

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Trading Technologies)	
International, Inc.,)	
)	
Plaintiff,)	Civil Action No. 04 C 5312
)	
v.)	Judge James B. Moran
)	
eSpeed, Inc., eSpeed International, Ltd.,)	
Ecco LLC, and EccoWare Ltd.,)	
)	
Defendants.)	
)	

SUPPLEMENTAL INVALIDITY CONTENTIONS OF ESPEED, INC., ESPEED INTERNATIONAL, LTD., ECCO LLC, AND ECCOWARE LTD.

eSpeed, Inc., eSpeed International, Ecco LLC, and Eccoware, Ltd. (collectively "eSpeed") hereby submit its their Supplemental Invalidity Contentions with respect to the '132 and '304 patents. eSpeed reserves the right to supplement these invalidity contentions as new and additional information and discovery becomes available. eSpeed also incorporates by reference the reports on of its experts relating to invalidity which will be disclosed pursuant to the expert schedule in this case. These contentions also are based on the claims that TT has asserted eSpeed infringes. Investigation continues and eSpeed reserves the right to supplement its invalidity contentions as appropriate.

A. Invalidity Under Sections 102 and 103.

Based on the prior art identified in the claim chart below, eSpeed's Supplemental Interrogatory Responses, the May 25, 2007 Letter from R. Perkins to R. Carden, the prior art identified in all of the filed Notices of Oppositions to TT's European Patent No. 1 319 211 which prior art is incorporated herein by reference, the prior art identified in eSpeed's briefs in

opposition to TT's Motion for Preliminary Injunction which are incorporated herein by reference, the declaration of Brendan Bradley submitted in opposition to TT's motion for preliminary injunction which is incorporated herein by reference, GL Trade Americas, Inc.'s Responses and Supplemental Response to TT's Interrogatory Nos. 5, 17 and 18 which are incorporated herein by reference, and the depositions that have been taken in this case and the deposition exhibits identified in those depositions, all of which are incorporated herein by reference, the patents in suit are invalid under Sections 102(a), (b), (d), (g) and 103 of the Patent Code. As demonstrated in these documents and in the prior art, TT's trading system was nothing new, but instead was disclosed or used in prior art electronic trading systems all around the world prior to the patents' critical date. In addition, TT's alleged claimed invention was nothing more than an obvious combination of this prior art. Finally, all of TT's patent claims are invalid as indefinite, because they fail to particularly point out and distinctly claim the subject matter which the applicant regards as his invention.

'132 Patent Claim Chart

	'132 CLAIM ELEMENT	GL WIN With TRADEPAD Versions 4.31, 4.50, and 4.51 and DX 384, 385, 537, 538, 539, 593, 593A, 598, 592, 605, 612, and 626.¹	WIT CAPITAL DIGITAL STOCK MARKET²	TOKYO STOCK EXCHANGE SYSTEM AND THE AUGUST 1998 MANUAL³	ADDITIONAL PRIOR ART
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¹ eSpeed incorporates the deposition testimony of: Mike Glista, Laurent Havard, Gerard Varjacques, Jon-Cedric Jollant, Bruno Spada, Mike Cartier, Marcel Tchitchiana, Christina Dobson, Fred Mastro, Chris Malo, Anne Laurell, Tina Yavorsky, and Philippe Carre, and GL 30(b)(6) witnesses. eSpeed also may rely on the testimony of Amy Watson, John Restivo, and Steve Goode to support its allegations on Tradepad. eSpeed also may rely on any of the rebuttal witnesses identified by TT with respect to Tradepad. As set forth in these depositions, GL Win with Tradepad Versions 4.31, 4.50, and 4.51 were used, offered for sale, sold and/or ready for patenting before the critical date.

² eSpeed incorporates the deposition testimony of Charles Mauro, Walter Buist, Chris Buist and Bill Bautz as support to support its allegations regarding Wit Capital. eSpeed also incorporates the exhibits that were identified during those depositions including DX 194-213, 283-315, 422-447 and PX 358-378.

	'132 CLAIM ELEMENT	GL WIN With TRADEPAD Versions 4.31, 4.50, and 4.51 and DX 384, 385, 537, 538, 539, 593, 593A, 598, 592, 605, 612, and 626. ¹	WIT CAPITAL DIGITAL STOCK MARKET ²	TOKYO STOCK EXCHANGE SYSTEM AND THE AUGUST 1998 MANUAL ³	ADDITIONAL PRIOR ART
1	A method of placing a trader order for a commodity on an electronic exchange having an inside market with a highest bid price and a lowest ask price, using a graphical user interface and a user input device, said method comprising:	The Tradepad trading system had a method for placing an order for a commodity on an electronic exchange. It displayed the inside market with a highest bid price and a lowest ask price using a graphical user interface. It used a user input device, i.e., a mouse to place an order.	The system is an electronic trading system that displays the inside market with the highest bid price and the lowest ask price using a graphical user interface. It uses a mouse and/or keyboard to place a trade order.	TSE's August 1998 Manual describes "an electronic trading system which displayed market information for a commodity on a graphical user interface." (Man. at TSE 610) (TSE Dep. at 15) The manual describes "an electronic trading system that a trader can use to place a trade order for a commodity on an electronic exchange." (TSE Dep at 15-16.) (Man. at TSE 610-619) Pgs. 7-17, 7-18, 7-25, and 7-26 of the 1998 manual all show screen shots of an electronic	Swiss Exchange SWX TS User Manual Dec. 1998. Contains a vertical price display with the inside market and market depth. (Describes a trading system for placing orders on the Swiss Stock Exchange.) (Man. at 1-1). Pages 6-7, 6-13, 6-14, and 6-16 of the manual all show a trading screen -- the Order Book Overview -- that has an inside market with a highest bid price and the lowest ask price shown on a graphical user interface. Pages 6-14 - 6-17 of the manual describe the use of a mouse to enter orders. INTEX. (1984) (DX10). Shows

³ eSpeed incorporates the deposition testimony of Autsushi Kawashima and Hiroyuki Kida to support its allegations regarding TSE.

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				<p>exchange having an inside market with a highest bid price and a lowest ask price on a graphical user interface.</p> <p>The 1998 manual states that orders can be placed through the use of a mouse (9-2) or a keyboard. (Man. at TSE622)</p>	<p>a vertical price display, the inside market and market depth. It is used with a keyboard.</p> <p>TIFFE Jan. 1996 Manual (Refco 10861 at pg. 82) Electronic trading systems that shows a vertical price display, inside market and market depth on a graphical user interface and can be traded with an input device.</p> <p>Osaka Stock Exchange ("OSE") April 1996 (Refco 9773 at pgs. 19-31). Electronic trading systems that shows a vertical price display, inside market and market depth on a graphical user interface and can be traded with an input device.</p> <p>LIFFE APT System. (DX 150, 151, 152)</p>

	'132 CLAIM ELEMENT	GL WIN With TRADEPAD Versions 4.31, 4.50, and 4.51 and DX 384, 385, 537, 538, 539, 593, 593A, 598, 592, 605, 612, and 626. ¹	WIT CAPITAL DIGITAL STOCK MARKET ²	TOKYO STOCK EXCHANGE SYSTEM AND THE AUGUST 1998 MANUAL ³	ADDITIONAL PRIOR ART
					<p>Trading screen shows a vertical price display, with an inside market and market depth. It was used with a mouse and/or keyboard.</p> <p>LIFFE APT Promotional Brochure (DX148) ("Automated trading traditional approach - Order Matching."</p> <p>LIFFE 1998 API Reference Manuals show a vertical price display showing an inside market and market depth.</p> <p>Midas Kapiti. Shows a vertical price display with an inside market. DX 617, 618, 619, 620, 621, 622, 623, 624.</p> <p>Tradesoft. An electronic trading system that displayed a price column with the inside market and market depth. It</p>

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