

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

Petitioners

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.

Patent Owner

Case CBM2016-00051
U.S. Patent No. 7,904,374 B2

DECLARATION OF CHRISTOPHER H. THOMAS

TABLE OF CONTENTS

I.	INTRODUCTION	3
II.	QUALIFICATIONS & BACKGROUND	5
III.	INFORMATION CONSIDERED	11
IV.	PERSON OF ORDINARY SKILL IN THE ART	13
V.	BACKGROUND OF THE INDUSTRY	16
VI.	CONVENTIONAL GRAPHICAL USER INTERFACE TOOLS (“GUI TOOLS”)	29
VII.	THE UTILITY AND ADVANTAGES OF THE PATENTED INVENTION	42
VIII.	THE CLAIMED INVENTION IS TECHNICAL	73
IX.	CONCLUDING STATEMENTS	86

I. INTRODUCTION

I, Christopher H. Thomas, declare as follows:

1. I am over 18 years of age. I have personal knowledge of the facts stated in this declaration and could testify competently to them if asked to do so.

2. I have been retained on behalf of Patent Owner Trading Technologies International, Inc. (“Patent Owner”) to provide expert opinions in connection with Case CBM2016-00051, regarding United States Patent No. 7,904,374 (“the ’374 patent”).

3. I understand that a Petition was filed on March 29, 2016 seeking covered business method (“CBM”) review of claims 1 through 36 of the ’374 patent, and the petition was subsequently assigned case no. CBM2016-00051. I understand that in the Petition, Petitioner alleged that the claims are unpatentable under 35 U.S.C. § 101. I understand that the Petitioner did not allege any grounds of anticipation. The PTO instituted CBM review, by decision dated August 17, 2016, for all claims of the ’374 patent under § 101.

4. I have been asked to address the technological nature of the claims, as well as the inquiry into whether the invention solves a technical problem using a technical solution. I have also been asked to address whether the claim elements are routine and conventional.

5. I am being compensated for my time spent on this matter, including

independent study, document review, analysis, and writing. My opinions stated herein are based on review and analysis of the materials obtained in connection with my work in his matter, together with my education and experience. The opinions stated herein are my own. My compensation is not contingent upon my opinions stated herein or the outcome of this proceeding.

6. It is my opinion that the invention of claims 1 through 36 of the '374 patent provide a specific structure, makeup, and functionality of a new GUI tool. The claims solve a technical problem with a technical solution that is specifically implemented. The claims are narrowly drawn to not preempt any and all generic displaying and updating of market information with placement of trade orders in other systems.

7. It is also my opinion that the claims are not directed to routine or conventional elements, but to the features of a specialized GUI tool. Further, as evidenced by the overwhelming real world evidence, the claimed combination was not routine or conventional, but a radical departure from the construction of GUI tools in the prior art. The elements of the '374 claims are not combined in a generic manner, but purposefully arranged to construct the specifically claimed technological solution. When considering the claim limitations individually and as a whole, they recite an invention that is not merely the routine and conventional use of technology. Instead, as described below, the claimed invention went

directly against the conventional wisdom at the time of the invention.

II. QUALIFICATIONS & BACKGROUND

8. My curriculum vitae is attached to this report as Exhibit A. Briefly, my expertise lies in the field of the engineering, design, and development and construction of graphical user interface (“GUI”) tools for electronic trading, such as those used in electronic trade execution systems and proprietary trading systems.

9. I have been actively trading on exchanges worldwide and managing portfolios of futures, commodities, stocks, and stock indexes since 1992. In 1996, I began developing trading decision and execution systems. At that time, my trading became completely reliant on the systems that I had developed. Ultimately, this led to my career in technology as a Chief Technology Officer (CTO) for several large trading companies and Managing Director of a large Canadian bank.

10. As CTO of Emerald Market Systems in 1997, I designed and developed an internet quote system that was used by the Chicago Mercantile Exchange to provide free quotes for certain new markets that the exchange was promoting over the internet. The system had two versions. The first version was a HTML based quote application that provided typical last price, best bid and ask price information. The second version was a JAVA based version of the HTML

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