

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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CQG, INC. and CQG, LLC (f/k/a CQGT, LLC),  
Petitioner,

v.

CHART TRADING DEVELOPMENT, LLC,  
Patent Owner.

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Case CBM2016-00048  
Patent 8,060,435 B2

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Before JAMESON LEE, KEVIN F. TURNER, and  
KEVIN W. CHERRY, *Administrative Patent Judges*.

CHERRY, *Administrative Patent Judge*.

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

## I. INTRODUCTION

### A. Background

CQG, Inc. and CQG, LLC (collectively, “Petitioner”) filed a Petition (Paper 5, “Pet.”) requesting review under the transitional program for covered business method patents of the AIA<sup>1</sup> of claims 1–31 (“the challenged claims”) of the U.S. Patent No. 8,060,435 B2 (Ex. 1001, “the ‘435 patent”). Chart Trading Development LLC (“Patent Owner”) filed a Preliminary Response. Paper 10 (“Prelim. Resp.”). Pursuant to 35 U.S.C. § 324, in our Decision to Institute, we instituted this proceeding as to claims 1–31 on the asserted ground that the challenged claims are directed to non-statutory subject matter, under 35 U.S.C. § 101. Paper 12 (“Dec.”).

After the Decision to Institute, Patent Owner filed a Patent Owner Response (Paper 20, “PO Resp.”), and Petitioner filed a Reply to the Patent Owner Response (Paper 26, “Pet. Reply”). Patent Owner also filed a Contingent Motion to Amend (Paper 21, “Mot. Amend”), Petitioner filed an Opposition to the Motion to Amend (Paper 27, “Opp. Mot. Amend”), and Patent Owner filed a Reply in Support of its Motion to Amend (Paper 30, “Reply Mot. Amend”). Petitioner filed a Motion to Exclude (Paper 32, “Mot. Exclude”), Patent Owner filed an opposition to the Motion to Exclude (Paper 37, “Opp. Exclude”), and Petitioner filed a reply in support of its Motion to Exclude (Paper 38, “Reply Mot. Exclude”). An oral hearing was held on June 8, 2017. Paper 42 (“Tr.”).

We have jurisdiction under 35 U.S.C. § 6(b). This Decision is a Final Written Decision under 35 U.S.C. § 328(a) as to the patentability of the

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<sup>1</sup> Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284, 329 (2011) (“AIA”).

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challenged claims. Based on the complete record, we determine Petitioner has demonstrated, by a preponderance of the evidence, that claims 1–31 are unpatentable, we deny Patent Owner’s Motion to Amend, and we deny Petitioner’s Motion to Exclude.

*B. Related Matters*

The ’435 patent is the subject of several related U.S. district court proceedings: *Chart Trading Development, LLC v. CQG, Inc.*, No. 6:15-cv-01133-JRG-JDL (E.D. Tex.); *Chart Trading Development, LLC v. Interactive Brokers, LLC*, No. 6:15-cv-01135-JDL (E.D. Tex.); and *Chart Trading Development, LLC v. TradeStation Group, Inc.*, No. 6:15-cv-01136-JDL (E.D. Tex.). Pet. 7–8; Paper 7, 2. A number of patents are related to the ’435 patent and some of the related patents are the subject of petitions for covered business method patent review. Paper 7, 2.

*C. The Asserted Ground*

We instituted this proceeding only on Petitioner’s ground challenging claims 1–31 as patent ineligible under 35 U.S.C. § 101. Dec. 32.

*D. The ’435 Patent*

The ’435 patent is titled “Systems and Methods for Providing a Trading Interface.” Ex. 1001, at [54]. According to the ’435 patent, at the time of the invention, electronic trading was becoming more popular and there was a need for new systems and methods to enter trade commands in a quick, efficient, and accurate manner. *Id.* at 1:20–23. The ’435 patent contends that “in one method of electronic trading, bids and offers are submitted by traders to a trading system, those bids and offers are then displayed by the trading system to other traders, and the other traders may then respond to the bids and offers by submitting sell (or hit) or buy (or lift

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or take) commands to the system.” *Id.* at 1:23–28. According to the ’435 patent, many implementations of electronic trading, while generally accurate, are slow because the traders are forced to use both a keyboard and a mouse to trade. *Id.* at 1:29–32. The ’435 patent also explains that using a keyboard to execute a trade is faster than with a mouse. *Id.* at 1:38–42. Yet, the ’435 patent explains that traders, at the time of the invention, still continued to use a mouse because “it is considered easy to use, and thus traders feel that they are less likely to make unwarranted trading mistakes with a mouse” and many professional traders “prefer to forgo speed and efficiency for peace of mind.” *Id.* at 1:43–49.

The ’435 patent contends that traders using mouse-based trading interfaces are at a disadvantage when competing with full-time keyboard traders because of the time it takes to “physically move a mouse pointer from an indicator for the desired instrument, [which] is at some given point on a trading screen, to some other point on the screen where bidding/offering and bidding/selling commands can be entered.” *Id.* at 1:50–60. Thus, the ’435 patent states that it offers a solution to this problem describing a system and method where the trader can use various trading interfaces to initiate trading commands, configure various display features and default command settings, and control a level of command entry verification that is provided to protect against inadvertent entry of incorrect trading commands. *Id.* at 2:2–7.

Figure 1 of the '435 patent is reproduced below:

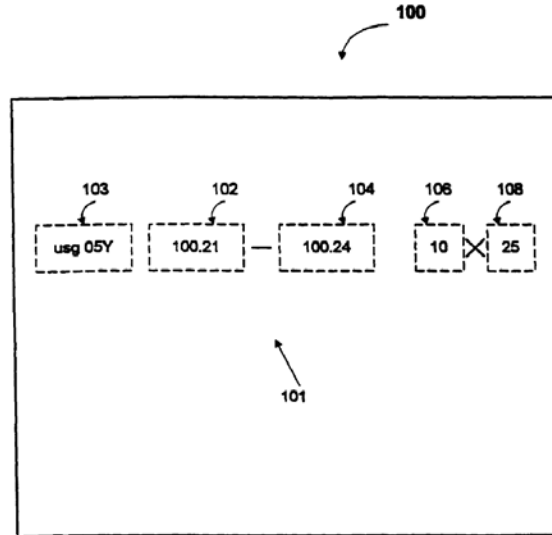


FIG. 1

Figure 1 shows a market cell 100 or main trading window that may be used to display one or more bid and/or one or more offer 101 for an item to be traded. *Id.* at 3:21–24. Bid and offer 101 indicates price 102 that a buyer is willing to pay for selected item 103 at given size 106 (i.e., a number of the item) and price 104 that a seller is willing to accept for selected item 103 at given size 108. *Id.* at 3:24–28. In order to bid for, offer to sell, buy, and/or sell an item through market cell 100, a trader may submit a trading command indicating the action to be taken using, for example, a command-line interface or using a graphical interface. *Id.* at 3:42–48. “A trader may also indicate a desire to bid, offer, buy, and/or sell an item by clicking on different portions of a bid and offer 101 for that item in market cell 100.” *Id.* at 3:56–58. In particular, these features allow the user to click on a bid price, offer price, bid size, or offer size in a market cell to indicate a desire to submit a bid or offer or to sell or buy an item, respectively. *Id.* at 3:58–64.

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