

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

TRADESTATION GROUP, INC.,  
TRADESTATION SECURITIES, INC., IBG LLC, and  
INTERACTIVE BROKERS LLC,

Petitioners,

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.,

Patent Owner.

---

Case CBM2015-00161<sup>1</sup>  
U.S. Patent 6,766,304

---

**PATENT OWNER'S MOTION TO EXPUNGE**

---

<sup>1</sup> Case CBM2016-00035 has been joined with this proceeding.

## **I. Statement of Relief Requested**

Pursuant to this Board's authorization on October 10, 2019, Trading Technologies International, Inc. ("TT" or "Patent Owner"), respectfully requests that all confidential information filed by Patent Owner be expunged from the record pursuant to Rule 42.56 and not be made public. Patent Owner has conferred with Petitioner on this request and Petitioner does not oppose.

## **II. Reasons Why Requested Relief Should Be Granted**

### **A. The Board Found Good Cause to Seal Patent Owner's Confidential Information**

In connection with its Patent Owner's Response, TT filed four Motions to Seal. (Papers 53, 62, 91 and 93). These motions covered certain pleadings, declarations and exhibits containing or referring to Patent Owner's confidential business information. (Papers 54, 63, 68, 89, and 94; Exhibits 2169, 2172, 2224, 2225, 2232, 2247, 2270, 2286, 2294, and 2295).

All four Motions to Seal were granted (Paper 130). Such information should be expunged because this Board has already found that there was good cause to grant the motions to seal in the first instance. (Paper 130, at 3). Specifically, TT identified that the sealed papers contain sensitive business information that would not otherwise be published or made available to the public. As this information was not relied on in the Final Written Decision here, expunging the confidential material does not impact the public interest in obtaining access to these

proceedings. Further, any impact to the public interest has been minimized as non-confidential versions of the papers have already been filed. (*Id.*).

On February 13, 2019, the Federal Circuit affirmed the Final Written Decision of the Board in this case, and the formal mandate issued on May 7, 2019. On July 24, 2019, Petitioner IB filed a petition for writ of certiorari, which the Supreme Court denied on October 7, 2019. Because the appeals in this case have been concluded, this motion to expunge is now ripe for decision.

**B. The Sealed Documents Contain Confidential and Sensitive Business Information that was not Relied on by the Board in the Final Written Decision**

For the same reasons set forth in Patent Owner's Motions to Seal, namely that the sealed information "contain[s] sensitive business information that would not otherwise be published or made available to the public," all the information filed under seal in this matter should be expunged from the record. Expunging the sealed information will avoid the prejudice to the parties that would be caused by public disclosure of their sealed information. The information Patent Owner seeks to have expunged after the disposition of appeals is as follows: Papers 54, 63, 68, 89, and 94, and Exhibits 2169, 2172, 2224, 2225, 2232, 2247, 2270, 2286, 2294, and 2295.

Because Patent Owner has already filed redacted versions of the sealed documents, expunging confidential materials after appeal addresses the "public

interest in maintaining a complete and understandable file history for public notice purposes” while protecting the confidential and proprietary information of other parties. (*See* 77 FED. REG. 48623). A short summary of these materials follows.

First, Patent Owner’s Motion for Additional Discovery (Paper 54) was not cited in the Board’s Final Written Decision and contains (1) confidential information consisting of internal TradeStation documents relating to its products and customers, (2) the deposition transcripts of Mr. Bartleman (TradeStation’s President) and Mr. Galik (IB’s head of software development) and (3) quotations from those documents and transcripts. This information has not been published or otherwise made public. The redacted information is not specifically referenced in the Board’s final decision.

Second, the redacted versions of Confidential Patent Owner’s Response (Paper 63) and Confidential Corrected Patent Owner’s Response (Paper 68) were cited in the Board’s Final Written Decision and contain declarations and exhibits that contain highly sensitive, non-public information that a business would not make public. Specifically, the redacted portions of Patent Owner’s Response (Paper 64) and Corrected Patent Owner’s Response (Paper 69) contain business sensitive statements in the context of licensing Patent Owner’s products, and business strategy information. The redacted information is not specifically referenced in the Board’s final decision.

Third, the redacted versions of Patent Owner's Motion to Submit Supplemental Information and Briefing Under 37 C.F.R. § 42.223(b) (Paper 90) and Patent Owner's Reply in Support of its Motion to Submit Supplemental Information and Briefing Under 37 C.F.R. § 42.223(b) (Paper 95) contain confidential information consisting of discussions relating to Petitioners' confidential information. Petitioners indicated that this information has not been published or otherwise made public. The redacted information is not specifically referenced in the Board's final decision.

Fourth, the confidential information in Exhibits 2169, 2172, 2224, 2225, 2232, 2247, 2270, 2286, 2294, and 2295 were not cited or relied upon in the Board's Final Written Decision. (Paper 130, at 2). These exhibits contain highly sensitive and proprietary Patent Owner information, including internal financial information, third-party business strategy information, and third-party admissions and statements.

### **III. Conclusion**

Patent Owner respectfully requests that, because all appeals have been exhausted in this matter, the sealed materials be expunged from the CBM docket.

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.