

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.,

Petitioners

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.

Patent Owner

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Case CBM2015-00182  
U.S. Patent 6,772,132 B1

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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:

- 1010 (U.S. Patent No. 5,077,665 to Silverman *et al.*);
- 1011 (U.S. Patent No. 5,297,031 to Gutterman *et al.*)
- 1014 (U.S. Patent No. 5,263,134 to Paal *et al.*);
- 1015 (U.S. Patent No. 5,960,411 to Hartman *et al.*);
- 1016 (“Futures/Option Purchasing System Trading Terminal Operation Guide,” Tokyo Stock Exchange);
- 1017 (English Translation of “Futures/Option Purchasing System Trading Terminal Operation Guide,” Tokyo Stock Exchange );
- 1018 (Certificate of Translation for “Futures/Option Purchasing System Trading Terminal Operation Guide”);
- 1019 (Deposition Transcript of Atsushi Kawashima dated November 21, 2005);
- 1020 (David M. Weiss, “After the Trade is Made”);
- 1021 (Robert Deel, “The Strategic Electronic Day Trader”);
- 1022 (Alan Cooper, “About Face: The Essentials of User Interface Design”);

- 1023 (Ben Shneiderman, “Designing the User Interface: Strategies for Effective Human-Computer Interaction,” Third Edition);
- 1030 (U.S. Patent No. 6,408,282 to Buist); and
- 1036 (Inside Macintosh, Promotional Edition, Apple Computer, Inc.).

**I. OBJECTION TO PETITIONERS’ EXHIBITS 1010-1011, 1014-1018, 1020-23 and 1036**

Patent Owner objects to Exhibits 1010-1011, 1014-18, 1020-23; and 1036 to the extent that Petitioners rely on their contents for the truth of the matters asserted therein. Exhibits 1010-1011, 1014-18, 1020-23; and 1036 are inadmissible hearsay under **FRE 801 and 802**, and no exception applies.

**II. OBJECTION TO PETITIONERS’ EXHIBITS 1016-1018**

Petitioners have submitted no evidence to authenticate Exhibit 1016, and deficient evidence for Exhibit 1017 as set forth below, making both inadmissible under **FRE 901**.

Patent Owner also objects to Exhibit 1016-1018 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 1018 is noncompliant with **37 C.F.R. § 42.63(b)**, making Exhibits 1016 and 1017 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 objections to Exhibit 1017 under **FRE 403**. Petitioners’ Exhibit 1017 substitutes nearly verbatim TT’s own translation of Chapter 7 for the inaccurate translation previously provided by Petitioners’ counsel. *Compare* Ex. 1017, 91-120, *with* Ex. 2020, Appx. E (CBM2014-00131 Ex. 2097). But despite having copied TT’s translation into Exhibit 1017, on pages 7-25 and 7-26 (Exhibit 1017, 115-116), Petitioners omit two translator’s notes from TT’s original translation (Ex. 2020, 98-99). Exhibit 1017 is therefore incomplete and misleading, and inadmissible under **FRE 403**.

### III. OBJECTION TO PETITIONERS' EXHIBIT 1019

Patent Owner objects to Exhibit 1019 to the extent that Petitioners relies on its contents for the truth of the matters asserted therein. Exhibit 1019 is inadmissible hearsay under **FRE 801 and 802**, and no exception applies.

Patent Owner also objects to portions of Exhibit 1019 under **FRE 401-402** as irrelevant, or in the alternative under **FRE 403** as prejudicial and a waste of time. Petitioners have cited only to 22 pages of the over 100-page exhibit, and within those un-cited pages, there may be many objectionable statements. The un-cited portions are irrelevant, and to the extent relevant are prejudicial and a waste of time.

### IV. OBJECTION TO PETITIONERS' EXHIBITS 1010, 1014, 1015, and 1030

Petitioners rely on Exhibits 1010, 1014, 1015, and 1030 as disclosing certain features of the '132 claims. However, Exhibits 1010, 1014, 1015, and 1030 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 17, 2016

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

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