

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Trading Technologies International, Inc.,

Plaintiff,

v.

CQG, Inc. and CQGT, LLC,

Defendants.

Civil Action No. 05-CV-4811

Judge Sharon Johnson Coleman

Magistrate Judge Sidney I. Schenkier

**NOTICE OF INTERLOCUTORY APPEAL**

CQG, Inc. and CQGT, LLC (collectively, CQG) appeal to the United States Court of Appeals for the Federal Circuit the Court's Order denying Defendants' Motion to Stay Pending Covered Business Method Review by the United States Patent and Trademark Office entered in this action on January 13, 2015 (ECF No. 876) (Exhibit 1).

Appellate jurisdiction arises from the statute permitting interlocutory appeals from orders pertaining to motions to stay under Section 18(b) of the Leahy-Smith America Invents Act (AIA). 35 U.S.C. § 321 note; AIA § 18(b)(2), Pub. L. No. 112-29, 125 Stat. 284, 331 (2011) ("A party may take an immediate interlocutory appeal from a district court's decision [on a motion to stay]). The United States Court of Appeals for the Federal Circuit shall review the district court's decision to ensure consistent application of established precedent, and such review may be de novo.").

Because the Court has not entered final judgment under Federal Rule of Civil Procedure 54, this is not an appeal from final judgment under 28 U.S.C. §§ 1291-1292, 1295.

Dated: January 13, 2015

Respectfully submitted,

By: /s/ Adam G. Kelly

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## CERTIFICATE OF SERVICE

I, Adam G. Kelly, certify that a copy of the foregoing document was served via the ECF filing system upon the following on the 13th day of January 2015:

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January 13, 2015

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# EXHIBIT 1

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

TRADING TECHNOLOGIES	)	
INTERNATIONAL, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	Case No. 05-cv-4811
CQG, INC., and CQGT, LLC,	)	
	)	
Defendants.	)	Judge Sharon Johnson Coleman
	)	

**MEMORANDUM OPINION AND ORDER**

On December 12, 2014, CQG filed a Motion to Stay the case pending Covered Business Method Review by the U.S. Patent and Trademark Office [845]. The Court allowed Trading Technologies until December 29, 2014, to respond. No reply was allowed, but one was filed.<sup>1</sup> For the reasons stated below, the motion is denied.

**Background**

The instant motion stems from a petition filed by TD Ameritrade Holding Corp. et al. on May 19, 2014, with the USPTO requesting review under the transitional program for covered business method patents of U.S. Patent No. 6,772,132 B1 (one of the patents-in-suit in our case – the ‘132 patent).<sup>2</sup> TD Ameritrade challenged the patentability of claims 1-56 of the ‘132 patent under 35 U.S.C. § 101 (among other things). On December 4, 2014, the USPTO determined that the petition demonstrates that it is more likely than not that the challenged claims are unpatentable under 35 U.S.C. § 101, and therefore instituted a covered business method patent review of claims

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<sup>1</sup> The Court subsequently granted TT’s Motion to Strike the Reply [872].  
<sup>2</sup> Notably, TD Ameritrade is a defendant in a lawsuit filed by TT currently pending before Judge Virginia Kendall, 10 C 715. In that case, TD Ameritrade filed the motion to stay on May 22, 2014. Judge Kendall has not yet ruled on that motion. It is not uncommon for courts to wait to rule on a motion to stay until after the USPTO has issued its decision whether to grant review. TT filed its response in opposition to the stay in that case on December 16, 2014.

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