

Paper No. _____
Filed: July 5, 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 CBM2015-00182
U.S. Patent 6,772,132

CORRECTED PATENT OWNER'S RESPONSE

TABLE OF CONTENTS

I.	Overview of Claimed Invention	1
II.	Section 101	5
A.	TT’S Claims Are Not Directed to an “Abstract Idea” Under <i>Alice</i> Prong One.....	5
1.	Petitioners Ignore and Overgeneralize the Claim Elements	5
2.	TT’s Claims Pass Part I of <i>Alice</i> Because They Improve the Functioning of the Computer	8
3.	TT’s Claims Pass Prong One of <i>Alice</i> Because They Are Undoubtedly Not Abstract	10
4.	TT’s Claims Pass Part I of <i>Alice</i> Because GUIs Are Technology.....	12
5.	TT’s Claims Pass Part I of <i>Alice</i> Because They Are Not Directed to a Fundamental Economic or Longstanding Commercial Practice, a Business Method, or a Generic GUI.....	13
B.	The Claims Pass Part 2 of <i>Alice</i> Because They Recite an <i>Inventive Concept</i>	17
C.	The Claimed Invention Is Patent-Eligible Under §101 Because the Claims Do Not Cover Signals	21
III.	CBM Review	22
A.	The ’132 Patent Does Not Claim “Data Processing” or “Other Operation[.]” (e.g., a Business Method)	23
B.	The ’132 Patent Falls Under the Technological Exception	24
IV.	Claim Construction.....	27
A.	“Order entry region”	27

B.	“Selecting a particular area in the order entry region through single action of the user input device... to set a plurality of additional parameters for the trade order and send the trade order to the electronic exchange”	27
C.	“Working orders in alignment with prices corresponding thereto”	29
D.	“Re-Centering Instruction”	29
V.	Real-World Evidence Proves The Claimed Invention Is Not Obvious.....	30
A.	The Claimed Invention Went Against Conventional Wisdom	30
B.	Overwhelming Secondary Considerations Prove That The Invention Is Not Obvious	37
1.	Problems with the Conventional GUI Tools Went Unrecognized	38
2.	The Invention Provided Unexpected Results.....	39
3.	The Invention Was Received with Initial Skepticism, but Ultimately Demanded by Traders.....	41
4.	The Invention’s Tremendous Commercial Success	44
5.	The Invention Was Widely Copied	48
6.	The Invention Received Widespread Praise In the Industry	53
7.	The Invention Also Received Widespread Industry Acquiescence	54
8.	Others Failed To Make The Invention.....	56
9.	Other Evidence Proves Non-Obviousness	58
VI.	The Petition Fails to Establish TSE Is Prior Art	59
A.	The Evidence Fails to Prove TSE Was Publicly Accessible	60

1.	TSE Was Not Distributed to POSAs	61
2.	There Is No Evidence TSE Was Available to the POSA Exercising Reasonable Diligence	62
B.	Kawashima’s Testimony Is Uncorroborated and Biased, and Therefore Legally Insufficient	64
1.	Kawashima’s Testimony Is Uncorroborated	64
2.	Kawashima Is Not Disinterested.....	65
VII.	The Claims of The ’132 Patent Are Not Rendered By TSE and Belden	66
A.	TSE and Belden Fail to Disclose or Suggest the Claimed “Order Entry Region” and “Selecting... Through single Action”	68
B.	Dependent Claims	70
1.	Claims 3, 10, and 16	70
2.	Claims 24, 34, and 44	71
3.	Claims 25, 35, and 45	71
4.	Claims 26, 36, and 46	73
5.	Claims 29, 39, and 49	75
6.	Petitioners Failed to Set Forth a Prima Facie Case of Obviousness	77
VIII.	Due Process Issues and Non-Obviousness Evidence	78
IX.	Conclusion	85

Petitioners fail to establish that U.S. Patent No. 6,772,132 (“the ’132 patent,” Ex.1001) is eligible for covered business method (“CBM”) patent review. The ’132 patent is directed to statutory subject matter under 35 U.S.C. § 101. Finally, Petitioners fail to prove that the claims of the ’132 patent are obvious because TSE (Ex.1016) is not prior art, because the cited references do not render obvious all elements of the claims, and because the real-world evidence of secondary considerations demonstrate the nonobviousness of the invention.

I. OVERVIEW OF CLAIMED INVENTION

The electronic trading industry, both prior to the invention the ’132 patent and for a period thereafter, maintained a widely accepted conventional wisdom regarding the design of a graphical user interface tool (“GUI tool”) for order entry on electronic exchanges. Ex.2169, ¶48. Specifically, conventional GUIs provided the ability to enter and send orders to an electronic exchange using order entry tickets or dynamic order entry screens. Ex.2169, ¶49. Order tickets were known to be accurate but slow. *Id.* Figure 2 of the ’132 patent (with annotations below) exemplifies another GUI tool where users entered and sent orders by directly interfacing with displayed prices (e.g., using a mouse). Like the overwhelming majority of GUI tools for rapid entry, it was constructed with designated locations for displaying the best bid/ask prices. *See* Ex.1001; Ex.2169, ¶50.

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.