UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TD AMERITRADE HOLDING CORPORATION, TD AMERITRADE, INC., and
TD AMERITRADE ONLINE HOLDINGS CORP.,
Petitioner

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.,
Patent Owner

CBM2014-00135 (Patent 6,772,132)[1]

Before SALLY C. MEDLEY, MEREDITH C. PETRAVICK, and
PHILIP J. HOFFMANN, *Administrative Patent Judges.*

JOINT MOTION TO TERMINATE PROCEEDINGS AND NOTICE OF SETTLEMENT UNDER 35 U.S.C. § 327 AND 37 C.F.R §§ 42.72 AND 42.74

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[1] An identical paper has also been filed in the following proceedings:

CBM2014-00131 (Patent 7,533,056)
CBM2014-00133 (Patent 7,676,411)
CBM2014-00137 (Patent 7,685,055)

TABLE OF CONTENTS

I. Introduction

Petitioners TD Ameritrade Holding Corporation, TD Ameritrade, Inc., and TD Ameritrade Online Holdings Corp. ("TD Ameritrade") and Patent Owner Trading Technologies International, Inc. ("TT") have entered into a confidential Settlement Agreement that resolves all underlying disputes between the parties, including CBM2014-00131 against U.S. Patent No. 7,533,056; CBM2014-00133 against U.S. Patent No. 7,676,411; CBM2014-00135 against U.S. Patent No. 6,772,132; and CBM2014-00137 against U.S. Patent No. 7,685,055, currently before the Board. The parties are filing a copy of the Agreement as Exhibit 2300 along with a request to treat it as Confidential Business Information under 37 C.F.R. § 42.74(c), and to seal it from the public absent showing good cause.

In summary, the Settlement Agreement provides for: (1) a release of TD Ameritrade for alleged past damages; (2) a worldwide non-exclusive license from TT to TD Ameritrade under the patents at issue in the pending CBMs and many other U.S. and foreign patents for the term of the licensed patents; (3) TD Ameritrade providing TT good and valuable consideration for alleged past damages and the on-going license; (4) a worldwide cross-license to TT under certain TD Ameritrade patents; (5) dismissal of district court litigation between TT and TD Ameritrade involving the patents at issue in the CBMs as well as eleven

(11) additional patents; and (6) the termination of all of the pending CBMs with respect to all parties.

Accordingly, pursuant to 35 U.S.C. § 327 and 37 C.F.R. §§ 42.72 and 42.74, the parties jointly request termination of all four proceedings involving the parties—CBM2014-00131 against U.S. Patent No. 7,533,056; CBM2014-00133 against U.S. Patent No. 7,676,411; CBM2014-00135 against U.S. Patent No. 6,772,132; and CBM2014-00137 against U.S. Patent No. 7,685,055—with respect to all parties, without rendering a final written decision in any of them. This joint consent for termination is based upon termination of **all** of the above listed CBM proceedings with respect to all parties because the requested termination is an important element of the consideration of the settlement agreement. During a telephone conference on June 30, 2015, when the parties informed the Board of this settlement, the Board authorized the parties to file a joint motion to terminate these proceedings.

During that telephone conference, the Board noted the anticipated settlement agreement was contingent on the Board granting the requested termination and that there is no guarantee that the Board will grant such relief. The parties understand and respect that the requested termination is not automatic and is at the Board's discretion, and that the Board is not a party to the settlement. For the reasons set

forth below, the parties respectfully submit the public interest and the congressional intent strongly supports the requested relief, and, therefore, the parties jointly request that this motion to terminate be granted.

II. Statement of Reasons for the Relief Requested

A. Public policy favors terminating these proceedings.

Congress and the Federal Courts encourage settlement between litigants. *See e.g., Delta Air Lines, Inc. v. August*, 450 U.S. 346, 352 (1981) ("The purpose of [Fed. R. Civ. P.] 68 is to encourage the settlement of litigation."); *Bergh v. Dept. of Transp*., 794 F.2d 1575, 1577 (Fed. Cir. 1986) ("The law favors settlement of cases."), cert. denied, 479 U.S. 950 (1986). The U.S. Court of Appeals for the Federal Circuit also places a particularly strong emphasis on settlement. *See Cheyenne River Sioux Tribe v. U.S.*, 806 F.2d 1046, 1050 (Fed. Cir. 1986) (noting that the law favors settlement to reduce antagonism and hostility between parties). Because Congress devised these proceedings as an alternative to litigation, termination following settlement comports with public policy. *See* 77 C.F.R. 48680, 48680 ("The purpose of the AIA and this final rule is to establish a more efficient and streamlined patent system that will improve patent quality and limit unnecessary and counterproductive litigation costs"). As stated in the Board's Trial Practice Guide, "[t]here are strong public policy reasons to favor settlement

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