

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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2		
3	TRADING TECHNOLOGIES) Docket No. 10 C 715
4	INTERNATIONAL, INC.,)
) 9:35 a.m.
5	v.)
6) July 7, 2016
7	BGC PARTNERS, INC.,) Chicago, Illinois
8	Defendant.)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE VIRGINIA M. KENDALL

APPEARANCES:

12	For the Plaintiff:	McDONNELL BOEHNEN HULBERT & BERGHOFF by
13		MR. LEIF R. SIGMOND, JR.
14		MS. ANN PALMA,
15		300 South Wacker Drive, 32nd Floor
		Chicago, Illinois 60606

16	For the Defendants	MANDELL MENKES LLC by
17	Interactive Brokers	MR. STEVEN P. MANDELL
18	Group:	One North Franklin, Suite 3000
		Chicago, Illinois 60606

19	For the Defendant	FISH & RICHARDSON PC by
20	TradeStation Group	MR. ADAM KESSEL (VIA TELEPHONE)
21	and TradeStation	One Marina Park Drive
	Securities:	Boston, Massachusetts 02210

23	Court Reporter:	GAYLE A. MCGUIGAN, CSR, RMR, CRR
24		Federal Official Court Reporter
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1 (In open court:)

2 THE CLERK: 10 C 715, Trading Technologies versus BGC
3 Partners.

4 I have to make a call on this one.

5 (Clerk places telephone call.)

6 THE COURT: Good morning.

7 MR. MANDELL: Good morning, your Honor. Steve Mandell
8 on behalf of IBG.

9 THE COURT: Good morning.

10 THE CLERK: I am going to transfer you into the
11 courtroom.

12 MR. SIGMOND: Good morning, your Honor. Leif Sigmond
13 on behalf of Trading Technologies.

14 MS. PALMA: Good morning, your Honor. Ann Palma on
15 behalf of Trading Technologies.

16 THE COURT: Good morning.

17 Good morning. Who is on the phone?

18 MR. KESSEL: Good morning, your Honor. This is Adam
19 Kessel for the Trade Station defendants.

20 THE COURT: Okay. You are in open court and on the
21 record.

22 All right. Good morning, everyone.

23 I just thought it was interesting that the last three
24 times I've been with the federal circuit, which was like their
25 bench and bar conference, their circuit conference, and the

1 D.C. thing, this is the issue. Everybody is asking what to do
2 when it goes to PTAB and they want discovery and you've got a
3 protective order.

4 It's like percolating everywhere, but you know that
5 because that's your life.

6 So I got this morning this stipulation, right? Is it
7 this morning that came in?

8 MR. SIGMOND: I think -- so --

9 THE COURT: Or proposed --

10 MR. SIGMOND: Your Honor, we filed our motion, you
11 know, late last week to try to get here by today because we
12 have something we want to file tomorrow at the PTAB.

13 THE COURT: I know.

14 MR. SIGMOND: And so then last night they filed
15 something --

16 THE COURT: It's like a proposed stipulation.

17 MR. SIGMOND: Yes.

18 THE COURT: Right.

19 MR. KESSEL: Your Honor, we sent them a stipulation
20 several days ago, and then we had another compromise we offered
21 yesterday. Those were filed both yesterday afternoon.

22 THE COURT: But I was just notified of them.

23 MR. SIGMOND: Yeah, so I think, your Honor, they filed
24 them last night or yesterday afternoon and so -- yeah, so I
25 assume that's what you got this morning.

1 The problem is this: The problem is that we have a
2 situation where, I mean, if you look at what both parties
3 attached, the order from the PTAB denying our request for
4 additional discovery, if you look at page 10, they say as for
5 the document, this discovery request would not be necessary if
6 the District Court authorized patent owner to use the documents
7 in this proceeding.

8 So they gave us a couple stipulations, which basically
9 require us to go to the PTAB.

10 THE COURT: Who has already given you an answer.

11 MR. SIGMOND: Yeah, and the problem is every time we
12 go to the PTAB, they say -- I mean, we kind of -- we're in
13 this, like, catch-22 where --

14 THE COURT: I know.

15 MR. SIGMOND: And, your Honor, just so I can be very
16 clear, this is a situation where the same parties, in front of
17 two different tribunals, we got a bunch of discovery in this
18 case, and if you remember when we were in front of you getting
19 those depositions after the stay, you said I believe that -- I
20 know sometimes it's dangerous to quote yourself to you, but you
21 indicated on page 29 of the transcript that you thought this
22 stuff would be useful here, later, and in the PTAB. So now
23 we're trying to use it. And there is a protective order in the
24 PTAB. There's one here. All we're asking, big picture, is
25 that stuff that we have here, and I use "stuff" in the

1 scientific discovery way, stuff that we have here we can use in
2 the PTAB, and we'll, you know, file it under seal under their
3 protective order.

4 The one thing you haven't heard from defendants is why
5 is it a problem? In other words, the PTAB is free to say, Hey
6 TT, we're not going to listen to that, we don't want to look at
7 that evidence, but we can't even get it there for that
8 determination. And every time they give us a stipulation, it
9 kind of requires us to go to the PTAB first.

10 So we have two requests on our -- in our motion.

11 Request one is urgent. And, you know, I went back and
12 forth about whether to make this another emergency motion
13 because, again, we have a filing tomorrow, but we rushed to get
14 our paper to you on Friday so we could be here today. But if
15 you look at page 3 of our motion, Request 1 is, hey, we've
16 listed some transcripts and stuff -- I'm using the word "stuff"
17 again -- some documents, we give you a list that we want to use
18 in our filing tomorrow.

19 But then, more broadly, we'd like to stop doing this.
20 We'd like to just say, hey, if there's stuff under the
21 protective order here, let us use it in the PTAB, and we'll
22 follow their protective order there.

23 And, again, it's the same parties. You know, I
24 just -- I like it here, but --

25 THE COURT: I'd like a response, please.

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