UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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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
_____

Case CBM2015-00179
U.S. Patent 7,533,056 B2

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Patent Owner's Objections to
Evidence Pursuant to 37 C.F.R. § 42.64

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner objects to the following

Petitioners' Exhibits:

- 1003 ("Futures/Option Purchasing System Trading Terminal Operation Guide," Tokyo Stock Exchange);

- 1004 (English Translation of "Futures/Option Purchasing System Trading Terminal Operation Guide," Tokyo Stock Exchange);

- 1005 (Certificate of Translation for "Futures/Option Purchasing System Trading Terminal Operation Guide");

- 1006 (History of the American and NASDAQ Stock Exchanges);

- 1007 (Deposition Transcript of Atsushi Kawashima dated November 21, 2005);

- 1014 (Reuters Globex User Guide);

- 1015 (Alan Cooper, "About Face: The Essentials of User Interface Design");

- 1016 (Edward R. Tufte, "The Visual Display of Quantitative Information");

- 1017 (Edward R. Tufte, "Envisioning Information," Third Edition);

- 1018 (Ben Shneiderman, "Designing the User Interface: Strategies for Effective Human-Computer Interaction," Third Edition);

- 1019 (Sunny J. Harris, "Trading 101 – How to Trade Like a Pro");

- 1020 (Robert Deel, "The Strategic Electronic Day Trader");

- 1021 (Sun Microsystems, Inc., "Open Look™ Graphical User Interface Functional Specification");

- 1022 (Valerie Quercia et al., "X Window System User's Guide," OSF/Motif 1.2 Edition);

- 1023 (Richard W. Arms Jr., "Profits in Volume - Equivolume Charting");

- 1029 (Weiss, "After the Trade is Made");

- 1031 (Vernon L. Smith, "An Experimental Study of Competitive Market Behavior");

- 1036 (Petitioner's Reply, Paper 48, CBM2014-00131);

- 1042 (Inside Macintosh, Promotional Edition, Apple Computer, Inc.);

- 1043 (Valerie Illingworth, and I. C. Pyle, Dictionary of Computing, 4th Ed.); and

- 1044 (Mark J. Powers, "Starting Out in Futures Trading," Sixth Edition), served with Petitioners' Petition (Paper No. 9).

I. OBJECTION TO PETITIONERS' EXHIBITS 1003-1004, 1006-1007, 1014-23, 1029; 1031, and 1042-44

Patent Owner objects to Exhibits 1003-04, 1006-07, 1014-23, 1029; 1031; and 1042-44 to the extent that Petitioners rely on their contents for the truth of the matters asserted therein. 1003-04, 1006-07, 1014-23, 1029; 1031; and 1042-44 are inadmissible hearsay under **FRE 801 and 802**, and no exception applies.

II. OBJECTION TO PETITIONERS' EXHIBITS 1003-1005

Petitioners have submitted no evidence to authenticate Exhibit 1003, and deficient evidence for Exhibit 1004 as set forth below, making both inadmissible under **FRE 901**.

Patent Owner also objects to Exhibit 1003-1005 under **FRE 602**. Petitioners fail to provide a credible translation of TSE and fail to conform with the Board's rules for submitting translations of foreign language documents. In particular, **37 C.F.R. § 42.63(b)** requires that "[w]hen a party relies on a document or is required to produce a document in a language other than English, a translation of the document into English and an affidavit attesting to the accuracy of the translation must be filed with the document." The record lacks such an affidavit under Rule 42.63(b) attesting to the accuracy because Mr. Cohen: (1) incorrectly refers to "2014.05.19 - 1003 – TSE" as an English translation; and (2) on information and belief, he did not, himself, translate the Japanese language TSE into English,

thereby demonstrating his lack of personal knowledge regarding the matter for which he is testifying. *See* **FRE 602** (requiring personal knowledge to testify to a matter). Exhibit 1005 noncompliant with **37 C.F.R. § 42.63(b)**. This makes Exhibit 1003 and 1004 inadmissible under **37 C.F.R. § 42.61(a)** ("Evidence that is not taken, sought, or filed in accordance with this subpart is not admissible.").

III.   OBJECTION TO PETITIONERS' EXHIBIT 1036

To the extent Patent Owner relies on the contents of Exhibit 1036 to prove the content of the original document, Petitioners object to this document as not being an original document under **FRE 1002**, an authentic duplicate under **FRE 1003**, nor a document that falls under any exceptions to the original-document requirement, including those of **FRE 1004**. Further, the citation to Exhibit 1036 is an improper incorporation by reference, in violation of **37 C.F.R. § 42.6(a)(3)**.

Respectfully submitted,

Dated: March 9, 2016   By: /Rachel L. Emsley/
                                           Rachel L. Emsley, Backup Counsel
                                           Registration No. 63,558

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