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.,
TRADESTATION SECURITIES, INC., TRADESTATION
TECHNOLOGIES, INC., and IBFX, INC.,
Petitioner,

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.,
Patent Owner.

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Case CBM2015-00182
Patent 6,772,132 B1

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

Opinion for the Board filed by PLENZLER, *Administrative Patent Judge*.

Opinion dissenting-in-part filed by PETRAVICK, *Administrative Patent Judge*.

PLENZLER, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
Covered Business Method Patent Review
37 U.S.C. § 328(a) and 37 C.F.R. § 42.73

IBG 1061
IBG v. TT
CBM2016-00054

INTRODUCTION

A. Background

IBG LLC, Interactive Brokers LLC, TradeStation Group, Inc., TradeStation Securities, Inc., TradeStation Technologies, Inc., and IBFX, Inc. (collectively, "Petitioner") filed a Petition requesting covered business method patent review of claims 1–56 (the "challenged claims") of U.S. Patent No. 6,772,132 B1 (Ex. 1001, "the '132 patent"). Paper 7 ("Pet."). Trading Technologies International, Inc. ("Patent Owner") filed a Preliminary Response. Paper 15 ("Prelim. Resp."). On March 3, 2016, we instituted a covered business method patent review (Paper 19, "Institution Decision" or "Inst. Dec.") based upon Petitioner's assertion that claims 1–56 are directed to patent ineligible subject matter under 35 U.S.C. § 101 and that those claims are unpatentable under 35 U.S.C. § 103. Inst. Dec. 39. Subsequent to institution, Patent Owner filed a Patent Owner Response (Paper 67, "PO Resp.") and Petitioner filed a Reply (Paper 96, "Pet. Reply") to Patent Owner's Response.

We held a joint hearing of this case and several other related cases on October 19, 2016. Paper 122 ("Tr.").

After oral hearing, the Federal Circuit issued a decision in *Trading Technologies International, Inc.*, v. *CQG, Inc.,* No. 2016-1616, 2017 WL 192716 (Fed. Cir. Jan. 18, 2017), determining that the claimed subject matter of the '132 patent is patent eligible under § 101. Petitioner and Patent Owner, with authorization (Paper 125), each filed supplemental briefing addressing the impact of that decision on this proceeding. Paper 128 ("Pet. Br."); Paper 126 ("PO Br.").

We have jurisdiction under 35 U.S.C. § 6. This Final Written Decision is issued pursuant to 35 U.S.C. § 328(a) and 37 C.F.R. § 42.73. For the reasons that follow, we determine that Petitioner has shown by a preponderance of the evidence that claims 1–28, 30–38, 40–48, and 50–56 of the '132 patent are unpatentable under 35 U.S.C. § 103. Petitioner has failed to show claims 29, 39, and 49 are unpatentable under § 103 and that claims 1–56 are directed to patent ineligible subject matter under 35 U.S.C. § 101.

B. Related Proceedings

The parties indicate that the '132 patent is the subject of numerous related U.S. district court proceedings, as well as the Federal Circuit Decision noted above. Pet. 2; Paper 10, 2–6; Paper 124, 1.

The '132 patent was the subject of petitions for covered business method patent review in *TD Ameritrade Holding Corp. v. Trading Technologies International, Inc.,* CBM2014-00135 (PTAB) and *CQG, Inc. v. Trading Technologies International, Inc*., CBM2015-00058 (PTAB). Trial was instituted, but later terminated, for CBM2014-00135. Institution was denied for CBM2015-00058.

Numerous patents are related to the '132 patent and the related patents are or were the subject of numerous petitions for covered business method patent review and reexamination proceedings.

C. Asserted Grounds

Trial was instituted based on the following grounds.

References	Basis	Claims Challenged
N/A	§ 101	1–56

3

References	Basis	Claims Challenged
TSE[1] and Belden[2]	§ 103	1–3, 7–10, 14–16, 20–28, 30–38, 40–48, and 50–56
TSE, Belden, and May[3]	§ 103	4, 11, and 17
TSE, Belden, and Gutterman[4]	§ 103	5, 6, 12, 13, 18, 19, 29, 39, and 49

Petitioner provides testimony from David Rho (Ex. 1006; "the Rho Declaration) and Kendyl A. Román (Ex. 1007; "the Román Declaration") to support its challenges. Patent Owner provides testimony from Christopher H. Thomas. Ex. 2169 ("the Thomas Declaration").

D. The '132 Patent

The '132 patent is titled "Click Based Trading with Intuitive Grid Display of Market Depth." Ex. 1001, [54]. The '132 patent describes a display, named the "Mercury" display, and method of using the display to trade a commodity. *Id*. at Abstract, 3:5–10. The '132 patent explains that 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 3:11–24. The Mercury display is depicted in Figure 3, which is reproduced below.

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[1] Tokyo Stock Exchange Operation System Division, Futures/Option Purchasing System Trading Terminal Operation Guide (1998) (Ex. 1016). Citations to this reference refer to its English translation (Ex. 1017).
[2] PCT Pub. No. WO 90/11571, pub. Oct. 4, 1990 (Ex. 1012, "Belden").
[3] CA 2 305 736 A1, pub. Apr. 22, 1999 (Ex. 1013, "May").
[4] U.S. Pat. No. 5,297,031, iss. Mar. 22, 1994 (Ex. 1011, "Gutterman").

FIG. 3

SYCOM FGBL DEC99						⊟□☒
E/W	10:48:44		BidQ	AskQ	Prc	LTQ
L	3			104	99	
R	5			24	98	
720				33	97	
✕	10			115	96	
0				32	95	
10	1H			27	94	
50	3H			63	93	
1K	5H			45	92	
CLR				28	91	
✕	10			20	90	10
17	▽				89	
CXL		18			88	
+	-	97			87	
NET 0		30			86	
		43			85	
NET REAL		110			84	
		23			83	
		31			82	
		125			81	
		21				

Labels (left side, top to bottom): 1009, 1010, 1011, 1012, 1013, 1014, 1007 (S 0 W 24, S 0 W 7), 1015, 1016, 1008 (B 0 W 15, B 0 W 13), 1017, 1018 (B 0 W 17), 1019, 1021

Label (right side): 1020

Bottom labels: 1001 1002 1003 1004 1005 1006

Figure 3 of the '132 patent illustrates an example of the Mercury display with example values for trading a commodity including prices, bid and ask quantities relative to price, and trade quantities.

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 7:36–48. The '132 patent explains that "[t]he column does not list the whole prices (e.g. 95.89), but rather, just the last two digits (e.g. 89)." *Id.* at 7:38–40. 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 7:35–51. The '132 patent explains that "[t]he exchange sends the price, order and fill information to each trader on the exchange" and that "[t]he physical

5

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