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1   UNITED STATES DISTRICT COURT
                    NORTHERN DISTRICT OF ILLINOIS
2   EASTERN DIVISION

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4   TRADING TECHNOLOGIES INTERNATIONAL,)
     INC.,   )
5   )
                         Plaintiff,   )
6   )
                 v.   ) No. 04 C 5312
7   )
     eSPEED, INC., eSPEED INTERNATIONAL,)
8   LTD., ECCO LLC, and ECCOWARE, LTD.,) Chicago, Illinois
) September 26, 2007
9   Defendants.   ) 10:00 o'clock a.m.

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11   VOLUME 11-A
                TRIAL TRANSCRIPT OF PROCEEDINGS
12   BEFORE THE HONORABLE JAMES B. MORAN, and a JURY

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APPEARANCES:

14

Trading Technologies   TRADING TECHNOLOGIES
15   International, Inc., by: INTERNATIONAL, INC.,
                               MR. STEVEN F. BORSAND
16   222 South Riverside Drive
                               Chicago, Illinois 60606
17   312-476-1000
                               steve.borsand@
18   tradingtechnologies.com
              and
19   McDONNELL, BOEHNEN, HULBERT &
                               BERGHOFF, LTD.
20   MR. PAUL H. BERGHOFF
                               MR. S. RICHARD CARDEN
21   MR. CHRISTOPHER M. CAVAN
                               MR. MICHAEL D. GANNON
22   MS. JENNIFER M. KURCZ
                               MR. MATTHEW J. SAMPSON
23   MR. LEIF R. SIGMOND
                               300 South Wacker Drive
24   Chicago, Illinois 60606
                               312-913-0001
25   berghoff@mbhb.com
                               kurcz@mbhb.com

```
 1   eSpeed, Inc., eSpeed        WINSTON & STRAWN
     International, Inc.,        MR. GEORGE C. LOMBARDI
 2   Ecco LLC, Eccoware,         MR. RAYMOND C. PERKINS
     LTD., by:                   MR. IMRON T. ALY
 3                               MR. KEVIN BANASIK
                                 MS. ELIZABETH HARTFORD ERICKSON
 4                               MR. ANDREW M. JOHNSTONE
                                 MS. TRACEY J. ALLEN
 5                               MR. JAMES M. HILMERT
                                 35 West Wacker Drive
 6                               Chicago, Illinois 60601
                                 312-558-5600
 7                               glombardi@winston.com
                                 rperkins@winston.com
 8
                                 LAW OFFICES OF
 9                               GARY A. ROSEN, P.C.
                                 MR. GARY A. ROSEN
10                               1831 Chestnut Street, Suite 802
                                 Philadelphia, Pennsylvania  19103
11                               215-972-0600

12
     Rosenthal Collins Group,    DOWELL BAKER
13   LLC, by:                    MR. GEOFFREY A. BAKER
                                 201 Main Street
14                               Lafayette, IN 47901
                                 765-429-4004
15                               gabaker@dowellbaker.com

16

17

18

19

20

21

22

23   Court Reporter:            MS. CAROLYN COX, CSR, RPR, CRR
                                 Official Court Reporter
24                               219 S. Dearborn Street, Suite 1854-B
                                 Chicago, Illinois  60604
25                               (312) 435-5639
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1   (The following proceedings were had in open court,

10:10:14   2   outside the presence and hearing of the jury:)

10:10:14   3   THE COURT: Good morning. The one motion

10:10:15   4   that -- I think I only got one motion pending, don't I?

10:10:22   5   MR. CARDEN: It's the one on the

10:10:24   6   non-infringement --

10:10:26   7   THE COURT: Yes. As I understand eSpeed's

10:10:38   8   position, it is that with a centering mechanism in the

10:10:44   9   software that -- an automatic centering, that eSpeed

10:10:57   10   doesn't -- couldn't directly infringe because it would

10:11:00   11   have to be used without the centering to be infringement

10:11:06   12   so that it is a contributory infringement claim, and

10:11:14   13   eSpeed says unless we induce people to not use the

10:11:21   14   centering mechanism, then -- well, plaintiff has to show

10:11:27   15   inducement.

10:11:30   16   And as I understand the previous evidence, I

10:11:35   17   think only one witness touched on this and that was

10:11:38   18   basically that traders who are using multiple screens,

10:11:45   19   most of which are inactive at any given time so they are

10:11:48   20   concentrating on one screen, are going to use the

10:11:51   21   centering, automatic centering, because they are really

10:11:55   22   not paying any attention to it, and if they turn to

10:11:58   23   them, they want to have it centered, but the screen

10:12:02   24   they're using that's active that in those circumstances

10:12:07   25   traders by and large don't want a centering device

10:12:11 1 automatic because they want to have control over what's

10:12:15 2 happening. And am I correct in understanding what

10:12:20 3 eSpeed's position is?

10:12:22 4   MR. PERKINS: I believe that's essentially

10:12:24 5 correct, yes, your Honor.

10:12:25 6   THE COURT: Okay.

10:12:26 7   MR. SAMPSON: Your Honor, there's one

10:12:28 8 addition to that from TT's position and that is that,

10:12:33 9 you know, the demonstration and training is also use of

10:12:38 10 the method by eSpeed and the witness addressed that as

10:12:42 11 well.

10:12:42 12   THE COURT: Yes, they show them both ways.

10:12:44 13   MR. SAMPSON: Right.

10:12:46 14   MR. CARDEN: So that would actually be a

10:12:47 15 direct infringement.

10:12:48 16   MR. SAMPSON: That is a direct infringement.

10:12:50 17   THE COURT: So given that circumstance, do

10:12:52 18 people want to rely on what they've given me already, or

10:12:56 19 anybody want to file anything more?

10:12:59 20   MR. PERKINS: Just one further point on the

10:13:01 21 inducement, your Honor. There's also an intent element

10:13:04 22 to it that eSpeed --

10:13:06 23   THE COURT: I'm sorry?

10:13:07 24   MR. PERKINS: There is an intent element to

10:13:08 25 the inducement.

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