UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GAIN CAPITAL HOLDINGS, INC.,
Petitioner,

v.

OANDA CORPORATION,
Patent Owner.

Case No. CBM2020-00021
Patent No. 8,392,311

PETITION FOR COVERED BUSINESS METHOD REVIEW

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I. INTRODUCTION

Petitioner, GAIN Capital Holdings, Inc. ("GAIN"), seeks covered business method ("CBM") review of claims 1-7 of U.S. Patent 8,392,311 ("the '311 patent"; EX1001), owned by OANDA Corporation ("OANDA").

Currency trading is an age-old business practice stretching back generations. While the platform for currency trading has shifted over time—from physical markets, to phones, to computers—the fundamental aspects of the trading process have endured. Regardless of the underlying platform, traders have long been able to interact with currency dealers to receive price quotes, negotiate rates, and make trades, much like any other financial transaction.

The claims of the '311 patent merely describe a standard currency trade being performed by computers. A generic server sets and maintains exchange rates and then communicates those rates to a client, just as currency dealers and brokers have done for generations. The trader then submits a standard order—identifying the currency, the amount to be traded, and a requested price—using a generic client system. The server then accepts or rejects the order, checking the request price against the currently available price, and informs the trader if the trade is accepted.

The claims thus broadly describe a conventional order-based currency trade performed on a computer. Yet the mere use of a generic computer to replicate a longstanding business practice does not render an abstract idea eligible for a patent.

Alice Corp. Pty. Ltd. v. CLS Bank Intern., 573 U.S. 208, 218-24 (2014); *see also Bilski v. Kappos*, 561 U.S. 593, 609-12 (2010) (fundamental economic practices are patent-ineligible abstract ideas). Notably, these claims issued before the Supreme Court issued its landmark *Alice* decision. Evaluating the claims with the benefit of the Supreme Court's decision, as well as subsequent Federal Circuit decisions addressing strikingly similar trading practices, the abstract nature of the '311 claims is unmistakable.

Accordingly, this petition demonstrates a reasonable likelihood that claims 1-7 are not directed to patent-eligible subject matter under 35 U.S.C. §101, and GAIN respectfully requests institution of CBM review and cancellation of the challenged claims.

II. MANDATORY NOTICES UNDER 37 C.F.R. § 42.8

Real Party-in-Interest (37 C.F.R. § 42.8(b)(1)): Petitioner GAIN Capital Holdings, Inc. and GAIN Capital Group, LLC are the real parties-in-interest. StoneX Group Inc. is the ultimate parent of GAIN Capital Holdings, Inc. and GAIN Capital Group, LLC.

Related Matters (37 C.F.R. § 42.8(b)(2)): The '311 patent is currently involved in *OANDA Corp. v. GAIN Capital Holdings, Inc.*, et al., No. 2:20-cv-5784 (D.N.J. May 11, 2020). EX1006. Petitioner is also concurrently filing a petition for CBM review in CBM2020-00022 against related U.S. Patent No.

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