

Paper No. _____
Filed: March 25, 2016

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.

Petitioners

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.

Patent Owner

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

**PATENT OWNER'S UNOPPOSED
MOTION TO STAY REEXAMINATION**

As authorized by Paper 31, Patent Owner Trading Technologies

International, Inc. (“TT”) hereby moves to stay *ex parte* reexamination control number 90/013578: a reexamination of U.S. Patent No. 7,533,056 (“the ’056 patent”).¹ Counsel for the Petitioners has been contacted, and Petitioners will not file an opposition brief because they do not oppose staying the reexamination proceeding.

The Board has the authority to stay the reexamination pursuant to 35 U.S.C. § 325(d), and has stayed reexamination when “[c]onducting the reexamination concurrently with the instant proceeding. . . would duplicate efforts within the Office and could potentially result in inconsistencies between the proceedings.” *CBS Interactive Inc., et. al. v. Helferich Patent Licensing, LLC*, IPR2013-00033, Order to Stay the Concurrent Reexamination (P.T.A.B. Nov. 6, 2012) (representative order) (staying reexamination because “Patent Owner could amend claims in the reexamination which in turn could change the scope of the challenged claims while the board is conducting its review” and that “patentability [of claims] would be determined in both the instant proceeding and the reexamination based on the same grounds”). The reexamination should be stayed because the issues are duplicative of the issues in this CBM proceeding.

¹ A response to the Office Action in reexamination control number 90/013578 is due on April 28, 2016, the deadline having been extended by one month.

The reexamination requester has alleged unpatentability under 35 U.S.C. § 103 of claims 1-15 of the '056 patent in view of the same art at issue in this CBM proceeding: TSE, Togher, and Schott. *Compare* Ex. 2037 at 2 with Paper 23 at 4. The reexamination appears to be a copy of portions of the prior TD Ameritrade petition on the '056 patent (CBM2014-00131). *See* CBM2014-00131, Paper 4. In this CBM proceeding, the Board has instituted review of claims 1-15 of the '056 patent in view of the TSE, Togher, Schott, and Cooper. *See* Paper 23. The combination in this proceeding is substantially similar to the reexamination, except for Petitioners' addition of Cooper over the prior TD Ameritrade arguments, as disclosing the claimed "default." *See* Paper 9 at 38. Thus, the resolution of patentability in this CBM proceeding will be duplicative of the efforts to resolve patentability in the reexamination. Accordingly, continuing the reexamination during the pendency of this proceeding will be a wasteful duplication of efforts for both the Patent Owner and the USPTO.

Moreover, the requester of the reexamination will not suffer any prejudice because the same alleged prior art will be considered in this proceeding, which must conclude in a Final Written Decision by February 24, 2017. If the CBM is terminated, the reexamination could re-start with the benefit of any briefing or information from this proceeding. *See CBS Interactive Inc., et. al.*, IPR2013-00033, Order to Stay the Concurrent Reexamination (noting that "[a]ny Board . . .

final written decision with respect to the patentability of the challenged claims will likely simplify the issues in the reexamination.”).

For the reasons stated herein, the reexamination should be stayed.

Respectfully submitted,

Dated: March 25, 2016

By: /Rachel L. Emsley/
Rachel L. Emsley, Back-up Counsel
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*Counsel for Patent Owner
Trading Technologies International, Inc.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **Patent Owner's Unopposed Motion to Stay Reexamination** was served on March 25, 2016, via email directed to counsel of record for the Petitioner at the following:

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Date: March 25, 2016

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