UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD
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IBG LLC and INTERACTIVE BROKERS LLC,
Petitioners

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.,
Patent Owner

_____

Case CBM2016-00009
Patent 7,685,055

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REQUEST FOR REHEARING

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U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

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I. Introduction

Petitioners respectfully request that the Board rehear its Final Written Decision (Paper 72) ("Decision") that issued on April 26, 2017, and reverse its holding that Petitioners failed to prove by a preponderance of the evidence that the claims of U.S. Patent No. 7,685,055 (Exhibit 1001) ("'055 patent") are obvious.

II. Standard of Review

"The burden of showing a decision should be modified lies with the party challenging the decision. The request must specifically identify all matters the party believes the Board misapprehended or overlooked, and the place where each matter was previously addressed in a motion, an opposition, or a reply." 37 CFR 42.71(d). The Board reviews a request for rehearing for abuse of discretion. An abuse of discretion "occurs when a court misunderstands or misapplies the relevant law or makes clearly erroneous findings of fact." *Renda Marine, Inc. v. U.S.*, 509 F.3d 1372, 1379 (Fed. Cir. 2007). As set forth below, that standard is met.

III. Arguments

The Board should rehear its Decision, which held that Petitioners failed to prove that TSE (Exhibit 1008) discloses displaying a bid and ask display region that comprises "a plurality of locations corresponding to the first plurality of price levels displayed along the static price axis, wherein each location corresponds to one of the first plurality of price levels," as recited in independent claim 1 of the '055 patent. (Decision, 40-45.) *First*, the Board misapprehended the Petition's

analysis of the disputed limitation, and overlooked Patent Owner's admission that TSE's uncompressed mode has the required "plurality of locations." *Second*, the Board misapprehended Petitioners' boardx4-to-boardx2 argument to be an impermissible new argument.

A. The Board misapprehended the Petition's analysis of the disputed limitation, and overlooked Patent Owner's admission that TSE's uncompressed mode has the required "plurality of locations."

The Petition, supported by testimony from Mr. Román, proves that TSE discloses displaying a bid and ask display region that comprises "a plurality of locations corresponding to the first plurality of price levels displayed along the static price axis, wherein each location corresponds to one of the first plurality of price levels." (Paper 5 ("Petition"), 50-52.) The Decision's contrary holding rests on clearly erroneous findings of fact, predicated on a misapprehension of the Petitioner's analysis of the disputed limitation. The Decision also overlooks Patent Owner's *admission* that TSE's non-compressed mode has the required "plurality of locations." (Paper 32 ("POR"), 66.) For these reasons, the Board should reverse the Decision.

The Petition proves that TSE discloses the disputed limitation. It relies on TSE's non-compressed mode (sometimes referred to as uncompressed mode) to teach displaying (1) a first plurality of price levels *along a static price axis* and (2) a bid and ask display region *along the static price axis*. (Petition, 45-46 (relying on

Román's Figure B when addressing displaying a first plurality of price levels along a static price axis); 50-51 (also relying on Román's Figure B when addressing displaying a bid and ask display region along a static price axis).) Román's Figure B,[1] reproduced below and on page 45 of the Petition, annotates the figure on 0107 of TSE to show the price axis (which includes price levels) and bid and ask display regions:
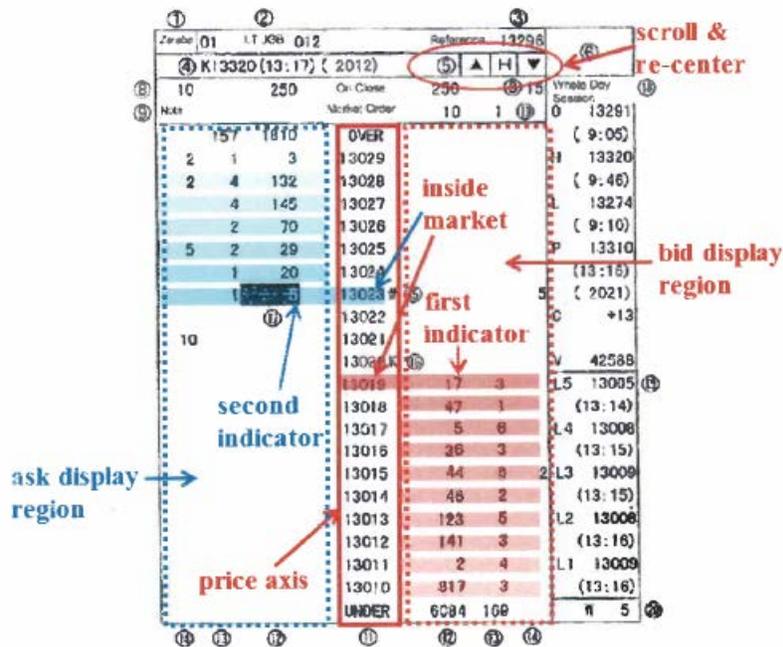
Román Decl., FIG. B

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[1] The blue and red striping patterns that Mr. Román added to annotate the figure on 0107 of TSE unequivocally show a plurality of locations in the bid and ask display region along a static price axis.

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