Trial decision

Invalidation No. 2016-800015

Tokyo, Japan
Demandant GAITAME ONLINE:KK

Tokyo, Japan
Attorney SAMEJIMA, Masahiro

Tokyo, Japan
Attorney ITO, Masahiro

Tokyo, Japan
Attorney MIZOTA, Soji

Tokyo, Japan
Attorney SEKI, Yujiro

Tokyo, Japan
Demandee MONEY SQUARE HOLDINGS INC

Tokyo, Japan
Patent Attorney SANO, Hiroshi

Tokyo, Japan
Patent Attorney ISHII, Akio

Tokyo, Japan
Attorney ITO, Makoto

Tokyo, Japan

Attorney HIRAI, Yuki

Tokyo, Japan

Attorney MARUTA, Norikazu

Tokyo, Japan
Attorney MAKINO, Tomohiko

The case of trial regarding the invention of Japanese Patent No. 5525082, entitled "Financial Product Transaction Management Method and Program in Financial Product Transaction Management System," between the parties above has resulted in the following trial decision:

Conclusion

The demand for trial of the case was groundless.

The costs in connection with the trial shall be borne by the Demandant.

Reason

No. 1 History of the procedures

History of the procedures as to Japanese Patent No. 5525082 of the case is summarized as follows.

| | |
|---|---|
| Application (Japanese Patent Application No. 2013-78806) | Apr. 4, 2013 |
| (Original application (Japanese Patent Application No. 2010-5151) on Dec. 19, 2007) | |
| Registration of establishment | Apr. 18, 2014 |
| Demand for invalidation trial of the case | Feb. 4, 2016 |
| Written statement (Demandant) | Mar. 31, 2016 |
| Submission of Written reply for the trial case | May 9, 2016 |
| Written statement (Demandee) | Sep. 6, 2016 |
| Submission of Oral proceedings statement brief (Demandant) | Sep. 15, 2016 |
| Submission of Oral proceedings statement brief (Demandee) | Sep. 15, 2016 |
| Oral proceeding | Sep. 29, 2016 |

No. 2 The Invention

The inventions according to claims 1 to 10 of Japanese Patent No. 5525082 (Hereinafter, the invention according to claim 1 is called "the Invention 1," and the inventions according to other claims are called in a similar fashion) are as follows as described in the scope of claims.

<The Invention>

"[Claim 1]

A financial product transaction management method in a financial product transaction management system that manages trading transactions of financial products whose market prices fluctuate, the method comprising:

an order input reception procedure to receive, as trading order application information for conducting trading order of the financial product, each piece of: information for selecting a type of the financial product for which trading is desired; information, in trading orders of the financial product, for indicating an order total amount for each order price; information indicating one order price as a sale order price or a purchase order price of the financial product; information indicating a profit margin when, after selling the financial product of one of the order prices at the one order price, purchasing the financial product at another price or a profit margin when, after purchasing the financial product of one of the order prices at the one order price, selling the financial product at another order price; and information indicating price range, in a case where a plurality of the orders exist, between the orders;

an order information generation procedure to generate order information of the financial product of the type having been selected, based on the trading order application information received in the order input reception procedure;

a price information reception procedure to obtain information on the market price of the financial product; and

a second order price calculation procedure to calculate the other order price based on the order price in the trading order application information and the profit margin,

wherein, in the order information generation procedure, a plurality of order information groups are generated as the order information based on the trading order application information, the order information group comprising: first order information, regarding which the one order price is set as one maximum price about the financial products of an identical type, each of the order prices is set in a lower price side than the one maximum price so as to make each price range be the price range included in the trading order application information, and, about a first order price as each of the order prices being set, a limit order of buying or selling is conducted; and second order information, regarding which the other price calculated in the second order price calculation procedure is set as another maximum price, in a lower price side than the other maximum price, each of the order prices is set to each of the first orders so as to make the profit margin when performing sale or purchase based on the first order for

which purchase or sale has been carried out be the profit margin in the trading order application information, and, about a second order price as each of the order prices having been set, a limit order of selling for the first order of buying, and a limit order of buying for the first order of selling is performed,

wherein the order information groups generated are stored in an order information storing means, and

wherein setting is made such that, when, about each of the order information groups generated based on one piece of the trading order application information, the first order price of the first order that is a valid order and a market price of the financial product match each other, and, then the second order price of the second order that is a valid order and the market price match each other, and the first order and the second order are contracted, the first order information of the order information group that comes next is made to be valid, a contract of the first order at the first order price which is the same as the order price of the first order that has been contracted, and a contract of the second order at the second order price which is the same as the order price of the second order that has been contracted are made to be performed repeatedly.

[Claim 2]

A financial product transaction management method in a financial product transaction management system that manages trading transactions of financial products whose market prices fluctuate, the method comprising:

an order input reception procedure to receive, as trading order application information for conducting trading order of the financial product, each piece of: information for selecting a type of the financial product for which trading is desired; information, in trading orders of the financial product, for indicating an order total amount for each order price; information indicating one order price as a purchase order price or a sale order price of the financial product; information indicating a profit margin when, after purchasing the financial product of one of the order prices at the one order price, selling the financial product at another price or a profit margin when, after selling the financial product of one of the order prices at the one order price, purchasing the financial product at another order price; and information indicating price range, in a case where a plurality of the orders exist, between the orders;

an order information generation procedure to generate order information of the financial product of the type having been selected, based on the trading order application information received in the order input reception procedure;

a price information reception procedure to obtain information on the market price of the financial product; and

a second order price calculation procedure to calculate the other order price based on the order price in the trading order application information and the profit margin,

wherein, in the order information generation procedure, a plurality of order information groups are generated as the order information based on the trading order application information, the plurality of order information groups comprising: first order information, regarding which the one order price is set as one minimum price about the financial products of an identical type, each of the order prices is set in a higher price side than the one minimum price so as to make each price range be the price range included in the trading order application information, and, about a first order price as each of the order prices being set, a limit order of selling or buying is conducted: and second order information, regarding which the other price calculated in the second order price calculation procedure is set as another minimum price, in a higher price side than the other minimum price, to each of the first orders, each of the order prices is set so as to make the profit margin when performing purchase or sale based on the first order for which sale or purchase has been carried out be the profit margin in the trading order application information, and, about a second order price as each of the order prices having been set, a second order as a limit order of buying for the first order of selling, and a limit order of selling for the first order of buying is performed,

wherein the order information groups generated are stored in an order information storing means, and

wherein setting is made such that, when, about each of the order information groups generated based on one piece of the trading order application information, the first order price of the first order that is a valid order and a market price of the financial product match each other, and, then the second order price of the second order that is a valid order and the market price match each other, and the first order and the second order are contracted, the first order information of the order information group that comes next is made to be valid, a contract of the first order at the first order price which is the same as the order price of the first order that has been contracted, and a contract of the second order at the second order price which is the same as the order price of the second order that has been contracted are made to be performed repeatedly.

[Claim 3]

The financial product transaction management method in a financial product transaction management system according to claim 1 or 2, wherein the profit margin is profit money that can be obtained by the first order and the second order constituting one of the order information groups being respectively contracted, and the profit money

is set as a profit margin in the trading order application information.

[Claim 4]

The financial product transaction management method in a financial product transaction management system according to any one of claims 1 to 3,

wherein there is provided a minimum price range information storing procedure by a minimum price range information storing means for storing a minimum price range between each of the first orders and between each of the second orders forming a plurality of the order information groups as minimum price range information determined for each of the financial product types, and

wherein, in the order information generation procedure, the minimum price range information recorded in the minimum price range information storing means by the minimum price range information storing procedure is confirmed when the trading order application information is received, and, when a price range between each of the first orders or a price range between each of the second orders in the trading order application information is narrower than the minimum price range, the trading order application information is rejected.

[Claim 5]

The financial product transaction management method in a financial product transaction management system according to any one of claims 1 to 4, comprising:

an order information storing procedure for storing the order information generated by the order information generation procedure in the order information storing means; and

a contract information generation procedure for conducting a contract of the financial product based on the order information,

wherein, in the order information storing procedure, the order information group is stored in the order information storing means,

wherein, in the contract information generation procedure,

when the first order information is a limit order of buying, and if the market price of the financial product obtained in the price information reception procedure fluctuates to become equal to the first order price, the contract is performed based on the first order information between each piece of the order information constituting the order information group recorded in the order information storing procedures, and, in addition, when the market price of the financial product obtained in the price information reception procedure further fluctuates to become equal to the second order price, by performing the contract of the financial product based on the second order information, a contract of the financial product based on the first order information and

a contract of the financial product based on the second order information are performed repeatedly, and,

wherein, when the first order information is a limit order of selling, and if the market price of the financial product acquired in the price information reception procedure fluctuates to become equal to the first order price, the contract is performed based on the first order information between each piece of the order information constituting the order information group recorded in the order information storing procedure, and, in addition, when the market price of the financial product acquired in the price information reception procedure further fluctuates to become equal to the second order price, by performing the contract of the financial product based on the second order information, a contract of the financial product based on the first order information and a contract of the financial product based on the second order information are repeated.

[Claim 6]

The financial product transaction management method in a financial product transaction management system according to claim 5, comprising a difference information storing procedure by a difference information storing means storing difference information as information related to a difference between the market price and the order price of the order information determined for each type of the financial product,

wherein, in the contract information generation procedure, when there is a cancel request against an order of the financial product that has been once ordered, the difference information recorded in the difference information storing means in the difference information storing procedure is confirmed, and, when a difference between a market price when the cancel request of the financial product has been made and the order price of the order information stored in the order information storing procedure is smaller than the difference information, the cancel request is rejected.

[Claim 7]

The financial product transaction management method in a financial product transaction management system according to claim 5 or 6,

wherein, in the contract information generation procedure, when there is a cancel request against an order of the financial product that has been once ordered, the order information group including the order information related to the order of the cancel request is extracted, and cancel processing is conducted to the whole of the order information before the contract included in the order information group.

[Claim 8]

The financial product transaction management method in a financial product transaction management system according to any one of claims 1 to 7, comprising a customer account information storing procedure by a customer account information storing means storing credit balance information of a specific customer,

wherein, in the order information generation procedure, comparison between the credit balance information and order price information as attribute information of the order information is made, and, when a value of the credit balance information is equal to or greater than a value of the order price information, the order information group is generated.

[Claim 9]

The financial product transaction management method in a financial product transaction management system according to any one of claims 1 to 8, wherein the financial product is foreign currency exchange.

[Claim 10]

A program to make a computer execute the financial product transaction management method in a financial product transaction management system according to any one of claims 1 to 9."

No. 3 Gist of the Demandant's allegation

The Demandant demands the decision, "the patents as to the inventions according to claims 1-3, claim 5, and claims 7-10 described in the field of the scope of claims of Japanese Patent No. 5525082 shall be invalidated. The costs in connection with the trial shall be borne by the demandee."

The outline of its reasons for invalidation and means of proof is as stated below.

1. Gist of reasons for invalidation

(1) The invention according to claim 1 of Japanese Patent No. 5525082 (hereinafter, referred to as "the Invention 1," and inventions according to other claims are called in a similar fashion) (hereinafter, the patent is referred to as "the Patent") to the Invention 3, the Invention 5, and the Invention 7 to the Invention 10 are ones for which the Demandee should not be granted a patent in accordance with the provisions of Article 29(2) of the Patent Act, because these could be easily invented by a person skilled in the art before the application based on the invention according to Evidence A No. 1 (National Publication of International Patent Application No. 2002-54348) published on Dec. 17, 2002 (hereinafter, referred to as "Invention A-1"), and the patent falls under Article 123(1)(ii) of the same Act, and should be invalidated.

(2) The allegation as to the Invention 1, in particular

A. "F Comparison related to the constitution 1F

The details of the constitution 1F of the Invention 1 are as follows.

Constitution 1F In the order information generation procedure, a plurality of order information groups are generated as the order information based on the trading order application information, the order information group comprising: first order information, regarding which the one order price is set as one maximum price about the financial products of an identical type, each of the order prices is set in a lower price side than the one maximum price so as to make each price range be the price range included in the trading order application information, and, about a first order price as each of the order prices being set, a limit order of buying or selling is conducted; and second order information, regarding which the other price calculated in the second order price calculation procedure is set as another maximum price, in a lower price side than the other maximum price, each of the order prices is set to each of the first orders so as to make the profit margin when performing sale or purchase based on the first order for which purchase or sale has been carried out be the profit margin in the trading order application information, and, about a second order price as each of the order prices having been set, a limit order of selling for the first order of buying, and a limit order of buying for the first order of selling is performed

In Evidence A No. 1, there are described that ‘ .... In this regard, however, it is illustrated in this example that 10,000 shares of DEF Co. Ltd. stocks are owned, and it is supposed that, as the first trading condition, 100 shares of DEF Co. Ltd. stocks are sold at 10,000 won per one share is performed.’ ([0044]),‘ .... A purchase price can be set at a lower price of a predetermined ratio to every sale price, or set as a lower value lower than every sale price by a predetermined value. In FIG. 6, a lower price lower than a sale price by 500 won is set as automatic purchase price every time. ....’ ([0045]), ‘Automatic sale conditions are also set by the identical method into fields (614, 616, 618, 620). In this embodiment of the present invention, it is supposed that setting is made such that, every time a price is increased or decreased from the first sale price by 1,000 won, automatic selling of 100 shares is conducted. ....’ ([0046]), ‘The automatic trading table (700) in FIG. 7 can be created, by the setting conditions of automatic trading of FIG. 6. As, in the line (714) of the sale price of the automatic trading table (700), a sale price of each row has been set, they are formed in a manner each having a difference of 1,000 won, and each purchase price of the purchase price of line (712) is generated as a price lower than the sale price of the same row by 500 won. ....’ ([0049]), ‘Referring to FIG. 5, when the first sale becomes successful, the first automatic purchase and the first automatic sale are ordered in accordance with the automatic

trading table according to automatic trading conditions set in advance immediately (stage 512). The embodiment 3 is designed "so as to buy identical stocks at a low price and sell at a high price." Therefore, when the first sale order is contracted, purchase at the lower price just under, in the automatic trading table (700), the first sale price (10,000 won) that has been contracted (that is, purchase of 100 shares at the purchase price of 9,500 won) is ordered (the row (706) in FIG. 7), and sale at a higher price right above the contracted sale price (that is, sale of 100 shares at the sale price of 11,000 won) is ordered (See: the column of the sale in the row (704) in FIG. 7). ....' ([0051]), and 'When, while the first automatic trading order, the purchase order is contracted as ordered, purchase and sale adjacent to the order price having been contracted in the automatic trading table (700) are ordered. As mentioned before, since the embodiment 3 is designed to purchase at a "lower price" and sell at a "higher price" than the previous contract price, the second automatic trading is such that, after the stages (514, 516, 506) and (508) of FIG. 5, purchase (purchase of 100 shares at 8,500 won: refer to the row (708) in FIG. 7) and sale (sale of 100 shares at 10,000 won) is ordered. When the sale order is contracted in the second automatic trading, purchase (purchase of 100 shares at 9,500 won) and sale (sale of 100 shares at 11,000 won) adjacent to the contracted order price (10,000 won of the second time) are ordered automatically as the third automatic order. In other words, in every instance of automatic trading, purchase at a lower price just under a contract price in the automatic trading table (700) and sale at a higher price right above the contract price of the table is ordered.' ([0052]), and the description of [FIG. 7].

In other words, in Evidence A No. 1, there is disclosed that a plurality of order information groups are generated ([0049]), the order information group including: order information for performing a limit order of selling, regarding which, based on an automatic trading table, 10,000 won is set as a first sale price that is a standard about DEF shares as order information ([0044] and [FIG. 7]), then, in the price side lower than this sale price by 1,000 won, sale prices are set so as to make each price range be the price range included in the automatic trading table ([0046] and [0049]), and, about an order price as each of the sale prices having been set, the limit order of selling is performed ([0051] and [0052]); and order information for performing a limit order of buying, regarding which, taking 9,500 won that is a purchase price calculated based on the first sale price and a profit margin as a standard, purchase prices are set in the lower price side so as to make a profit margin when a limit order of buying is carried out with respect to each limit order of selling be 500 won having been set in the automatic trading table ([0045] and [0049]), and, about each of the purchase prices having been set,

the limit order of buying is performed with respect to an order of a sale price ([0051] and [0052]). Here, that 10,000 won is set as the first sale price that is standard corresponds to 'the one order price is set as one ... price.' That, in the price side lower than this sale price by 1,000 won, sale prices are set so as to make each price range be the price range included in the automatic trading table corresponds to 'each of the order prices is set in a lower price side than the one ... price so as to make each price range be the price range included in the trading order application information.' That taking 9,500 won that is a purchase price calculated based on the first sale price and a profit margin as a standard corresponds to 'the other price calculated in the second order price calculation procedure is set as another predetermined price.' That purchase prices are set in the lower price side so as to make a profit margin when a limit order of buying is carried out with respect to each limit order of selling be 500 won having been set in the automatic trading table corresponds to 'in a lower price side than the other predetermined price, each of the order prices is set relative to each of the first orders so as to make the profit margin when performing sale based on the first order for which sale has been carried out be the profit margin in the trading order application information.' That a plurality of order information groups are generated, the order information group including order information for performing a limit order of buying about each of the purchase prices having been set ([0051]and [0052]) corresponds to 'a plurality of order information groups are generated as the order information based on the trading order application information, the order information group comprising: second order information for performing, about a second order price as each of the order prices having been set, a limit order of buying for the first order of selling.'

Therefore, in Invention A-1, there is disclosed that 'In the order information generation procedure, a plurality of order information groups are generated as the order information based on the trading order application information, the order information group comprising: first order information, regarding which the one order price is set as one ... price about the financial products of an identical type, each of the order prices is set in a lower price side than the one ... price so as to make each price range be the price range included in the trading order application information, and, about a first order price as each of the order prices being set, a limit order of selling is conducted: and second order information, regarding which the other price calculated in the second order price calculation procedure is set as another predetermined price, in a lower price side than the other predetermined price, each of the order prices is set relative to each of the first orders so as to make the profit margin when performing sale based on the first order for which sale has been carried out be the profit margin in the trading order application

information, and, about a second order price as each of the order prices having been set, a limit order of buying for the first order of selling is performed.'

However, in a point that 'the one order price is set as one maximum price' in the Invention 1, whereas 'the one order price is set as one ... price' in the Invention A-1, the two inventions are different (hereinafter, referred to as 'Different Feature 1')."
(Written demand for trial, page 23, line 19 to page 28, line 24)

B. "H Comparison related to the constitution 1H

The detail of the constitution 1H of the Invention 1 is as follows.

The constitution 1H Setting is made such that, when, about each of the order information groups generated based on one piece of the trading order application information, the first order price of the first order that is a valid order and a market price of the financial product match each other, and, then the second order price of the second order that is a valid order and the market price match each other, and the first order and the second order are contracted, the first order information of the order information group that comes next is made to be valid, a contract of the first order at the first order price which is the same as the order price of the first order that has been contracted, and a contract of the second order at the second order price which is the same as the order price of the second order that has been contracted are made to be performed repeatedly.

In Evidence A No. 1, there is disclosed that 'A user can set a target return rate or return rate in field (626). When the target return rate is not set, automatic trading is continued unless the user intervenes to suspend the automatic trading. ....' ([0047]), 'With reference to FIG. 5, when the first sale becomes successful, the first automatic purchase and automatic sale is ordered immediately in accordance with an automatic trading table by automatic trading conditions having been set in advance (stage 512). The embodiment 3 is designed "so as to buy identical shares at a low price and sell at a high price." Therefore, when the first sale order is contracted purchase at the lower price just under, in the automatic trading table (700), the first sale price (10,000 won) that has been contracted (that is, purchase of 100 shares at the purchase price of 9,500 won) is ordered (the row (706) in FIG. 7), and sale at a higher price right above the contracted sale price (that is, sale of 100 shares at the sale price of 11,000 won) is ordered (see: the column of the sale in the row (704) in FIG. 7). ....' ([0051]) and 'When, during the first automatic trading order, purchase order is contracted as ordered, purchase and sale adjacent, in the automatic trading table (700), to the order price having been contracted are ordered. As mentioned before, since the embodiment 3 is designed to purchase at a "lower price" and sell at a "higher price" than the previous contract price, purchase (a purchase of 100 shares at 8,500 won: refer to the row (708)

in FIG. 7) and sale (a sale of 100 shares at 10,000 won) is ordered in the second automatic trading after the stages (514, 516, 506) and (508) of FIG. 5. When the sale order is contracted in the second automatic trading, purchase (purchase of 100 shares at 9,500 won) and sale (sale of 100 shares at 11,000 won) adjacent to the contracted order price (10,000 won of the second time) are ordered automatically as the third automatic order. In other words, in every piece of automatic trading, purchase at a lower price just under a contract price in the automatic trading table (700) and sale at a higher price right above the contract price of the table is ordered..' ([0052]), and the description of [FIG. 7].

In other words, in Evidence A No. 1, there is disclosed a constitution that: a plurality of pieces of order information are generated based on setting conditions of automatic trading; when, about the plurality of pieces of order information, a sale order such as 10,000 won is contracted just at the order price, purchase order of a lower price such as 9,500 won just under the contract price in the automatic trading table is conducted ([0051] and [FIG. 7]); when the purchase order of the low price in question is contracted just at the order price, sale such as 10,000 won adjacent to the contracted order price is ordered; when the sale order in question is contracted just at the order price, purchase order such as 9,500 won neighboring the contracted order price is performed ([0052] and [FIG. 7]); and, after that, sale order such as 10,000 won and purchase order such as 9,500 won is automatically conducted ([0047]). Here, it is obvious that the case where sale order or purchase order is contracted just at the order price means the case where a market price becomes identical with the order price. Therefore, order information related to sale of 10,000 won and purchase of 9,500 won correspond to an order information group.

Accordingly, as purported just above and C, E and F, there is disclosed in the Invention A-1 that 'Setting is made such that, when, about each of the order information groups generated based on one piece of the trading order application information, the first order price of the first order that is a valid order and a market price of the financial product match each other, and, then the second order price of the second order that is a valid order and the market price match each other, and the first order and the second order are contracted, the first order information of the order information group that comes next is made to be valid, a contract of the first order at the first order price the same as the order price of the first order that has been contracted, and a contract of the second order at the second order price the same as the order price of the second order that has been contracted are made to be performed repeatedly,' and, consequently, the Invention A-1 includes the constitution 1H." (Written demand for trial, page 29, line 20

to page 32, line 26)
C. "J Examination of the different features (Different Feature 1)
Different Feature 1 A point that, in an order information generation means of the Invention 1, ‘the one order price is set as one maximum price,’ whereas, in the Invention A-1, ‘the one order price is set as one ... price.’

In Evidence A No. 1, there is described that ‘in the automatic trading table (700), a suitable quantity of rows such as (702)-(710) are generated above and below taking the first trading price as a standard.’ ([0049]). That is, there is described that it is a design-related matter that can be determined by a person skilled in the art accordingly at which portion of the line (714) of the sale price of the automatic trading table (700) should the first trading price related to input of a customer be positioned. Therefore, to position the first trading price at the uppermost row of the line of (714) of the sale price of the automatic trading table (700) is a matter that a person skilled in the art could have achieved accordingly, and, thus, the constitution of the Invention 1 concerning the Different Feature 1 could have easily been derived by a person skilled in the art based on the Invention A-1. In addition, the effect exerted by the Invention 1 can be predicted by a person skilled in the art from the Invention A-1, and is not particularly distinguished.
K Summary

From the above, the Invention 1 is nothing but one that could have easily been derived by a person skilled in the art based on the Invention A-1, and, therefore, it is one for which the demandee should not be granted a patent in accordance with the provisions of Article 29 (2) of the Patent Act, and, thus, it falls under Article 123(1)(ii) of the same Act. Therefore, it should be invalidated."
(Written demand for trial, page 33, line 3 to 22)

2. Evidence

The Demandant furnished Evidence A No. 1 affixed to the written demand for trial.
Evidence A No. 1: National Publication of International Patent Application No. 2002-543481

No. 4 Gist of the demandee's allegation

Demandee demands the decision, "the demand for trial of the case was groundless, and the costs in connection with the trial shall be borne by the Demandant." The outline of Demandee's statement of the reply is as stated below.

1. Regarding the Invention 1, in particular

A. "No. 2 About Reasons for invalidation against the patent invention 1 (claim 1)

1 The different feature alleged by the Demandant

(1) The Demandant alleges that the different feature between the patent invention 1 and Invention A-1 is ‘Different Feature 1 A point that, in an order information generation means of the Invention 1, "the one order price is set as one maximum price," whereas, in Invention A-1, "the one order price is set as one ... price".’

(2) However, as detailed later, Invention A-1 is an invention in which, when one piece of trading in a trading table FIG. 7 (the chart on the right) of Evidence A No. 1 (in this working example, a selling order of 10,000 won; that is, the transaction of the red frame part of the chart on the right) is completed, a buying order and a selling order adjacent to this (a buying order at 9,500 won and a selling order at 11,000 won; that is, the transactions of the blue frame part of the chart on the right) are added in series.

As will be described below, in Invention A-1,

<<1>> even the concept of the ‘order information group’ of the patent invention 1 does not exist,

<<2>> moreover, there is not the concept that a plurality of ‘order information groups’ exist,

<<3>> a plurality of order information groups cannot be generated by one order procedure, and

<<4>> the constitution that, about each of the generated order information groups, contracts of the first order and the second order constituting each order information group are repeated alternately is not provided.

As above, Invention A-1 and the patent invention 1 are different at least in existence of each constituent component on the premise of existence of an ‘order information group,’ and thus they stand on completely different technological ideas."

(Meanwhile, << >> indicates a circled number)

(Written reply, page 6, line 16 to page 7, line 23)

B. "3 The different feature to the Invention A-1

As mentioned above, the Invention A-1 does not include a constitution corresponding to an ‘order information group’ in the patent invention 1, and, therefore, it is obvious that the patent invention 1 and the Invention A-1 are at least different in the constituent components 1F-1H that premise existence of an ‘order information group,’ and thus finding of the different features by the Demandant is an error.

Then, now that Demandant's allegation is based on the fallacious finding of the different feature, it is also obvious that there is no reason in the allegation."

(Written reply, page 18, line 19 to page 19, line 1)

No. 5 Judgment by the body for Reasons for invalidation

1. Described matters in Evidence A No. 1

In Evidence A No. 1, there is described the following matters. Meanwhile, the underlines were added in the body.

(1) "[0001]

[Field of the Invention]

(Background of the Invention)

(Field of the Invention)

The present invention relates to a method and a system to conduct automatic trading of stocks, bonds, objects, futures, options, indexes, foreign currency exchange, and the like through a data communication network, and, more particularly, to a method and a system to order trading automatically by a computer in accordance with a specific condition set in advance by an investor."

(2) "[0023]

Furthermore, in the computer (10) of a user that can be realized by an automatic ordering system according to the present invention, there are included: a user interface (12) for interfacing with a stock holder; a trading condition control module (16) for storing stock trading conditions set according to information on the stock investor (for example, kinds and the number of his/her stocks, the purchase price of the stocks, possessed-money property and the like) and intent of the user, and updating it to a new stock trading condition according to a trading contract situation or according to user's operation; and a trading order control module (14) for conducting trading order placement of the stocks depending on the trading condition."

(3) "[0025]

The computer system (20) of a securities company, connected to the computer (10) of the user through the network (40) so as to be able to perform data communication, includes: a manager interface (22) for interface with a manager of the securities company; a trading execution module (24) for receiving a trading order requested from the computer (10) of the user, and transmitting this to a computer system (30) of a securities exchange so as to make the stock transaction be contracted; and an account control module (26) for making an available balance of a securities account of a specific stock holder and a remaining amount of stocks be stored and updating these in accordance with contracted trading."

(4) "[0035]

Setting of the first trading condition is not part of the present invention. The first trading condition is similar to that of methods and systems provided by average securities companies at the moment for the sake of a cyber securities trading investor. The inquiry button (407) for a current price of a stock is a selective matter. The field (408) is a button for selecting purchase or sale. In this example, the first transaction is set as buying (408) 100 shares (410) of ABC Co. Ltd. at a unit price 25,000 won.
[0036]

The automatic trading condition is premised on completion of the first trading. In order to set automatic trading conditions, there are provided: fields (412, 422) for selecting sale or purchase; fields (414, 418, 424, 428) for selecting a unit price and a quantity as fixed quantity or a fixed rate; and fields (416, 420, 426, 430) for writing a unit price or a quantity as a fixed quantity or a fixed rate."
(5) "[0044]

As shown in FIG. 5, along the embodiment 3, the system is started, and automatic trading conditions are set in stage (500) and stage (502). The setting of automatic trading conditions can be carried out by providing an interface such as one in FIG. 6 to a user, for example. In FIG. 6, remaining portions that are portions except for the automatic trading condition setting portion are identical with the portions indicated by reference numbers (401) - (410) in FIG. 4. In this regard, however, it is illustrated in this example such that 10,000 shares of DEF Co. Ltd. are possessed, and, as the first trading condition, sale of 100 shares of DEF Co. Ltd. at 10,000 won per one share is performed.
[0045]

In standards quantity (602) in an automatic trading condition, standard quantities of sale and purchase are set on the occasion of every automatic trading. In field (604), a rate of commission (and tax) of a securities company needed on the occasion of stock trading is written. This is not mandatory, but helps calculation of a return rate after trading of stocks. In automatic trading, fields (606, 608, 610, 612) of a purchase price and a sale quantity are set. The purchase price can be set at a price lower than the sale price of every time by a predetermined ratio, or set at a lower value by a predetermined amount. In FIG. 6, a price lower than a sale price by 500 won every time is set as an automatic purchase price. An automatic purchase quantity can also be set in the field (610) by a fixed quantity or at a fixed rate. In the case of the field (612) being a vacant field, every automatic purchase order is of 100 shares as the setting value quantity (602) of the standard. In the field (612), + and - signs can be used, and, when the + sign is used, automatic purchase order quantity is increased by a fixed quantity or a fixed rate,

and, when the - sign is used, decreased by a fixed quantity or at a fixed rate.

[0046]

Automatic sale conditions are also set by an identical method in fields (614, 616, 618, 620). In the embodiment of the present invention, it is supposed to set such that automatic selling of 100 shares is conducted at a price higher or lower than the first sale price by 1,000 won every time. Also, weighted trading conditions can be set in fields (622, 624) as a fixed quantity or a fixed rate. Meaning of the weighted trading conditions will be discussed below.

[0047]

A user can set a target return rate or a return rate in field (626). When the target return rate is not set, automatic trading is continued unless the user intervenes to suspend the automatic trading. Meanwhile, it is not easy in any way to calculate a return rate by a computer on the occasion of every time over automatic trading, and, therefore, it is desirable to suspend automatic trading automatically when a predetermined return rate is achieved.

[0048]

It is possible for a user to create an automatic trading table as shown in FIG. 7 using a trading table application button (628). In the meantime, the automatic trading table can be a virtual table, and creation of a visual table is selective. In other words, the embodiment 3 according to the present invention can be executed only by making a system according to the present invention store a formula or a logic for creating the automatic trading table (700).

[0049]

The automatic trading table (700) in FIG. 7 can be created using the setting condition of automatic trading in FIG. 6. As the sale price of each row is being set in the line (714) of the sale price in the automatic trading table (700), it is created so as to have differences of each being 1,000 won, and each purchase price of the line of purchase price (712) is created at a price lower than the sale price of the same row by 500 won. In the automatic trading table (700), a suitable quantity of rows such as (702)-(710) are generated above and below taking the first trading price as a standard.

[0050]

When, unlike the example of FIG. 6, a trading condition is defined in percent as a fixed rate, a purchase price and a sale price or an order quantity of a trading table can be created also in units of decimal point. In the meantime, in the securities exchanges in our country, a unit of a trading price and a unit of a trading quantity are prescribed. For example, in the case of a stock price being equal to or more than 10,000 won and less

than 50,000 won, it is prescribed to perform trading in units of 50 won. Therefore, when such prescription is not satisfied, the trading table is corrected by a method of changing to a very similar price so as to conform to the prescription, a method of applying round off, or the like. In all the cases, a trading table can be adjusted to approximated values to conform to dealing rules of each nation, and such operation is carried out by a computer automatically. Each field of the trading table can be allowed such that an order quantity, a sale price, or a purchase price desired by a user can be corrected. The example of FIG. 7 is an example for which correction and change has not been made. The trading table (700) is fixed by a user pressing a trading table enter button (716).

[0051]

With reference to FIG. 5, when the first sale becomes successful, the first automatic purchase and automatic sale are ordered immediately in accordance with an automatic trading table by automatic trading conditions having been set in advance (step 512). Embodiment 3 is designed 'so as to buy identical shares at a low price and sell at a high price.' Therefore, when the first sale order is contracted, purchase at the lower price just under, in the automatic trading table (700), the first sale price (10,000 won) that has been contracted (that is, purchase of 100 shares at the purchase price of 9,500 won) is ordered (the row (706) in FIG. 7), and sale at a higher price right above the contracted sale price (that is, sale of 100 shares at the sale price of 11,000 won) is ordered (see: the column of the sale in the row (704) in FIG. 7). The sale and purchase orders in question are within the range of the account balance and the shareholding capacity, and thus an error is not caused in step (506) and (508).

[0052]

When, during the first automatic trading order, purchase order is contracted as ordered, purchase and sale adjacent, in the automatic trading table (700), to the order price having been contracted are ordered. As mentioned before, since the embodiment 3 is designed to purchase at a 'lower price' and sell at a 'higher price' than the previous contract price, purchase (a purchase of 100 shares at 8,500 won: refer to the row (708) in FIG. 7) and sale (a sale of 100 shares at 10,000 won) are ordered in the second automatic trading after the steps (514, 516, 506) and (508) of FIG. 5. When the sale order is contracted in the second automatic trading, purchase (purchase of 100 shares at 9,500 won) and sale (sale of 100 shares at 11,000 won) adjacent to the contracted order price (10,000 won of the second time) are ordered automatically as the third automatic order. In other words, in every instance of automatic trading, purchase at a lower price

just under a contract price in the automatic trading table (700) and sale at a higher price right above the contract price of the table are ordered.

[0053]

When trading is performed automatically in accordance with the embodiment 3, a predetermined return is generated if a stock price fluctuates from the price range of the first trading price upwardly and downwardly. For example, in FIG. 7, when a stock price rises from 10,000 won to 14,000 won, and then becomes 10,000 won once again, a predetermined return occurs. Furthermore, also when, after a stock price declines from 10,000 won to 4,000 won, and it rises to 10,000 won once again, a predetermined return occurs. In this way, it can be said that the embodiment 3 is appropriate investment as a method for stocks whose stock prices fluctuate up and down at short intervals within a certain price range.

[0054]

In FIG. 6, the weighted trading condition can be set in order to increase a sale quantity and a purchase quantity when, after starting automatic trading, automatic trading occurs once again at the identical price; that is, when, along with upward and downward fluctuation of a stock price, sale and purchase of the identical price occur for the second time.

[0055]

Let's refer to FIG. 5 again. An automatic trading condition having been set and the balance of the securities account and the number of possessed stocks are collated, and whether or not the purchase condition and the sale condition are satisfied is confirmed (steps 506, 508). It is necessary that, in order to buy stocks, at least a money amount that is larger than [the purchase price having been set multiplied by the purchase quantity having been set] needs to remain in the account, and, in order to sell stocks, at least stocks more than the asking sale quantity need to be possessed. When only purchase is contracted continuously in automatic trading, there might occur a case where a holding balance of the securities account runs short, and, when only sale is contracted continuously, there might occur a case where shareholding runs short.

[0056]

When steps (506, 508) are satisfied, automatic trading of purchase and sale are ordered at the same time (step 512), and, when the condition is not satisfied, an error occurs, and the error is notified to the stock investor by a suitable method (step 510). For example, setting can be made about the error such that an error message is displayed or warning tone is caused on a user interface. In addition, it is also possible to constitute the system such that, on the occasion of error occurrence, the occurrence of

the error is noticed to the stock investor through a wireless telephone, a fixed-line telephone, or a pager. Such error notification method can be realized using publicly known technology.

[0057]

As mentioned before, when the condition is satisfied in (steps 506, 508), stock purchase and stock sale are ordered (step 512). Here, it should be noted that both purchase and sale are ordered. The embodiment 3 of the present invention is completely different from the conventional stock investment methods in this point. In embodiment 3, in disregard to the current price of stocks, fluctuation of the price of the stocks is never predicted. According to embodiment 3, when the stock price falls compared to the previous stock purchase price, a predetermined quantity of stocks are purchased, and, when the stock price rises compared to the previous purchase price, a result is that a predetermined quantity of stocks are sold.

[0058]

In step (514), whether or not trading has been contracted is confirmed. Regarding trading order, there is a case where either of orders of the sale and the purchase is contracted on the ordering date, or, both of these are not contracted. When both are not contracted, identical sale and purchase is ordered the next day. Exceptional cases such as partial contract, and contract at a different price from the order price might sometimes occur. In the case of partial contract, there might be cases where it is construed as a contract having been made about the all of the order quantity, or sale and purchase of the identical price are ordered with respect to the number of stocks not contracted. In addition, when contracted at a different price from the order price, purchase just under the contract price and sale right above the contract price are ordered.

[0059]

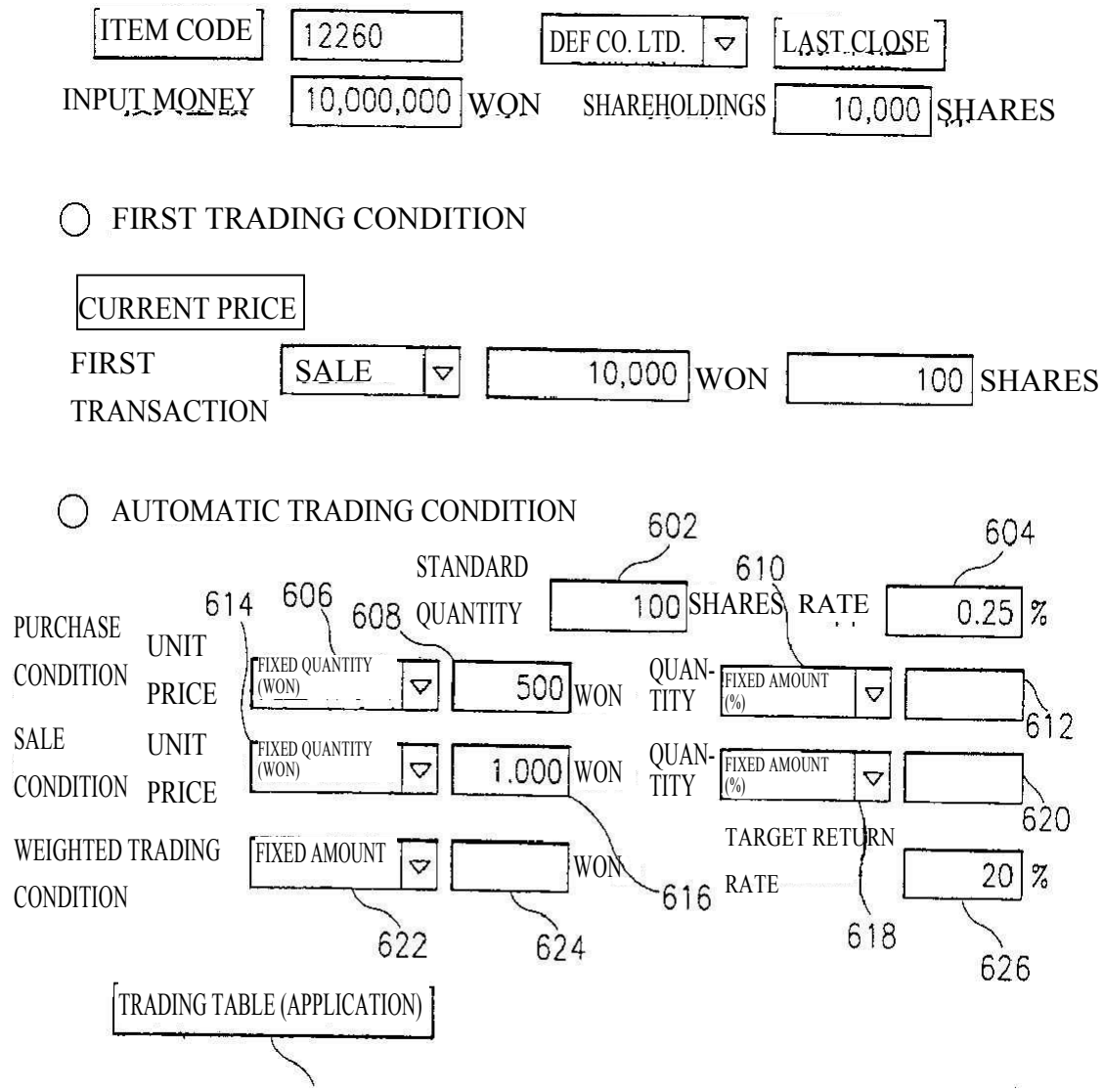
Even if which one of the orders is contracted, the account balance and the remaining amount of stocks are updated in step (516), and when, in step (506, 508), a condition is satisfied in accordance with the automatic trading condition set in advance, a new sale and purchase are ordered immediately."

(6) "[0065]

Furthermore, although the present invention is described in the above taking stocks as a target, the present invention can be also applied to trading of bonds, futures, options, foreign currency exchange, grain or mineral trading, an index swap, and the like, which are traded by a method similar to that of stocks."

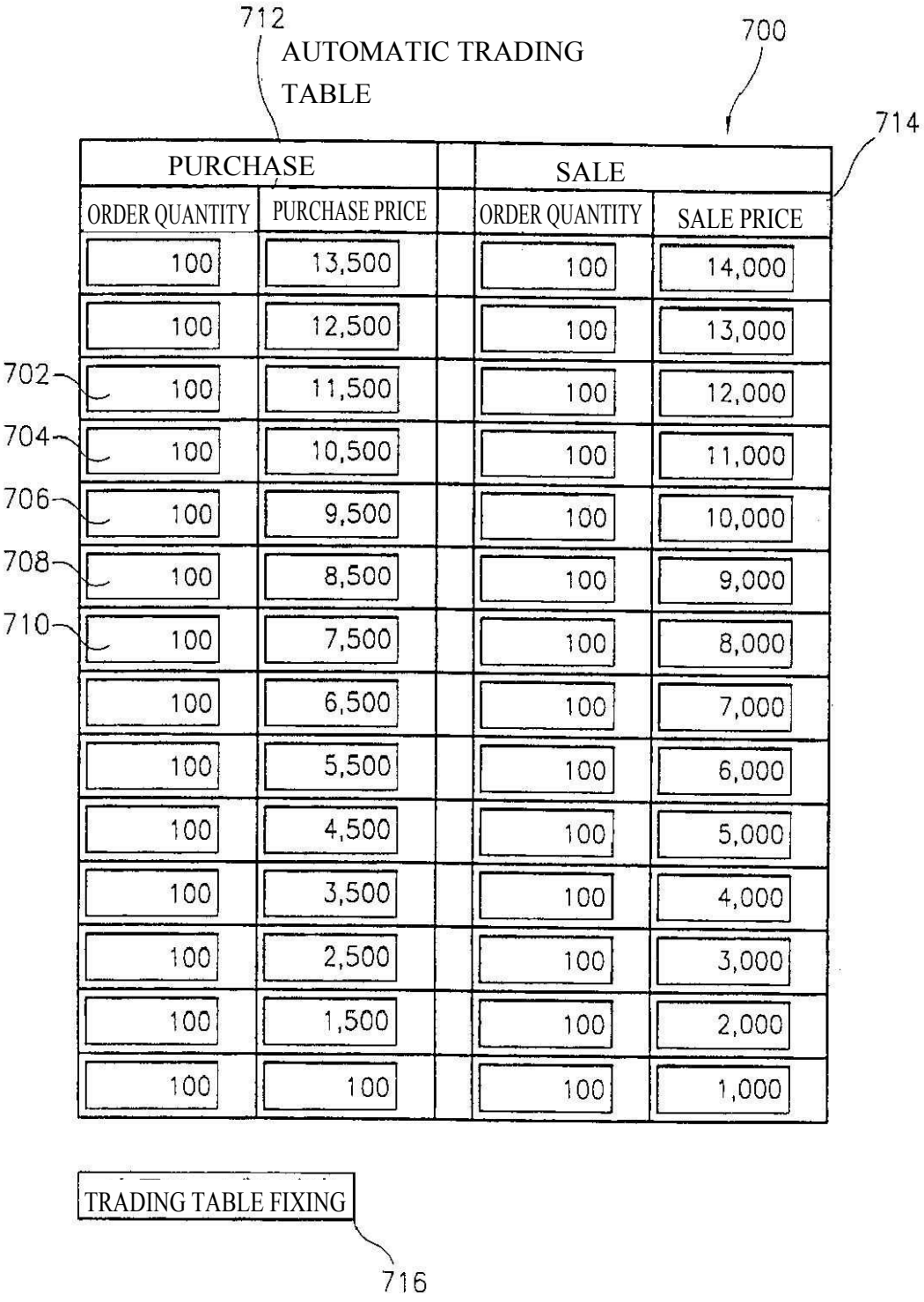
(7) [FIG. 6]

FIG. 6


ITEM CODE
12260
DEF CO. LTD.
LAST CLOSE
INPUT MONEY
10,000,000
WON
SHAREHOLDINGS
10,000
SHARES
FIRST TRADING CONDITION
CURRENT PRICE
FIRST TRANSACTION
SALE
10,000
WON
100
SHARES
AUTOMATIC TRADING CONDITION
602
604
610
STANDARD QUANTITY
100
SHARES
RATE
0.25
%
614
606
608
PURCHASE CONDITION
UNIT PRICE
FIXED QUANTITY (WON)
500
WON
QUAN-TITY
FIXED AMOUNT (%)
612
SALE CONDITION
UNIT PRICE
FIXED QUANTITY (WON)
1,000
WON
QUAN-TITY
FIXED AMOUNT (%)
620
WEIGHTED TRADING CONDITION
FIXED AMOUNT
WON
616
TARGET RETURN RATE
20
%
622
624
618
626
TRADING TABLE (APPLICATION)

(8) [FIG. 7]

FIG.7


712
AUTOMATIC TRADING TABLE
700
714
PURCHASE
SALE
ORDER QUANTITY
PURCHASE PRICE
ORDER QUANTITY
SALE PRICE
100 13,500 100 14,000
100 12,500 100 13,000
702 100 11,500 100 12,000
704 100 10,500 100 11,000
706 100 9,500 100 10,000
708 100 8,500 100 9,000
710 100 7,500 100 8,000
100 6,500 100 7,000
100 5,500 100 6,000
100 4,500 100 5,000
100 3,500 100 4,000
100 2,500 100 3,000
100 1,500 100 2,000
100 100 100 1,000
TRADING TABLE FIXING
716

According to above (1) to (8) it is recognized that, in Evidence A No. 1, there is described the following invention (hereinafter, referred to as "Invention A-1").

<Invention A-1>

"A method for conducting automatic trading of stocks, bonds, objects, futures, options, indexes, foreign currency exchange, and the like through a data communication network, the method relating to a method for ordering trading automatically by a computer in accordance with a specific condition from an investor made in advance, wherein

a computer system (20) of a securities company is coupled to, through the network (40), a computer (10) of a user in a manner capable of data communication, and includes a trading execution module (24) for receiving a trading order requested from the computer (10) of the user, and transmitting this to a computer system (30) of a securities exchange so as to cause the stock transaction to be contracted, and an account control module (26) for causing an available balance of a securities account of a specific stock holder and a remaining amount of stocks to be stored and updating these in accordance with contracted trading, wherein

the system is started in step (500) and an automatic trading condition is set in step (502), setting of the automatic trading condition can be carried out by providing an interface to the user, the interface includes an inquiry button for a current price of a stock at the moment, a first trading condition is set (for example, sale of 100 shares of DEF Co. Ltd. at 10,000 won per one share is performed), and the automatic trading condition is premised on completion of the first trading, wherein,

in standard quantity (602) in the automatic trading condition, a standard quantity of sale and purchase is set on the occasion of every instance of automatic trading in the form of the number of stocks, wherein, in automatic trading, fields (606, 608, 610, 612) of a purchase price and a sale quantity are set, a purchase price can be set as a lower value than every sale price by a predetermined amount (for example, a price lower than every sale price by 500 won is set as an automatic purchase price), wherein

an automatic sale condition can be also set by an identical method in fields (614, 616, 618, 620) (for example, setting is made such that automatic selling of 100 shares is conducted at a price higher or lower than the first sale price by 1,000 won every time), wherein

the user can create an automatic trading table using a trading table application button (628), wherein

the automatic trading table (700) can be created by setting conditions of automatic trading, the sale price of each row is set in the line (714) of the sale price in

the automatic trading table (700) (in the above example, it is created so as to have differences of each being 1,000 won), each purchase price of the line of purchase price (712) is created at a price lower than the sale price of the same row (by 500 won each in the above example), and, in the automatic trading table (700), a suitable quantity of rows such as (702)-(710) are generated above and below taking the first trading price as a standard, wherein

the trading table (700) is fixed by a user pressing a trading table enter button (716), wherein

when the first sale become successful, the first automatic purchase and automatic sale are ordered immediately in accordance with an automatic trading table by automatic trading conditions having been set in advance (step 512), wherein

the method is designed ‘so as to buy identical shares at a low price and sell at a high price"’ when the first sale order is contracted, purchase at the lower price just under, in the automatic trading table (700), the first sale price (10,000 won in the above example) that has been contracted (that is, purchase of 100 shares at the purchase price of 9,500 won in the above example) is ordered, and sale at the higher price right above the contracted sale price (that is, sale of 100 shares at the sale price of 11,000 won in the above example) is ordered, wherein

when, during the first automatic trading order, purchase order is contracted as ordered, purchase and sale adjacent, in the automatic trading table (700), to the order price having been contracted are ordered, and wherein,

since the method is designed to purchase at a ‘lower price’ and sell at a ‘higher price’ than the previous contract price, purchase (purchase of 100 shares at 8,500 won in the above example) and sale (sale of 100 shares at 10,000 won in the above example) are ordered, and, when the sale order is contracted in the second automatic trading, purchase (purchase of 100 shares at 9,500 won in the above example) and sale (sale of 100 shares at 11,000 won in the above example) adjacent to the contracted order price (10,000 won of the second time in the above example) are ordered automatically as the third automatic order; in other words, in every instance of automatic trading, purchase at a lower price just under a contract price in the automatic trading table (700) and sale at a higher price right above the contract price of the table are ordered."

2. Judgment on the Invention 1

(2-1) Comparison

The Invention 1 and Invention A-1 are compared.

(A) Regarding "A financial product transaction management method in a financial product transaction management system that manages trading transactions of financial products whose market prices fluctuate" of the Invention 1,

according to the matters "A method for conducting automatic trading of stocks, bonds, objects, futures, options, indexes, foreign currency exchange, and the like through a data communication network, the method relating to a method for ordering trading automatically by a computer in accordance with a specific condition from an investor made in advance, wherein" and "a computer system (20) of a securities company is coupled to, through the network (40), a computer (10) of a user in a manner capable of data communication, and includes a trading execution module (24) for receiving a trading order requested from the computer (10) of the user, and transmitting this to a computer system (30) of a securities exchange so as to make the stock transaction be contracted, and an account control module (26) for making an available balance of a securities account of a specific stock holder and a remaining amount of stocks be stored and updating these in accordance with contracted trading" in Invention A-1, Invention A-1 also is an invention that discloses, on the premise of a computer system to conduct trading of financial products such as bonds, objects, futures, options, indexes, or foreign currency exchange for which a market price fluctuates, receive a trading order of a user to transmit it to a computer system of a securities exchange, conduct contract of stock transaction, and manage trading transactions such as updating of a securities account of a stock holder, a method of automatic trading of financial products in the computer system.

Then, the Invention 1 and Invention A-1 are in common in a point of
"A financial product transaction management method in a financial product transaction management system that manages trading transactions of financial products whose market prices fluctuate."

(B) Regarding "an order input reception procedure to receive, as trading order application information for conducting trading order of the financial product, each piece of: information for selecting a type of the financial product for which trading is desired; information, in trading orders of the financial product, for indicating an order total amount for each order price; information indicating one order price as a sale order price or a purchase order price of the financial product; information indicating a profit margin when, after selling the financial product of one of the order prices at the one order price, purchasing the financial product at another price or a profit margin when, after purchasing the financial product of one of the order prices at the one order price, selling

the financial product at another order price; and information indicating price range, in a case where a plurality of the orders exist, between the orders" of the Invention 1,

according to the matters "the system is started in step (500) and an automatic trading condition is set in step (502), wherein setting of the automatic trading condition can be carried out by providing an interface to the user, the interface includes an inquiry button for a current price of a stock at the moment, a first trading condition is set (for example, sale of 100 shares of DEF Co. Ltd. at 10,000 won per one share is performed), and the automatic trading condition is premised on completion of the first trading," "in standard quantity (602) in an automatic trading condition, standard quantities of sale and purchase are set on the occasion of every automatic trading by the number of stocks, in automatic trading, fields (606, 608, 610, 612) of a purchase price and a sale quantity are set, a purchase price can be set as a lower value than every sale price by a predetermined amount (for example, a price lower than every sale price by 500 won is set as an automatic purchase price)", and, "an automatic sale condition can be also set by an identical method in fields (614, 616, 618, 620) (for example, setting is made such that automatic selling of 100 shares is conducted at a price higher or lower than the first sale price by 1,000 won every time)" of Invention A-1, this is a procedure by which a user sets an automatic trading condition for performing trading order of stocks that are financial products through an interface provided by a computer system, and it can be said that, when seen from the computer system, it is an order input reception procedure to receive an automatic trading condition for performing trading order of stocks that are financial products. Therefore, it can be said that the procedure in question in Invention A-1 corresponds to "an order input reception procedure to receive, as trading order application information for conducting trading order of the financial product" of the Invention 1.

Therefore, the automatic trading condition for performing trading order of stocks that are financial products set via the above-mentioned interface in Invention A-1 will now be discussed below.

In Invention A-1, according to the matter that "a first trading condition is set (for example, sale of 100 shares of DEF Co. Ltd. at 10,000 won per one share is performed)" and to the screen of the interface in FIG. 6 in the above-mentioned "No. 5 1. (7)", there are set, as the first trading condition, the name of a company of the target of the stock trading (here, "DEF Co. Ltd."), a sale or purchase, price per one stock, the number of stocks, and thus the company name of the trading target, and, a price per one stock correspond to "information for selecting a type of the financial product for which

trading is desired" and, "information indicating one order price as a sale order price or a purchase order price of the financial product" of the Invention 1.

Meanwhile, there is a difference between the two inventions in a point that, in the Invention 1, "information, in trading orders of the financial product, for indicating an order total amount for each order price" is received, whereas, in Invention A-1, the number of stocks of trading is set.

In addition, according to the matter "a purchase price can be set as a lower value than every sale price by a predetermined amount (for example, a price lower than every sale price by 500 won is set as an automatic purchase price)" in Invention A-1, it is an invention for obtaining profit by buying "at a lower value by a predetermined amount" than every selling price, and, therefore, "a lower value by a predetermined amount" of Invention A-1 in question corresponds to "information indicating" "a profit margin when, after selling the financial product of one of the order prices at the one order price, purchasing the financial product at another price" of the Invention 1.

Furthermore, according to the matter "an automatic sale condition can be also set by an identical method in fields (614, 616, 618, 620) (for example, setting is made such that automatic selling of 100 shares is conducted at a price higher or lower than the first sale price by 1,000 won every time)" in Invention A-1, sale prices are set upwardly and downwardly relative to the first sale price with a predetermined gap (1,000 won in this example), and this corresponds to "information indicating price range, in a case where a plurality of the orders exist, between the orders" of the Invention 1.

Therefore, the Invention 1 and Invention A-1 are common in a point that they include "an order input reception procedure to receive, as trading order application information for conducting trading order of the financial product, each piece of: information for selecting a type of the financial product for which trading is desired; information indicating one order price as a sale order price or a purchase order price of the financial product; information indicating a profit margin when, after selling the financial product of one of the order prices at the one order price, purchasing the financial product at another price or a profit margin when, after purchasing the financial product of one of the order prices at the one order price, selling the financial product at another order price; and information indicating price range, in a case where a plurality of the orders exist, between the orders."

In addition, there is a difference between the both inventions in a point that, in the Invention 1, "information, in trading orders of the financial product, for indicating an order total amount for each order price" is received, whereas, in Invention A-1, a

standard quantity of sale and purchase is set on the occasion of every time automatic trading by the number of stocks.

(C) Regarding "an order information generation procedure to generate order information of the financial product of the type having been selected, based on the trading order application information received in the order input reception procedure" of the Invention 1,

according to the matters that "the automatic trading table (700) can be created by a setting condition of automatic trading, the sale price of each row is being set in the line (714) of the sale price in the automatic trading table (700) (in the above example, it is created so as to have differences of each being 1,000 won), each purchase price of the line of purchase price (712) is created at a price lower than the sale price of the same row (by 500 won each in the above example), and, in the automatic trading table (700), a suitable quantity of rows such as (702)-(710) are generated above and below taking the first trading price as a standard," and, "when the first sale become successful, the first automatic purchase and automatic sale is ordered immediately in accordance with an automatic trading table by automatic trading conditions having been set in advance (step 512)" of Invention A-1, Invention A-1 is an invention in which, based on an automatic trading condition set through the interface indicated in the above (B), sale related to a company name to be the target of trading, a price per one stock, and the number of stocks set in the first trading condition is conducted, and when the sale in question becomes successful, according to an automatic trading table based on the set automatic trading condition, the first automatic purchase and the first automatic sale are ordered. Consequently, Invention A-1 also is an invention to generate order information of the company of a trading target based on an automatic trading condition set through an interface.

Then, the Invention 1 and Invention A-1 are in common in a point that they include

"an order information generation procedure to generate order information of the financial product of the type having been selected, based on the trading order application information received in the order input reception procedure."

(D) Regarding "a price information reception procedure to obtain information on the market price of the financial product" of the Invention 1,

if taking into consideration the matter that "the interface includes an inquiry button for a current price of a stock at the moment" of Invention A-1, and the screen of the interface in FIG. 6 in the above "No. 5 1. (7)," Invention A-1 also includes a

function to inquiry the current price of a company of the trading target as a reference when setting the first trading condition.

Then, the Invention 1 and Invention A-1 are in common in a point that they include "a price information reception procedure to obtain information on the market price of the financial product."

(E) Regarding "a second order price calculation procedure calculates the other order price based on the order price in the trading order application information and the profit margin" of the Invention 1,

according to "the method is designed "so as to buy identical shares at a low price and sell at a high price," when the first sale order is contracted, purchase at the lower price just under, in the automatic trading table (700), the first sale price (10,000 won in the above example) that has been contracted (that is, purchase of 100 shares at the purchase price of 9,500 won in the above example) is ordered, and sale at the higher price right above the contracted sale price (that is, sale of 100 shares at the sale price of 11,000 won in the above example) is ordered" of Invention A-1, when the first sale order is contracted, purchase at "a lower value by a predetermined amount" of the automatic trading condition set through an interface as indicated in the above-mentioned in (B) (purchase of 100 shares at the purchase price of 9,500 won, in the case of the above example) is ordered, and, for the purpose of this, in the above-mentioned "automatic trading table (700)," a price of "a lower value by a predetermined amount" than the first sale price (in the above-mentioned example, 10,000 won) is calculated and set in the table.

Then, the Invention 1 and Invention A-1 are in common in a point that they include "a second order price calculation procedure to calculate the other order price based on the order price in the trading order application information and the profit margin."

(F) Regarding "In the order information generation procedure, a plurality of order information groups are generated as the order information based on the trading order application information, the order information group comprising: first order information, regarding which the one order price is set as one maximum price about the financial products of an identical type, each of the order prices is set in a lower price side than the one maximum price so as to make each price range be the price range included in the trading order application information, and, about a first order price as each of the order prices being set, a limit order of buying or selling is conducted: and second order information, regarding which the other price calculated in the second order price calculation procedure is set as another maximum price, in a lower price side than the

other maximum price, each of the order prices is set to the respective first order so as to make the profit margin when performing sale or purchase based on the first order for which purchase or sale has been carried out be the profit margin in the trading order application information, and, about a second order price as each of the order prices having been set, a limit order of selling for the first order of buying, and a limit order of buying for the first order of selling are performed, wherein the order information groups generated are stored in an order information storing means, and wherein setting is made such that, when, about each of the order information groups generated based on one piece of the trading order application information, the first order price of the first order that is a valid order and a market price of the financial product match each other, and, then the second order price of the second order that is a valid order and the market price match each other, and the first order and the second order are contracted, the first order information of the order information group that comes next is made to be valid, a contract of the first order at the first order price the same as the order price of the first order that has been contracted, and a contract of the second order at the second order price the same as the order price of the second order that has been contracted are made to be performed repeatedly" of the Invention 1,

according to the matter "the automatic trading table (700) can be created by a setting condition of automatic trading, the sale price of each row is being set in the line (714) of the sale price in the automatic trading table (700) (in the above example, it is created so as to have differences of each being 1,000 won), each purchase price of the line of purchase price (712) is created at a price lower than the sale price of the same row (by 500 won each in the above example), and, in the automatic trading table (700), a suitable quantity of rows such as (702)-(710) are generated above and below taking the first trading price as a standard" in Invention A-1, an "automatic trading table" indicated in FIG. 7 in the above-mentioned "No. 5 1. (8)" is created, for example. This table is created in a manner that, in this example, sale prices are set upwardly and downwardly taking the sale price set in the first trading condition as the standard with each increment of 1,000 won, and purchase prices are set each as a lower price than the sale price of the same row by 500 won.

Then, in Invention A-1, based on the "automatic trading table," processing of automatic trading that "when the first sale becomes successful, the first automatic purchase and automatic sale are ordered immediately in accordance with an automatic trading table by automatic trading conditions having been set in advance (step 512), the method is designed "so as to buy identical shares at a low price and sell at a high price," when the first sale order is contracted, purchase at the lower price just under, in the

automatic trading table (700), the first sale price (10,000 won in the above example) that has been contracted (that is, purchase of 100 shares at the purchase price of 9,500 won in the above example) is ordered, and sale at a higher price right above the contracted sale price (that is, sale of 100 shares at the sale price of 11,000 won in the above example) is ordered, wherein when, during the first automatic trading order, purchase order is contracted as ordered, purchase and sale adjacent, in the automatic trading table (700), to the order price having been contracted are ordered, and wherein, since the method is designed to purchase at a "lower price" and sell at a "higher price" than the previous contract price, purchase (a purchase of 100 shares at 8,500 won in the above example) and sale (a sale of 100 shares at 10,000 won in the above example) are ordered, and, when the sale order is contracted in the second automatic trading, purchase (purchase of 100 shares at 9,500 won in the above example) and sale (sale of 100 shares at 11,000 won in the above example) adjacent to the contracted order price (10,000 won of the second time in the above example) are ordered automatically as the third automatic order; in other words, in every instance of automatic trading, purchase at a lower price just under a contract price in the automatic trading table (700) and sale at a higher price right above the contract price of the table are ordered" is carried out.

In other words, ordering of automatic trading in Invention A-1 is ordering that "in every instance of automatic trading, purchase at a lower price just under a contract price in the automatic trading table (700) and sale at a higher price right above the contract price of the table are ordered," and it is ordering that, at all times, two orders of purchase at the lower price just below the contract price and sale at the higher price right above the contract price are ordered, and thus an automatic trading table is a table for determining prices for these two pieces of the purchase and the sale based on the contract price.

In contrast to this, the Invention 1 is an invention in which, a plurality of "order information groups" including "first order information, regarding which, about a first order price, a limit order of buying or selling is conducted" and "second order information, regarding which each of the order prices is set to the first orders so as to make the profit margin when performing sale or purchase based on the first order for which purchase or sale has been carried out be the profit margin in the trading order application information, and, about a second order price as each of the order prices having been set, a limit order of selling for the first order of buying, and a limit order of buying for the first order of selling are performed" are generated, then "the order information groups generated are stored in an order information storing means," and, "when, about each of the order information groups generated based on one piece of the

trading order application information, the first order price of the first order that is a valid order and a market price of the financial product match each other, and, then the second order price of the second order that is a valid order and the market price match each other, and the first order and the second order are contracted, the first order information of the order information group that comes next is made to be valid, a contract of the first order at the first order price the same as the order price of the first order that has been contracted, and a contract of the second order at the second order price the same as the order price of the second order that has been contracted are made to be performed repeatedly." Therefore, it is an invention in which contract of a first order and a second order in each "order information group" recorded in the "order information storing means" is conducted in this order repeatedly, and, further, taking each "order information group" stored in the "order information storing means" as one independent ordering unit, contract of the first order and the second order is repeated.

Then, the "automatic ordering table" in Invention A-1 is, as previously explained, a table for determining prices of two orders of purchase at a lower price just under the contract price and sale of at a higher price right above the contract price at all times, and there is a case where, for example, sale at 10,000 won is contracted, purchase at 9,500 won and sale at 11,000 won are ordered, and, next, the purchase at 9,500 won is contracted, sale at 10,000 won and purchase at 8,500 won are ordered, and further, the sale at 10,000 won is contracted, then purchase of 9,500 won and sale of 11,000 won are ordered. In this case, although sale at 10,000 won and purchase at 9,500 won are repeated one after the other, such sale price and purchase price are absolutely a result from a chance due to fluctuating contract prices determined based on "automatic ordering table," and thus it is not one in which the "automatic ordering table" is set so as to make the sale of 10,000 won and purchase of 9,500 won be repeated in this order.

Accordingly, even if examination is performed about sale at 10,000 won and purchase at 9,500 won, for example, set in a row of the "automatic ordering table" of Invention A-1, it cannot be said that it corresponds to an "order information group" of the Invention 1 for making contract of the first order and the second order be repeated.

Then, the Invention 1 and Invention A-1 are different in a point that,

the Invention 1 is one in which "In the order information generation procedure, a plurality of order information groups are generated as the order information based on the trading order application information, the order information group comprising: first order information, regarding which the one order price is set as one maximum price about the financial products of an identical type, each of the order prices is set in a lower price side than the one maximum price so as to make each price range be the

price range included in the trading order application information, and, about a first order price as each of the order prices being set, a limit order of buying or selling is conducted: and second order information, regarding which the other price calculated in the second order price calculation procedure is set as another maximum price, in a lower price side than the other maximum price, each of the order prices is set to each of the first orders so as to make the profit margin when performing sale or purchase based on the first order for which purchase or sale has been carried out be the profit margin in the trading order application information, and, about a second order price as each of the order prices having been set, a limit order of selling for the first order of buying, and a limit order of buying for the first order of selling is performed, wherein the order information groups generated are stored in an order information storing means, and wherein setting is made such that, when, about each of the order information groups generated based on one piece of the trading order application information, the first order price of the first order that is a valid order and a market price of the financial product match each other, and, then the second order price of the second order that is a valid order and the market price match each other, and the first order and the second order are contracted, the first order information of the order information group that comes next is made to be valid, a contract of the first order at the first order price the same as the order price of the first order that has been contracted, and a contract of the second order at the second order price the same as the order price of the second order that has been contracted are made to be performed repeatedly," whereas,

Invention A-1 is one in which "in every instance of automatic trading, purchase at a lower price just under a contract price in the automatic trading table (700) and sale at a higher price right above the contract price of the table are ordered."

According to the above (A) to (F), the Invention 1 and Invention A-1 are in correspondence in the following points.

<Corresponding features>

"A financial product transaction management method in a financial product transaction management system that manages trading transactions of financial products whose market prices fluctuate, the method comprising:

an order input reception procedure to receive, as trading order application information for conducting trading order of the financial product, each piece of: information for selecting a type of the financial product for which trading is desired; information indicating one order price as a sale order price or a purchase order price of the financial product; information indicating a profit margin when, after selling the

financial product of one of the order prices at the one order price, purchasing the financial product at another price or a profit margin when, after purchasing the financial product of one of the order prices at the one order price, selling the financial product at another order price; and information indicating price range, in a case where a plurality of the orders exist, between the orders;

an order information generation procedure to generate order information of the financial product of the type having been selected, based on the trading order application information received in the order input reception procedure;

a price information reception procedure to obtain information on the market price of the financial product; and

a second order price calculation procedure to calculate the other order price based on the order price in the trading order application information and the profit margin."

Then, the Invention 1 and Invention A-1 differ in terms of the following points.

<The different feature 1>

The Invention 1 and Invention A-1 differ in a point that, in the Invention 1, "information, in trading orders of the financial product, for indicating an order total amount for each order price" is received, whereas, in Invention A-1, a standard quantity of sale and purchase is set on the occasion of every time automatic trading by the number of stocks.

<The different feature 2>

A point that the Invention 1 is an invention in which "In the order information generation procedure, a plurality of order information groups are generated as the order information based on the trading order application information, the order information group comprising: first order information, regarding which the one order price is set as one maximum price about the financial products of an identical type, each of the order prices is set in a lower price side than the one maximum price so as to make each price range be the price range included in the trading order application information, and, about a first order price as each of the order prices being set, a limit order of buying or selling is conducted: and second order information, regarding which the other price calculated in the second order price calculation procedure is set as another maximum price, in a lower price side than the other maximum price, each of the order prices is set to each of the first orders so as to make the profit margin when performing sale or purchase based on the first order for which purchase or sale has been carried out be the

profit margin in the trading order application information, and, about a second order price as each of the order prices having been set, a limit order of selling for the first order of buying, and a limit order of buying for the first order of selling are performed, wherein the order information groups generated are stored in an order information storing means, and wherein setting is made such that, when, about each of the order information groups generated based on one piece of the trading order application information, the first order price of the first order that is a valid order and a market price of the financial product match each other, and, then the second order price of the second order that is a valid order and the market price match each other, and the first order and the second order are contracted, the first order information of the order information group that comes next is made to be valid, a contract of the first order at the first order price the same as the order price of the first order that has been contracted, and a contract of the second order at the second order price the same as the order price of the second order that has been contracted are made to be performed repeatedly," whereas,

Invention A-1 is one in which "in every instance of automatic trading, purchase at a lower price just under a contract price in the automatic trading table (700) and sale at a higher price right above the contract price of the table are ordered."

(2-2) Judgment on the different features

(A) Regarding <The different feature 1>

Regarding "information for indicating an order total amount for each order price" of the Invention 1, as described in paragraph [0061] of the description, "a buying order table 50a" has as "the first order information" "five pieces of buying order information from first buying order information 51a to fifth buying order information 51e (that is, the number of pieces selected in a trap-quantity selection field 44d), the buying order price shown in the first buying order information 51a (the first order price) is ¥109.90/$1 (that is, the price inputted to the start price entry field 44a), and the price range between the buying order price of each piece of order information is ¥0.10 (that is, the price inputted to the price range entry field 44c). In addition, the order total amount of each of the first to five buying order information 51a-51e is 10,000 currency (that is, the money amount inputted to the money entry field 44b)." (meanwhile, the underlines were added in the body), the trading target as a financial product here is dollar (currency), and, in this example, the transaction is input as a buying order of 10,000 currency (order total amount) at ¥109.90/$1 (order price).

In other words, "information for indicating an order total amount for each order price" of the Invention 1 means the number of ordering units of currency that is a

financial product of the trading target for each order.

Further, the number of stocks that is set as a standard quantity for sale and purchase on the occasion of every automatic trading in Invention A-1 is the number of ordering units, too, in each order that targets stocks, and, in addition to stocks, foreign currency exchange is also a target of automatic trading in Invention A-1.

Then, it would have been easily arrived at by a person skilled in the art to make Invention A-1 be of the configuration concerning the above-mentioned Different Feature 1 by making the target of automatic trading in Invention A-1 be foreign currency exchange, and the number of ordering units set as a standard quantity of sale and purchase on the occasion of every automatic trading be an ordering unit according to the financial product of the trading target, that is, the number of ordering units of currency.

(B) Regarding <The different feature 2>

As examined in the above-mentioned "(2-1) (F)," the configuration concerning Different Feature 2 for generating an "order information group," and, for making contract of the first order and the second order in each "order information group" be repeated of the Invention 1 does not exist in Invention A-1.

Furthermore, Invention A-1 is, as described in paragraph [0057] of the above-mentioned "No. 5 1. (5)" such that

"As mentioned before, when the condition is satisfied in (steps 506, 508), stock purchase and stock sale are ordered (step 512). Here, it should be noted that both purchase and sale are ordered. The embodiment 3 of the present invention is completely different from the conventional stock investment methods in this point. In embodiment 3, in disregard to the current price of stocks, fluctuation of the price of the stocks is never predicted. According to embodiment 3, when the stock price falls compared to the previous stock purchase price, a predetermined quantity of stocks are purchased, and, when the stock price rises compared to the previous purchase price, a result is that a predetermined quantity of stocks are sold." This is different from the conventional stock investment methods, and the characteristic of the invention is that, when an order is contracted, both purchase and sale are ordered.

In light of this, even if the purchase order and the sale order concerning an identical row of an automatic trading table of Invention A-1 can be made to be an "order information group" made up of the first order and the second order of the Invention, Invention A-1 still needs to be changed so as not to perform a purchase or sale order of the same row as the second order in order to make the first order and the second order

be repeated by contract of the second order. However, this change results in losing the above-mentioned characteristic of Invention A-1.

In view of the above, there is no motivation to make Invention A-1 be an invention to repeat contract of the first order and the second order, and, rather, a change of this type is inhibited.

Therefore, it cannot be said that a person skilled in the art could have easily conceived the configuration concerning Different Feature 2 for generating an "order information group" of the Invention 1, and for making contract of the first order and the second order of each "order information group" be repeated even in view of Invention A-1 and the well-known art and the like in the relevant technical field, and, in addition, Demandant had not shown other evidence with respect to this point.

Accordingly, it cannot be decided that the configuration of the Invention 1 concerning Different Feature 2 could have easily been derived by a person skilled in the art.

(2-3) Summary

As described above, it cannot be said that the Invention 1 could be easily invented by a person skilled in the art based on Invention A-1.

3. Judgment on the Invention 2

The Invention 2 is substantially an invention for which the matter "in the order information generation procedure, a plurality of order information groups are generated as the order information based on the trading order application information, the order information group comprising: first order information, regarding which the one order price is set as one maximum price about the financial products of an identical type, each of the order prices is set in a lower price side than the one maximum price so as to make each price range be the price range included in the trading order application information, and, about a first order price as each of the order prices being set, a limit order of buying or selling is conducted: and second order information, regarding which the other price calculated in the second order price calculation procedure is set as another maximum price, in a lower price side than the other maximum price, each of the order prices is set to each of the first orders so as to make the profit margin when performing sale or purchase based on the first order for which purchase or sale has been carried out be the profit margin in the trading order application information, and, about a second order price as each of the order prices having been set, a limit order of selling for the first order of buying, and a limit order of buying for the first order of selling is performed" of

the Invention 1 is made to be changed to "in the order information generation procedure, a plurality of order information groups are generated as the order information based on the trading order application information, the plurality of order information groups comprising: first order information, regarding which the one order price is set as one minimum price about the financial products of an identical type, each of the order prices is set in a higher price side than the one minimum price so as to make each price range be the price range included in the trading order application information, and, about a first order price as each of the order prices being set, a limit order of selling or buying is conducted: and second order information, regarding which the other price calculated in the second order price calculation procedure is set as another minimum price, in a higher price side than the other minimum price, to each of the first orders, each of the order prices is set so as to make the profit margin when performing purchase or sale based on the first order for which sale or purchase has been carried out be the profit margin in the trading order application information, and, about a second order price as each of the order prices having been set, a second order as a limit order of buying for the first order of selling, and a limit order of selling for the first order of buying are performed" (meanwhile, underlines were given in the body).

Then, when the Invention 2 and Invention A-1 are compared, they are different in the following points as with the Invention 1.

<The different feature 1>

A point that, in the Invention 1, "information, in trading orders of the financial product, for indicating an order total amount for each order price" is received, whereas, in Invention A-1, a standard quantity of sale and purchase is set on the occasion of every time automatic trading by the number of stocks.

<The different feature 2>

A point that the Invention 2 is an invention in which "in the order information generation procedure, a plurality of order information groups are generated as the order information based on the trading order application information, the plurality of order information groups comprising: first order information, regarding which the one order price is set as one minimum price about the financial products of an identical type, each of the order prices is set in a higher price side than the one minimum price so as to make each price range be the price range included in the trading order application information, and, about a first order price as each of the order prices being set, a limit order of selling or buying is conducted: and second order information, regarding which the other price calculated in the second order price calculation procedure is set as another minimum

price, in a higher price side than the other minimum price, to each of the first orders, each of the order prices is set so as to make the profit margin when performing purchase or sale based on the first order for which sale or purchase has been carried out be the profit margin in the trading order application information, and, about a second order price as each of the order prices having been set, a second order as a limit order of buying for the first order of selling, and a limit order of selling for the first order of buying are performed, wherein the order information groups generated are stored in an order information storing means, and wherein setting is made such that, when, about each of the order information groups generated based on one piece of the trading order application information, the first order price of the first order that is a valid order and a market price of the financial product match each other, and, then the second order price of the second order that is a valid order and the market price match each other, and the first order and the second order are contracted, the first order information of the order information group that comes next is made to be valid, a contract of the first order at the first order price the same as the order price of the first order that has been contracted, and a contract of the second order at the second order price the same as the order price of the second order that has been contracted are made to be performed repeatedly," whereas,

Invention A-1 is one in which "in every instance of automatic trading, purchase at a lower price just under a contract price in the automatic trading table (700) and sale at a higher price right above the contract price of the table are ordered."

Then, as with the Invention 1, it cannot be said that the configuration concerning Different Feature 2 could be conceived by a person skilled in the art with ease even in view of Invention A-1 and the well-known art and the like in the relevant technical field, and, in addition, about this point, Demandant has not shown other evidence.

Accordingly, it cannot be said that the Invention 2 could be easily invented by a person skilled in the art based on Invention A-1.

4. Judgment on the Inventions 3, 5, and 7 to 9

Since the Inventions 3, 5, and 7 to 9 are ones that further limit the Invention 1 or the Invention 2, it cannot be said that they could be easily invented by a person skilled in the art based on Invention A-1 as with the Invention 1 and the Invention 2.

5. Judgment on the Invention 10

The Invention 10 is "a program to make a computer execute the financial

product transaction management method in a financial product transaction management system according to any one of claims 1 to 9," and is one that requires the information processing identified by "the financial product transaction management method in a financial product transaction management system" of the Inventions 1 to 9 as an invention of "program." Therefore, it cannot be said that it could be easily invented by a person skilled in the art based on Invention A-1 as with the Invention 1 and the Invention 2.

6. Summary as to Reasons for invalidation

As described above, the Inventions 1-3, 5 and 7-10 are not inventions that could have been easily invented by a person skilled in the art based on the invention according to Evidence A No. 1, and are not in breach of the prescriptions of Article 29(2) of the Patent Act.

Accordingly, the patent of the inventions according to claims 1-3, 5, and 7-10 cannot be invalidated as one violating the provisions of Article 123(1)(ii) of the same Act by the reasons for invalidation advocated by Demandant.

No. 6 Closing

As described above, the patent of the inventions according to claims 1-3, 5, and 7-10 cannot be invalidated by the reasons and means of proof for invalidation advocated by Demandant.

The costs in connection with the trial shall be borne by the Demandant under the provisions of Article 61 of Code of Civil Procedure applied mutatis mutandis under the provisions of Article 169(2) of the Patent Act.

Therefore, the trial decision shall be made as described in the conclusion.

Dec. 12, 2016

Chief administrative judge: TESHIMA, Seiji
Administrative judge: KANEKO, Koichi
Administrative judge: NOZAKI, Daishin