### UNITED STATES PATENT AND TRADEMARK OFFICE

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### BEFORE THE PATENT TRIAL AND APPEAL BOARD

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IBG LLC, INTERACTIVE BROKERS LLC, TRADSTATION GROUP INC., and TRADESTATION SECURITIES, INC. Petitioners

v.

## TRADING TECHNOLOGIES INTERNATIONAL, INC., Patent Owner

Case CBM2016-00032 Patent 7,212,999 B2

### PETITIONERS' REPLY TO PATENT OWNER'S RESPONSE

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U.S. Patent and Trademark Office

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## **TABLE OF CONTENTS**

I.	Intro	oduction	1	
II.	The	'999 claims vs. the "conventional" Figure 2-type GUI	1	
III.	The '999 patent claims a patent-ineligible abstract idea			
	A.	Collecting and displaying market information so that a user (i.e., a	Ļ	
		trader) can place an order is an abstract idea.	5	
		1. Recent Federal Circuit decisions confirm that the '999 claims are ineligible	9	
		2. Petitioners are not required to prove that the claims preempt the abstract idea		
	B.	The '999 claims lack an inventive concept	15	
	C.	Claim 35 is not patent-eligible because it covers signals	18	
IV.	CQC	G does not control this CBM	18	
	A.	The '999 patent claims were not at issue in CQG and cannot be		
		affected by its holding.	19	
	B.	The PTO is not bound by the court's denial of judgment as a		
		matter of law based on a record devoid of evidence	20	
	C.	The CBMs' records differ from the district court's	21	
	D.	CQG's abstract idea is different than those advanced in the CBMs	21	
	E.	The Board applies the preponderance of the evidence standard;		
		Petitioners' record satisfies this standard	22	
V.	The	'999 patent is CBM eligible	22	
VI.	Tho	mas is not an objective expert: he is TT's paid advocate	24	



## **TABLE OF AUTHORITIES**

### Cases

Affinity Labs of Texas, LLC v. DIRECTV, LLC, 2016 WL 5335501 (Fed. Cir. 2016)
Alice Corp. Pty. Ltd. v. CLS Bank Int'l, 134 S. Ct. 2347 (2014)
Amdocs v. Openet Telecom, Inc., Appeal No. 2015-1180 (Fed. Cir. Nov. 1, 2016)
Apple, Inc. v. Ameranth, Inc., Appeal Nos. 2015-1703, 2015-1704 (Fed. Cir. Nov. 29, 2016)
Ariosa Diags. v. Sequenom, Inc., 778 F.3d 1371 (Fed. Cir. 2015)
Ass'n for Molecular Pathology v. Myriad Genetics, Inc., 133 S.Ct. 2107 (2013)
Ballard Med. Prods. v. Wright, 821 F.2d 642 (Fed. Cir. 1987)20
DDR Holdings, LLC v. Hotels.com, L.P., 773 F.3d 1245 (Fed.Cir. 2014)10
Electric Power Group, LLC, v. Alstom S.A., 830 F.3d 1350 (Fed. Cir. 2016)
Enfish, LLC v. Microsoft Corp., 822 F.3d 1327 (Fed.Cir. 2016)
Ex parte Mewherter, Appeal No. 2012-7692 (PTAB May 8, 2013)18
In re Trans Tex. Holdings Corp., 498 F.3d 1290 (Fed.Cir. 2007)



Intellectual Ventures I LLC v. Capital One Bank (USA), 792 F.3d 1363 (Fed. Cir. 2015)	13, 14
Interthinx, Inc. v. Corelogic Solutions, LLC, CBM2012-00007 (PTAB Jan. 30, 2014)	19
LendingTree LLC v. Zillow, Inc., Appeal Nos. 2014-1435, 2014-1531, 2015-1186 (Fed. Cir. July 25,	, 2016)6
McRO, Inc. v. Bandai Namco Games America, Inc. 837 F.3d 1299 (Fed. Cir. 2016)	12
Mortgage Grader, Inc. v. First Choice Loan Servs., 811 F.3d 1314 (Fed. Cir. 2016)	12, 13
Parker v. Flook, 437 U.S. 584 (1978)	13
Pfizer, Inc. v. Lee, 811 F.3d 466 (Fed. Cir. 2016)	23
Symbol Tech's, Inc. v. Lemelson Medical, 277 F.3d 1361 (Fed.Cir. 2002)	19
Trading Techs. Int'l, Inc. v. CQG, Inc., 2015 WL 774655 (N.D. Ill. Feb. 24, 2015)	21
Trading Techs. Int'l, Inc. v. CQG, Inc., 2017 WL 192716 (Fed. Cir. Jan. 18, 2017)	passim
Ultramercial, Inc. v. Hulu LLC, 772 F.3d 709 (Fed. Cir. 2014)	13, 17, 20
Unwired Planet, LLC v. Google, Inc., 841 F.3d 1376 (Fed. Cir. 2016)	22
<i>WildTangent, Inc. v. Ultramercial, LLC,</i> 573 U.S. ——, 134 S.Ct. 2870 (2014)	20



## CBM2016-00032 U.S. Patent No. 7,212,999

### **Statutes**

35 U.S.C. §101	passim
Other Authorities	
77 Fed. Reg. 48,756 (Aug. 14, 2012)	23
MPEP § 2106	18
Rules	
Fed.Cir. Rule 32.1(d)	19
Regulations	
37 C.F.R. § 42.1(d)	22
27 C F D 42 201(a)	23



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