

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

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.

10
 11 VOLUME 11-A
 TRIAL TRANSCRIPT OF PROCEEDINGS
 12 BEFORE THE HONORABLE JAMES B. MORAN, and a JURY

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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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