

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.

CBM2015-00161 (Patent No. 6,766,304 B2)¹
CBM2015-00172 (Patent No. 7,783,556 B1)
CBM2015-00179 (Patent No. 7,533,056 B2)²
CBM2015-00181 (Patent No. 7,676,411 B2)
CBM2015-00182 (Patent No. 6,772,132 B1)

Before SALLY C. MEDLEY, MEREDITH C. PETRAVICK and
JEREMY M. PLENZLER, *Administrative Patent Judges*.

PETRAVICK, *Administrative Patent Judge*.

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

¹ Case CBM2016-00035 has been joined with this proceeding.

² Case CBM2016-00040 has been joined with this proceeding.

CBM2015-00161 (Patent No. 6,766,304 B2)
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CBM2015-00182 (Patent No. 6,772,132 B1)

A. Exhibits Submitted with Updated Mandatory Notices

On July 26, 2016, Patent Owner filed a paper titled Updated Mandatory Notices, in each of these proceedings. Paper 80.³ The Updated Mandatory Notices indicates that its purpose is to “identify” an order and a corresponding transcript from a district court proceeding in *Trading Techs. Int’l, Inc. v. BGC Partners, Inc., et al.*, 10-cv-715 (N.D. Ill.). *Id.* at 1. Along with the Updated Mandatory Notices, Patent Owner filed Exhibits 2343 and 2344 in each of these proceedings. Exhibit 2343 is the district court order, and Exhibit 2344 is the transcript of the district court proceeding.

Our Rules require the parties to file mandatory notices that “identify any other judicial or administrative matter that would affect, or be affected by, a decision in the proceeding.” 37 C.F.R. § 42.8 (b)(2). *Trading Techs. Int’l, Inc. v. BGC Partners, Inc., et al.* is a judicial matter, which was first identified in Patent Owner’s Mandatory Notices filed on August 10, 2015. Paper 5, 4. Our Rules do not provide for, nor have we otherwise authorized, the filing of the district court order and transcript from the identified matter as exhibits. We expunge Exhibits 2343 and 2344 from the record in each of these proceedings. *See* 37 C.F.R. § 42.7(a).

³ For the purposes of this Order, CBM02015-00161 is representative and all citations are to papers in CBM02015-00161 unless otherwise noted.

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B. Exhibits Not Cited in the Record

On June 28, 2016, we entered an Order requiring Patent Owner to submit a table listing the exhibit number and a corresponding citation to where that document is cited in the record because Patent Owner has filed a significant number of exhibits in these proceedings. Paper 66. The Order states “[i]f an exhibit is not relied upon in any Papers or other filing, that exhibit will be expunged from the record in due course.” *Id.*

Patent Owner’s submission reveals that the following exhibits are not cited in the record and should not otherwise appear in the record.⁴ The following exhibits are expunged from the record in the corresponding proceeding.

Proceeding	Exhibits
CBM2015-00161	2125 and 2133
CBM2015-00179	2013, 2031, 2124, 2125, 2159 and 2161
CBM2015-00181	2022, 2023, 2027, 2035, 2037, 2039, 2046 and 2125
CBM2015-00182	2018, 2019, 2023, 2031, 2033, 2035, 2125 and 2178

C. Letters to the Director

In proceeding CBM2015-00161, Patent Owner filed as exhibits a number of letters and emails to Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark

⁴ We do not expunge documents, such as transcripts of conference calls with the Board, certificates of translation of cited foreign language documents, or original foreign language documents where the translation is cited.

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Office Michelle Lee or certain members of her staff. Exs. 2001–2010, 2014–2019, 2094, 2096, 2102, and 2342. Early in the proceeding, the letters were a point of contention between Patent Owner and Petitioner (*see* Paper 8, 1–2 (denying a motion for sanctions based upon the letters), Paper 26, 6–7 (denying request to file a reply to address alleged inconsistencies between the preliminary response and the letters)). To address the issues, the Board required Patent Owner to identify the letters in its mandatory notices and to file the letters as exhibits. Paper 8, 2, Paper 26, 7.

As the earlier issues concerning the letters appear to now be resolved, such letters should no longer be filed as exhibits, unless the letters are relied upon in the parties’ substantive papers or otherwise authorized by the Board. The parties should continue to identifying any such letters as related administrative matters and are reminded that 37 C.F.R. § 42.5(d) prohibits *ex parte* communication with a member of the Board. Exhibits 2096, 2102, and 2342, letters not otherwise cited in the record, are expunged from the record in CBM2015-00161.

D. Order

It is:

ORDERED that the following Exhibits are expunged from the records of the corresponding proceeding, as indicated in the table below.

Proceeding	Exhibits
CBM2015-00161	2096, 2102, 2125, 2133, 2342, 2343, and 2344
CBM2015-00172	2343 and 2344

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CBM2015-00182 (Patent No. 6,772,132 B1)

Proceeding	Exhibits
CBM2015-00179	2013, 2031, 2124, 2125, 2159, 2161, 2343 and 2344
CBM2015-00181	2022, 2023, 2027, 2035, 2037, 2039, 2046, 2125, 2343 and 2344
CBM2015-00182	2018, 2019, 2023, 2031, 2033, 2035, 2125, 2178, 2343 and 2344

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