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,
TRADESTATION GROUP, INC., and
TRADESTATION SECURITIES, INC.,

Petitioners

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.,

Patent Owner

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

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PATENT OWNER'S ADDITIONAL SUBMISSIONS

Pursuant to the Board's March 10, 2017 Order (Paper 35), Patent Owner respectfully submits this additional submission addressing *Trading Technologies International, Inc. v. CQG, Inc. et al.* ("*CQG*"), No. 2016-1616, 2017 WL 192716 (Fed. Cir. Jan. 18, 2017).

I.   *CQG* Sets Forth The Proper § 101 Analysis for the '999 Patent

In *TT v. CQG*, the Federal Circuit considered and fully analyzed GUI claims set forth in U.S. Patent No. 6,772,132 ("the '132 patent") and U.S. Patent No. 6,677,304 ("the '304 patent"). *CQG*, 2017 WL 192716 at *4. The Federal Circuit found eligible, under both steps of *Alice,* patents that claimed "a specific, structured graphical user interface paired with a prescribed functionality directly related to the graphical user interface's structure that is addressed to and resolves a specifically identified problem in the prior state of the art." *Id.* at *3.

A.   The '999 Patent is Not "Directed To" an Abstract Idea

In *CQG*, the Federal Circuit focused the analysis on the claim elements that provided structure, make-up, and functionality and the improvement of these claim elements over the prior systems. *Id*. As such, it would be improper for the Board to ignore the structure, makeup, and functionality recited in the '999 patent and/or the problem that the claimed invention solves under the first step of the *Alice* test.

1.   Structure, Makeup, and Functionality

Like the patents in *CQG*, the '999 claims are directed to the structure, makeup, and functionality of a GUI tool and claim "a specific, structured graphical

user interface paired with a prescribed functionality directly related to the graphical user interface's structure." *CQG*, 2017 WL 192716 at *3. A comparison of *some* elements of claim 1 from the '304 patent (left) and '999 patent (right) are represented below:

'304 Patent	'999 Patent
ask/bid indicators displayed on GUI at locations corresponding with a price level along a common static price axis	offer/bid indicators displayed on GUI at locations along a price level along a scaled axis of prices
displaying an order entry region with a plurality of locations for receiving commands to send trade orders	displaying order icons associated with a user's own order for a particular quantity of the item
in response to selection of a particular location of the order entry region by a single action setting a plurality of parameters and sending a trade order	selecting order icon and moving it to a location associated with a price level along the scaled axis of prices, thereby specifying bid/offer type and a desired price for an order

At step one, the Federal Circuit was careful to articulate what the claims are directed to with enough specificity to ensure the step one inquiry is meaningful. The above comparison shows that the level of specificity in '999 patent is nearly identical to the level of specificity in the '304 patent. Accordingly,

the '999 patent includes the requisite level of specificity and the claimed elements should not be overgeneralized or ignored. The Federal Circuit has found that similar claim elements are meaningful and should be considered.

2. Solves a Problem with Prior Systems

In *CQG*, the Federal Circuit relied on the fact that the '132 and '304 patents solved an order entry problem with prior GUI systems. *Id.* at *2-4. Further, the Federal Circuit found that "the claimed subject matter is directed to a specific improvement to the way computers operate, for the claimed graphical user interface method imparts a specific functionality to a trading system directed to a specific implementation of a solution to a problem in the software arts." *Id.* at *4 (internal quotations omitted). The improvements for the '999 patent in speed, visualization, and usability (Ex. 1001, 1:59-62, 2:39-65, 6:6-64, 8:26-51, 10:9-32) are akin to the '132 and '304 patents' improvements in speed, accuracy, and usability, and are likewise technological in nature. That is, in both instances, the patents claim improved GUIs that provide for better user interaction—something the Federal Circuit has found technological in character.

3. Inventive Concept

In *CQG*, the combined claim elements provided "specific structure and concordant functionality of the [GUI]," such that the claims recited an inventive concept, *e.g.,* displaying bid and offer indicators relative to a price axis and

selecting and order icon and moving it to a location associated with a price level along the scaled axis of prices to set a desired price for an order. *See id.* at *3. In *CQG*, the Federal Circuit found that the recitation of a "static price axis" was enough to provide an inventive concept. *Id.* The '999 patent easily surpasses this threshold with the recitation of a plurality of other claimed elements. POR at 13-19. For instance, the claims of the '999 patent are specifically directed to displaying an order icon indicating the user's order, selecting that order icon, and then moving (e.g., dragging) that order icon to a location associated with a price levels along a price axis to send a trade order. This is an improvement in the functioning of technology by enabling users to quickly identify and select their orders (on a graphic user interface) and quickly and efficiently move them to new locations along a price axis. Here, the claimed combination is unconventional and not routine, and recites and inventive concept. POR at 24-26.

II.   Board's Prior Analysis

In CBM2015-00179, the Board distinguished *CQG* on the basis that the "claims and specification before us are much broader" than the '132/'304 patents, and concluded that that with respect to *CQG*, "the [Federal Circuit] implied that even those narrower claims are on the line between patent eligibility and ineligibility." *IBG LLC et al. v. Trading Technologies Int'l, Inc.*, CBM2015-00179, Paper 141, p. 22 n.12 (P.T.A.B. Feb. 17, 2017).

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