

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TRADESTATION GROUP, INC. and  
TRADESTATION SECURITIES, INC.,  
Petitioner,

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.,  
Patent Owner.

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Case CBM2015-00161  
Patent No. 6,766,304 B2

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

PETRAVICK, *Administrative Patent Judge*.

DECISION  
Denying Request for Authorization to File a  
Motion to Stay CBM Proceeding  
*37 C.F.R. § 42.5*

On March 7, 2016, a conference call was held between counsel for TradeStation Group, Inc. and TradeStation Securities, Inc. (collectively, “Petitioner”), counsel for Trading Technologies International, Inc. (“Patent

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Owner”), and Judges Medley, Petravick, and Plenzler.<sup>1</sup> Prior to the call, Patent Owner indicated via email that it would request that the Board set a briefing schedule for a motion to stay. We consider Patent Owner’s request to be a request for authorization to file a motion to stay. *See* 37 C.F.R. § 42.20(b) (requiring authorization prior to filing a motion). Petitioner opposes the request.

Patent Owner requests authorization to file a motion to stay this proceeding until the U.S. Court of Appeals for the Federal Circuit decides an appeal of a decision of a district court, determining that the claims of U.S. Patent No. 6,766,304 B2 are patent eligible under 35 U.S.C. § 101. Patent Owner estimates that the Federal Circuit will enter a decision on the appeal in January, 2017. The one-year period under 37 C.F.R. § 42.300(c) for rendering a final determination expires on January 27, 2017. *See* 35 U.S.C. § 326 (11). A stay would not allow this proceeding to be completed within the one-year time period.

For good cause, the one-year time period could be extended by up to six months. 37 C.F.R. § 42.300(c). Patent Owner has not established that it can show, sufficiently, that good cause exists to extend the time period. Even if Patent Owner could show good cause and assuming that Patent Owner’s time estimate is correct, the majority of the proceeding would have to be compressed into a six-month time period. Six-months would not be sufficient as, at this point in the proceeding, Patent Owner has yet to file its response to the Petition.

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<sup>1</sup> Counsel for IBG LLC and Interactive Brokers LLC was present on the call because joinder of CBM2016-00035 and CBM2015-00161 was also discussed. IBG LLC and Interactive Brokers LLC are petitioner in CBM2016-00035.

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The one-year time period may also be adjusted in the case of joinder. 37 C.F.R. § 42.300(c); 35 U.S.C. § 326 (11). A motion seeking to join this proceeding is pending in CBM2016-00035. Patent Owner contends that the one-year time period may be extended beyond six months if the motion for joinder is granted. Joinder of CBM2016-00035 is not sufficient reason to stay this proceeding pending a decision of the Federal Circuit in the related appeal. Further, should the motion for joinder be granted, it should have minimal impact on the trial schedule in this proceeding.

Oral argument, if requested by either party, is scheduled for October 19, 2016 and after that time this proceeding will be ripe for a final decision by the Board. A final written decision in this proceeding, thus, may be entered in this proceeding months prior to the date that Patent Owner estimates a decision by Federal Circuit in the related appeal. Rule 42.1(b) provides that the rules “shall be construed to secure the just, *speedy*, and inexpensive resolution of every proceeding.” 37 C.F.R. § 42.1(b) (emphasis added). Under the circumstances of this proceeding, a stay for approximately nine-months, until January 2017, would be contrary to our Rule.

Accordingly, it is:

ORDERED that Patent Owner is not authorized to file a motion to stay.

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