UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.,
Patent Owner.

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Case CBM2015-00161
Patent No. 6,766,304 B2

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Before SALLY C. MEDLEY, MEREDITH C. PETRAVICK, and
JEREMY M. PLENZLER, *Administrative Patent Judges*.

PETRAVICK, *Administrative Patent Judge*.

DECISION
Institution of Covered Business Method Patent Review
37 C.F.R. § 42.208

I. INTRODUCTION

A. Background

TradeStation Group, Inc. and TradeStation Securities, Inc.

(collectively, "Petitioner") filed a Petition (Paper 2, "Pet.") on July 20, 2015,

that requests review under the transitional program for covered business

method patents of the AIA[1] of U.S. Patent No. 6,766,304 B2 (Ex. 1001, "the '304 patent"). Petitioner challenges the patentability of claims 1–40 ("the challenged claims") of the '304 patent under 35 U.S.C. § 101 and 35 U.S.C. § 112, first paragraph.[2] Trading Technologies International, Inc. ("Patent Owner") filed a Revised Preliminary Response on November 30, 2015. Paper 28 ("Prelim. Resp.").

We have jurisdiction under 35 U.S.C. § 324, which provides that a post-grant review may not be instituted "unless . . . the information presented in the petition . . . would demonstrate that it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable."

We determine that the Petition demonstrates that it is more likely than not that the challenged claims are unpatentable under 35 U.S.C. § 101, and we institute a covered business method patent review of claims 1–40 of the '304 patent.

B. Related Matters

The '304 patent is the subject of numerous related U.S. district court proceedings. Pet. 1–2; Paper 5, 2–6.

The '304 patent was the subject of petitions for covered business method patent review in *TD Ameritrade Holding Corp. v. Trading Technologies International, Inc.,* CBM2014-00136 (PTAB) and *CQG, Inc. v. Trading Technologies International, Inc.*, CBM2015-00057 (PTAB).

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[1] Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284, 329 (2011) ("AIA").
[2] We refer to the pre-AIA version of 35 U.S.C. § 112 due to the filing date of the '304 patent.

Institution of covered business method patent review in both of these proceedings was denied.

Numerous patents are related to the '304 patent and the related patents are or were the subject of numerous petitions for covered business method patent review and reexamination proceedings. The table in the attached appendix indicates the related patents and corresponding proceedings.

C. The '304 Patent

The '304 patent is titled "Click Based Trading with Intuitive Grid Display of Market Depth." Ex. 1001, [54]. The '304 patent discloses a display, named the "Mercury" display, and method of using the display to trade a commodity. *Id*. at Abstract, col. 3, ll. 9–10. The Mercury display is a graphic user interface ("GUI") that dynamically displays the market depth of a commodity traded in a market and allows a trader to place an order efficiently. *Id*. at col. 3, ll. 15–28.

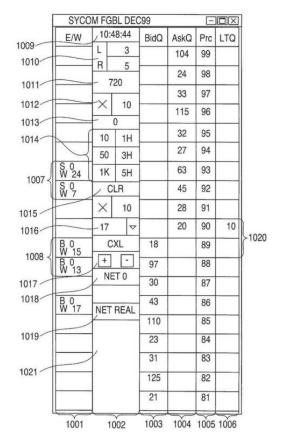The Mercury display is depicted in Figure 3, which is reproduced below.

Fig. 3 depicts the Mercury display of the '304 patent

The Mercury display includes a plurality of columns. Column 1005 is a static price axis, which includes a plurality of price values for the commodity. *See id.* at col. 7, ll. 56–67. Columns 1003 and 1004 are aligned with the static price axis and dynamically display bid and ask quantities, respectively, for the corresponding price values of the static price axis. *See id.* at col. 7, l. 54–col. 8, l. 18. Column 1002 contains various parameters and information used to execute trades, such as the default quantity displayed in cell 1016. *See id.* at col. 8, l. 37–col. 9, l. 3.

A trader executes trades using the Mercury display by first setting the desired commodity and default parameters, such as default quantity. *Id.* at col. 9, ll. 35–49; Fig. 6, step 1302. Then, a trader can send a buy order or

sell order to the market with a single action, such as clicking on the appropriate cell in column 1003 or 1004. *See id.* at col. 9, l. 39–col. 11, l. 34; Fig. 6, steps 1306–1315. In the example shown in Figure 3, a left click on "20" in column 1004 will send an order to the market to buy 17 lots (i.e., the default quantity set in cell 1016 of column 1002) at a price of 90. *See id.* at col. 10, ll. 39–41.

Claim 1 of the '304 patent is illustrative of the challenged claims and is reproduced below:

> 1. A method for displaying market information relating to and facilitating trading of a commodity being traded in an electronic exchange having an inside market with a highest bid price and a lowest ask price on a graphical user interface, the method comprising:
>
> dynamically displaying a first indicator in one of a plurality of locations in a bid display region, each location in the bid display region corresponding to a price level along a common static price axis, the first indictor representing quantity associated with at least one order to buy the commodity at the highest bid price currently available in the market;
>
> dynamically displaying a second indicator in one of a plurality of locations in an ask display region, each location in the ask display region corresponding to a price level along the common static price axis, the second indicator representing quantity associated with at least one order to sell the commodity at the lowest ask price currently available in the market;
>
> displaying the bid and ask display regions in relation to fixed price levels positioned along the common static price axis such that when the inside market changes, the price levels along the common static price axis do not move and at least one of the first and second indicators moves in the bid or ask display regions relative to the common static price axis;
>
> displaying an order entry region comprising a plurality of locations for receiving commands to send trade orders, each

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