

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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.

CBM 2015-00179
Patent 7,533,056 B2

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

MEDLEY, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 328(a) and 37 C.F.R. § 42.73

IBG 1062
IBG v. TT
CBM2016-00054

I. INTRODUCTION

IBG LLC, Interactive Brokers LLC, TradeStation Group, Inc., TradeStation Securities, Inc., TradeStation Technologies, Inc., and IBFX, Inc. (collectively, “Petitioner”) filed a Petition requesting a covered business method patent review of claims 1–15 of U.S. Patent No. 7,533,056 B2 (Ex. 1001, “the ’056 patent”). Paper 9 (“Pet.”).¹ In response, Trading Technologies International, Inc. (“Patent Owner”) filed a Patent Owner Preliminary Response. Paper 21 (“Prelim. Resp.”). Upon consideration of the Petition and Preliminary Response, we instituted trial as to claims 1–15 of the ’056 patent. Paper 23 (“Dec.”).

Subsequent to institution, Patent Owner filed a Corrected Patent Owner Response (Paper 81 (“PO Resp.”)) and Petitioner filed a Reply (Paper 110 (“Pet. Reply”)). Petitioner filed a Motion to Exclude (Paper 116 (“Pet. Mot. to Exclude”)) Exhibits 2300, 2301, 2304–2316, 2318–2324, 2326–2330, 2030, and 2032. Patent Owner filed an Opposition to the Motion to Exclude (Paper 117 (“PO Exclude Opp.”)), and Petitioner filed a Reply (Paper 120 (“Pet. Exclude Reply”)).

Patent Owner filed a Motion to Exclude (Paper 114 (“PO Mot. to Exclude”)) Exhibits 1003, 1007, and portions of Exhibits 1059 and 1060. Petitioner filed an Opposition to the Motion to Exclude (Paper 118 (“Pet. Exclude Opp.”)), and Patent Owner filed a Reply (Paper 121 (“PO Exclude Reply”)).

¹ CQG, Inc. and CQGT, LLC, originally part of “Petitioner,” settled with Patent Owner. The proceeding was terminated with respect to CQG, Inc. and CQGT, LLC. Paper 27.

An oral hearing was held on October 19, 2016, and a transcript of the hearing is included in the record (Paper 134 (“Tr.”)).²

For the reasons that follow, we determine that Petitioner has shown by a preponderance of the evidence that claims 1–15 of the ’056 patent are unpatentable.

A. Related Matters

The ’056 patent is involved in the following lawsuit: *TT v. BGC Partners, Inc., et al.*, No. 1:10-cv-00715 (N.D. Ill.). Pet. 3. In compliance with 37 C.F.R. § 42.302(a), Petitioner certifies that it has been sued for infringement of the ’056 patent. *Id.* Patent Owner does not challenge Petitioner’s certification that it has been sued for infringement of the ’056 patent.

B. The ’056 Patent

The Specification of the ’056 patent describes a user interface for an electronic trading system that allows a remote trader to view trends for an item, which assists the trader to anticipate demand for an item. Ex. 1001, 2:8–26.

² After oral hearing, the Federal Circuit issued a decision, *Trading Technologies International, Inc., v. CQG, INC.*, No. 2016-1616, 2017 WL 192716 (Fed. Cir. Jan. 18, 2017), determining that the subject matter claimed in two other tangentially related patents to the ’056 patent are patent-eligible under § 101. Petitioner and Patent Owner, with authorization (Paper 137), each filed supplemental briefing addressing the impact of that decision on this proceeding. Paper 138 (“PO Br.”); Paper 140 (“Pet. Br.”).

C. Illustrative Claim

Claim 1 of the '056 patent is the only independent claim:

1. A method of operation used by a computer for displaying transactional information and facilitating trading in a system where orders comprise a bid type or an offer type, the method comprising:

receiving bid and offer information for a product from an electronic exchange, the bid and offer information indicating a plurality of bid orders and a plurality of offer orders for the product;

displaying a plurality of bid indicators representing quantity associated with the plurality of bid orders, the plurality of bid indicators being displayed at locations corresponding to prices of the plurality of bid orders along a price axis;

displaying a plurality of offer indicators representing quantity associated with the plurality of offer orders, the plurality of offer indicators being displayed at locations corresponding to prices of the plurality of offer orders along the price axis;

receiving a user input indicating a default quantity to be used to determine a quantity for each of a plurality of orders to be placed by the user at one or more price levels;

receiving a user input indicating a desired price for an order to be placed by the user, the desired price being specified by selection of one of a plurality of locations corresponding to price levels along the price axis; and

sending the order for the default quantity at the desired price to the electronic exchange.

D. Grounds of Unpatentability

We instituted review of claims 1–15 on the following grounds:

References	Basis	Challenged Claims
n/a	§ 101	1–15
TSE ³ , Togher ⁴ , Schott ⁵ , and Cooper ⁶	§ 103	1–15
Silverman ⁷ , Togher, Cooper, and Hogan ⁸	§ 103	1–15

E. Covered Business Method Patent

A covered business method patent is “a patent that claims a method or corresponding apparatus for performing data processing or other operations used in the practice, administration, or management of a financial product or service, except that the term does not include patents for technological inventions.” Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284, 329 (2011) (“AIA”) § 18(d)(1); *see* 37 C.F.R. § 42.302. To determine whether a patent is for a technological invention, we consider “whether the claimed subject matter as a whole recites a technological feature that is novel and unobvious over the prior art; and solves a technical problem using a technical solution.” 37 C.F.R. § 42.301(b). For purposes of

³TOKYO STOCK EXCHANGE OPERATION SYSTEM DIVISION, FUTURES/OPTION PURCHASING SYSTEM TRADING TERMINAL OPERATION GUIDE (1998) (Ex. 1004) (“TSE”).

⁴ U.S. Patent No. 5,375,055, issued Dec. 20, 1994 (Ex. 1008) (“Togher”).

⁵ U.S. Patent No. 5,619,631, issued Apr. 8, 1997 (Ex. 1009) (“Schott”).

⁶ Alan Cooper, ABOUT FACE: THE ESSENTIALS OF USER INTERFACE DESIGN, First Edition (1995) (Ex. 1015) (“Cooper”).

⁷ U.S. Patent No. 5,136,501, issued Aug. 4, 1992 (Ex. 1010) (“Silverman”).

⁸ U.S. Patent No. 5,414,809, issued May 9, 1995 (Ex. 1011) (“Hogan”).

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