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

TRADING TECHNOLOGIES)	Docket No. 10 C 715
INTERNATIONAL, INC.,)	
)	(Cons. with:
)	10 C 718, 10 C 720
v.)	10 C 721, 10 C 884)
)	
)	September 10, 2015
)	Chicago, Illinois
BGC PARTNERS, INC.,)	
)	
Defendant.)	

TRANSCRIPT OF PROCEEDINGS - MOTION
BEFORE THE HONORABLE VIRGINIA M. KENDALL

APPEARANCES:

For the Plaintiff:	McDONNELL BOEHNEN HULBERT & BERGHOFF by MS. JENNIFER KURCZ MR. LEIF R. SIGMOND, JR. 300 South Wacker Drive Suite 3100 Chicago, Illinois 60606
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For the Defendant CQG:	LOEB & LOEB LLP by MR. WILLIAM JOSHUA VOLLER 321 North Clark Street Suite 2300 Chicago, Illinois 60610
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Court Reporter:	GAYLE A. McGUIGAN, CSR, RMR, CRR Federal Official Court Reporter 219 South Dearborn, Room 2318-A Chicago, Illinois 60604 (312) 435-6047 Gayle_McGuigan@ilnd.uscourts.gov
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1 A P P E A R A N C E S : (Continued)

2

3 For the Defendant MANDELL MENKES LLC by
4 Interactive Brokers MR. STEVEN P. MANDELL
5 Group: One North Franklin
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 Chicago, Illinois 60606

6 For the Defendant STADHEIM & GREAR LTD by
7 TradeStation: MR. GEORGE C. SUMMERFIELD
8 400 North Michigan Avenue
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 Chicago, Illinois 60611

9 FISH & RICHARDSON PC by
10 MR. DAVID J. HEALEY
11 One Houston Center
 1221 McKinney, Suite 2800
 Houston, Texas 77010

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1 (In open court:)

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

4 MS. KURCZ: Good morning, your Honor. Jennifer Kurcz
5 on behalf of plaintiff Trading Technologies.

6 THE COURT: Good morning.

7 MR. SIGMOND: Good morning, your Honor. Leif Sigmond
8 for Trading Technologies.

9 THE COURT: Good morning.

10 MR. HEALEY: Good morning, your Honor. David Healey,
11 Fish and Richardson, for TradeStation.

12 THE COURT: Good morning.

13 MR. MANDELL: Good morning, your Honor. Steve Mandell
14 on behalf of Interactive Brokers, LLC.

15 THE COURT: Good morning.

16 MR. VOLLER: And good morning, your Honor. Bill
17 Voller on behalf of defendants CQG.

18 THE COURT: Good morning.

19 MR. SUMMERFIELD: Good morning, Judge. George
20 Summerfield on behalf of TradeStation.

21 THE COURT: Okay. Good morning.

22 So I have to tell you I'm not surprised to see this,
23 nor does it fall on deaf ears.

24 So let me hear from TT as to what we're doing here.

25 You want to break them up and move on.

1 MS. KURCZ: Yes, your Honor.

2 THE COURT: Go ahead.

3 MS. KURCZ: As you can imagine, we're seeking
4 deconsolidation because the very basis for consolidation --
5 which is streamlining, efficiency -- has not been served by
6 consolidation in this case. The cases are over five years old,
7 and discovery hasn't even gotten off the ground.

8 THE COURT: Let's just make a record that you all
9 chose -- some of you chose to bring it up and back, so it
10 wasn't that Judge Kendall is making this five years old, but
11 that there's lots of other issues that have delayed this case
12 based upon the parties' interactions.

13 MS. KURCZ: And that's exactly where I'm going, your
14 Honor.

15 Defendants have used consolidation to gain delay --
16 delay and unfairly break the case apart by engaging in
17 piecemeal litigation tactics. They've only independently
18 attacked certain patents on certain issues. And all of this
19 has enured to the delay in this case.

20 For instance, in the trade -- or the TD Ameritrade
21 CBM, the cases were stayed because of their request, and only
22 they were the ones that were involved in those CBM petitions.
23 None of the other parties chose to join in those matters.

24 THE COURT: Right.

25 MS. KURCZ: And now they want to redo it all over

1 again.

2 THE COURT: Right.

3 MS. KURCZ: And, you know, they've had that
4 opportunity for over three years. So at this point, enough is
5 enough. The cases should proceed independently. If there is a
6 reason to delay one case, for whatever reason, the Court can
7 decide that at that time, but they shouldn't be all hinged
8 together and incurring additional delay or any delay by any
9 defendant.

10 THE COURT: Okay. You're missing one of your best
11 arguments about the prejudice, about the delay for your
12 technology as well.

13 MS. KURCZ: Yes, your Honor. And with respect to the
14 prejudice that we've suffered, not only is it economic, we've
15 lost sales. We can't be going after people who are infringing
16 in our marketplace. There's also an evidentiary loss that we
17 are suffering. For instance, in the CQG case that just went to
18 trial, we had issues with getting information from non-parties.
19 Even from CQG, who was under a duty to preserve information,
20 had, you know, overwritten important and invaluable information
21 in that case. And so we believe that that's going to continue
22 happening, while defendants are also unfairly invading our
23 market space and we're not able to preclude them from
24 infringing.

25 THE COURT: Okay. Who wants to go first?

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