

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

IBG LLC, INTERACTIVE BROKERS LLC,
TRADESTATION GROUP, INC., TRADESTATION SECURITIES, INC.,
TRADESTATION TECHNOLOGIES, INC., and IBFX, INC.,
Petitioner,

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.,
Patent Owner.

CBM2015-00161 (Patent No. 6,766,304 B2)¹
CBM2015-00172 (Patent No. 7,783,556 B1)
CBM2015-00179 (Patent No. 7,533,056 B2)²
CBM2015-00181 (Patent No. 7,676,411 B2)
CBM2015-00182 (Patent No. 6,772,132 B1)

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

PETRAVICK, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

¹ Case CBM2016-00035 has been joined with this proceeding.

² Case CBM2016-00040 has been joined with this proceeding.

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On June 27, 2016, Patent Owner filed a Patent Owner's Response in each of these proceedings. Paper 64.³ In some of the Patent Owner's Responses, Patent Owner includes requests that are essentially unauthorized motions. *E.g., see id.* at 76–77 (“TT renews that extension request here to give the parties an opportunity to build a record by introducing relevant evidence”), *id.* at 72, n. 8 (“Patent Owner requests authorization to submit an offer of proof under FRE 103(a)”). Patent Owner included these unauthorized motions despite our Order, entered on June 24, 2016 and referenced in Patent Owner's Response (*id.* at 71–72), that indicated that such requests were unauthorized motions and that our Rules prohibit the filing of motions without Board authorization and prohibit combining motions with other papers. Paper 60, 6–7 (citing 37 C.F.R. § 42.20(a), 37 C.F.R. § 42.6(3)). The unauthorized motions and Patent Owner Responses containing the unauthorized motions will not be considered. Patent Owner, however, may refile Corrected Patent Owner Responses in compliance with the following.

In particular, Patent Owner must review the entirety of the Patent Owner's Responses to identify all unauthorized motions, not just the examples mentioned above. If a Patent Owner's Response includes unauthorized motions, Patent Owner may file a Corrected Patent Owner's Response. All unauthorized motions must be omitted from the Corrected Patent Owner's Response. No other material should be omitted, added, or

³ For the purposes of this Order, CBM2015-00161 is representative and all citations are to papers in CBM2015-00161 unless otherwise noted.

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altered in the Corrected Patent Owner's Responses. The Corrected Patent Owner's Response must be accompanied by a certification that it does not include any unauthorized motions, including a statement that no other material has been omitted, added, or altered in the Corrected Patent Owner's Response. If a Patent Owner's Response does not include any unauthorized motions, Patent Owner must file a certification stating that no unauthorized motions are requested in the specific Patent Owner's Response. The above described certifications shall be filed as a separate paper in each proceeding.

In addition to the certifications above, and in the same certification paper, Patent Owner's lead counsel must certify that she understands that pursuant to Board Rules, 1) a request for relief must be in the form of a motion, 2) unless otherwise authorized by order or in our Rules, authorization is required prior to filing a motion, and 3) combining motions with other papers is prohibited.

If no Corrected Patent Owner's Responses or certifications are received within three business days of the entry of this Order, the Patent Owner's Responses may be expunged from the record, pursuant to 37 C.F.R. § 42.7. Should Patent Owner file additional papers in these proceedings that include unauthorized motions, the paper may be expunged from the record without an opportunity for Patent Owner to file a corrected paper. *See* 37 C.F.R. § 41.7(a).

Patent Owner shall request a conference call with the Board for authorization prior to filing a motion, unless authorization is provided in an order or in our Rules. 37 C.F.R. § 42.20(b). Patent Owner's request should

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comply with the Board's procedural requirements for requesting a conference call. *See* Patent Review Processing System (PRPS), Technical Issue 3 (hereinafter, "Technical Issue 3") (describing content of emails to Trials@uspto.gov) *available at* <http://www.uspto.gov/patentsapplication-process/appealing-patent-decisions/trials/patent-reviewprocessing-system-prps-0>. Specifically, the request should be limited to ***a short statement regarding the purpose of the call only and should not contain substantive communications*** to the Board. *Id.* (emphasis added).

Further, Patent Owner has made numerous requests for extensions of time in these proceedings. *E.g., see* Paper 47, 7–8, Paper 52, 12, Paper 57, Ex. 3001, 2. Patent Owner is reminded that a request for an extension of time must be supported by a showing of good cause. If Patent Owner contacts the Board per email regarding any further extensions of time, Patent Owner shall certify per such email that it can provide a factual basis to establish the required good cause showing for the extension. *See* 37 C.F.R. § 42.5(c)(2). The actual facts should not be provided per the email; only the certification.

It is so ORDERED.

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