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**From:** Lori Gordon [mailto:LGORDON@skgf.com]

**Sent:** Friday, April 29, 2016 5:33 PM

**To:** Trials <Trials@USPTO.GOV>

**Cc:** 'Emsley, Rachel' <Rachel.Emsley@finnegan.com>; Rob Sokohl <RSOKOHL@skgf.com>; Richard M. Bembem <RBEMBEN@skgf.com>; tt-patent-cbm@tradingtechnologies.com; Trading-Tech-CBM <Trading-Tech-CBM@finnegan.com>; PTAB Account <PTAB@skgf.com>

**Subject:** Request for Conference Call with Board to resolve disputes relating to the depositions of Petitioners expert scheduled for May 3 and May 5.

Your Honors:

Petitioners respectfully request a conference call to resolve two issues between the parties regarding the depositions next week of Petitioners' expert, Kendyl Roman in three separate CBM proceedings: CBM2015-00179, CBM2015-00181, and CBM2015-00182.

1) In a March 29 e-mail, Patent Owner requested deposition on a first day for the CBM2015-00179 proceeding and on a second day for the CBM2015-00181 and 182 proceedings. Petitioners agreed to this proposal setting May 3 for the first deposition and May 5 for the second deposition. The emails reflecting this agreement are attached. Despite the agreement between the parties, Patent Owner filed a Notice of Deposition in each proceeding stating that they were going to consolidate all three depositions and conduct them as a single deposition spanning two days. Patent Owner further misrepresented in its deposition notices that Petitioners had agreed to this arrangement. Petitioners have asked Patent Owner to correct their deposition notices to reflect the agreement between the parties. Patent Owner has refused.

Petitioners therefore request a conference call to ask the Board to amend the notices of deposition or compel the Patent Owner to update its deposition notices to reflect the parties agreement that the May 3<sup>rd</sup> deposition will cover the topics in the CBM2015-00179 proceeding and the May 5<sup>th</sup> deposition will cover the topics in the CBM2015-00181 and 182 proceedings. In addition, Petitioners seek authorization to file a motion for sanctions against Patent Owner for misrepresenting the agreement between the parties in a filing with the Board and abuse of the discovery process.

2) Because the CBM2015-00179 proceeding covers a patent in one family and the CBM2015-00181 and 182 proceedings cover patents in a separate patent family, Petitioners have informed Patent

Owner that Petitioners intend to prepare Mr. Roman for the second day of deposition on Wednesday May 4 after the deposition in the CBM2015-00179 proceeding has closed. Patent Owner opposes.

To avoid the expense of future Motions practice by Patent Owner, Petitioners request clarification from the Board on the following point: If the deposition in CBM2015-00179 has closed, will Petitioners be able to prepare their witness before the deposition in the CBM2015-00181 and -00182 proceedings have opened.

The parties are available for a conference call with the Board on Monday from 9am to 5pm ET.

Regards-

Lori A. Gordon  
Counsel for Petitioners



**Lori Gordon**  
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**From:** [Emsley, Rachel](#)  
**To:** [Rob Sokohl](#)  
**Cc:** [Richard M. Bemben](#); [Arner, Erika](#); [Goldberg, Joshua](#); [Rodkey, Kevin](#); [tt-patent-cbm@tradingtechnologies.com](mailto:tt-patent-cbm@tradingtechnologies.com); [Lori Gordon](#); [Jon Strang](#)  
**Subject:** RE: TT's Objections to Evidence in CBM2015-00179  
**Date:** Monday, April 11, 2016 11:28:00 AM

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Counsel,

We agree to the proposed dates for Rho on April 26th and Roman on May 3rd and 5th. We will advise tomorrow on how many hours we believe we need for Mr. Cohen, but agree to the date. We note, however, that the dates you propose for Roman are very close to the deadline for the Patent Owner Response, and outside the discovery period for CBM2015-00179. Referring to my email of Friday, April 8, requesting an extension of due dates 1-3 in each of the proceedings to accommodate discovery, in the absence of stipulation to move the deadlines, we cannot agree to the dates for Mr. Roman.

Please let us know as soon as possible if you agree to an extension of deadlines 1-3 by three weeks in each of the proceedings, and we can discuss the schedule further during tomorrow's call (pending Josh's confirmation).

Thanks,

Rachel

**Rachel L. Emsley**

**Attorney at Law**

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**From:** Rob Sokohl [mailto:[RSOKOHL@skgf.com](mailto:RSOKOHL@skgf.com)]

**Sent:** Thursday, April 7, 2016 7:19 PM

**To:** Emsley, Rachel

**Cc:** Richard M. Bemben; Arner, Erika; Goldberg, Joshua; Rodkey, Kevin; [tt-patent-cbm@tradingtechnologies.com](mailto:tt-patent-cbm@tradingtechnologies.com); Lori Gordon; Jon Strang

**Subject:** Re: TT's Objections to Evidence in CBM2015-00179

Rachel, We propose Rho on April 26th and Roman on May 3rd and 5th.

We are working on dates for Cohen, but April 27th may work. Can you let us know if a few hours is satisfactory for Cohen?

Rob

Sent from my iPhone

On Apr 7, 2016, at 10:24 AM, Emsley, Rachel <[Rachel.Emsley@finnegan.com](mailto:Rachel.Emsley@finnegan.com)> wrote:

Rob,

Patent Owners are not presently aware of evidence it has that is inconsistent with TT's statement in its Objections that "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."

Regarding Petitioners' authentication evidence, please let us know of your availability for a deposition on the declaration you submitted in matters CBM2015-00179; -00181, and -00182.

Also, on the topic of depositions, please let us know of any progress on the suggested dates for Roman, Rho, and Cohen.

Regards,  
Rachel

**Rachel L. Emsley**  
Attorney at Law

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**From:** Rob Sokohl [<mailto:RSOKOHL@skgf.com>]  
**Sent:** Wednesday, April 6, 2016 12:46 PM  
**To:** Richard M. Bemben; Arner, Erika; Goldberg, Joshua; Rodkey, Kevin; Emsley, Rachel; [tt-patent-cbm@tradingtechnologies.com](mailto:tt-patent-cbm@tradingtechnologies.com)  
**Cc:** Lori Gordon; Jon Strang  
**Subject:** RE: TT's Objections to Evidence in CBM2015-00179

Counsel, We sent the below email on March 16<sup>th</sup>. Please let us know when you will be responding to this request.

Regards,

Rob

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**From:** Richard M. Bemben  
**Sent:** Wednesday, March 16, 2016 7:52 AM  
**To:** '[erika.arner@finnegan.com](mailto:erika.arner@finnegan.com)'; '[joshua.goldberg@finnegan.com](mailto:joshua.goldberg@finnegan.com)'; '[kevin.rodkey@finnegan.com](mailto:kevin.rodkey@finnegan.com)'; '[rachel.emsley@finnegan.com](mailto:rachel.emsley@finnegan.com)'; '[tt-patent-cbm@tradingtechnologies.com](mailto:tt-patent-cbm@tradingtechnologies.com)'  
**Cc:** Rob Sokohl; Lori Gordon; Jon Strang  
**Subject:** TT's Objections to Evidence in CBM2015-00179

RE: TT's Objections to Evidence in CBM2015-00179

Counsel,

In TT's March 9, 2016 Objections to Evidence, TT objected to the authenticity of Exhibit 1003 – the Japanese-language version of "Futures/Option Purchasing System Trading Terminal Operation Guide."

In accordance with 37 CFR 42.51(b)(1)(iii), Petitioners are entitled to discovery of all relevant information that is inconsistent with TT's position that Exhibit 1003 is not authentic. Accordingly, Petitioners request that TT provide all evidence in its possession regarding the authenticity of the Japanese-language version of "Futures/Option Purchasing System Trading Terminal Operation Guide."

Regards,  
Richard

<image001.jpg> **Richard M. Bemben**  
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