

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

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Case CBM2016-00009  
U.S. Patent No. 7,685,055

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**PATENT OWNER'S MOTION FOR OBSERVATION  
ON CROSS-EXAMINATION TESTIMONY OF  
PETITIONER'S DECLARANT DAVID RHO**

Pursuant to 77 Fed. Reg. 48753, 48763 (Aug. 14, 2012), Patent Owner hereby submits this motion for observation regarding the cross-examination testimony of Petitioner's declarant, David Rho.

**I. OBSERVATION NO. 1**

In Exhibit 2342, on page 34, lines 10-21, Mr. Rho testified as follows:

Q: Your opinion in Exhibit 1035, your reply declaration, when you say: "TSE's price axis is static when the display is in the Scrolling Screen Mode with a compressed price display," that that opinion is not anywhere in your earlier declaration, Exhibit 1004?

...

**A: Well, I haven't done a detailed re-reading of Exhibit 1004, but it doesn't appear to be in there.**

This testimony is relevant to Patent Owner's request that this opinion, along with the arguments made by Petitioner that rely on this opinion be stricken from Petitioner's Reply.

## II. OBSERVATION NO. 2

In Exhibit 2342, on page 37, line 7 to page 38, line 6, Mr. Rho testified as follows:

Q: Okay, in your reply declaration, Exhibit 1035, do you have an opinion that transitioning TSE's display from a non-compressed "Board x 4" display to a non-compressed "Board x 2" display, adds price levels under TT's interpretation of the term price levels, is it fair to say that that opinion is nowhere to be found in your earlier declaration, Exhibit 1004.

...

**A: Well, you used slightly different wording, because it says here: "Transitioning TSE's display from a non-compressed board by four to a non-compressed 'Board x 2' mode," I think you used different wording, but this opinion does not appear to be in the 1004 document.**

This testimony is relevant to Patent Owner's request that this opinion, along with the arguments made by Petitioner that rely on this opinion, be stricken from Petitioner's Reply.

### III. OBSERVATION NO. 3

In Exhibit 2342, on page 55, lines 4-9, Mr. Rho testified as follows:

Q: Okay. Is it fair to say that in connection with your reply declaration you did not review the file history of the `055 patent?

**A: Well, it's not listed in paragraph two, so it seems fair, yes.**

This testimony is relevant to the weight and sufficiency of Mr. Rho's opinion set forth in paragraphs 22-25 of his Reply declaration (Exhibit 1035) regarding the "adjusting" claim limitation.

### IV. OBSERVATION NO. 4

In Exhibit 2342, on page 81, line 7 to page 82, line 5, Mr. Rho testified as follows:

Q: Well, what's the issue in the screen on the left, the "Board x 4"?

**A: The issue is the TOPIX.**

Q: What's that?

**A: TOPIX is a -- I'm pretty sure that that is the futures on -  
- I don't remember all the details around it, so I know it's a  
future on some index, it's an index future.**

Q: Is that the same issue shown on the screen on the right?

**A: For the "Board x 2" display?**

Q: Yes?

**A: Well, the issue on the "Board x 2" display is the LT  
JGB.**

Q: What's that?

**A: Well, I know what the JGB stands for, it's Japanese  
government bond, I don't remember what LT stands for,  
but it's a -- it's clearly a different issue from TOPIX.**

This testimony is relevant to the weight and sufficiency of Mr. Rho's opinion (set forth in paragraphs 22-25 of his Reply declaration (Exhibit 1035)) that "a PHOSITA would have understood that transitioning or 'adjusting' from a 'Board x4' display to a 'Board x 2' display would add 13 price levels." Ex. 1035, ¶ 23.

#### **V. OBSERVATION NO. 5**

In Exhibit 2342, on page 103, line 17 to 104, line 3, Mr. Rho testified as follows:

Q: Okay. But your understanding is, when you're looking at this claim language, reading it on the "Board x 4" display, the first plurality of price levels are the seven levels you've

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