

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MIAMI INTERNATIONAL HOLDINGS, INC., MIAMI INTERNATIONAL  
SECURITIES EXCHANGE, LLC, MIAX PEARL, LLC, and MIAMI  
INTERNATIONAL TECHNOLOGIES, LLC,  
Petitioner,

v.

NASDAQ, INC.,  
Patent Owner.

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Case CBM2018-00032  
Patent 7,933,827 B2

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Before TONI R. SCHEINER, MEREDITH C. PETRAVICK, and  
KRISTI L. R. SAWERT, *Administrative Patent Judges*.

PETRAVICK, *Administrative Patent Judge*.

JUDGMENT  
Final Written Decision  
Determining All Challenged Claims Unpatentable  
*35 U.S.C. § 328(a)*  
ORDER  
Denying Patent Owner's Motion to Strike  
*37 C.F.R. § 42.5*

## I. INTRODUCTION

Miami International Holdings, Inc., Miami International Securities Exchange, LLC, MIAX PEARL, LLC, and Miami International Technologies, LLC (collectively, “Petitioner”) filed a Petition (Paper 1, “Pet.”) requesting a covered business method (“CBM”) patent review of claims 1–3, 5–8, 20–24, 33–36, 38–43, 53–55, 57, and 67–70 (“the challenged claims”) of U.S. Patent No. 7,933,827 B2 (Ex. 1001, “the ’827 patent”) under § 18 of the Leahy-Smith America Invents Act (“AIA”).

Petitioner contends that the challenged claims are unpatentable based on the following ground:

<b>Claim(s) Challenged</b>	<b>35 U.S.C.</b>	<b>References/ Basis</b>
1–3, 5–8, 20–24, 33–36, 38–43, 53–55, 57,67–70	§ 101	for being directed to patent ineligible subject matter

Pet. 1.

Nasdaq, Inc. (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). On November 14, 2018, we instituted trial. Paper 10 (“Inst. Dec.”).

After institution,<sup>1</sup> Patent Owner filed a Response (Paper 33; “PO Resp.”), Petitioner filed a Reply to Patent Owner’s Response (Paper 45; “Pet. Reply”), and Patent Owner filed a Sur-reply (Paper 56; “PO Sur-reply”).

Patent Owner also filed a Motion to Strike (Paper 59) to which Petitioner filed an Opposition to Patent Owner’s Motion to Strike (Paper 62).

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<sup>1</sup> After institution, Patent Owner filed a Contingent Motion to Amend. Paper 32. Patent Owner subsequently withdrew its Contingent Motion to Amend. Paper 77.

Oral argument was held on July 17, 2019. Paper 73 (“Tr.”).

Based on the complete record, we determine that Petitioner has met its burden of showing, by a preponderance of the evidence, that the ’827 patent is eligible for covered business method patent review, and that claims 1–3, 5–8, 20–24, 33–36, 38–43, 53–55, 57, and 67–70 are unpatentable under 35 U.S.C. § 101 as patent ineligible subject matter.

## II. RELATED MATTERS

Petitioner and Patent Owner inform us that the ’827 patent is the subject of *Nasdaq, Inc. v. Miami International Holdings, Inc.*, Case No. 3:17-cv-0664, in the District of New Jersey. Pet. 1–2; Paper 4, 1.

The ’827 patent is the subject of another CBM patent review, *Investors Exchange LLC v. Nasdaq, Inc.*, CBM2019-00039 (PTAB).

Additionally, a number of related patents are the subject of CBM patent review petitions. *See* Paper 4, 2. Particularly, the ’827 patent and U.S. Patent No. 7,921,051 (CBM2018-00030) both claim priority to the same provisional patent applications, have substantially identical specifications, and contain claims directed to similar subject matter. *See id.*

## III. THE ’827 PATENT

The ’827 patent is titled “Multi-parallel Architecture and Method of Using the Same,” and issued on April 26, 2011. Ex. 1001, codes (45), (54). The ’827 patent issued from Application No. 10/206,892, which claims priority to Provisional Application No. 60/385,979 and Provisional Application No. 60/385,988, both filed on June 5, 2002. *Id.* at codes (21), (60).

The '827 patent relates to “electronic-based securities trading, and more particularly to processing and displaying of information relating to electronic securities trading” and discloses computerized trading system 16 that includes order routing system 14 and multiple security processors 10. *Id.* at 1:14–16, 5:48–55. Figure 2 of the '827 patent is reproduced below.

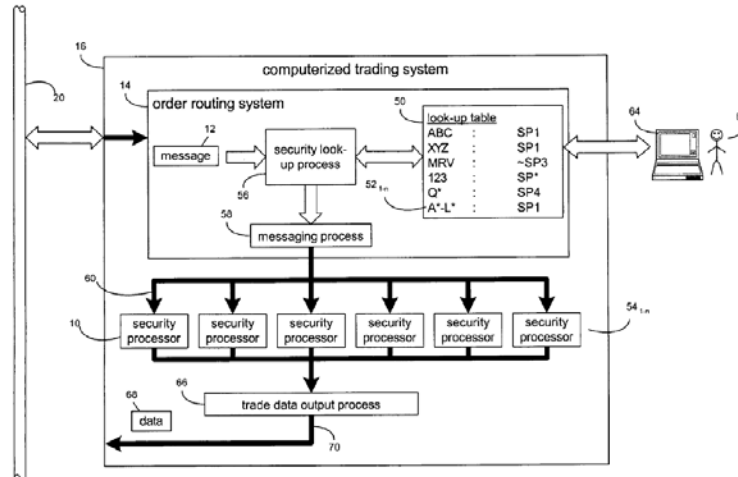


Fig. 2

Figure 2 depicts “a block diagram of the order routing system.” *Id.* at 5:36–37. Order routing system 14 includes security look-up process 56, look-up table 50, and messaging process 58. Upon receipt of order 12, security look-up process 56 determines the ordered security, using the ticker symbol (e.g., XYZ) or some other identifier. *Id.* at 6:59–7:4. Security look-up process 56 then determines the assigned security processor 10 (e.g., SP1 for XYZ) by scanning or querying look-up table 50. *Id.* at 7:5–13. Messaging process 58 then populates the header of order 12 to identify the assigned security processor 10 or appends order 12 to include a header that identifies the assigned processor 10. *Id.* at 7:13–19.

In one embodiment, look-up table 50 includes specific-entry table 150 and rule entry table 154. *Id.* at 12:14–15. Figure 4 of the '827 patent is reproduced below.

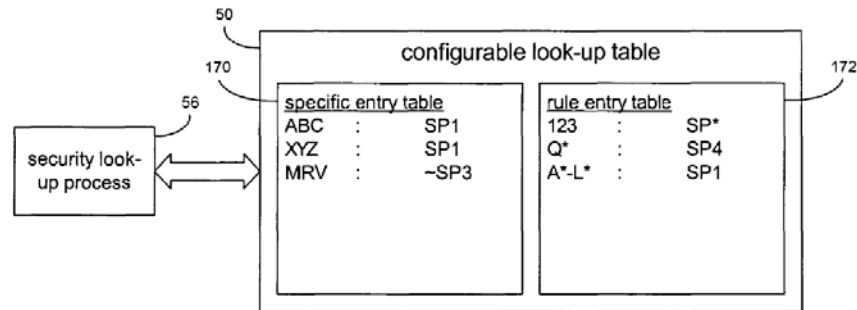


Fig. 4

Figure 4 depicts “a block diagram of a configurable look-up table” having specific-entry table 150 and rule entry table 154. *Id.* at 5:40–41. “Specific entry table 170 includes security-specific assignment entries (e.g., XYZ:SP1)” and “[r]ule-entry table 172 includes id-range assignment entries (e.g., A\*-L\*:SP1).” *Id.* at 12:16–20. Security look-up process 56 first accesses and searches specific entry table 170 to determine if it includes an assignment entry for the ordered security and, if it does, security look-up process 56 stops searching. *Id.* at 12:21–26. If specific entry table 170 does not, security look-up process 56 searches rule-entry table 172 for an assignment entry for the ordered security. *Id.* at 12:26–32.

Look-up table 50 can be configured in various forms. For example, table 50 can be in the form of a multi-column, multi-row text-based ASCII (i.e., American Standard Code for Information Interchange) file that is accessed to determine the assigned securities processor. Alternatively, look-up table 50 may be a database from which a query is made concerning the security and the appropriate database record is

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