

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

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Case CBM2015-00181  
U.S. Patent 7,676,411 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 (U.S. Patent No. 5,077,665 to Silverman *et al.*);
- 1004 (U.S. Patent No. 5,297,031 to Gutterman *et al.*);
- 1005 (U.S. Patent No. 5,375,055 to Togher *et al.*);
- 1006 (“Futures/Option Purchasing System Trading Terminal Operation Guide,” Tokyo Stock Exchange);
- 1007 (English Translation of “Futures/Option Purchasing System Trading Terminal Operation Guide,” Tokyo Stock Exchange );
- 1008 (Certificate of Translation for “Futures/Option Purchasing System Trading Terminal Operation Guide”);
- 1009 (WO 90/11571 to Belden *et al.*);
- 1010 (Deposition Transcript of Atsushi Kawashima dated November 21, 2005);
- 1014 (Alan Cooper, “About Face: The Essentials of User Interface Design”);
- 1015 (Ben Shneiderman, “Designing the User Interface: Strategies for Effective Human-Computer Interaction,” Third Edition);
- 1017 (Robert Deel, “The Strategic Electronic Day Trader”);

- 1018 (U.S. Patent No. 5,263,134 to Paal *et al.*)
- 1022 (U.S. Patent No. 6,408,282 to Buist);
- 1026 (Weiss, “After the Trade is Made”);
- 1027 (U.S. Patent No. 5,960,411 to Hartman *et al.*); and
- 1036 (Inside Macintosh, Promotional Edition, Apple Computer, Inc.).

**I. OBJECTION TO PETITIONERS’ EXHIBITS 1003-1009, 1014-1015, 1017-1018, 1022, 1026-1027, and 1036**

Patent Owner objects to Exhibits 1003-1009, 1014-1015, 1017-1018, 1022, 1026-1027, and 1036 to the extent that Petitioners rely on their contents for the truth of the matters asserted therein. Exhibits 1003-1009, 1014-1015, 1017-1018, 1022, 1026-1027, and 1036 are inadmissible hearsay under **FRE 801 and 802**, and no exception applies.

**II. OBJECTION TO PETITIONERS’ EXHIBITS 1006-1008**

Petitioners have submitted no evidence to authenticate Exhibit 1006, and deficient evidence for Exhibit 1007 as set forth below, making both inadmissible under **FRE 901**.

Patent Owner also objects to Exhibit 1006-1008 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 1008 is noncompliant with **37 C.F.R. § 42.63(b)**. This makes Exhibit 1006 and 1007 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.”).

Patent Owner further objects to Exhibit 1007 under **FRE 403**. Petitioners’ Exhibit 1007 substitutes nearly verbatim Patent Owner’s own translation of the TSE’s Chapter 7 for the inaccurate translation previously provided by Petitioners’ counsel. *Compare* Ex. 1007, 91-120 *with* Ex. 2024, Appx. E (CBM2014-00131 Ex. 2097). Despite having copied Patent Owner’s translation into Exhibit 1007, on pages 7-25 and 7-26 (Exhibit 1007, 115-116), Petitioners omit two translator’s notes from Patent Owner’s original translation (Ex. 2024, 98-99). Exhibit 1007 is therefore incomplete, misleading, and inadmissible under **FRE 403**.

### III. OBJECTION TO PETITIONERS EXHIBIT 1010

Patent Owner objects to Exhibit 1010 to the extent that Petitioners rely on its contents for the truth of the matters asserted therein. Exhibit 1010 is inadmissible hearsay under **FRE 801 and 802**, and no exception applies.

Patent Owner also objects to portions of Exhibit 1010 under **FRE 401 and 402** as irrelevant, or in the alternative, under **FRE 403** as prejudicial and waste of time. Petitioners have cited only to 22 pages of the over 100-page exhibit. The uncited portions are irrelevant, and, to the extent relevant, are prejudicial and a waste of time.

**IV. OBJECTION TO PETITIONERS' EXHIBITS 1003, 1004, 1018, 1022, and 1027**

Petitioners rely on Exhibits 1003, 1004, 1018, 1022, and 1027 as disclosing certain features of the claims of the '411 patent. However, Exhibits 1003, 1004, 1018, 1022, and 1027 are irrelevant to the grounds (§§ 101 and 103) instituted by the Board, and are therefore inadmissible under **FRE 401 and 402** because they lack a tendency to make any fact at issue in this proceeding more or less probable.

Respectfully submitted,

Dated: March 21, 2016

By: /Rachel L. Emsley/  
Rachel L. Emsley, Backup Counsel  
Registration No. 63,558

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