	§ 103	1–28

¹ U.S. Pat. No. 5,077,665, iss. Dec. 31, 1991 (Ex. 1003, “Silverman”).

² U.S. Pat. No. 5,297,031, iss. Mar. 22, 1994 (Ex. 1004, “Gutterman”).

³ PCT Pub. No. WO 90/11571, pub. Oct. 4, 1990 (Ex. 1009, “Belden”). The page numbers referenced herein are those at the bottom of each page.

⁴ U.S. Pat. No. 5,375,055, iss. Dec. 20, 1994 (Ex. 1005, “Togher”).

⁵ U.S. Pat. No. 5,263,134, iss. Nov. 16, 1993 (Ex. 1018, “Paal”).

⁶ Tokyo Stock Exchange Operation System Division, Futures/Option Purchasing System Trading Terminal Operation Guide (1998) (Ex. 1006). Citations to this reference refer to its English translation (Ex. 1007).

Petitioner provides testimony from David Rho (Ex. 1023; “the Rho Declaration) and Kendyl A. Román (Ex. 1019; “the Román Declaration”) to support its challenges.

E. The '411 Patent

The '411 patent is titled “Click Based Trading with Intuitive Grid Display of Market Depth.” Ex. 1001, (54). The '411 patent describes a display, named the “Mercury” display, and method of using the display to trade a commodity. *Id.* at Abstract, 3:9–14. The '411 patent explains that the Mercury display is a graphic user interface (“GUI”) that dynamically displays the market depth of a commodity traded in a market and allows a trader to place an order efficiently. *Id.* at 3:15–28. The Mercury display is depicted in Figure 3, which is reproduced below.

FIG. 3

	E/W	10:48:44	BidQ	AskQ	Prc	LTQ
1009	L	3		104	99	
1010	R	5		24	98	
1011		720		33	97	
1012	X	10		115	96	
1013		0				
1014		10 1H		32	95	
		50 3H		27	94	
1007	S 0 W 24	1K 5H		63	93	
	S 0 W 7	CLR		45	92	
1015	X	10		28	91	
1016		17		20	90	10
1008	B 0 W 15	CXL	18		89	
	B 0 W 13	+ -	97		88	
1017		NET 0	30		87	
1018	B 0 W 17	NET REAL	43		86	
1019			110		85	
			23		84	
			31		83	
1021			125		82	
			21		81	

Figure 3 of the '411 patent illustrates an example of the Mercury display with example values for trading a commodity including prices, bid and ask quantities relative to price, and trade quantities.

The Mercury display includes a plurality of columns. Column 1005 is a static price axis, which includes a plurality of price values for the commodity. *See id.* at 7:55–66. The '411 patent explains that “[t]he column does not list the whole prices (e.g. 95.89), but rather, just the last two digits (e.g. 89).” *Id.* at 7:57–58. Columns 1003 and 1004 are aligned with the static price axis and dynamically display bid and ask quantities, respectively, for the corresponding price values of the static price axis. *See id.* at 7:54–8:16. The '411 patent explains that “[t]he exchange sends the price, order and fill information to each trader on the exchange” and that “[t]he physical

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