

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.,
Petitioner,

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.,
Patent Owner.

CBM2015-00181
Patent 7,676,411 B2

Before SALLY C. MEDLEY and PHILIP J. HOFFMANN,
Administrative Patent Judges.

MEDLEY, *Administrative Patent Judge.*

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

On November 13, 2015, a conference call was held involving counsel for the respective parties and Judges Medley and Hoffmann. Patent Owner requested the call to seek authorization to file a motion for additional discovery. Prior to the conference call, Petitioner informed the Board and

opposing counsel that during the call, it would seek leave to file a motion for sanctions.

Patent Owner seeks additional discovery of documents related to whether CQG, Petitioner in related CBM2015-00057 and CBM2015-00058, is a real party-in-interest.

Upon consideration of the record, and the discussion had, Patent Owner is authorized to file a motion for additional discovery, limited to 15 pages, by November 19, 2015. The motion should state precisely the discovery sought and address the factors for granting a motion for additional discovery set forth in *Garmin Int'l, Inc. v. Cuozzo Speed Techs. LLC*, Case No. IPR2012-00001, Paper 26, 6–7 (PTAB, Mar. 5, 2013)(informative). Although articulated for *inter partes* reviews, the *Garmin* factors apply also to covered business method patent reviews, modified to reflect the slightly lower good cause standard applied in covered business method patent reviews. *See* 37 C.F.R. § 42.224; *see Bloomberg Inc. v. Markets-Alert Pty Ltd.*, CBM2013-00005, Paper 32, 2–5 (PTAB, May 29, 2013). Petitioner is authorized to file an opposition to the motion, limited to 15 pages, by November 27, 2015. Patent Owner is authorized to file a reply, limited to 5 pages, by December 3, 2015.

Petitioner requests authorization to file a motion for sanctions against Patent Owner.¹ Petitioner alleges that letters² sent to the Under Secretary of Commerce for Intellectual Property and Director of the United States

¹ *See, e.g.*, pages 15–16 of Exhibit 2001, which is a copy of the transcript of the conference call, listing the sanctions Petitioner seeks.

² Patent Owner filed copies of the letters in related case CBM2015-00161 (Exhibits 2001, 2014, and 2094).

Patent and Trademark Office from Trading Technologies International, Inc. amounted to improper ex parte communications. Upon consideration of the arguments presented, Petitioner is not authorized to file a motion for sanctions. It is the goal of the Board to administer proceedings in a just, speedy, and inexpensive way. 37 C.F.R. § 42.1(b). We have determined that considering a motion for sanctions based on the facts presented would frustrate that goal.

Accordingly, it is:

ORDERED that Patent Owner is authorized to file a motion for additional discovery under 37 C.F.R. § 42.5(b)(2) by November 19, 2015, limited to 15 pages; Petitioner is authorized to file an opposition by November 27, 2015, limited to 15 pages; and Patent Owner is authorized to file a reply by December 3, 2015, limited to 5 pages; and

FURTHER ORDERED that Petitioner's request to file a motion for sanctions is *denied*.

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Patent 7,676,411 B2

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