

Paper No. _____
Filed: August 30, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

Petitioner,

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.,

Patent Owner.

Case CBM2016-00032
U.S. Patent 7,212,999 B2

**Patent Owner's Objections to
Evidence Pursuant to 37 C.F.R. § 42.64**

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner objects to the following

Petitioner Exhibits:

- 1012 (Expert Declaration of Kendyl A. Roman);
- 1015 (“Futures/Option Purchasing System Trading Terminal Operation Guidelines,” Tokyo Stock Exchange);
- 1016 (Certified Translation of “System for Buying and Selling Futures and Options Transaction Terminal Operational Guidelines”);
- 1017 (Certificate of Translation for “System for Buying and Selling Futures and Options Transaction Terminal Operational Guidelines”);
- 1018 (Deposition Transcript of Atsushi Kawashima, *Trading Technologies International, Inc., v. eSPEED, Inc.*, Case No. 04-cv-5312, United States District Court, Northern District of Illinois, Eastern Division, dated November 21, 2005);
- 1019 (U.S. Patent No. 5,619,631 to Schott);
- 1020 (U.S. Patent No. 5,646,992 to Subler *et al.*);
- 1021 (U.S. Patent No. 5,689,651 to Lozman);
- 1022 (U.S. Patent No. 5,136,501 to Silverman *et al.*);
- 1023 (U.S. Patent No. 55,297,031 to Gutterman *et al.*);

- 1024 (WO 90/11571 to Belden, *et al.*);
- 1025 (Mark J. Powers, “Starting Out in Futures Trading,” Sixth Edition, 2001);
- 1026 (History of the American and NASDAQ Stock Ex-changes);
- 1027 (David M. Weiss, “After the Trade is Made,” 1993);
- 1028 (Sunny J. Harris, “Trading 101 – How to Trade Like a Pro,” 1996);
- 1029 (Alan Cooper, “About Face: The Essentials of User Interface Design,” First Edition, 1995);
- 1030 (Ben Schneiderman, “Designing the User Interface”, Strategies for Effective Human-Computer Interaction Third Edition, 1998);
- 1031 (Edward R. Tufte, “The Visual Display of Quantitative Information,” 1983);
- 1032 (Edward R. Tufte, “Envisioning Information,” Third Edition, December 1992);
- 1033 (Richard W. Arms Jr., “Profits in Volume - Equivolume Charting,” 1975);

- 1034 (Vernon L. Smith, “An Experimental Study of Competitive Market Behavior,” *The Journal of Political Economy*, Vol. LXX, No. 2, April 1962);
- 1036 (Inside Macintosh, Promotional Edition, Apple Computer, Inc., 1985);
- 1037 (U.S. Patent No. 1,760,287 to Schippers);
- 1038 (Valerie Quercia et al., “X Window System User’s Guide,” OSF/Motif 1.2 Edition, *The Definitive Guides to the X Window System*, Vol. 3, August 1993);
- 1039 (U.S. Patent No. 5,454,104 to Steidlmeyer); and
- 1040 (WO 97/06492 to Jackson).

I. OBJECTION TO PETITIONER EXHIBIT 1012

Patent Owner objects to Exhibit 1012 because it contains unreliable testimony under **FRE 702** and *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993). In particular, Mr. Román’s declaration includes numerous purported “expert” opinions on matters about which Mr. Román is not qualified to offer such “expert” testimony. Mr. Román has insufficient knowledge, skill, experience, training, and education regarding trading and/or trading GUI design. Yet Mr. Román repeatedly opines about the understanding of a person of ordinary skill in

the art in the relevant time period with respect to such subjects. *See, e.g.*, ¶¶ 73, 75, 89, 91, 104, 111, 113-116, 119-121, 129-130, 144, 146, 154, 162, 170, 186, 198, and 199.

Patent Owner also objects to Exhibit 1012 under **FRE 401 and 402** as irrelevant, or, in the alternative, under **FRE 403** as prejudicial and a waste of time. Petitioner relies on Exhibit 1012 to explain how the prior art allegedly contains features of the claims of the '999 patent. However, Exhibit 1012 is irrelevant to the single § 101 ground instituted by the Board, and is therefore inadmissible under **FRE 401 and 402** because it lacks a tendency to make any fact at issue in this proceeding more or less probable, or, in the alternative, under **FRE 403** as prejudicial and a waste of time.

II. **OBJECTION TO PETITIONER EXHIBITS 1015-1017 and 1019-1040**

Patent Owner objects to Exhibits 1015-1017 and 1019-1040 to the extent that Petitioner relies on their contents for the truth of the matters asserted therein. Exhibits 1015-1017 and 1019-1040 are inadmissible hearsay under **FRE 801 and 802**, and no exception applies.

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