

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., and  
TRADESTATION SECURITIES, INC.,  
Petitioner,

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.,  
Patent Owner.

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Case CBM2016-00051  
Patent 7,904,374 B2

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

PLENZLER, *Administrative Patent Judge*.

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

## INTRODUCTION

### A. *Background*

IBG LLC, Interactive Brokers LLC, TradeStation Group, Inc., and TradeStation Securities, Inc. (collectively, “Petitioner”) filed a Petition on March 29, 2016 requesting covered business method patent review of claims 1–36 (the “challenged claims”) of U.S. Patent No. 7,904,374 B2 (Ex. 1001, “the ’374 patent”). Paper 3 (“Pet.”). On July 5, 2016, Trading Technologies International, Inc. (“Patent Owner”) filed a Preliminary Response. Paper 8 (“Prelim. Resp.”). On August 17, 2016, we instituted a covered business method patent review (Paper 11, “Institution Decision” or “Inst. Dec.”) based upon Petitioner’s assertion that claims 1–36 are directed to patent ineligible subject matter under 35 U.S.C. § 101. Inst. Dec. 22. Subsequent to institution, Patent Owner filed a Patent Owner Response (Paper 18, “PO Resp.”) and Petitioner filed a Reply (Paper 23, “Pet. Reply”) to Patent Owner’s Response. Pursuant to our authorization, Patent Owner filed an additional submission addressing the Federal Circuit’s holding in *Technologies International, Inc., v. CQG, Inc.*, No. 2016-1616, 2017 WL 192716 (Fed. Cir. Jan. 18, 2017) (“CQG”) (Paper 29, “PO Add’l Sub.”), and Petitioner filed a reply to that submission (Paper 30). Petitioner filed a Motion to Exclude Evidence (Paper 31), and Patent Owner also filed a Motion to Exclude Evidence (Paper 34).

We held a joint hearing of this case and several other related cases on May 3, 2017. Paper 43 (“Tr.”).

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

sufficiently that claims 1–36 of the '374 patent are directed to patent ineligible subject matter under 35 U.S.C. § 101.

*B. Related Proceedings*

The parties indicate numerous related U.S. district court proceedings, including at least one proceeding specifically directed to the '374 patent. Pet. 2; Paper 6, 1–5.

Numerous patents are related to the '374 patent and the related patents are or were the subject of numerous petitions for covered business method patent review and reexamination proceedings. As noted above, the Federal Circuit has issued a non-precedential decision, *CQG*, which addresses whether claims of U.S. Patent Nos. 6,766,304 (“the '304 patent”) and 6,772,132 (“the '132 patent”) are patent eligible under § 101. The '374 patent at issue in this case is related to the '132 and '304 patents via continuation and divisional filings.

*C. Asserted Grounds*

Petitioner contends that the challenged claims are unpatentable under 35 U.S.C. § 101. Pet. 27–50.

*D. The '374 Patent*

The '374 patent is titled “Click Based Trading with Intuitive Grid Display of Market Depth.” Ex. 1001, (54). The '374 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 '374 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 3:11–20. The Mercury display is depicted in Figure 3, which is reproduced below.

FIG. 3

E/W	10:48:44	BidQ	AskQ	Prc	LTQ
L	3		104	99	
R	5		24	98	
	720		33	97	
X	10		115	96	
	0				
	10 1H		32	95	
	50 3H		27	94	
S 0	1K 5H		63	93	
W 24			45	92	
S 0	CLR				
W 7			28	91	
X	10		20	90	10
	17				
B 0	CXL	18		89	
W 15					
B 0	+ -	97		88	
W 13	NET 0	30		87	
B 0		43		86	
W 17	NET REAL	110		85	
		23		84	
		31		83	
		125		82	
		21		81	

Figure 3 of the '374 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 7:23–25. The '374 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 7:25–26. 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 7:23–37. The '374 patent explains that “[t]he exchange sends the price, order and fill information to each trader on the exchange” and that “[t]he physical

mapping of such information to a screen grid can be done by any technique known to those skilled in the art.” *Id.* at 4:59–66.

Column 1002 contains various parameters and information used to execute trades, such as the default quantity displayed in cell 1016. *See id.* at 7:55–8:23. A trader executes trades using the Mercury display by first setting the desired commodity and default parameters, such as default quantity. *See id.* at 8:56–9:3; Fig. 6, step 1302. Then, a trader can send a buy order or sell order to the market with a single action, such as clicking on the appropriate cell in column 1003 or 1004. *See id.* at 8:60–9:48; Fig. 6, steps 1306–1315.

*E. Illustrative Claim*

As noted above, Petitioner challenges claims 1–36. Claims 1 and 36 are independent, with claims 2–35 depending from claim 1. Claim 1 is representative, and is reproduced below:

1. A method for facilitating trade order entry, the method comprising:

receiving, by a computing device, market data for a commodity, the market data comprising a current highest bid price and a current lowest ask price available for the commodity;

identifying, by the computing device, a plurality of sequential price levels for the commodity based on the market data, where the plurality of sequential price levels includes the current highest bid price and the current lowest ask price;

displaying, by the computing device, a plurality of graphical locations aligned along an axis, where each graphical location is configured to be selected by a single action of a user input device to send a trade order to the electronic exchange, where a price of the trade order is based on the selected graphical location;

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