Paper No. ____
Filed: July 5, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TRADESTATION GROUP, INC.; TRADESTATION SECURITIES, INC.; TRADESTATION TECHNOLOGIES, INC.; IBFX, INC.; IBG LLC; AND INTERACTIVE BROKERS LLC;

Petitioners

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.

Patent Owner

Case CBM2016-00051
U.S. Patent 7,904,374

PATENT OWNER'S PRELIMINARY RESPONSE

Contents

I. INTRODUCTION

Trading Technologies International, Inc. ("TT")—an operating company headquartered in Chicago—owes its initial (and most substantial) capital investment to its patent portfolio. TradeStation and Interactive Brokers, both market place competitors of TT, have filed fifteen CBM petitions against TT's patent portfolio. Of those fifteen petitions, eight have been instituted and seven are pending institution decision.

In preparing this paper, TT reviewed the prior institution decisions and has attempted to specifically respond on the merits to preliminary viewpoints and conclusions set forth in the PTAB's institution decisions and rehearing denials to the extent relevant here—even if those arguments were not addressed by the Petitioners.

While some of the high-level arguments (e.g., a specific graphical user interface ("GUI") tool is not a CBM and is eligible under §101) have been presented previously, this paper provides a more detailed response to the Board's previous conclusions and reasoning. In fact, in some instances, after reviewing the previous institution decisions and TT's prior arguments, TT recognizes that its previous arguments may not have addressed the preliminary conclusions which were based on giving substantial benefit of the doubt to Petitioners' allegations.

This paper attempts to crystalize TT's arguments and positions and shed new light on these arguments. This paper also addresses new developments in the case law.

With respect to Petitioners' CBM and § 101 allegations,[1] TT addresses Petitioners' mistaken focus on the claimed invention's ability to be performed on a general purpose or conventional computer. The Federal Circuit, in *Enfish, LLC v. Microsoft Corp.*, recently made clear that this is the wrong focus for determining what claims are "directed to." 2016 WL 2756255 (Fed. Cir. 2016). Instead, the Federal Circuit instructs that the proper focus is on what the specification purports the invention or improvement to be. The Federal Circuit also made clear that "an inventive concept can be found in the non-conventional and non-generic arrangement of known, conventional pieces." *Bascom Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 2016 WL 3514158, at *6 (Fed. Cir. 2016).

[1] Petitioners provide several proposed claim constructions, none of which are pertinent to the allegations in the Petition. Accordingly, while TT does not necessarily agree with the proposed constructions, it does not address claim construction in this paper.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.