

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

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**DECLARATION OF JENNIFER M. KURCZ**

I, Jennifer M. Kurcz, make the following Declaration pursuant to 28 U.S.C. § 1746:

1. I am an attorney at the law firm of McDonnell Boehnen Hulbert & Berghoff LLP. I represent Patent Owner Trading Technologies International, Inc. (“TT”).

2. I provide this Declaration in connection with the following CBM proceedings: CBM2015-00161, -00181, and -00182. Unless otherwise stated, the facts stated in this Declaration are based on my personal knowledge.

3. As part of a litigation between TT and eSpeed, Inc. et al. (“eSpeed”) in the Northern District of Illinois (Case No. 04-cv-5312) (“the *eSpeed* case”), TT served document requests on eSpeed, which are attached to this Declaration as Appendices 1-9. In response to these requests, eSpeed served on TT in that litigation what are now marked as Exhibits 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2250, 2252, 2254, 2256, 2258, 2260, 2262, 2270, 2271, and 2272 in one or more of these CBM proceedings. Exhibits 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2250, 2252, 2254, 2258, 2260, 2262, 2270, 2271, and 2272 were admitted as trial exhibits in the litigation without their authenticity being challenged. Exhibit 2256 was shown to the jury, but not admitted into evidence.

4. As further part of the *eSpeed* case, what are now marked as Exhibits 2248 and 2249 in one or more of these CBM proceedings were admitted as trial exhibits in the *eSpeed* litigation without their authenticity being challenged.

5. As further part of the *eSpeed* case, what are now marked as Exhibits 2279, 2280, 2281, and 2282 in one or more of these CBM proceedings were shown to the jury during trial, but not admitted into evidence.

6. As further part of the *eSpeed* case, TT and eSpeed served respective subpoenas and accompanying document requests on Patsystems, which are attached to this Declaration as Appendices 10-11. In response to these requests, Patsystems served on TT and eSpeed in that litigation what are now marked as Exhibits 2284 and 2285 in one or more of these CBM proceedings. Exhibit 2284 was admitted as a trial exhibit in the litigation without its authenticity being challenged.

7. As further part of the *eSpeed* case, eSpeed served a subpoena and accompanying document requests on Tokyo Stock Exchange (“TSE”), which is attached to this Declaration as Appendix 12. In response, TSE served on eSpeed and TT in that litigation what are now marked as Exhibits 2159 and 2175 in one or more of these CBM proceedings.

8. As part of a litigation between TT and CQG, Inc et al. (“CQG”) in the Northern District of Illinois (Case No. 05-cv-4811), TT served document requests

on CQG, which are attached to this Declaration as Appendices 13-16. In response to these requests, CQG served on TT in that litigation what is now marked as Exhibit 2277 in one or more of these CBM proceedings. Exhibit 2277 was admitted as a trial exhibit in the litigation without its authenticity being challenged.

9. As part of a litigation between TT and Interactive Brokers LLC et al. (“IB”) in the Northern District of Illinois (Case No. 10-cv-721) , TT served document requests on IB, which are attached to this Declaration as Appendix 17. In response to these requests, IB served on TT in that litigation what is now marked as Exhibit 2206 in one or more of these CBM proceedings.

10. As part of a litigation between TT and TradeStation Securities, Inc. et al. (“TradeStation”) in the Northern District of Illinois (Case No. 10-cv-884), TT served document requests on TradeStation, which are attached to this Declaration as Appendices 18-19. In response to these requests, TradeStation served on TT in that litigation what is now marked as Exhibit 2207 in one or more of these CBM proceedings.

11. Exhibit 2283 is a compilation of true and correct copies of consent judgements involving TT.

12. I declare under penalty of perjury under the laws of the United States of America that all statements made herein of my knowledge are true, and that all statements made on information and belief are believed to be true, and that these

statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Date: July 19, 2016

By: /Jennifer M. Kurcz/  
Jennifer M. Kurcz

# APPENDIX 1



## DEFINITIONS AND INSTRUCTIONS

In the following requests for production of documents and things:

1. The terms "Plaintiff" and "Trading Technologies" shall mean the Plaintiff in this lawsuit, Trading Technologies International, Inc.; any company name under which Trading Technologies is doing business; and its predecessors, parents, subsidiaries, divisions, directors, officers, employees, agents, distributors, salespersons, sales representatives, and attorneys, and each person acting or purporting to act on its or their behalf or under its or their control.

2. The terms "Defendant" and "eSpeed" shall mean eSpeed, Inc.; any company name under which eSpeed is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

3. The terms "person" and "persons" shall mean natural persons (including, without limitation, those employed by eSpeed), as well as all governmental entities, agencies, officers, departments, or affiliates of any other governmental entity, and any corporation, foundation, partnership, proprietorship, association, or other organization.

4. The term "date" shall mean the exact day, month, and year (to the degree ascertainable) or, if not ascertainable, the best approximation (including relationship to other events).



5. The term "document" shall mean writings, recordings and other communications, whether reduced to tangible or electronic form, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including without limitation, correspondence, memoranda, notes, executable and non-executable electronic files, including e-mail, software, screen shots, diaries, minutes, statistics, letters, telegrams, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, receipts, returns, summaries, pamphlets, books, prospectuses, calendars, diaries, planners, interoffice and intra-office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meetings, presentations, or printouts, teletypes, fax, invoices, work sheets, and all drafts, alterations, modifications, changes and amendments of the foregoing), graphic or oral representations of any kind (including without limitation, photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys), and electronic or electro-mechanical records or representations of any kind (including without limitation, computer memory, hard drives, discs, tapes, cassettes and recordings).

6. The terms "relating to" and "referring to" shall be interpreted broadly so as to encompass the liberal scope of discovery set forth in Federal Rule of Civil Procedure 26(b).

7. The terms "identify" and "describe" shall mean providing, among other things:

(a) with respect to a natural person, home and work addresses and telephone numbers, the name of the person's present (or if unknown, the last known) place of employment, date of commencement and termination (if any) of employment, job title, and description of his or her duties and responsibilities;

(b) with respect to a corporation or other non-natural person, the full name, address, main telephone number, state of incorporation, and identity of all persons who have acted on behalf of such entity with respect to the subject matter of the request;

(c) with respect to a document, the type of document (e.g., letter, e-mail, fax, contract, calendar, invoice, report); the number of pages or size of electronic file; a description of the document's contents; an identification of the person(s) who prepared the document, for whom the document was prepared, who signed the document, to whom the document was delivered, mailed, or otherwise received, and to whom a copy of the document was sent or otherwise received; the date of writing, creation, or publication; identifying number(s), letter(s), or combination thereof, if any; the significance or meaning of such number(s), letter(s) or combination thereof; for electronic documents, the name of the software used to generate the document and the electronic file type; and the present location and identity of the custodian of that document. Documents to be identified shall include all documents in your possession, custody or control, documents you know or believe to have existed but are no longer existing, and other documents of which you have knowledge or information.

8. The terms "and," "or," and "and/or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

9. The terms "describe" and "state" shall mean to set forth fully and unambiguously every fact relevant to the subject of the request, of which eSpeed (as defined herein) has knowledge or information.

10. Any word written in the singular herein shall be construed as plural or vice versa to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

11. The term "the '304 patent" shall mean U.S. Patent No. 6,766,304. The term "the '132 patent" shall mean U.S. Patent No. 6,772,132. The term "patents-in-suit" shall mean the '304 patent and the '132 patent either collectively or individually.

12. "Prior Art" includes, by way of example and without limitation, any subject matter that eSpeed contends is encompassed by 35 U.S.C. § 102 and/or 35 U.S.C. § 103.

13. "Electronic Trading Tool" shall mean any software, hardware or combination thereof, for connecting to or interacting with any public or private trading system that provides for electronic trading, including but not limited to the Chicago Board of Trade ("CBOT"), the Chicago Mercantile Exchange ("CME"), the London International Financial Futures and Options Exchange ("LIFFE"), Eurex, the IntercontinentalExchange ("ICE"), ICAP BrokerTec, the eSpeed Exchange, the Cantor Exchange, or the eSpeed System.

14. No request or subpart hereof shall be construed as a limitation on any other request or subpart hereof.

15. In producing documents and things responsive to these requests, eSpeed shall furnish all documents and things within its possession, custody, or control, regardless of whether these documents are possessed directly by eSpeed, or by its present or past agents, employees, affiliates, related companies, subsidiaries, representatives, investigators, attorneys, or others.

16. If eSpeed asserts the attorney-client privilege or work product doctrine as a basis for not producing any document or thing, or if any document or thing is not produced in full, produce the document or thing to the extent the request for production is not objected to, and, in so doing:

- (a) state the specific ground(s) for not producing the document or thing in full;
- (b) state the bases for such a claim of privilege or immunity; and
- (c) fully identify the information, document, or material for which such privilege or immunity is asserted, including the name and type of any document, the name, address and title of its author, each addressee, and each person to whom a copy of the document or thing has been sent, delivered, or provided.

17. If eSpeed maintains that any document or thing requested by Trading Technologies has been destroyed, lost, or is otherwise unavailable, set forth the contents of the document or thing, the date of its destruction or loss, and the name of the person who authorized its destruction (if any).

18. Where eSpeed asserts an objection to a request, state all grounds upon which the objection is based.

19. For each document or thing produced in response to these requests, identify the request(s) to which the document or thing relates.

## **DOCUMENT REQUESTS**

### **REQUEST NO. 1**

All documents requested for identification by TRADING TECHNOLOGIES INTERNATIONAL, INC.'S FIRST SET OF INTERROGATORIES TO DEFENDANT, served concurrently herewith.

### **REQUEST NO. 2**

All documents relied upon, referred to, or consulted in responding to TRADING TECHNOLOGIES INTERNATIONAL, INC.'S FIRST SET OF INTERROGATORIES TO DEFENDANT, served concurrently herewith.

### **REQUEST NO. 3**

Documents sufficient to identify each different Electronic Trading Tool for the trading of futures contracts developed, made, sold, distributed, marketed, licensed and/or used by, or with the assistance or at the direction of, eSpeed, including any versions that have not yet been commercially released, and further including one (1) sample of each such Electronic Trading Tool.

### **REQUEST NO. 4**

Documents sufficient to identify each different Electronic Trading Tool for the trading of spreads developed, made, sold, distributed, marketed, licensed and/or used by, or with the assistance or at the direction of, eSpeed, including any versions that have not yet been commercially released

and any version referred to internally or outside of eSpeed as an “autospreader” a “basis spreader” or any similar name, and further including one (1) sample of each such Electronic Trading Tool.

**REQUEST NO. 5**

Documents sufficient to identify each different Electronic Trading Tool developed, made, sold, distributed, marketed, licensed and/or used by, or with the assistance or at the direction of, eSpeed, where such Electronic Trading Tool is capable of presenting market information on a display in relation to a static price axis, including any versions that have not yet been commercially released, and further including one (1) sample of each such Electronic Trading Tool.

**REQUEST NO. 6**

All documents and things showing the operation, features, and/or display formats of eSpeed’s Electronic Trading Tools, including, but not limited to, demonstrations or presentations, instruction manuals, user’s guides, tutorials, animations, drawings, schematics, flow charts and tables.

**REQUEST NO. 7**

All product literature associated with eSpeed’s Electronic Trading Tools, including demonstrations or presentations, product or instruction manuals, user’s guides or manuals, installation guides, technical manuals and other such materials.

**REQUEST NO. 8**

All documents and things identifying the names and titles of all persons having responsibility for the research, design, development, marketing or sales of eSpeed's Electronic Trading Tools.

**REQUEST NO. 9**

All documents and things referring or relating to Mr. Steve Brucato, Catus Technology, or any other company related to Mr. Brucato.

**REQUEST NO. 10**

All documents and things referring or relating to eSpeed's decisions to develop, launch, distribute, market, sell, delay, or pull from the market any Electronic Trading Tool i) having a static price axis; ii) for the trading of spreads; or iii) for the trading of futures contracts.

**REQUEST NO. 11**

All documents and things referring or relating to the design and development of eSpeed's Electronic Trading Tools, including but not limited to any tools for trading futures contracts or spreads, or any tool capable of presenting market information on a display in relation to a static price axis.

**REQUEST NO. 12**

All documents and things constituting or relating to any agreement between eSpeed and any other person or entity for the design, development, or production of any Electronic Trading Tool for trading futures contracts or spreads, or any tool capable of presenting market information on a display in relation to a static price axis, including any component or subpart of any such Electronic Trading Tool.

**REQUEST NO. 13**

All documents and things constituting, referring to, or relating to advertising plans, business plans, marketing plans, promotional programs or strategies on the part of eSpeed or on its behalf, concerning eSpeed's Electronic Trading Tools, including but not limited to documents and things relating to the training or instruction of eSpeed personnel in regard to the marketing or sales of Electronic Trading Tools for trading futures contracts, spreads, or any tool capable of presenting market information on a display in relation to a static price axis.

**REQUEST NO. 14**

All advertising and promotional materials for eSpeed's Electronic Trading Tools, including any document or thing given to or developed for any customer or prospective customer describing eSpeed's Electronic Trading Tools.



**REQUEST NO. 15**

All documents and things referring or relating to the patents in suit, any related patents, or any of Trading Technologies' patent applications.

**REQUEST NO. 16**

All documents and things referring or relating to the validity, invalidity, enforceability, unenforceability, infringement or non-infringement of the patents-in-suit, including any opinions prepared by or on eSpeed's behalf and/or received by or on eSpeed's behalf.

**REQUEST NO. 17**

All documents and things resulting from, or referring to, or relating to any literature and/or patent searches conducted by or at the request of eSpeed with respect to Electronic Trading Tools.

**REQUEST NO. 18**

All patents, printed publications, other items of prior art, or other documents or things, that eSpeed believes may have any bearing on the validity of the patents-in-suit.

**REQUEST NO. 19**

All documents and things referring to or relating to the state of the art relevant to the subject matter claimed in the patents-in-suit as of the time of filing of the applications that issued as the patents-in-suit.

**REQUEST NO. 20**

All documents and things referring or relating to any inspection, review, testing, analysis, or reverse engineering of any Electronic Trading Tool, including Trading Technologies' MD Trader.

**REQUEST NO. 21**

All documents and things constituting, relating to, or referring to eSpeed's pricing of Electronic Trading Tools, including unit pricing structure, pricing policies, any changes in eSpeed's pricing, and/or any discounts or other incentives offered or given on Electronic Trading Tools.

**REQUEST NO. 22**

All documents and things describing, analyzing, evidencing, relating to, or referring to features or capabilities, or information on the marketing or sale, of products competitive with eSpeed's Electronic Trading Tools, or comparing features offered by any eSpeed Electronic Trading Tool to Electronic Trading Tools offered by others, including but not limited to Trading Technologies.

**REQUEST NO. 23**

All documents and things from which eSpeed's unit sales and/or distribution of each Electronic Trading Tool may be determined for each monthly and annual time period from 2000 to present.

**REQUEST NO. 24**

All documents and things from which eSpeed's gross and/or net dollar sales of each Electronic Trading Tool may be determined for each monthly and annual time period from 2000 to present.

**REQUEST NO. 25**

All documents and things constituting, relating to, or referring to sales summaries, sales invoices, incentive plans or discount summaries relating to eSpeed's Electronic Trading Tools.

**REQUEST NO. 26**

All documents and things referring or relating to any proposal, agreement, contract, license or other business relationship between eSpeed and the Chicago Board of Trade relating to Electronic Trading Tools for trading futures contracts or spreads, or any tool capable of presenting market information on a display in relation to a static price axis.

**REQUEST NO. 27**

All documents and things describing, referring to, or relating to eSpeed's market share of the total market for Electronic Trading Tools in the United States since the year 2000, or any subpart thereof.

**REQUEST NO. 28**

All documents and things referring or relating to market share studies or reports for Electronic Trading Tools, including those prepared by or on behalf of eSpeed.

**REQUEST NO. 29**

All quarterly reports, annual reports and other shareholder reports for eSpeed from 2000 to present.

**REQUEST NO. 30**

All documents comprising any and all financial statements (audited and unaudited), financial projections or forecasts, and profit and loss statements prepared by eSpeed or on eSpeed's behalf, including but not limited to income statements, balance sheets, and statements of cash flow for each monthly, quarterly, annual, or other period.

**REQUEST NO. 31**

All documents and things referring or relating to eSpeed's information archival and/or retrieval system containing any information related to design, development, promotion, distribution, or sale of Electronic Trading Tools.

**REQUEST NO. 32**

Documents sufficient to identify all files or repositories in which any document responsive to the foregoing requests is maintained in the normal course of business and each index, key, code or other means of accessing and locating documents within such files or repositories.

**REQUEST NO. 33**

All documents and things referring or relating to eSpeed's policies, practices and/or procedures now or previously in effect with respect to the retention or destruction of documents.

**REQUEST NO. 34**

All documents and things not otherwise described by the foregoing requests that refer or relate to the subject matter shown, described, or claimed in the patents-in-suit.

**REQUEST NO. 35**

All documents and things not otherwise described by the foregoing requests that refer or relate to eSpeed's Electronic Trading Tools.

**REQUEST NO. 36**

All documents and things listing or otherwise identifying customers or potential customers to whom eSpeed has demonstrated an Electronic Trading Tool for trading futures contracts or spreads, or any tool capable of presenting market information on a display in relation to a static price axis.

**REQUEST NO. 37**

All documents and things from the files of or accessible to Scott Arnold, James Steadman, Lon Steger or Stephanie Schutz referring or relating to i) meetings with customers or potential customers, including but not limited to any demonstrations or presentations, regarding any Electronic Trading Tool; ii) marketing, sales, promotion, demonstration or presentation of any Electronic Trading Tool for trading futures contracts or spreads, or any tool capable of presenting market information on a display in relation to a static price axis; or iii) feedback or comments from customers or potential customers regarding any feature or capability of any Electronic Trading Tool.

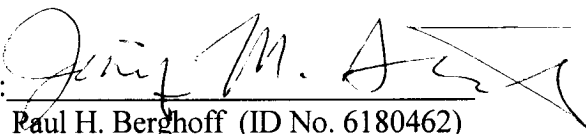
**REQUEST NO. 38**

All documents that refer or relate to Trading Technologies, Trading Technologies' products or product features, or any other Electronic Trading Tool that is capable of presenting information in relation to a static price axis, including comments or feedback thereon from customers or potential customers.

**REQUEST NO. 39**

All documents upon which eSpeed intends to rely for the Preliminary Injunction Hearing.

Respectfully submitted,

By: 

Paul H. Berghoff (ID No. 6180462)

Leif R. Sigmond, Jr. (ID No. 6204980)

Matthew J. Sampson (ID No. 6207606)

George I. Lee (I.D. No. 6224430)

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**McDonnell Boehnen Hulbert & Berghoff LLP**

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Steven F. Borsand (ID No. 6206597)

**Trading Technologies International, Inc.**

222 South Riverside

Suite 1100

Chicago, IL 60606

Tel: (312) 476-1000

Fax: (312) 476-1182

**Attorneys for Plaintiff,**

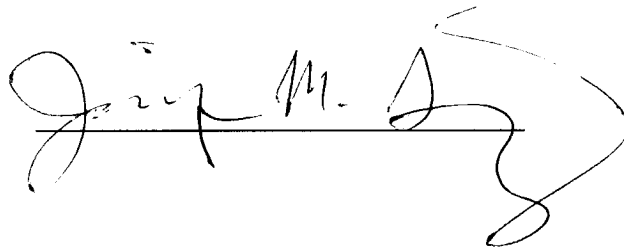
**TRADING TECHNOLOGIES**

**INTERNATIONAL, INC.**

**CERTIFICATE OF SERVICE**

I certify that TRADING TECHNOLOGIES' FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO DEFENDANT (NOS. 1-39) were served via facsimile and overnight delivery on September 10, 2004, to:

Raymond C. Perkins  
Winston & Strawn LLP  
35 W. Wacker Drive  
Chicago, IL 60601

A handwritten signature in black ink, appearing to read "Raymond C. Perkins", written over a horizontal line. The signature is stylized and cursive.



\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO 3492  
CONNECTION TEL 13125585700  
CONNECTION ID  
ST. TIME 09/10 16:05  
USAGE T 07'18  
PGS. SENT 29  
RESULT OK



McDonnell Boehnen Hulbert & Berghoff LLP

### Fax transmittal

To	Raymond Perkins	Date	September 10, 2004
Company	Winston & Strawn LLP	From	Jennifer M. Swartz
Fax	(312)558-5700	Direct	(312)913-3311
Phone	(312)558-5600	Email	swartz@mbhb.com
Copy To	George Lombardi Andrew Johnstone		
Pages, with cover	29		
Re	Trading Technologies International, Inc. v. Espeed, Inc.		

Please distribute to Raymond Perkins, George Lombardi, and Andrew Johnstone.

NOTE: Kelly Faxed both responses together:

- \* TT'S First set of Interrogatories to Defendant (Nos. 1-6)
- \* TT'S First Set of Request For The Production of Documents & Things to Defendant (Nos. 1-39)

# **APPENDIX 2**



## DEFINITIONS AND INSTRUCTIONS

In the following requests for production of documents and things:

1. The terms "Plaintiff" and "Trading Technologies" shall mean the Plaintiff in this lawsuit, Trading Technologies International, Inc.; any company name under which Trading Technologies is doing business; and its predecessors, parents, subsidiaries, divisions, directors, officers, employees, agents, distributors, salespersons, sales representatives, and attorneys, and each person acting or purporting to act on its or their behalf or under its or their control.

2. The terms "Defendant" and "eSpeed" shall mean eSpeed, Inc.; any company name under which eSpeed is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

3. The terms "person" and "persons" shall mean natural persons (including, without limitation, those employed by eSpeed), as well as all governmental entities, agencies, officers, departments, or affiliates of any other governmental entity, and any corporation, foundation, partnership, proprietorship, association, or other organization.

4. The term "date" shall mean the exact day, month, and year (to the degree ascertainable) or, if not ascertainable, the best approximation (including relationship to other events).

5. The term "document" shall mean writings, recordings and other communications, whether reduced to tangible or electronic form, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including without limitation, correspondence, memoranda, notes, executable and non-executable electronic files, including e-mail, software, screen shots, diaries, minutes, statistics, letters, telegrams, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, receipts, returns, summaries, pamphlets, books, prospectuses, calendars, diaries, planners, interoffice and intra-office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meetings, presentations, or printouts, teletypes, fax, invoices, work sheets, and all drafts, alterations, modifications, changes and amendments of the foregoing), graphic or oral representations of any kind (including without limitation, photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys), and electronic or electro-mechanical records or representations of any kind (including without limitation, computer memory, hard drives, discs, tapes, cassettes and recordings).

6. The terms "relating to" and "referring to" shall be interpreted broadly so as to encompass the liberal scope of discovery set forth in Federal Rule of Civil Procedure 26(b).

7. The terms "identify" and "describe" shall mean providing, among other things:

(a) with respect to a natural person, home and work addresses and telephone numbers, the name of the person's present (or if unknown, the last known) place of employment, date of commencement and termination (if any) of employment, job title, and description of his or her duties and responsibilities;

(b) with respect to a corporation or other non-natural person, the full name, address, main telephone number, state of incorporation, and identity of all persons who have acted on behalf of such entity with respect to the subject matter of the request;

(c) with respect to a document, the type of document (e.g., letter, e-mail, fax, contract, calendar, invoice, report); the number of pages or size of electronic file; a description of the document's contents; an identification of the person(s) who prepared the document, for whom the document was prepared, who signed the document, to whom the document was delivered, mailed, or otherwise received, and to whom a copy of the document was sent or otherwise received; the date of writing, creation, or publication; identifying number(s), letter(s), or combination thereof, if any; the significance or meaning of such number(s), letter(s) or combination thereof; for electronic documents, the name of the software used to generate the document and the electronic file type; and the present location and identity of the custodian of that document. Documents to be identified shall include all documents in your possession, custody or control, documents you know or believe to have existed but are no longer existing, and other documents of which you have knowledge or information.

8. The terms "and," "or," and "and/or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

9. The terms "describe" and "state" shall mean to set forth fully and unambiguously every fact relevant to the subject of the request, of which eSpeed (as defined herein) has knowledge or information.

10. Any word written in the singular herein shall be construed as plural or vice versa to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

11. The term "the '304 patent" shall mean U.S. Patent No. 6,766,304. The term "the '132 patent" shall mean U.S. Patent No. 6,772,132. The term "patents-in-suit" shall mean the '304 patent and the '132 patent either collectively or individually.

12. "Prior Art" includes, by way of example and without limitation, any subject matter that eSpeed contends is encompassed by 35 U.S.C. § 102 and/or 35 U.S.C. § 103.

13. "Electronic Trading Tool" shall mean any software, hardware or combination thereof, for connecting to or interacting with any public or private trading system that provides for electronic trading, including but not limited to the Chicago Board of Trade ("CBOT"), the Chicago Mercantile Exchange ("CME"), the London International Financial Futures and Options Exchange ("LIFFE"), Eurex, the IntercontinentalExchange ("ICE"), ICAP BrokerTec, the eSpeed Exchange, the Cantor Exchange, or the eSpeed System.

14. No request or subpart hereof shall be construed as a limitation on any other request or subpart hereof.

15. In producing documents and things responsive to these requests, eSpeed shall furnish all documents and things within its possession, custody, or control, regardless of whether these documents are possessed directly by eSpeed, or by its present or past agents, employees, affiliates, related companies, subsidiaries, representatives, investigators, attorneys, or others.

16. If eSpeed asserts the attorney-client privilege or work product doctrine as a basis for not producing any document or thing, or if any document or thing is not produced in full, produce the document or thing to the extent the request for production is not objected to, and, in so doing:

- (a) state the specific ground(s) for not producing the document or thing in full;
- (b) state the bases for such a claim of privilege or immunity; and
- (c) fully identify the information, document, or material for which such privilege or immunity is asserted, including the name and type of any document, the name, address and title of its author, each addressee, and each person to whom a copy of the document or thing has been sent, delivered, or provided.

17. If eSpeed maintains that any document or thing requested by Trading Technologies has been destroyed, lost, or is otherwise unavailable, set forth the contents of the document or thing, the date of its destruction or loss, and the name of the person who authorized its destruction (if any).

18. Where eSpeed asserts an objection to a request, state all grounds upon which the objection is based.

19. For each document or thing produced in response to these requests, identify the request(s) to which the document or thing relates.

20. The term “accused trading products” means any eSpeed product that is capable of displaying market information in the form identified on page 16 of TT’s Memorandum in Support of Its Motion for a Preliminary Injunction



## **DOCUMENT REQUESTS**

### **REQUEST NO. 40**

All documents relating or referring to any system or method eSpeed has for monitoring or determining the volume of orders placed using any of its Electronic Trading Tools, including any Electronic Trading Tools for trading futures and any AutoSpeed products.

### **REQUEST NO. 41**

Documents sufficient to identify all different types of reports that can be generated by any system eSpeed has for monitoring or determining the volume of orders placed using any of its Electronic Trading Tools, such as the types of time graduations supported by the system (e.g., volumes per day, per week, per month, etc...) and the types of customer, user, trader or other graduations supported by the system.

### **REQUEST NO. 42**

All documents relating or referring to eSpeed's EIS system or IES system.

### **REQUEST NO. 43**

All documents referring or relating to the EIS system, the IES system or any system otherwise referred to by Lon Steger in his deposition, including the system referred to at approximately page 273 of the deposition transcript.

**REQUEST NO. 44**

All reports, including daily, weekly and monthly reports, showing the volume of orders placing using each of eSpeed’s Electronic Trading Tools, including the specific volume from:

- 1) the accused trading products
- 2) Electronic Trading Tools for trading futures;
- 3) basis spreading products;
- 4) AutoSpeed products; and
- 5) AutoSpeed Basis Spreader products.

**REQUEST NO. 45**

Documents or reports sufficient to show the daily volume of orders placed using each of eSpeed’s Electronic Trading Tools, including the daily volume on:

- 1) a per customer basis; and
- 2) a per user and/or trader basis.

**REQUEST NO. 46**

Documents or reports sufficient to show the daily volume of futures orders, from the time eSpeed first supported futures trading, on both a per customer basis and on a per user and/or trader basis, placed using any of eSpeed’s Electronic Trading Tools, including the specific daily volume from:

- 1) the accused trading products
- 2) Electronic Trading Tools for trading futures;

- 3) basis spreading products;
- 4) AutoSpeed products; and
- 5) AutoSpeed Basis Spreader products.

**REQUEST NO 47**

Documents sufficient to show the research and development costs for each of eSpeed's Electronic Trading Tools, including the specific research and development costs for:

- 1) each version and/or build of the accused trading products
  - 2) each version and/or build of eSpeed's Electronic Trading Tools for trading futures;
- and
- 3) each version and/or build of eSpeed's AutoSpeed Basis Spreader products.

Respectfully submitted,

By: 

Paul H. Berghoff (ID No. 6180462)  
Leif R. Sigmond, Jr. (ID No. 6204980)  
Matthew J. Sampson (ID No. 6207606)  
George I. Lee (I.D. No. 6224430)  
Brian R. Harris (ID No. 6276539)  
Jennifer M. Swartz (ID No. 6279893)  
**McDonnell Boehnen Hulbert & Berghoff LLP**  
300 South Wacker Drive  
Chicago, Illinois 60606  
Tel.: (312) 913-0001  
Fax: (312) 913-0002

Steven F. Borsand (ID No. 6206597)  
**Trading Technologies International, Inc.**  
222 South Riverside

Suite 1100  
Chicago, IL 60606  
Tel: (312) 476-1000  
Fax: (312) 476-1182

**Attorneys for Plaintiff,  
TRADING TECHNOLOGIES  
INTERNATIONAL, INC.**

**CERTIFICATE OF SERVICE**

I certify that TRADING TECHNOLOGIES INTERNATIONAL, INC.'S SECOND SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO ESPEED (NOS. 40-47) was served via facsimile on October 15, 2004, to:

Raymond C. Perkins  
Winston & Strawn LLP  
35 W. Wacker Drive  
Chicago, IL 60601



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# APPENDIX 3

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Trading Technologies International, Inc.,	)	
	)	
Plaintiff,	)	Civil Action No. 04 C 5312
	)	
v.	)	Judge: James B. Moran
	)	
eSpeed, Inc.,	)	Magistrate: Sidney I. Schenkier
ITSEcco Holdings Limited, and	)	
Ecco LLC	)	
	)	
Defendants.	)	
	)	

**TRADING TECHNOLOGIES' THIRD SET OF REQUESTS  
FOR THE PRODUCTION OF DOCUMENTS AND THINGS  
TO DEFENDANT eSPEED (NOS. 48-100)**

Plaintiff Trading Technologies International, Inc. ("Trading Technologies") provides the following requests to Defendant eSpeed, Inc. ("eSpeed"), seeking production of the documents and things specified below for inspection and copying pursuant to Federal Rules of Civil Procedure 26 and 34 and the Local Rules of the U.S. District Court for the Northern District of Illinois. The documents shall be produced for inspection and copying within thirty days of service hereof at the offices of Trading Technologies' counsel, McDonnell Boehnen Hulbert & Berghoff LLP, 300 South Wacker Drive, Chicago, Illinois, 60606.

## **DEFINITIONS AND INSTRUCTIONS**

In the following document requests:

1. TT incorporates herein the definitions and instructions set forth in TRADING TECHNOLOGIES' FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO DEFENDANT (NOS. 1-39).

2. Additionally, the term "Ecco" shall mean ITSEcco Holdings Limited and/or Ecco LLC; any company name under which Ecco is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

3. "Transaction" includes, by way of example and without limitation, any original or revised order that is ultimately sent to an exchange, or any trade.

4. Where eSpeed asserts an objection to a document request, state all grounds upon which the objection is based.



## **DOCUMENT REQUESTS**

### **REQUEST NO. 48**

All documents requested for identification by TRADING TECHNOLOGIES INTERNATIONAL, INC.'S THIRD SET OF INTERROGATORIES TO DEFENDANT ESPEED (NOS. 8-14), served concurrently herewith.

### **REQUEST NO. 49**

All documents relied upon, referred to, or consulted in responding to TRADING TECHNOLOGIES INTERNATIONAL, INC.'S THIRD SET OF INTERROGATORIES TO DEFENDANT ESPEED (NOS. 8-14), served concurrently herewith.

### **REQUEST NO. 50**

Documents sufficient to identify each different Electronic Trading Tool for the trading of futures contracts developed, made, sold, distributed, marketed, licensed and/or used by, or with the assistance or at the direction of, Ecco, including any versions that have not yet been commercially released, and further including one sample of each such Electronic Trading Tool.

### **REQUEST NO. 51**

Documents sufficient to identify each different Electronic Trading Tool for the trading of spreads developed, made, sold, distributed, marketed, licensed and/or used by, or with the assistance or at the direction of, Ecco, including any versions that have not yet been commercially released, and further including one sample of each such Electronic Trading Tool.

**REQUEST NO. 52**

Documents sufficient to identify each different Electronic Trading Tool developed, made, sold, distributed, marketed, licensed and/or used by, or with the assistance or at the direction of, Ecco, where such Electronic Trading Tool is capable of presenting market information on a display in relation to a static price axis, including any versions that have not yet been commercially released, and further including one sample of each such Electronic Trading Tool.

**REQUEST NO. 53**

All documents and things showing the operation, features, and/or display formats of Ecco's Electronic Trading Tools, including, but not limited to, demonstrations or presentations, instruction manuals, user's guides, tutorials, animations, drawings, schematics, flow charts and tables.

**REQUEST NO. 54**

All product literature associated with Ecco's Electronic Trading Tools, including demonstrations or presentations, product or instruction manuals, user's guides or manuals, installation guides, technical manuals and other such materials.

**REQUEST NO. 55**

All documents and things identifying the names and titles of all persons having responsibility for the research, design, development, marketing or sales of Ecco's Electronic Trading Tools.

**REQUEST NO. 56**

All documents and things referring or relating to Ecco's decisions to develop, launch, distribute, market, sell, delay, or pull from the market any Electronic Trading Tool i) having a static price axis; ii) for the trading of spreads; or iii) for the trading of futures contracts.

**REQUEST NO. 57**

All documents and things referring or relating to the design and development of Ecco's Electronic Trading Tools, including but not limited to any tools for trading futures contracts or spreads, or any tool capable of presenting market information on a display in relation to a static price axis.

**REQUEST NO. 58**

All documents and things constituting or relating to any agreement between Ecco and any other person or entity for the design, development, or production of any Electronic Trading Tool for trading futures contracts or spreads, or any tool capable of presenting market information on a display in relation to a static price axis, including any component or subpart of any such Electronic Trading Tool.

**REQUEST NO. 59**

All documents and things constituting, referring to, or relating to advertising plans, business plans, marketing plans, promotional programs or strategies on the part of Ecco or on its behalf,

concerning Ecco's Electronic Trading Tools, including but not limited to documents and things relating to the training or instruction of Ecco personnel in regard to the marketing or sales of Electronic Trading Tools for trading futures contracts, spreads, or any tool capable of presenting market information on a display in relation to a static price axis.

**REQUEST NO. 60**

All advertising and promotional materials for Ecco's Electronic Trading Tools, including any document or thing given to or developed for any customer or prospective customer describing Ecco's Electronic Trading Tools.

**REQUEST NO. 61**

All documents and things listing or otherwise identifying customers or potential customers to whom Ecco has demonstrated an Electronic Trading Tool for trading futures contracts or spreads, or any tool capable of presenting market information on a display in relation to a static price axis.

**REQUEST NO. 62**

All documents and things referring or relating to the validity, invalidity, enforceability, unenforceability, infringement or non-infringement of the patents-in-suit, including any opinions prepared by or on Ecco's behalf and/or received by or on Ecco's behalf.

**REQUEST NO. 63**

All documents and things resulting from, or referring to, or relating to any literature and/or patent searches conducted by or at the request of Ecco with respect to Electronic Trading Tools.

**REQUEST NO. 64**

All patents, printed publications, other items of prior art, or other documents or things, that Ecco believes may have any bearing on the validity of the patents-in-suit.

**REQUEST NO. 65**

All documents and things constituting, relating to, or referring to Ecco's pricing of Electronic Trading Tools, including unit pricing structure, pricing policies, any changes in Ecco's pricing, and/or any discounts or other incentives offered or given on Electronic Trading Tools.

**REQUEST NO. 66**

All documents and things describing, analyzing, evidencing, relating to, or referring to features or capabilities, or information on the marketing or sale, of products competitive with Ecco's Electronic Trading Tools, or comparing features offered by any of Ecco's Electronic Trading Tool to Electronic Trading Tools offered by others, including but not limited to Trading Technologies.

**REQUEST NO. 67**

All documents and things from which Ecco's unit sales and/or distribution of each Electronic Trading Tool may be determined for each monthly and annual time period from 2000 to present.

**REQUEST NO. 68**

All documents and things from which Ecco's gross and/or net dollar sales of each Electronic Trading Tool may be determined for each monthly and annual time period from 2000 to present.

**REQUEST NO. 69**

All documents and things constituting, relating to, or referring to sales summaries, sales invoices, incentive plans or discount summaries relating to Ecco's Electronic Trading Tools.

**REQUEST NO. 70**

All documents and things referring or relating to any proposal, agreement, contract, license or other business relationship between Ecco and the Chicago Board of Trade relating to Electronic Trading Tools for trading futures contracts or spreads, or any tool capable of presenting market information on a display in relation to a static price axis.

**REQUEST NO. 71**

All documents and things describing, referring to, or relating to Ecco's market share of the total market for Electronic Trading Tools in the United States since the year 2000, or any subpart thereof.

**REQUEST NO. 72**

All documents and things referring or relating to market share studies or reports for Electronic Trading Tools, including those prepared by or on behalf of Ecco.

**REQUEST NO. 73**

All quarterly reports, annual reports, shareholder reports and other financial reports for Ecco from 2000 to present.

**REQUEST NO. 74**

All documents comprising any and all financial statements (audited and unaudited), financial projections or forecasts, and profit and loss statements prepared by Ecco or on Ecco's behalf, including but not limited to income statements, balance sheets, and statements of cash flow for each monthly, quarterly, annual, or other period.

**REQUEST NO. 75**

All documents and things referring or relating to Ecco's information archival and/or retrieval system containing any information related to design, development, promotion, distribution, or sale of Electronic Trading Tools.

**REQUEST NO. 76**

Documents sufficient to identify all files or repositories in which any document responsive to any of TT's document requests is maintained in the normal course of business and each index, key, code or other means of accessing and locating documents within such files or repositories.

**REQUEST NO. 77**

All documents and things referring or relating to Ecco's policies, practices and/or procedures now or previously in effect with respect to the retention or destruction of documents.

**REQUEST NO. 78**

All documents and things not otherwise described by the foregoing requests that refer or relate to Ecco's Electronic Trading Tools.

**REQUEST NO. 79**

All documents referring or relating to the number of transactions initiated directly or indirectly (for example, orders entered in an application other than the Electronic Trading Tool while the Electronic Trading Tool is being displayed) using any of eSpeed's Electronic Trading Tools or quantifying, in any way, market volume trading through any of eSpeed's Electronic Trading Tools, including documents sufficient to show, for each of eSpeed's Electronic Trading Tools, the number of screens in use each month from January 2000 to present, the number of end users for each screen, and the identity of the customer and end user(s) for each screen, and, for each



such screen, the number of transactions initiated that month directly or indirectly using that Electronic Trading Tool or any other quantification of trading activity.

**REQUEST NO. 80**

All documents referring or relating to the number of orders placed and orders filled using any of eSpeed's Electronic Trading Tools, including documents sufficient to show the number of screens and the corresponding customer and end users of such screens for each Electronic Trading Tool in use each month from January 2000 to present, and for each such screen, the number of orders placed and/or filled that month using that Electronic Trading Tool.

**REQUEST NO. 81**

All documents and things upon which eSpeed or Ecco intends to rely at trial.

**REQUEST NO. 82**

All documents and materials reasonably expected or intended to be used at trial, including any documents or other materials intended for witness impeachment.

**REQUEST NO. 83**

All documents relating to referring to any defense or affirmative defense alleged by eSpeed or Ecco, including all documents that might support any defense or affirmative defense, and all documents that might disprove any defense or affirmative defense.

**REQUEST NO. 84**

All documents relating or referring to eSpeed's acquisition of Ecco, including any closing documents, any e-mails exchanged between eSpeed and Ecco related or referring to the acquisition, any documents exchange between eSpeed and Ecco pursuant to the acquisition, and any draft agreements, proposals or other documents related to the acquisition.

**REQUEST NO. 85**

All agreements, contracts, and covenants relating or referring to in any way to eSpeed's acquisition of Ecco.

**REQUEST NO. 86**

All documents and things relating or referring to eSpeed's acquisition of Ecco.

**REQUEST NO. 87**

All documents and things relating or referring to any meetings, discussions, agreements, contracts, and/or covenants related in any way to eSpeed's acquisition of Ecco.

**REQUEST NO. 88**

All documents and things relating or referring to the business relationship between eSpeed and Ecco.

**REQUEST NO. 89**

All documents and things relating or referring to the decision by eSpeed to acquire Ecco.

**REQUEST NO. 90**

All documents and things relating or referring to the financing of eSpeed's acquisition of or merger with Ecco, including, without limitation, documents sufficient to identify all parties that were considered for financing and/or parties that considered financing eSpeed's acquisition of or merger with Ecco.

**REQUEST NO. 91**

All documents referring or relating to Ecco's organizational and management structure, including documents sufficient to show Ecco's officers, directors, shareholders or any entity having an ownership interest in Ecco, including the percentage of any ownership interest.

**REQUEST NO. 92**

Documents sufficient to identify any predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities of ITSEcco Holdings Ltd.

**REQUEST NO. 93**

Documents sufficient to identify any predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities of Ecco, LLC.

**REQUEST NO. 94**

Documents sufficient to identify any predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities of EccoWare Ltd.

**REQUEST NO. 95**

Documents sufficient to show the relationship between ITSEcco Holdings Limited, Ecco LLC and EccoWare Ltd.

**REQUEST NO. 96**

All agreements, contracts, and covenants pertaining to indemnification and/or reimbursement for any judgments, settlements, injunctions, legal fees and/or expenses, or other liabilities resulting from patent infringement by devices and/or technology originating from Ecco.

**REQUEST NO. 97**

All documents and things relating or referring to any meetings, discussions, agreements, contracts, and/or covenants related in any way to indemnification and/or reimbursement for any judgments, settlements, injunctions, legal fees and/or expenses, or other liabilities resulting from patent infringement by devices and/or technology previously made, used or sold by Ecco.

**REQUEST NO. 98**

All documents relating or referring to any past or ongoing redesign of eSpeed's futures trading screen since the filing of this lawsuit, including all e-mail correspondence relating to the redesign, technical documents, instruction manuals, user's guides, tutorials, animations, drawings, schematics, flow charts and tables.

**REQUEST NO. 99**

All documents relating or referring to any past or ongoing redesign of Ecco's Electronic Trading Tools since the filing of this lawsuit, including all e-mail correspondence relating to the redesign, technical documents, instruction manuals, user's guides, tutorials, animations, drawings, schematics, flow charts and tables.

**REQUEST NO. 100**

All documents and things referring or relating to Trading Technologies.

Respectfully submitted,

By:  \_\_\_\_\_

Paul H. Berghoff (ID No. 6180462)

Leif R. Sigmond, Jr. (ID No. 6204980)

Matthew J. Sampson (ID No. 6207606)

George I. Lee (I.D. No. 6224430)

Brian R. Harris (ID No. 6276539)

Jennifer M. Swartz (ID No. 6279893)

**McDonnell Boehnen Hulbert & Berghoff LLP**

300 South Wacker Drive

Chicago, Illinois 60606

Tel.: (312) 913-0001

Fax: (312) 913-0002

Steven F. Borsand (ID No. 6206597)

**Trading Technologies International, Inc.**

222 South Riverside

Suite 1100

Chicago, IL 60606

Tel: (312) 476-1000

Fax: (312) 476-1182

**Attorneys for Plaintiff,**


**TRADING TECHNOLOGIES**

**INTERNATIONAL, INC.**

**CERTIFICATE OF SERVICE**

I certify that TRADING TECHNOLOGIES' THIRD SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO DEFENDANT eSPEED (NOS. 48-100) was served via hand delivery on April 1, 2005 to:

Raymond C. Perkins  
Winston & Strawn LLP  
35 W. Wacker Drive  
Chicago, IL 60601



---

# APPENDIX 4





## DEFINITIONS AND INSTRUCTIONS

In the following document requests:

1. TT incorporates herein the definitions and instructions set forth in TRADING TECHNOLOGIES' FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO DEFENDANT (NOS. 1-39).

2. Additionally, the term "Ecco" shall mean ITSEcco Holdings Limited and/or Ecco LLC; any company name under which Ecco is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

3. "Transaction" includes, by way of example and without limitation, any original or revised order that is ultimately sent to an exchange, or any trade.

4. Where eSpeed asserts an objection to a document request, state all grounds upon which the objection is based.

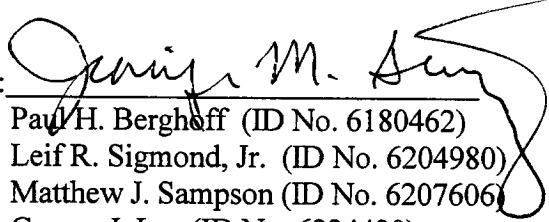
## **DOCUMENT REQUEST**

### **REQUEST NO. 101**

All documents and things to or from Edward Seborowski referring or relating to any Electronic Trading Tool, specifically including, by way of example and not limitation, emails between Edward Seborowski and Joe Noviello regarding the development and/or modification of any Electronic Trading Tool and/or regarding the description of the functions or features of any Electronic Trading Tool.

Respectfully submitted,

By:

  
Paul H. Berghoff (ID No. 6180462)

Leif R. Sigmond, Jr. (ID No. 6204980)

Matthew J. Sampson (ID No. 6207606)

George I. Lee (ID No. 6224430)

S. Richard Carden (ID No. 6269504)

Jennifer M. Swartz (ID No. 6279893)

**McDonnell Boehnen Hulbert & Berghoff LLP**

300 South Wacker Drive

Chicago, Illinois 60606

Tel.: (312) 913-0001

Fax: (312) 913-0002

Steven F. Borsand (ID No. 6206597)

**Trading Technologies International, Inc.**

222 South Riverside

Suite 1100

Chicago, IL 60606

Tel: (312) 476-1000

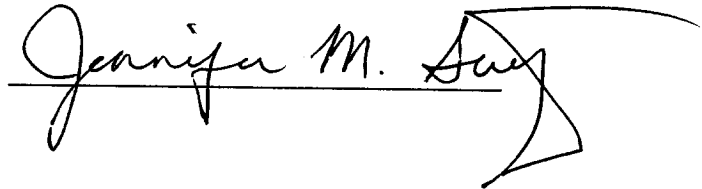
Fax: (312) 476-1182

**Attorneys for Plaintiff,  
TRADING TECHNOLOGIES  
INTERNATIONAL, INC.**

**CERTIFICATE OF SERVICE**

I certify that TRADING TECHNOLOGIES' FOURTH SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO DEFENDANT eSPEED (NO. 101) was served via facsimile and overnight mail on June 3, 2005 to:

Raymond C. Perkins  
Winston & Strawn LLP  
35 W. Wacker Drive  
Chicago, IL 60601

A handwritten signature in cursive script, reading "Jennifer M. Sue", is written over a horizontal line. The signature is followed by a large, stylized flourish that extends to the right and loops back down.

# **APPENDIX 5**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Trading Technologies International, Inc.,	)	
	)	
Plaintiff,	)	Civil Action No. 04 C 5312
	)	
v.	)	Judge: James B. Moran
	)	
eSpeed, Inc.,	)	Magistrate: Sidney I. Schenkier
ITSEcco Holdings Limited, and	)	
Ecco LLC	)	
	)	
Defendants.	)	
	)	

**TRADING TECHNOLOGIES' FIFTH SET OF REQUESTS  
FOR THE PRODUCTION OF DOCUMENTS AND THINGS  
TO DEFENDANT eSPEED (NO. 102-103)**

Plaintiff Trading Technologies International, Inc. ("Trading Technologies") provides the following request to Defendants eSpeed, Inc. ("eSpeed"), ITSEcco Holdings Limited, and Ecco LLC ("Ecco"), seeking production of the documents and things specified below for inspection and copying pursuant to Federal Rules of Civil Procedure 26 and 34 and the Local Rules of the U.S. District Court for the Northern District of Illinois. The documents shall be produced for inspection and copying within thirty days of service hereof at the offices of Trading Technologies' counsel, McDonnell Boehnen Hulbert & Berghoff LLP, 300 South Wacker Drive, Chicago, Illinois, 60606.

## DEFINITIONS AND INSTRUCTIONS

In the following document requests:

In the following requests for production of documents and things:

1. The terms "Plaintiff" and "Trading Technologies" shall mean the Plaintiff in this lawsuit, Trading Technologies International, Inc.; any company name under which Trading Technologies is doing business; and its predecessors, parents, subsidiaries, divisions, directors, officers, employees, agents, distributors, salespersons, sales representatives, and attorneys, and each person acting or purporting to act on its or their behalf or under its or their control.

2. The term "eSpeed" shall mean eSpeed, Inc.; any company name under which eSpeed is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

3. Additionally, the term "Ecco" shall mean ITSEcco Holdings Limited and/or Ecco LLC; any company name under which Ecco is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

4. The term "Defendants" shall mean eSpeed, Inc., ITSEcco Holdings Limited, and/or Ecco LLC; any company name under which Defendants are doing business; and all predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales



representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

5. "Transaction" includes, by way of example and without limitation, any original or revised order that is ultimately sent to an exchange, or any trade.

6. The terms "person" and "persons" shall mean natural persons (including, without limitation, those employed by Defendants), as well as all governmental entities, agencies, officers, departments, or affiliates of any other governmental entity, and any corporation, foundation, partnership, proprietorship, association, or other organization.

7. The term "date" shall mean the exact day, month, and year (to the degree ascertainable) or, if not ascertainable, the best approximation (including relationship to other events).

8. The term "document" shall mean writings, recordings and other communications, whether reduced to tangible or electronic form, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including without limitation, correspondence, memoranda, notes, executable and non-executable electronic files, including e-mail, software, screen shots, diaries, minutes, statistics, letters, telegrams, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, receipts, returns, summaries, pamphlets, books, prospectuses, calendars, diaries, planners, interoffice and intra-office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meetings, presentations, or printouts, teletypes, fax, invoices, work sheets, and all drafts, alterations, modifications, changes and amendments of the foregoing), graphic or oral representations of any kind (including without

limitation, photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys), and electronic or electro-mechanical records or representations of any kind (including without limitation, computer memory, hard drives, discs, tapes, cassettes and recordings).

9. The terms "relating to" and "referring to" shall be interpreted broadly so as to encompass the liberal scope of discovery set forth in Federal Rule of Civil Procedure 26(b).

10. The terms "identify" and "describe" shall mean providing, among other things:

(a) with respect to a natural person, home and work addresses and telephone numbers, the name of the person's present (or if unknown, the last known) place of employment, date of commencement and termination (if any) of employment, job title, and description of his or her duties and responsibilities;

(b) with respect to a corporation or other non-natural person, the full name, address, main telephone number, state of incorporation, and identity of all persons who have acted on behalf of such entity with respect to the subject matter of the request;

(c) with respect to a document, the type of document (e.g., letter, e-mail, fax, contract, calendar, invoice, report); the number of pages or size of electronic file; a description of the document's contents; an identification of the person(s) who prepared the document, for whom the document was prepared, who signed the document, to whom the document was delivered, mailed, or otherwise received, and to whom a copy of the document was sent or otherwise received; the date of writing, creation, or publication; identifying number(s), letter(s), or combination thereof, if any; the significance or meaning of such number(s), letter(s) or combination thereof; for electronic documents, the name of the software used to generate the document and the electronic file type; and the present location and identity of the custodian of that document. Documents to be

identified shall include all documents in your possession, custody or control, documents you know or believe to have existed but are no longer existing, and other documents of which you have knowledge or information.

11. The terms "and," "or," and "and/or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

12. The terms "describe" and "state" shall mean to set forth fully and unambiguously every fact relevant to the subject of the request, of which Defendants (as defined herein) has knowledge or information.

13. Any word written in the singular herein shall be construed as plural or vice versa to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

14. The term "the '304 patent" shall mean U.S. Patent No. 6,766,304. The term "the '132 patent" shall mean U.S. Patent No. 6,772,132. The term "patents-in-suit" shall mean the '304 patent and the '132 patent either collectively or individually.

15. "Prior Art" includes, by way of example and without limitation, any subject matter that Defendants contend is encompassed by 35 U.S.C. § 102 and/or 35 U.S.C. § 103.

16. "Electronic Trading Tool" shall mean any software, hardware or combination thereof, for connecting to or interacting with any public or private trading system that provides for electronic trading, including but not limited to the Chicago Board of Trade ("CBOT"), the Chicago Mercantile Exchange ("CME"), the London International Financial Futures and Options Exchange

("LIFFE"), Eurex, the IntercontinentalExchange ("ICE"), ICAP BrokerTec, the eSpeed Exchange, the Cantor Exchange, or the eSpeed System.

17. No request or subpart hereof shall be construed as a limitation on any other request or subpart hereof.

18. In producing documents and things responsive to these requests, Defendants shall furnish all documents and things within its possession, custody, or control, regardless of whether these documents are possessed directly by Defendants, or by its present or past agents, employees, affiliates, related companies, subsidiaries, representatives, investigators, attorneys, or others.

19. If Defendants assert the attorney-client privilege or work product doctrine as a basis for not producing any document or thing, or if any document or thing is not produced in full, produce the document or thing to the extent the request for production is not objected to, and, in so doing:

- (a) state the specific ground(s) for not producing the document or thing in full;
- (b) state the bases for such a claim of privilege or immunity; and
- (c) fully identify the information, document, or material for which such privilege or immunity is asserted, including the name and type of any document, the name, address and title of its author, each addressee, and each person to whom a copy of the document or thing has been sent, delivered, or provided.

20. If Defendants maintain that any document or thing requested by Trading Technologies has been destroyed, lost, or is otherwise unavailable, set forth the contents of the

document or thing, the date of its destruction or loss, and the name of the person who authorized its destruction (if any).

21. Where Defendants assert an objection to a request, state all grounds upon which the objection is based.

22. For each document or thing produced in response to these requests, identify the request(s) to which the document or thing relates.

23. The term “accused trading products” means any Defendants' product that is capable of displaying market information in the form identified on page 16 of TT’s Memorandum in Support of Its Motion for a Preliminary Injunction

24. Where Defendants assert an objection to a document request, state all grounds upon which the objection is based.

## DOCUMENT REQUEST

### REQUEST NO. 102

All documents and things referring to, relating to, or constituting any correspondence or communications between any Defendant and any third party or nonparty relating to the scheduling and/or conduct of a deposition of said third party or nonparty and/or the collection of documents from or the production of documents by said third party or nonparty with respect to Civil Action No. 04-C-5312, *Trading Technologies Int'l, Inc. v. eSpeed, Inc.*, whether in response to a subpoena served by any Defendant or in response to any other communications between any Defendant and said third party or nonparty, including but not limited to, any written responses by said third party or nonparty to Defendant's subpoenas.

### REQUEST NO. 103

All documents and things referring to, relating to, or constituting any correspondence or communications between any Defendant and any of the third parties identified below with respect to Civil Action No. 04-C-5312, *Trading Technologies Int'l, Inc. v. eSpeed, Inc.*:

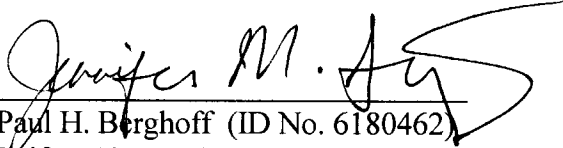
1. GL Trade
2. Rolfe and Nolan
3. Bloomberg LP
4. City Derivative Systems
5. Datastream/ICV
6. Merrill Lynch
7. Goldman Sachs

8. Credit Suisse First Boston
9. ORC
10. actant AG
11. Sydney Futures Exchange
12. Tradegraph
13. Future Dynamics
14. CQG, Inc.
15. Capital Markets Consulting
16. Future Path Trading
17. ION
18. Inside Trading
19. Oak Trading Systems
20. Prime Analytics
21. Robert McCausland
22. Ninja Trader
23. Trinitech Systems
24. Patsystems
25. RTS
26. Trade Graph
27. Mauro New Media (Charles Mauro)
28. Tokyo Stock Exchnage
29. TradeInside.net

30. Easy Screen
31. New York Mercantile Exchange
32. Thomson Financial
33. Terra Nova Trading
34. Townsend Analytics
35. Strategy Runner Limited
36. Eurex
37. BMT Trading (Tom Grisafi)
38. Marquette Partners (David Feltes)
39. Boston Cabot (Paul R.T. Johnson, Jr.)
40. Fimat USA, LLC
41. Bear Stearns & Co.
42. Fujitsu Limited
43. Citigroup, Inc.
44. Terra Nova Trading LLC
45. Townsend Analytics, Ltd.
46. Tradelink LLC
47. Ffastfill, Inc.
48. Royalblue Group PLC
49. Reuters America
50. Russell Warner
51. Hitachi America, Ltd



Respectfully submitted,

By:   
Paul H. Berghoff (ID No. 6180462)  
Leif R. Sigmond, Jr. (ID No. 6204980)  
Matthew J. Sampson (ID No. 6207606)  
George I. Lee (ID No. 6224430)  
S. Richard Carden (ID No. 6269504)  
Jennifer M. Swartz (ID No. 6279893)  
Dennis D. Crouch (ID No. 6281230)  
**McDonnell Boehnen Hulbert & Berghoff LLP**  
300 South Wacker Drive  
Chicago, Illinois 60606  
Tel.: (312) 913-0001  
Fax: (312) 913-0002

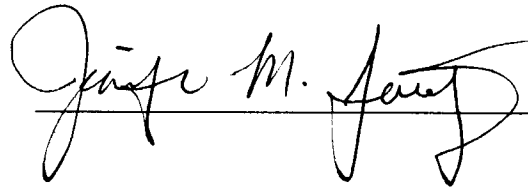
Steven F. Borsand (ID No. 6206597)  
**Trading Technologies International, Inc.**  
222 South Riverside  
Suite 1100  
Chicago, IL 60606  
Tel: (312) 476-1000  
Fax: (312) 476-1182

**Attorneys for Plaintiff,  
TRADING TECHNOLOGIES  
INTERNATIONAL, INC.**

**CERTIFICATE OF SERVICE**

I certify that TRADING TECHNOLOGIES' FIFTH SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO DEFENDANT eSPEED (NOS. 102-103) was served via facsimile and overnight mail on July 5, 2005 to:

Raymond C. Perkins  
Winston & Strawn LLP  
35 W. Wacker Drive  
Chicago, IL 60601  
Fax: (312)558-5700

A handwritten signature in black ink, appearing to read "Joseph M. Jones", written over a horizontal line.

# APPENDIX 6

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Trading Technologies International, Inc.,	)	
	)	
Plaintiff,	)	Civil Action No. 04 C 5312
	)	
v.	)	Judge: James B. Moran
	)	
eSpeed, Inc.,	)	Magistrate: Sidney I. Schenkier
ITSEcco Holdings Limited, and	)	
Ecco LLC	)	
	)	
Defendants.	)	
	)	

**TRADING TECHNOLOGIES’ SIXTH SET OF REQUESTS FOR THE  
PRODUCTION OF DOCUMENTS AND THINGS TO DEFENDANT (NOS. 104-111)**

Plaintiff Trading Technologies International, Inc. (“Trading Technologies”) provides the following requests to Defendants eSpeed, Inc. (“eSpeed”), ITSEcco Holdings Limited (“ITSEcco”), and Ecco LLC (“Ecco”), seeking production of the documents and things specified below for inspection and copying pursuant to Federal Rules of Civil Procedure 26 and 34 and the Local Rules of the U.S. District Court for the Northern District of Illinois. The documents shall be produced for inspection and copying within thirty days of service hereof at the offices of Trading Technologies’ counsel, McDonnell Boehnen Hulbert & Berghoff LLP, 300 South Wacker Drive, Chicago, Illinois, 60606.

## DEFINITIONS AND INSTRUCTIONS

In the following document requests:

1. TT incorporates herein the definitions and instructions set forth in TRADING TECHNOLOGIES' FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO DEFENDANT (NOS. 1-39).

2. The terms "Plaintiff" and "Trading Technologies" shall mean the Plaintiff in this lawsuit, Trading Technologies International, Inc.; any company name under which Trading Technologies is doing business; and its predecessors, parents, subsidiaries, divisions, directors, officers, employees, agents, distributors, salespersons, sales representatives, and attorneys, and each person acting or purporting to act on its or their behalf or under its or their control.

3. The term "eSpeed" shall mean eSpeed, Inc.; any company name under which eSpeed is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

4. Additionally, the term "Ecco" shall mean ITSEcco Holdings Limited and/or Ecco LLC; any company name under which Ecco is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

5. The term "Defendants" shall mean eSpeed, Inc., ITSEcco Holdings Limited, and/or Ecco LLC; any company name under which Defendants are doing business; and all predecessors,

parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

6. The terms "person" and "persons" shall mean natural persons (including, without limitation, those employed by Defendants), as well as all governmental entities, agencies, officers, departments, or affiliates of any other governmental entity, and any corporation, foundation, partnership, proprietorship, association, or other organization.

7. The term "date" shall mean the exact day, month, and year (to the degree ascertainable) or, if not ascertainable, the best approximation (including relationship to other events).

8. The term "document" shall mean writings, recordings and other communications, whether reduced to tangible or electronic form, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including without limitation, correspondence, memoranda, notes, executable and non-executable electronic files, including e-mail, software, screen shots, diaries, minutes, statistics, letters, telegrams, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, receipts, returns, summaries, pamphlets, books, prospectuses, calendars, diaries, planners, interoffice and intra-office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meetings, presentations, or printouts, teletypes, fax, invoices, work sheets, and all drafts, alterations, modifications, changes and amendments of the foregoing), graphic or oral representations of any kind (including without

limitation, photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys), and electronic or electro-mechanical records or representations of any kind (including without limitation, computer memory, hard drives, discs, tapes, cassettes and recordings).

9. The terms "relating to" and "referring to" shall be interpreted broadly so as to encompass the liberal scope of discovery set forth in Federal Rule of Civil Procedure 26(b).

10. The terms "identify" and "describe" shall mean providing, among other things:

(a) with respect to a natural person, home and work addresses and telephone numbers, the name of the person's present (or if unknown, the last known) place of employment, date of commencement and termination (if any) of employment, job title, and description of his or her duties and responsibilities;

(b) with respect to a corporation or other non-natural person, the full name, address, main telephone number, state of incorporation, and identity of all persons who have acted on behalf of such entity with respect to the subject matter of the request;

(c) with respect to a document, the type of document (e.g., letter, e-mail, fax, contract, calendar, invoice, report); the number of pages or size of electronic file; a description of the document's contents; an identification of the person(s) who prepared the document, for whom the document was prepared, who signed the document, to whom the document was delivered, mailed, or otherwise received, and to whom a copy of the document was sent or otherwise received; the date of writing, creation, or publication; identifying number(s), letter(s), or combination thereof, if any; the significance or meaning of such number(s), letter(s) or combination thereof; for electronic documents, the name of the software used to generate the document and the electronic file type; and the present location and identity of the custodian of that document. Documents to be

identified shall include all documents in your possession, custody or control, documents you know or believe to have existed but are no longer existing, and other documents of which you have knowledge or information.

11. The terms "and," "or," and "and/or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

12. The terms "describe" and "state" shall mean to set forth fully and unambiguously every fact relevant to the subject of the request, of which Defendants (as defined herein) has knowledge or information.

13. Any word written in the singular herein shall be construed as plural or vice versa to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

14. The term "the '304 patent" shall mean U.S. Patent No. 6,766,304. The term "the '132 patent" shall mean U.S. Patent No. 6,772,132. The term "patents-in-suit" shall mean the '304 patent and the '132 patent either collectively or individually.

15. "Prior Art" includes, by way of example and without limitation, any subject matter that Defendants contend is encompassed by 35 U.S.C. § 102 and/or 35 U.S.C. § 103.

16. "Electronic Trading Tool" shall mean any software, hardware or combination thereof, for connecting to or interacting with any public or private trading system that provides for electronic trading, including but not limited to the Chicago Board of Trade ("CBOT"), the Chicago Mercantile Exchange ("CME"), the London International Financial Futures and Options Exchange



("LIFFE"), Eurex, the IntercontinentalExchange ("ICE"), ICAP BrokerTec, the eSpeed Exchange, the Cantor Exchange, or the eSpeed System.

17. No request or subpart hereof shall be construed as a limitation on any other request or subpart hereof.

18. In producing documents and things responsive to these requests, Defendants shall furnish all documents and things within its possession, custody, or control, regardless of whether these documents are possessed directly by Defendants, or by its present or past agents, employees, affiliates, related companies, subsidiaries, representatives, investigators, attorneys, or others.

19. If Defendants assert the attorney-client privilege or work product doctrine as a basis for not producing any document or thing, or if any document or thing is not produced in full, produce the document or thing to the extent the request for production is not objected to, and, in so doing:

- (a) state the specific ground(s) for not producing the document or thing in full;
- (b) state the bases for such a claim of privilege or immunity; and
- (c) fully identify the information, document, or material for which such privilege or immunity is asserted, including the name and type of any document, the name, address and title of its author, each addressee, and each person to whom a copy of the document or thing has been sent, delivered, or provided.

20. If Defendants maintain that any document or thing requested by Trading Technologies has been destroyed, lost, or is otherwise unavailable, set forth the contents of the

document or thing, the date of its destruction or loss, and the name of the person who authorized its destruction (if any).

21. Where Defendants assert an objection to a request, state all grounds upon which the objection is based.

22. For each document or thing produced in response to these requests, identify the request(s) to which the document or thing relates.

23. The term “accused trading products” means any Defendants' product that is capable of displaying market information in the form identified on page 16 of TT's Memorandum in Support of Its Motion for a Preliminary Injunction, and specifically including, but not limited to:

- 1) all Ecco products with a Market Depth Display, including, but not limited to
  - a) all versions of the EccoPro product that includes a futures view, a dual dynamic view or an eSpeedometer view; and
  - b) all versions of the EccoSpreader product that includes a futures view, a dual dynamic view or an eSpeedometer view;
- 2) all eSpeed products with a Market Depth Display, including, but not limited to
  - a) all versions of the eSpeed GUI from 5.3.2 to date, including but not limited to any product embodying a futures view, a dual dynamic view or an eSpeedometer view;
  - b) all versions of the AutoSpeed Basis Spreader;
  - c) all versions of the CantorFITS product;
  - d) all versions of the eSpeed GUI rebranded by any other third party; and

- e) any version of any other eSpeed product that includes a futures view, a dual dynamic view or an eSpeedometer view; and
- 3) any additional Market Depth Display products created, designed, developed, used, shown, demonstrated, purchased or released since the inception of this lawsuit.

24. The term “component” means any portion that does not make the whole of the referred to item, and in reference to any Defendant’s product, includes but is not limited to any part of the defendant’s product other than the product in its entirety.

25. Where Defendants assert an objection to a document request, state all grounds upon which the objection is based.

## **DOCUMENT REQUESTS**

### **REQUEST NO. 104**

All documents requested for identification by TRADING TECHNOLOGIES INTERNATIONAL, INC.'S FOURTH SET OF INTERROGATORIES TO DEFENDANT, served concurrently herewith.

### **REQUEST NO. 105**

All documents relied upon, referred to, or consulted in responding to TRADING TECHNOLOGIES INTERNATIONAL, INC.'S FOURTH SET OF INTERROGATORIES TO DEFENDANT, served concurrently herewith.

### **REQUEST NO. 106**

All documents which constitute, refer or relate to any actual or contemplated communications, understandings or agreements by eSpeed and/or Ecco with any third party (including but not limited to customers or potential customers of eSpeed and/or Ecco, customers of Trading Technologies, representatives of any exchange, representatives of any bank, futures clearing merchant, broker, proprietary trading firm or independent software vendor, representatives of any governmental entity or agency, representatives of news organizations, competitors of Trading Technologies and representatives or attorneys of companies that have been or are engaged in litigation with Trading Technologies) relating to any of the following subjects: (i) Trading Technologies; (ii) the '304 or '132 patent; (iii) any lawsuit brought by or against Trading Technologies relating to the '304 or '132 patent, including settlements entered

into with Trading Technologies; (iv) licensing by Trading Technologies of its patents; (v) possible prior art relating to any Trading Technologies patent; or (vi) Trading Technologies' Open Letter to the Futures Industry

**REQUEST NO. 107**

All documents and things referring or relating to the production, manufacture, replication, or copying of any of the Defendants' Electronic Trading Tools, or components thereof, that are accused of infringement in the present lawsuit, and that are supplied in or from the United States to a foreign country, as well as all documents relating to the sale, lease, or licensing of such Tools or components.

**REQUEST NO. 108**

All documents and things referring or relating to the copying, replication, or production of software related to of any of the Defendants' Electronic Trading Tools, or components or software thereof, that are accused of infringement in the present lawsuit, including copying, replication, or production of the software outside of the United States.

**REQUEST NO. 109**

All documents and things referring or relating to any master disk or master software or master versions used in the copying or production of any of the Defendants' Electronic Trading Tools, or components or software thereof, that is exported from the United States to a foreign country, and all documents and things relating to the sale, lease, or license of any of the Defendants

Electronic Trading Tools, or component thereof, that were copied or produced from such master disks or master software or master versions.

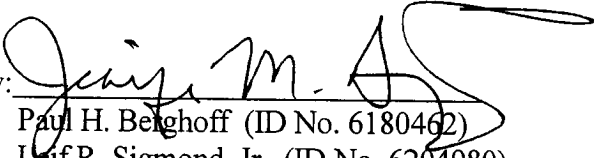
**REQUEST NO. 110**

All documents and things referring to, relating to, or constituting any submissions to any patent office in connection with any of the accused products, including but not limited to patent applications, information disclosure statements, office action responses, and interview summaries.

**REQUEST NO. 111**

All documents and things referring to, relating to, or constituting any indemnity agreements or requests for indemnity from any customer and/or potential customer of any Defendant, wherein such indemnity agreement or request for indemnity related to charges of patent infringement.

Respectfully submitted,

By: 

Paul H. Berghoff (ID No. 6180462)

Leif R. Sigmond, Jr. (ID No. 6204980)

Matthew J. Sampson (ID No. 6207606)

George I. Lee (I.D. No. 6224430)

S. Richard Carden (ID No. 6269504)

Jennifer M. Swartz (ID No. 6279893)

Dennis D. Crouch (ID No. 6281230)

**McDonnell Boehnen Hulbert & Berghoff LLP**

300 South Wacker Drive

Chicago, Illinois 60606

Tel.: (312) 913-0001

Fax: (312) 913-0002

Steven F. Borsand (ID No. 6206597)

**Trading Technologies International, Inc.**

222 South Riverside

Suite 1100

Chicago, IL 60606

Tel: (312) 476-1000

Fax: (312) 476-1182

**Attorneys for Plaintiff,**

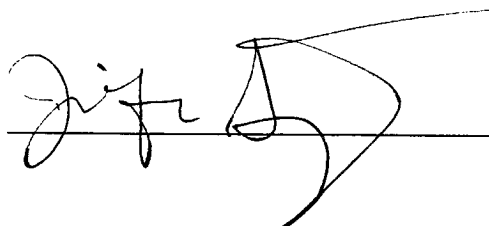
**TRADING TECHNOLOGIES**

**INTERNATIONAL, INC.**

**CERTIFICATE OF SERVICE**

I certify that TRADING TECHNOLOGIES' SIXTH SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO DEFENDANT (NOS. 104-111) was served via facsimile and overnight delivery on July 29, 2005 to:

Raymond C. Perkins  
Winston & Strawn LLP  
35 W. Wacker Drive  
Chicago, IL 60601

A handwritten signature in black ink, appearing to read 'Ray C. Perkins', written over a horizontal line.



# **APPENDIX 7**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Trading Technologies International, Inc.,	)	
	)	
Plaintiff,	)	Civil Action No. 04 C 5312
	)	
v.	)	Judge: James B. Moran
	)	
eSpeed, Inc., eSpeed International, Ltd.,	)	Magistrate: Sidney I. Schenkier
Ecco LLC, and EccoWare Ltd.	)	
	)	
Defendants.	)	
	)	

**TRADING TECHNOLOGIES’ AMENDED SEVENTH SET OF REQUESTS  
FOR THE PRODUCTION OF DOCUMENTS AND THINGS  
TO DEFENDANTS (NOS. 112-130)**

Plaintiff Trading Technologies International, Inc. (“Trading Technologies”) provides the following requests to eSpeed, Inc., eSpeed International, Ltd., Ecco LLC, and EccoWare Ltd. (collectively “eSpeed”). The documents shall be produced for inspection and copying within thirty days of service hereof at the offices of Trading Technologies’ counsel, McDonnell, Boehnen, Hulbert, and Berghoff LLP, 300 South Wacker Drive, Chicago, Illinois, 60606.

## DEFINITIONS AND INSTRUCTIONS

In the following document requests:

1. The terms "Plaintiff" and "Trading Technologies" shall mean Trading Technologies International, Inc.; any company name under which Trading Technologies is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

2. The term "Defendant" and "eSpeed" shall mean eSpeed, Inc.; eSpeed International Ltd., Ecco LLC, and EccoWare Ltd; any company name under which eSpeed is doing business; and their predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control, including without limitation Ecco LLC and EccoWare Ltd.

3. The terms "person" and "persons" shall mean natural persons (including, without limitation, those employed by eSpeed), as well as all governmental entities, agencies, officers, departments, or affiliates of any other governmental entity, and any corporation, foundation, partnership, proprietorship, association, or other organization.

4. The term "date" shall mean the exact day, month, and year (to the degree ascertainable) or, if not ascertainable, the best approximation (including relationship to other events).

5. The term "document" shall mean writings, recordings and other communications, whether reduced to tangible or electronic form, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including without limitation, correspondence, memoranda, notes, executable and non-executable electronic files, including e-mail, compiled software, source code, bug tracking, screen shots, diaries, minutes, statistics, letters, telegrams, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, receipts, returns, summaries, pamphlets, books, prospectuses, calendars, diaries, planners, interoffice and intra-office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meetings, presentations, or printouts, teletypes, fax, invoices, work sheets, and all drafts, alterations, modifications, changes and amendments of the foregoing), graphic or oral representations of any kind (including without limitation, photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys), and electronic or electro-mechanical records or representations of any kind (including without limitation, computer memory, hard drives, discs, tapes, cassettes and recordings).

6. The terms "relating to" and "referring to" shall be interpreted broadly so as to encompass the liberal scope of discovery set forth in Federal Rule of Civil Procedure 26(b).

7. The terms "identify" and "describe" shall mean providing, among other things:

(a) with respect to a natural person, home and work addresses and telephone numbers, the name of the person's present (or if unknown, the last known) place of employment, date of commencement and termination (if any) of employment, job title, and description of his or her duties and responsibilities;

(b) with respect to a corporation or other non-natural person, the full name, address, main telephone number, state of incorporation, and identity of all persons who have acted on behalf of such entity with respect to the subject matter of the request;

(c) with respect to a document, the type of document (e.g., letter, e-mail, fax, contract, calendar, invoice, report); the number of pages or size of electronic file; a description of the document's contents; an identification of the person(s) who prepared the document, for whom the document was prepared, who signed the document, to whom the document was delivered, mailed, or otherwise received, and to whom a copy of the document was sent or otherwise received; the date of writing, creation, or publication; identifying number(s), letter(s), or combination thereof, if any; the significance or meaning of such number(s), letter(s) or combination thereof; for electronic documents, the name of the software used to generate the document and the electronic file type; and the present location and identity of the custodian of that document. Documents to be identified shall include all documents in your possession, custody or control, documents you know or believe to have existed but are no longer existing, and other documents of which you have knowledge or information.

8. The terms "and," "or," and "and/or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

9. The terms "describe" and "state" shall mean to set forth fully and unambiguously every fact relevant to the subject of the request, of which eSpeed (as defined herein) has knowledge or information.

10. Any word written in the singular herein shall be construed as plural or vice versa to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

11. The term "the '304 patent" shall mean U.S. Patent No. 6,766,304. The term "the '132 patent" shall mean U.S. Patent No. 6,772,132. The term "patents-in-suit" shall mean the '304 patent and the '132 patent either collectively or individually.

12. "Prior Art" includes, by way of example and without limitation, any subject matter that GL contends is encompassed by 35 U.S.C. § 102 and/or 35 U.S.C. § 103.

13. "Electronic Trading Tool" shall mean any software, hardware or combination thereof, for connecting to or interacting with any public or private trading system that provides for electronic trading, including but not limited to the Chicago Board of Trade ("CBOT"), the Chicago Mercantile Exchange ("CME"), the London International Financial Futures and Options Exchange ("LIFFE"), Eurex, the New York Stock Exchange, NASDAQ, the Intercontinental Exchange ("ICE"), ICAP BrokerTec, the Tokyo Stock Exchange ("TSE"), the Tokyo International Financial Futures Exchange ("TIFFE"), the Sydney Futures Exchange ("SFE"), the eSpeed Exchange, the Cantor Exchange, or the eSpeed System.

14. "Transaction" includes, by way of example and without limitation, any original or revised order that is ultimately sent to an exchange, or any trade.

15. The terms "CME" and "Chicago Mercantile Exchange" shall mean the Chicago Mercantile Exchange; any company name under which the CME is doing business or has done business in the past; and its predecessors, parents, subsidiaries, divisions, directors, officers, employees, agents, distributors, salespersons, sales representatives, and attorneys, and each person acting or purporting to act on its or their behalf or under its or their control.

16. No request or subpart hereof shall be construed as a limitation on any other request or subpart hereof.

17. In producing documents and things responsive to these requests, eSpeed shall furnish all documents and things within its possession, custody, or control, regardless of whether these documents are possessed directly by eSpeed, or by its present or past agents, employees, affiliates, related companies, subsidiaries, representatives, investigators, attorneys, or others.

18. If eSpeed asserts the attorney-client privilege or work product doctrine as a basis for not producing any document or thing, or if any document or thing is not produced in full, produce the document or thing to the extent the request for production is not objected to, and, in so doing:

- (a) state the specific ground(s) for not producing the document or thing in full;
- (b) state the bases for such a claim of privilege or immunity; and
- (c) fully identify the information, document, or material for which such privilege or immunity is asserted, including the name and type of any document, the name, address and title of its author, each addressee, and each person to whom a copy of the document or thing has been sent, delivered, or provided.

19. If eSpeed maintains that any document or thing requested by Trading Technologies has been destroyed, lost, or is otherwise unavailable, set forth the contents of the document or thing, the date of its destruction or loss, and the name of the person who authorized its destruction (if any).

20. Where eSpeed asserts an objection to a request, state all grounds upon which the objection is based.

21. For each document or thing produced in response to these requests, identify the request(s) to which the document or thing relates.

22. “GL” shall mean GL Trade Americas, Inc. and GL Trade SA; any company name under which GL is doing business or has done business in the past; and its predecessors, parents, subsidiaries, divisions, directors, officers, employees, agents, distributors, salespersons, sales representatives, and attorneys, and each person acting or purporting to act on its or their behalf or under its or their control.

23. The term “European Opposition” shall refer to any Opposition filed by anyone against TT’s European Patent Application No. EP 1 319 211 B1, titled “Click Based Trading With Intuitive Grid Display of Market Depth,” and specifically including 1) the European Opposition filed by Eccoware Limited on January 13, 2006 (a copy of which is attached as Exhibit 2 to TT’s Amended Notice of Deposition of Defendants Pursuant to Rule 30(b)(6), served herewith) ; and 2) the European Opposition filed by GL Trade SA and other opponents on January 12, 2006 (a copy of which is attached as Exhibit 1 to TT’s Amended Notice of Deposition of Defendants Pursuant to Rule 30(b)(6), served herewith).

24. “GL Tradepad Manual” shall refer to “GL Trade User Guide V4.51, GL Trade (June 1999)” listed as item D2 on page 6 of the European Opposition filed by Eccoware Limited, and shall also refer to “GL Trade SA’s User Guide V 4.51; LIFFE Connect for Futures”, listed as item 11 under “B. Other Evidence: Exhibits” on page 4 of the European Opposition filed by GL Trade SA et al.

25. “GL Tradepad” refers to the system, software, and/or mechanisms described in the GL Tradepad Manual.



## **DOCUMENT REQUESTS**

### **REQUEST NO. 112**

All documents and things sufficient to identify the bases, proofs, and supporting evidence relating to the “GL Tradepad Anticipatory Prior Art” listed as paragraphs 60-62 in the Grounds of Opposition of the European Opposition filed by GL Trade SA.

### **REQUEST NO. 112.1**

All documents and things sufficient to identify the bases, proofs, and supporting evidence relating to the “Lack of Novelty over D2” listed as paragraphs IX.3 through X.15 in the European Opposition filed by Eccoware Limited.

### **REQUEST NO. 113**

All documents and things relating to any European Opposition.

### **REQUEST NO. 114**

All documents and things constituting or relating to any communications relating to any European Opposition with any third party, including without limitation, GL, Withers & Rogers LLP, Rosenthal Collins Group, LLC, Peregrine Financial Group, Inc., and CQG Inc.

### **REQUEST NO. 115**

All claim charts that include references to the GL Tradepad Manual or GL Tradepad.

**REQUEST NO. 116**

All documents and things sufficient to identify the background, functionality, use, and operation of GL Tradepad, including without limitation any versions or variations not shown or described in the GL Tradepad Manual.

**REQUEST NO. 117**

All documents and things sufficient to identify the first publication date of the GL Tradepad Manual.

**REQUEST NO. 118**

All documents and things sufficient to identify the history, authorship, distribution, and scope of the GL Tradepad Manual, including without limitation any versions other than V. 4.51.

**REQUEST NO. 119**

All documents and things sufficient to identify the identity, content, and location of any documents and things that relate or refer to the subject matter of the GL Tradepad Manual or GL Tradepad, including without limitation, correspondence, presentations, features lists, training materials, and software.

**REQUEST NO. 120**

All documents and things sufficient to identify each different version of the GL Tradepad Manual developed, made, offered, sold, distributed, imported, marketed, licensed and/or used by, or with the assistance or at the direction of GL, including any versions that were never commercially

released and any versions that have not yet been commercially released, and further including one sample of each such GL Tradepad Manual.

**REQUEST NO. 121**

All documents and things sufficient to identify each different version of the ordering system described in each version of the GL Tradepad Manual, developed, made, offered, sold, distributed, imported, marketed, licensed and/or used by, or with the assistance or at the direction of GL, including any versions that were never commercially released and any versions that have not yet been commercially released.

**REQUEST NO. 122**

All documents and things relating to the design, development, making, selling, offering for sale, distribution, marketing, licensing, or use of each version of the GL Tradepad.

**REQUEST NO. 123**

All documents and things showing any operation, features, functionality, software, or mechanism referred to in the GL Tradepad Manual, including, but not limited to, demonstrations or presentations, instruction manuals, user guides, tutorials, animations, drawings, schematics, flow charts, and tables.

**REQUEST NO. 124**

All documents and things sufficient to identify the names and titles of all persons having responsibility for or involvement in the research, design, revision, development, marketing, sales or distribution of the GL Tradepad Manual or GL Tradepad.

**REQUEST NO. 125**

All advertising and promotional materials relating to GL Tradepad.

**REQUEST NO. 126**

All documents and things showing any order screen representations of GL Tradepad.

**REQUEST NO. 127**

All documents and things referring or relating to GL's information archival and/or retrieval system containing any information related to design, development, promotion, distribution, or sale of any version of the GL Tradepad Manual or GL Tradepad.

**REQUEST NO. 128**

All documents and things listing or otherwise identifying customers or potential customers to whom GL has demonstrated GL Tradepad.

**REQUEST NO. 129**

All documents and things referring to, relating to, or constituting any submissions to any patent office or authority in connection with any version of the GL Tradepad or any version of the GL Tradepad Manual.


**REQUEST NO. 130**

All documents and things not otherwise described by the foregoing requests that refer or relate to the GL Tradepad Manual or GL Tradepad.

Respectfully submitted,

Date: February 24, 2006

By:



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**Attorneys for Plaintiff,**

**TRADING TECHNOLOGIES**

**INTERNATIONAL, INC.**

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing TRADING TECHNOLOGIES' AMENDED SEVENTH SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO DEFENDANTS (NOS. 112-130), was served on February 24, 2006, as follows:

*Via Hand Delivery:*

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*Via email and Federal Express:*

**Counsel for GL Trade SA, et al.:**

Lora A. Moffatt

(lmoffatt@salans.com)

Salans

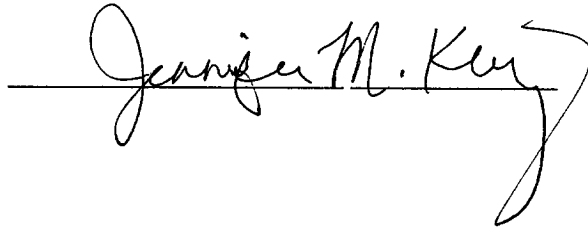
Rockefeller Center

620 Fifth Ave

New York, NY 10020-2457

Main Tel: 212-632-8436

Main Fax: 212-307-3320

A handwritten signature in black ink, reading "Jennifer M. Keen", is written over a horizontal line. The signature is cursive and extends below the line.



# APPENDIX 8



## DEFINITIONS AND INSTRUCTIONS

In the following document requests:

1. The terms "Plaintiff" and "Trading Technologies" shall mean Trading Technologies International, Inc.; any company name under which Trading Technologies is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

2. The term "Defendant" and "eSpeed" shall mean eSpeed, Inc.; eSpeed International Ltd.; any company name under which eSpeed, Inc. or eSpeed International Ltd. are doing business; and their predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

3. The term "Ecco" shall mean Ecco, LLC or EccoWare, Ltd.; or any other affiliated company, as well as any company name under which Ecco, LLC or EccoWare Ltd. is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, including without limitation Cantor Fitzgerald, LP as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

4. The terms "person" and "persons" shall mean natural persons (including, without limitation, those employed by eSpeed or Ecco), as well as all governmental entities, agencies,

officers, departments, or affiliates of any other governmental entity, and any corporation, foundation, partnership, proprietorship, association, or other organization.

5. The term "date" shall mean the exact day, month, and year (to the degree ascertainable) or, if not ascertainable, the best approximation (including relationship to other events).

6. The term "document" shall mean writings, recordings and other communications, whether reduced to tangible or electronic form, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including without limitation, correspondence, memoranda, notes, executable and non-executable electronic files, including e-mail, compiled software, source code, bug tracking, screen shots, diaries, minutes, statistics, letters, telegrams, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, receipts, returns, summaries, pamphlets, books, prospectuses, calendars, diaries, planners, interoffice and intra-office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meetings, presentations, or printouts, teletypes, fax, invoices, work sheets, and all drafts, alterations, modifications, changes and amendments of the foregoing), graphic or oral representations of any kind (including without limitation, photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys), and electronic or electro-mechanical records or representations of any kind (including without limitation, computer memory, hard drives, discs, tapes, cassettes and recordings).

7. The terms "relating to" and "referring to" shall be interpreted broadly so as to encompass the liberal scope of discovery set forth in Federal Rule of Civil Procedure 26(b).

8. The terms "identify" and "describe" shall mean providing, among other things:

(a) with respect to a natural person, home and work addresses and telephone numbers, the name of the person's present (or if unknown, the last known) place of employment, date of commencement and termination (if any) of employment, job title, and description of his or her duties and responsibilities;

(b) with respect to a corporation or other non-natural person, the full name, address, main telephone number, state of incorporation, and identity of all persons who have acted on behalf of such entity with respect to the subject matter of the request;

(c) with respect to a document, the type of document (e.g., letter, e-mail, fax, contract, calendar, invoice, report); the number of pages or size of electronic file; a description of the document's contents; an identification of the person(s) who prepared the document, for whom the document was prepared, who signed the document, to whom the document was delivered, mailed, or otherwise received, and to whom a copy of the document was sent or otherwise received; the date of writing, creation, or publication; identifying number(s), letter(s), or combination thereof, if any; the significance or meaning of such number(s), letter(s) or combination thereof; for electronic documents, the name of the software used to generate the document and the electronic file type; and the present location and identity of the custodian of that document. Documents to be identified shall include all documents in your possession, custody or control, documents you know or believe to have existed but are no longer existing, and other documents of which you have knowledge or information.

9. The terms "and," "or," and "and/or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

10. The terms "describe" and "state" shall mean to set forth fully and unambiguously every fact relevant to the subject of the request, of which eSpeed or Ecco (as defined herein) has knowledge or information.

11. Any word written in the singular herein shall be construed as plural or vice versa to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

12. The term "the '304 patent" shall mean U.S. Patent No. 6,766,304. The term "the '132 patent" shall mean U.S. Patent No. 6,772,132. The term "patents-in-suit" shall mean the '304 patent and the '132 patent either collectively or individually.

13. "Prior Art" includes, by way of example and without limitation, any subject matter that GL contends is encompassed by 35 U.S.C. § 102 and/or 35 U.S.C. § 103.

14. "Electronic Trading Tool" shall mean any software, hardware or combination thereof, for connecting to or interacting with any public or private trading system that provides for electronic trading, including but not limited to the Chicago Board of Trade ("CBOT"), the Chicago Mercantile Exchange ("CME"), the London International Financial Futures and Options Exchange ("LIFFE"), Eurex, the New York Stock Exchange, NASDAQ, the Intercontinental Exchange ("ICE"), ICAP BrokerTec, the Tokyo Stock Exchange ("TSE"), the Tokyo International Financial Futures Exchange ("TIFFE"), the Sydney Futures Exchange ("SFE"), the eSpeed Exchange, the Cantor Exchange, or the eSpeed System.

15. "Transaction" includes, by way of example and without limitation, any original or revised order that is ultimately sent to an exchange, or any trade.

16. The terms "CME" and "Chicago Mercantile Exchange" shall mean the Chicago Mercantile Exchange; any company name under which the CME is doing business or has done

business in the past; and its predecessors, parents, subsidiaries, divisions, directors, officers, employees, agents, distributors, salespersons, sales representatives, and attorneys, and each person acting or purporting to act on its or their behalf or under its or their control.

17. No request or subpart hereof shall be construed as a limitation on any other request or subpart hereof.

18. In producing documents and things responsive to these requests, eSpeed and Ecco shall furnish all documents and things within its possession, custody, or control, regardless of whether these documents are possessed directly by eSpeed and Ecco, or by its present or past agents, employees, affiliates, related companies, subsidiaries, representatives, investigators, attorneys, or others.

19. If eSpeed or Ecco asserts the attorney-client privilege or work product doctrine as a basis for not producing any document or thing, or if any document or thing is not produced in full, produce the document or thing to the extent the request for production is not objected to, and, in so doing:

- (a) state the specific ground(s) for not producing the document or thing in full;
- (b) state the bases for such a claim of privilege or immunity; and
- (c) fully identify the information, document, or material for which such privilege or immunity is asserted, including the name and type of any document, the name, address and title of its author, each addressee, and each person to whom a copy of the document or thing has been sent, delivered, or provided.

19. If eSpeed or Ecco maintains that any document or thing requested by Trading Technologies has been destroyed, lost, or is otherwise unavailable, set forth the contents of the

document or thing, the date of its destruction or loss, and the name of the person who authorized its destruction (if any).

20. Where eSpeed or Ecco asserts an objection to a request, state all grounds upon which the objection is based.

21. For each document or thing produced in response to these requests, identify the request(s) to which the document or thing relates.



## **DOCUMENT REQUESTS**

### **REQUEST NO. 131**

All documents and things that refer to, relate to, or comprise any license agreement between eSpeed or Ecco (whether licensee or licensor) and any other person or entity involving intellectual property, including patents or copyrights, whether royalty-bearing or not.

### **REQUEST NO. 132**

All documents and things that refer to, relate to, or comprise any licensing agreements involving intellectual property (including patents or copyrights) with customers or exchanges and including without limitation those encompassed under the statement “we have entered into long-term licensing agreements with respect to our intellectual property with a number of customers and exchanges” referenced in eSpeed’s 12-31-04 10-K document (attached hereto).

### **REQUEST NO. 133**

All documents and things that refer to, relate to, or comprise any settlement or license agreement involving the “Wagner” patent referenced in eSpeed’s 12-31-04 10-K document attached hereto, including without limitation any settlement or license agreement with the CME or CBOT, as well as the NYMEX.

### **REQUEST NO. 134**

All documents and things that refer, relate, or comprise the “long-term licensing agreement with Intercontinental Exchange, Inc. (ICE), granting use of our Wagner patent to

ICE,” referenced in eSpeed’s 12-31-04 10-K document attached hereto, as well as all documents and things showing the royalty payments received from ICE pursuant to any such agreement.

**REQUEST NO. 135**

All documents and things that refer, relate, or comprise payments from ICE based on the number of contracts traded, including those encompassed by the statement in eSpeed’s 12-31-04 10K document “ICE will also pay to us \$0.10 for each contract that participants submit to the electronic futures exchange for trading, or \$0.20 for each contract contained in matched trades on the electronic futures exchange.”

**REQUEST NO. 136**

All documents and things that refer, relate or comprise any settlement or license agreement involving the “Lawrence” patent referenced in eSpeed’s 12-31-04 10-K document attached hereto.

**REQUEST NO. 137**

All documents and things that refer to, relate to, or comprise any negotiations, communications, correspondence or discussions regarding the licensing of intellectual property (including patents or copyrights) on a per contract basis (whether or not any agreement was reached), including any and all agreements or licenses.

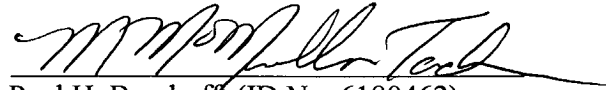
**REQUEST NO. 138**

All documents and things that refer or relate to the valuation of, the determination of the amount of consideration for or royalty rates for intellectual property, including patents and trademarks, whether by eSpeed, Ecco, or any other party, including in relation to any licensing or litigating of such intellectual property, or in the acquisition of any entity or intellectual property, including the acquisition of the Wagner and Lawrence patents.

Respectfully submitted,

Date: February 20, 2006

By:



Paul H. Berghoff (ID No. 6180462)  
Leif R. Sigmond, Jr. (ID No. 6204980)  
Matthew J. Sampson (ID No. 6207606)  
Christopher M. Cavan (ID No. 6211475)  
George I. Lee (ID No. 6224430)  
Marcus J. Thymian (ID No. 6256769)  
S. Richard Carden (ID No. 6269504)  
Jennifer M. Swartz (ID No. 6279893)  
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**Attorneys for Plaintiff,  
TRADING TECHNOLOGIES  
INTERNATIONAL, INC.**

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing TRADING TECHNOLOGIES' EIGHTS SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO DEFENDANTS (NOS. 131-138), was served on February 20, 2006, as follows:

*Via facsimile and first class mail:*

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Chicago, IL 60601

  
Michelle L. McMullen-Tack

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 10-K

FOR ANNUAL AND TRANSITION REPORTS PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934

(Mark One) ANNUAL REPORT PURSUANT TO SECTION 13  
OR 15(d)

OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2004

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d)

OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number 0-28191

eSpeed, Inc.

(Exact Name of Registrant as Specified in Its Charter)

Delaware (State or Other Jurisdiction of Incorporation) 13-4063515 (I.R.S. Employer Identification No.)  
135 East 57th, New York, New York 10022  
(Address of Principal Executive Offices) (Zip Code)

(212) 938-5000

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:  
Title of Each Class Name of Each Exchange on Which Registered  
None None

Securities registered pursuant to Section 12(g) of the Act:  
Class A Common Stock, \$. 01 par value  
(Title of Class)

Indicate by check mark whether the registrant: (1) has filed all reports  
required to be filed by Section 13 or 15(d) of the Securities Exchange Act of

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securities. When a new on-the-run benchmark is issued, the current on-the-run becomes an off-the-run.

- When-issued U.S. Treasury securities represent new issues that will be created through the auction process and will become the new on-the-run benchmarks. A when-issued instrument has been authorized and may be traded although it has not yet been issued.
  
- A U.S. Agency security is debt issued by a Government Sponsored Enterprise, such as FHLB, Freddie Mac, Fannie Mae, TVA and TAPS. U.S. Agencies pay interest and are believed to have little or no credit risk, although they are not backed by the U.S. Government.
  
- Treasury Inflation Protection Securities (TIPS) are debt issued by the U.S. Treasury that offer protection against inflation because their principal and interest payments are linked to inflation.

#### Intellectual Property

We have a strong intellectual property portfolio, and we are committed to adding to its value as we continue to develop more proprietary technology, as well as to licensing our technology and defending and protecting our technology as a barrier to entry, from time to time through litigation. Our patents include the Wagner patent, which addresses automated futures trading, the Lawrence patent, which relates to the electronic trading of municipal bonds and electronic auctions of fixed income securities and interest rate products, and the "580" patent, which covers a system and method for auction-based trading of specialized items such as fixed income instruments. See "Our Intellectual Property." Certain of our intellectual property is the subject of litigation. See "Legal Proceedings."

With respect to our patents and other intellectual property, we have entered into long-term licensing agreements with the InterContinentalExchange, Inc. (ICE), the Chicago Mercantile Exchange, Inc. (CME), the Board of Trade of the City of Chicago (CBOT), the New York Mercantile Exchange (NYMEX) and the New York Board of Trade (NYBOT).

#### eSpeed Software Solutions<sup>SM</sup>

eSpeed Software Solutions<sup>SM</sup> leverages our global infrastructure, our software and systems, our portfolio of intellectual property and our electronic trading expertise to provide customers with electronic marketplaces and exchanges and real-time auctions, enhance debt issuance and to customize trading interfaces. eSpeed Software Solutions<sup>SM</sup> takes advantage of the scalability, flexibility and functionality of our eSpeed(R) system to enable our clients to distribute their branded products to their customers through online offerings and auctions, including private and reverse auctions, via our trading platform and global network. Using eSpeed Software Solutions<sup>SM</sup>, customers are able to develop a marketplace, trade with their customers, issue debt, trade odd lots, access program trading interfaces and access our network and our intellectual property.

In addition to long-term licensing agreements, we have signed Software

incentives for more trading volume. Our goal is to maximize trading volumes and related revenues as we respond to customer demands on our platform.

Expand system functionality and develop new products, software and services for our existing financial markets

We plan to continue to expand the types of financial and other products traded in our marketplaces, both in the United States and abroad. We are focused on fixed income, foreign exchange, equities and futures. For example, we believe that our foreign exchange product has the potential to transform the foreign exchange market by increasing efficiency. We plan, over time, to seek to serve additional marketplaces that can benefit from more efficient, centralized, electronic trading facilities. Our goal is to include in our electronic marketplaces the full range of the most commodity-like financial products that are currently traded in today's capital markets worldwide. We believe we are well positioned to leverage the significant costs and efforts that have been incurred developing our eSpeed(R) system to create electronic markets in a wide range of such financial products.

Develop and enhance voice-assisted marketplaces

In markets that are less commodity-based, we have developed relationships with voice brokers, including BGC, Freedom and others to provide voice-assisted brokerage services to their

8

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marketplaces. We plan to capitalize on and develop these relationships to increase our presence in the world's voice-brokered markets by incentivizing voice brokers to use our electronic system for multiple products and in additional products such as Treasury spreads, off-the-run Treasury securities, when issued Treasury securities, U.S. Agency securities and TIPs.

License our software to provide a broad range of market participants with an outsourced eSpeed Software Solution for distribution of their products

Through our Software Solutions division, we plan to continue to capitalize on our global infrastructure, intellectual property and electronic trading expertise to provide a complete outsourced solution to our clients to enable them to access exchanges and electronic markets and distribute their branded products to their customers through online offerings, auctions, including private and reverse auctions, and direct dealing capabilities and customized trading interfaces. Our sales force is focused on licensing our eSpeed Software Solutions technology to existing and new clients worldwide.

Leverage our intellectual property portfolio

We have a strong intellectual property portfolio and are committed to developing, maintaining and protecting our existing portfolio and developing and protecting new enhancements, products and inventions. We have entered into long-term licensing agreements with respect to our intellectual property with a number of customers and exchanges and, from time to time, are engaged in legal action to protect or defend our intellectual property. See "Legal Proceedings". We plan to continue our strategy of developing, maintaining and protecting these existing and new technologies. Our strategy may also include licensing such intellectual property for royalties, joint venturing with other marketplaces or exchanges or exclusively using patents in our marketplaces.

Expand electronic foreign exchange marketplace

Our foreign exchange product is an anonymous, neutral, real time, instantaneous electronic trading system with liquidity, depth and narrow bid/ask spreads. We plan to leverage our technology and customer arrangements to add increased liquidity and trading clients to this marketplace. In 2004, we hired an



platform offering electronic trading across futures, FX, fixed income and equities, there are a number of competitors in each of those markets. Our current and prospective competitors are numerous and include interdealer brokerage firms, multi-dealer trading companies, technology companies and market data and information vendors, securities and futures exchanges, electronic communications networks, crossing systems, software companies, consortia, business-to-business marketplace infrastructure companies and niche market energy and other commodity business-to-business Internet-based trading systems. BrokerTec Global, a global electronic bond trading platform owned by ICAP, an interdealer broker in the financial markets, is a significant competitor for us in electronic trading of government securities.

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In foreign exchange, we compete with EBS and Reuters, as well as a number of smaller electronic trading platforms. The futures market has a number of different order-routing and ISV solutions for electronic trading, including Trading Technologies and other providers. We believe that we may also face competition from large computer software companies, media and technology companies and some securities brokerage firms that are currently our clients.

The electronic marketplace solutions we provide to our clients enable them to expand the range of services they provide to their ultimate customers to trade across multiple marketplaces. We do not intend to use the access to the customer base of our clients that we obtain in providing our electronic marketplace solutions to compete with these clients in other product transactions. We believe our electronic marketplaces compete primarily on the basis of speed, functionality, efficiency, price, system stability and ability to provide market participants with access to liquidity. We also believe that the time and expense required to develop technology and create electronic marketplaces will serve as significant barriers to entry for our competitors.

#### OUR INTELLECTUAL PROPERTY

We have adopted a comprehensive intellectual property program to protect our proprietary technology. We currently have licenses covering six of Cantor's patents in the U.S. Three patents relate to a system and method for auction-based trading of specialized items such as fixed income instruments. Two patents relate to a fixed income portfolio index processor. One patent relates to a system for shared remote access of multiple application programs by one or more computers. Foreign counterpart applications for some of these U.S. patents have been filed. The licenses are exclusive, except in the event that we do not seek to or are unable to provide to Cantor any requested services covered by the patents and Cantor elects not to require us to do so.

In April 2001, we purchased the Wagner Patent, which addresses automated futures trading and provides for bids and offers to be placed and matched electronically. In August 2002, we and Electronic Trading Systems Corporation (ETS), the former owner of the Wagner Patent, entered into a Settlement Agreement with the CME and the CBOT to resolve litigation with CME and CBOT related to the Wagner Patent. Under the terms of the Settlement Agreement, CME and the CBOT will each pay \$15.0 million to eSpeed for a license, for a total of \$30.0 million. Each \$15.0 million payment includes \$5.0 million, which was received in 2002, and \$2.0 million per year until 2007. Of the \$30.0 million to be received by eSpeed, \$5.75 million may be paid to ETS. On March 29, 2002, we entered into a long-term licensing agreement with IntercontinentalExchange, Inc. (ICE), granting use of our Wagner Patent to ICE. Under the terms of the agreement, ICE will pay an annual royalty of \$2.0 million per year, of which 12% is paid to ETS. ICE will also pay to us \$0.10 for each contract that participants submit to the electronic futures exchange for trading, or \$0.20 for each contract contained in matched trades on the electronic futures exchange. The ICE agreement will remain in effect until February 7, 2007, or for the duration of the life of the patent, unless certain conditions are not met. In December 2002, we entered into an agreement with the CBOT to distribute futures products over our eSpeed(R) system. In December 2003, we entered into a

Settlement Agreement with the NYMEX to resolve litigation with NYMEX related to the Wagner Patent. Under the terms of the Agreement, in exchange for a license, NYMEX agreed to pay us \$8.0 million in annual installments of \$2.0 million, beginning in December 2003 and concluding in 2006. Of the \$8.0 million to be received by eSpeed under the NYMEX settlement, \$1.2 million may be paid to ETS. The patent involves automated futures trading systems in which transactions are completed by computerized matching of bids and offers of futures contracts on an electronic platform.

In July 2004, we and the NYBOT renegotiated an agreement (the Agreement) that originated between Cantor Fitzgerald and the New York Cotton Exchange in 1997. As part of the Agreement, which expires in 2017, all previous agreements between NYBOT/New York Clearing Corporation companies and CantorFitzgerald/eSpeed companies have been terminated. As a result of the Agreement, we are the sole owner of the Cantor Financial Futures Exchange and the Commodity Futures Clearing Corporation of New York. Additionally, we have agreed with NYBOT that NYBOT will provide processing services for futures contracts or options on futures contracts listed on the Cantor Financial Futures Exchange or other exchange designated by us. Under the terms of the

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Agreement, NYBOT will pay \$5.5 million to us; \$2.5 million was paid in July 2004, with three annual installments of \$1.0 million year (or \$3.0 million) payable until 2007.

In July 2001, we purchased a patent, the Lawrence Patent, which relates to a computer-implemented municipal bond trading system having a capability to conduct a private electronic auction of bid wanteds between a central broker's broker and multiple prospective remote bidders. The Lawrence Patent enables traders to respond more quickly and profitably, enabling the broker quickly to consummate a satisfactory sale for a selling trader.

In May 2003, Cantor Fitzgerald was granted U.S. Patent No. 6,560,580 for an Automated Auction Control Processor. The 580 Patent covers a system and methods for auction-based trading of specialized items such as fixed income instruments, which promote fast and reliable trade execution, market liquidity and transparency, as well as fairness and neutrality in trading procedures. The patent, which was issued on May 6, 2003, expires in 2016. We are the exclusive licensee of the patent. This patent is the subject of litigation. See "Item 3. Legal Proceedings."

We also have an agreement to license several pending U.S. patent applications relating to various other aspects of our electronic trading systems, including both functional and design aspects. We have filed a number of patent applications to further protect our proprietary technology and innovations, and have received patents that have issued from some of those applications.

We cannot at this time determine the significance of any of the foregoing patents, or future patents, if issued, to our business. We can give no assurance that any of the foregoing patents will be found by a court to be valid and enforceable, or that any of these patents would not be infringed by a third party competing or seeking to compete with our business. Our business strategy may include licensing such patents for royalties, joint venturing with other marketplaces or exchanges, or exclusively using the patents in our marketplaces.

#### EMPLOYEES

As of December 31, 2004, we had 400 employees, six of whom are our executive officers. None of these employees is represented by a union. We believe that we have good relations with our employees.

#### WEBSITE ACCESS TO REPORTS



McDonnell Boehnen Hulbert & Berghoff LLP

## Fax transmittal

To	Raymond C. Perkins, Esq.	Date	February 21, 2006
Company	Winston & Strawn LLP	From	Michelle McMullen-Tack
Fax	(312) 558-5700	Direct	(312) 913-0001
Phone	(312) 558-5860	Email	Mcmullen-tack@mbhb.com
Copy To		C/M	885/138
Pages, with cover	18		
Re	Trading Technologies International, Inc. v. eSpeed, Inc.		

Please note the referenced 12-31-04 10-K document is attached. The document was omitted from yesterday's fax.

Please feel free to contact us with any questions.

300 South Wacker Drive  
Chicago, Illinois 60606-6709  
www.mbhb.com

312 913 0001 phone  
312 913 0002 fax

This transmittal is strictly for delivery only to the person listed above. It may contain confidential or privileged information, the disclosure of which is prohibited.

Please contact us if all pages are not received. If you received this fax in error, please contact us to arrange for return of the document.

\*\*\*\*\*  
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PGS. SENT 18  
RESULT OK



McDonnell Boehnen Hulbert & Berghoff LLP

## Fax transmittal

To	Raymond C. Perkins, Esq.	Date	February 21, 2006
Company	Winston & Strawn LLP	From	Michelle McMullen-Tack
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Phone	(312) 558-5860	Email	Mcmullen-tack@mbhb.com
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Re	Trading Technologies International, Inc. v. eSpeed, Inc.		

Please note the referenced 12-31-04 10-K document is attached. The document was omitted from yesterday's fax.

Please feel free to contact us with any questions.

# APPENDIX 9



## DEFINITIONS AND INSTRUCTIONS

In the following document requests:

1. The terms "Plaintiff" and "Trading Technologies" shall mean Trading Technologies International, Inc.; any company name under which Trading Technologies is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.
2. The term "Defendant" and "eSpeed" shall mean eSpeed, Inc.; eSpeed International Ltd.; any company name under which eSpeed, Inc. or eSpeed International Ltd. are doing business; and their predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.
3. The term "Ecco" shall mean Ecco, LLC or EccoWare, Ltd.; or any other affiliated company, as well as any company name under which Ecco, LLC or EccoWare Ltd. is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, including without limitation Cantor Fitzgerald, LP as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.
4. The terms "person" and "persons" shall mean natural persons (including, without limitation, those employed by eSpeed or Ecco), as well as all governmental entities, agencies,

officers, departments, or affiliates of any other governmental entity, and any corporation, foundation, partnership, proprietorship, association, or other organization.

5. The term "date" shall mean the exact day, month, and year (to the degree ascertainable) or, if not ascertainable, the best approximation (including relationship to other events).

6. The term "document" shall mean writings, recordings and other communications, whether reduced to tangible or electronic form, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including without limitation, correspondence, memoranda, notes, executable and non-executable electronic files, including e-mail, compiled software, source code, bug tracking, screen shots, diaries, minutes, statistics, letters, telegrams, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, receipts, returns, summaries, pamphlets, books, prospectuses, calendars, diaries, planners, interoffice and intra-office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meetings, presentations, or printouts, teletypes, fax, invoices, work sheets, and all drafts, alterations, modifications, changes and amendments of the foregoing), graphic or oral representations of any kind (including without limitation, photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys), and electronic or electro-mechanical records or representations of any kind (including without limitation, computer memory, hard drives, discs, tapes, cassettes and recordings).

7. The terms "relating to" and "referring to" shall be interpreted broadly so as to encompass the liberal scope of discovery set forth in Federal Rule of Civil Procedure 26(b).



8. The terms "identify" and "describe" shall mean providing, among other things:

(a) with respect to a natural person, home and work addresses and telephone numbers, the name of the person's present (or if unknown, the last known) place of employment, date of commencement and termination (if any) of employment, job title, and description of his or her duties and responsibilities;

(b) with respect to a corporation or other non-natural person, the full name, address, main telephone number, state of incorporation, and identity of all persons who have acted on behalf of such entity with respect to the subject matter of the request;

(c) with respect to a document, the type of document (e.g., letter, e-mail, fax, contract, calendar, invoice, report); the number of pages or size of electronic file; a description of the document's contents; an identification of the person(s) who prepared the document, for whom the document was prepared, who signed the document, to whom the document was delivered, mailed, or otherwise received, and to whom a copy of the document was sent or otherwise received; the date of writing, creation, or publication; identifying number(s), letter(s), or combination thereof, if any; the significance or meaning of such number(s), letter(s) or combination thereof; for electronic documents, the name of the software used to generate the document and the electronic file type; and the present location and identity of the custodian of that document. Documents to be identified shall include all documents in your possession, custody or control, documents you know or believe to have existed but are no longer existing, and other documents of which you have knowledge or information.

9. The terms "and," "or," and "and/or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

10. The terms "describe" and "state" shall mean to set forth fully and unambiguously every fact relevant to the subject of the request, of which eSpeed or Ecco (as defined herein) has knowledge or information.

11. Any word written in the singular herein shall be construed as plural or vice versa to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

12. The term "the '304 patent" shall mean U.S. Patent No. 6,766,304. The term "the '132 patent" shall mean U.S. Patent No. 6,772,132. The term "patents-in-suit" shall mean the '304 patent and the '132 patent either collectively or individually.

13. "Prior Art" includes, by way of example and without limitation, any subject matter that GL contends is encompassed by 35 U.S.C. § 102 and/or 35 U.S.C. § 103.

14. "Electronic Trading Tool" shall mean any software, hardware or combination thereof, for connecting to or interacting with any public or private trading system that provides for electronic trading, including but not limited to the Chicago Board of Trade ("CBOT"), the Chicago Mercantile Exchange ("CME"), the London International Financial Futures and Options Exchange ("LIFFE"), Eurex, the New York Stock Exchange, NASDAQ, the Intercontinental Exchange ("ICE"), ICAP BrokerTec, the Tokyo Stock Exchange ("TSE"), the Tokyo International Financial Futures Exchange ("TIFFE"), the Sydney Futures Exchange ("SFE"), the eSpeed Exchange, the Cantor Exchange, or the eSpeed System.

15. "Transaction" includes, by way of example and without limitation, any original or revised order that is ultimately sent to an exchange, or any trade.

16. The terms "CME" and "Chicago Mercantile Exchange" shall mean the Chicago Mercantile Exchange; any company name under which the CME is doing business or has done

business in the past; and its predecessors, parents, subsidiaries, divisions, directors, officers, employees, agents, distributors, salespersons, sales representatives, and attorneys, and each person acting or purporting to act on its or their behalf or under its or their control.

17. No request or subpart hereof shall be construed as a limitation on any other request or subpart hereof.

18. In producing documents and things responsive to these requests, eSpeed and Ecco shall furnish all documents and things within its possession, custody, or control, regardless of whether these documents are possessed directly by eSpeed and Ecco, or by its present or past agents, employees, affiliates, related companies, subsidiaries, representatives, investigators, attorneys, or others.

19. If eSpeed or Ecco asserts the attorney-client privilege or work product doctrine as a basis for not producing any document or thing, or if any document or thing is not produced in full, produce the document or thing to the extent the request for production is not objected to, and, in so doing:

- (a) state the specific ground(s) for not producing the document or thing in full;
- (b) state the bases for such a claim of privilege or immunity; and
- (c) fully identify the information, document, or material for which such privilege or immunity is asserted, including the name and type of any document, the name, address and title of its author, each addressee, and each person to whom a copy of the document or thing has been sent, delivered, or provided.

19. If eSpeed or Ecco maintains that any document or thing requested by Trading Technologies has been destroyed, lost, or is otherwise unavailable, set forth the contents of the

document or thing, the date of its destruction or loss, and the name of the person who authorized its destruction (if any).

20. Where eSpeed or Ecco asserts an objection to a request, state all grounds upon which the objection is based.

21. For each document or thing produced in response to these requests, identify the request(s) to which the document or thing relates.

## **DOCUMENT REQUESTS**

### **REQUEST NO. 139**

Documents sufficient to illustrate the configuration and/or functionality of all Electronic Trading Tools sold by eSpeed prior to August 2004, including but not limited to representative screen shots and user manuals for each Electronic Trading Tool.

### **REQUEST NO. 140**

All documents and things relating to or comprising the fees charged by eSpeed or its affiliates for trades offered or executed on the eSpeed exchange, including transaction fee structures based on volume or status, as well as fee discounts based on volume or status, for the period of 2004 to date.

### **REQUEST NO. 141**

All documents and things relating to or showing the number of trades executed on the eSpeed exchange for the period of 2004 to date, as well as all revenues received for such trades for the period of 2004 to date.

### **REQUEST NO. 142**

All documents and things relating to or showing a comparison of the number of trades executed on the eSpeed exchange versus the Broker Tec exchange for the period of 2004 to date, or the percentage of trades executed on the eSpeed exchange versus the Broker Tec exchange for the period of 2004 to date.

Respectfully submitted,

Date: January 24, 2007

By: s/ Jennifer M. Kurcz  
Paul H. Berghoff (ID No. 6180462)  
Leif R. Sigmond, Jr. (ID No. 6204980)  
Matthew J. Sampson (ID No. 6207606)  
Christopher M. Cavan (ID No. 6211475)  
George I. Lee (ID No. 6224430)  
S. Richard Carden (ID No. 6269504)  
Jennifer M. Kurcz (ID No. 6279893)  
Michelle L. McMullen-Tack (ID No. 6286852)  
**McDonnell Boehnen Hulbert & Berghoff LLP**  
300 South Wacker Drive  
Chicago, Illinois 60606  
Tel.: (312) 913-0001  
Fax: (312) 913-0002

Steven F. Borsand (ID No. 6206597)  
**Trading Technologies International, Inc.**  
222 South Riverside  
Suite 1100  
Chicago, IL 60606  
Tel: (312) 476-1000  
Fax: (312) 476-1182

**Attorneys for Plaintiff,  
TRADING TECHNOLOGIES  
INTERNATIONAL, INC.**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing TRADING TECHNOLOGIES' NINTH SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO DEFENDANTS (NOS. 139-142) was served on January 24, 2007, as follows:

***Via Hand Delivery***

*Counsel for eSpeed, et al.:*  
Raymond Perkins  
(rperkins@winston.com)  
Winston & Strawn LLP  
35 W. Wacker Drive  
Chicago, IL 60601  
Main Tel: 312-558-5600  
Fax: 312-558-5700

***Via Email and U.S. First Class Mail:***

<i>Counsel for Rosenthal Collins Group:</i> Geoffrey A. Baker (gabaker@dowellbaker.com) Dowell Baker, P.C. 229 Randolph St. Oak Park, IL 60302 Tel: 708-660-1413 Fax: 312-873-4466	<i>Counsel for CQG, Inc. and CQGT, LLC:</i> Kara E. F. Cenar (kcenar@bellboyd.com) Bell, Boyd & Lloyd, LLC 70 W. Madison Street, Suite 3100 Chicago, IL 60602-4207 Main Tel: 312-372-1121 Fax: 312-827-8000
Jeffrey Schulman (jschulman@wolinlaw.com) Wolin & Rosen, Ltd. 55 West Monroe Street, Suite 3600 Chicago, IL 60603 Tel: 312-458-1244 Fax: 312-424-0660	Mark W. Fischer (MFischer@faegre.com) Faegre & Benson, LLP 1900 Fifteenth Street Boulder, CO 80302 Tel: 303-447-7700 Fax: 303-447-7800

***Via Email and Federal Express:***

<i>Counsel for GL Consultants, Inc., GL Trade SA, and FuturePath Trading LLC:</i> Lora A. Moffatt (lmoffatt@salans.com) Salans Rockefeller Center 620 Fifth Ave New York, NY 10020-2457 Main Tel: 212-632-8436 Main Fax: 212-307-3320
---

***Via Email:***

<i>Counsel for GL Consultants, Inc., GL Trade SA, and FuturePath Trading LLC:</i>	
Brian Norkett (b-norkett@hotmail.com)	Lara Holzman (lholzman@alston.com)
Alison Naidech (anaidech@salans.com)	Walter Scott (wscott@alston.com)
Phillippe Bennett (pbetnnett@alston.com)	

\_\_\_\_\_  
s/ Jennifer M. Kurcz

# APPENDIX 10



Issued by the  
**United States District Court**  
**NORTHERN DISTRICT OF ILLINOIS**

Trading Technologies, Inc.

v.

**SUBPOENA IN A CIVIL CASE**

CASE NUMBER:<sup>1</sup> 04-CV-5312

eSpeed, Inc.

**TO: Patsystems**  
**141 W. Jackson Street**  
**Suite 3100**  
**Chicago, Illinois 60604**

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION . Winston & Strawn LLP 35 West Wacker, Chicago, Illinois 60601 (on the topics identified in Exhibit A)	DATE AND TIME October 12, 2004 at 9:30 a.m.
---	--

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects): **See Exhibit B attached hereto.**

PLACE Winston & Strawn LLP, Raymond C. Perkins, 35 West Wacker Drive, Chicago, Illinois 60601	DATE AND TIME October 8, 2004 10:30 a.m.
---	--

YOU ARE COMMANDED to produce and permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

Issuing Officer Signature and Title (Indicate if attorney for Plaintiff or Defendant) <i>Raymond C. Perkins</i> Attorney for Defendant	Date September 29, 2004
Issuing Officer's Name, Address, and Phone Number Raymond C. Perkins, Winston & Strawn LLP, 35 W. Wacker Drive, Chicago, IL 60601-9703, (312) 558-5600	

(See Rule 45, Federal Rules of Civil Procedure Parts C & D on Reverse)

AO 88 (Rev. 1/94) Subpoena in a Civil Case

**PROOF OF SERVICE**

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

	DATE	PLACE
SERVED		
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE

DECLARATION OF SERVER	
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.	
Executed on	
_____	_____
DATE	SIGNATURE OF SERVER
	_____
	ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D

**(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(2)(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection is made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) DUTIES IN RESPONDING TO SUBPOENA.**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

Exhibit A

**TOPICS OF DEPOSITION**

1. The conception, reduction to practice (actual and constructive), diligence in reducing to practice, development, marketing, offer for sale and/or sale of your J-Trader and DOME products, including but not limited to the dates relating thereto, and the documents relating thereto.
2. The communications involving Harris Brumfield, Jens-Uwe Schluetter, Gary Allan Kemp II and/or TT relating to, regarding and/or concerning J-Trader and DOME and the documents relating thereto.
3. The prior art that is relevant to the inventions disclosed in the '304 and '132 patents.
4. The market for electronic trading systems such as J-Trader, DOME and MD Trader, including the competitors in the market and the marketshare of the participants in this market.
5. The reasons why PatSystems developed its J-Trader and DOME products.

## **EXHIBIT B**

### **I. DEFINITIONS**

1. "Plaintiff" shall mean Trading Technologies International, Inc., Plaintiff in this action, as well as its predecessors, successors, subsidiaries, parent companies, agents, representatives, partners, employees, affiliates or persons purporting to act on its behalf.

2. "Defendant" shall mean eSpeed, Inc., Defendant in this action, as well as its predecessors, successors, subsidiaries, parent companies, agents, representatives, partners, employees, affiliates or persons purporting to act on its behalf.

3. "Document" shall mean any written, graphic, recorded or illustrative material of any kind or description, however produced or reproduced, and regardless of whether approved, signed, sent, received, redrafted, or executed, prepared by or for you, in your possession, custody, or control. The term "document" includes, but is not limited to, the following: correspondence, memoranda, drafts, computerized records, notes, jottings, books, records, reports, surveys, studies, analyses, things, videotapes, recordings, computer disks, electronic mail, e-mail, transcriptions of verbal conversations or statements however made, business forms, labels, papers and films filed with courts or other governmental bodies, notices, messages, calendar and diary entries, appointment books, lab notebooks, minutes and other formal or informal memoranda of meetings, and copies of documents that are not identical duplicates of the originals (e.g., because handwritten or "blind" notes appear thereon or are attached thereto).

4. "Thing" shall mean any physical specimen or tangible item other than a document.

5. "Person" shall mean any natural person, firm, association, partnership, corporation, government agency, or other entity and its officers, directors, partners, employees, representatives and agents.

6. The terms "reflecting," "referring," "relating to," or any derivation thereof shall mean, without limitation, consisting of, constituting, containing, mentioning, describing, summarizing, evidencing, listing, indicating, analyzing, explaining, supporting, undermining, contradicting, concerning, pertaining to, prepared in connection with, used in preparation for, or being in any way legally, logically, or factually connected with the matter discussed.

7. "Communication" shall mean or refer to all inquires, discussions, conversations, negotiations, agreements, understandings, meetings, telephone conversations, letters, notes, telegrams, advertisements, or other forms of information exchanged, whether oral, electronic, or written.

8. The term "'304 patent" shall mean United States Patent No. 6,766,304.

9. The term "'132 patent" shall mean United States Patent No. 6,772,132.

10. The term "patents in suit" shall mean the '304 and '132 patents.

**II. INSTRUCTIONS**

1. Unless the request specifically states otherwise, references to the singular shall include the plural and vice versa; references to one gender shall include the other gender; references to the past include the present and vice versa; and disjunctive terms include the conjunctive and vice versa.

2. These Requests are continuing in nature. In the event that additional facts, information, or documents are later discovered by or become known to Plaintiff after Plaintiff has made its first response to these Interrogatories, Plaintiff shall provide further answers in

accordance with Plaintiff's obligation to supplement responses under Rule 26(e) of the Federal Rules of Civil Procedure.

3. If you at any time had possession or control of a document requested herein and if such document has been lost, destroyed, purged, or is not presently in your possession or control, identify the document, the date of its loss, destruction, purge, or separation from your possession or control, and the circumstances surrounding its loss, destruction, purge, or separation from your possession or control.

4. In the event privilege or any other immunity from discovery is claimed as a basis for objecting or not responding to any of these Requests, in whole or in part, identify the document and/or communication and describe the factual basis for the claim of privilege or other immunity in sufficient detail so as to enable the Court to determine the validity of the claim.

### **III. REQUESTS FOR PRODUCTION OF DOCUMENTS**

1. Documents and things relating to, referring to and/or concerning the conception, reduction to practice (actual and constructive), diligence in reducing to practice, development, marketing, offer for sale and/or sale of your J-Trader and DOME products.

2. All prior art that is relevant to the alleged inventions described and/or claimed in the '304 and '132 patents.

3. Proposals, brochures, and marketing materials relating to, referring to and/or concerning the J-Trader and DOME products.

4. All documents and things relating to any electronic trading system that uses or used a static price axis.

5. All documents and things relating to any electronic trading system that uses or used "a single action of a user input," as that term is used in the '304 and '132 patents.

6. All documents and things relating to any electronic trading system that uses or used a click of a mouse to place a trade order.

7. All documents and things relating to any communication involving Harris Brumfield, Jens-Uwe Schluetter, and/or Gary Allan Kemp II regarding J-Trader and/or DOME.

8. All communications with TT relating to, referring to, and/or concerning J-Trader and/or DOME.

9. Documents showing the market for electronic trading systems such as J-Trader, DOME and MD Trader, including but not limited to, the competitors in this market and the marketshare for the participants in this market.

**CERTIFICATE OF SERVICE**

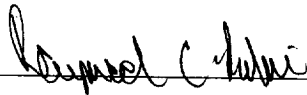
The undersigned, an attorney, hereby certifies that he caused a copy of the foregoing PATSYSTEMS SUBPOENA to be served this 29th day of September 2004 as follows:

**By Facsimile and Overnight**

Paul H. Berghoff  
Leif R. Sigmond  
Matthew J. Sampson  
George I. Lee  
Brian R. Harris  
Jennifer M. Swartz  
McDonnell Boehnen Hulbert & Berghoff LLP  
300 South Wacker Drive  
Chicago, Illinois 60606

**By Overnight**

Steven F. Borsand  
Trading Technologies International, Inc.  
222 South Riverside  
Suite 1100  
Chicago, Illinois 60606

  
\_\_\_\_\_



# APPENDIX 11

**Issued by the**  
**UNITED STATES DISTRICT COURT**  
 NORTHERN DISTRICT OF ILLINOIS

Trading Technologies International, Inc.

**SUBPOENA IN A CIVIL CASE**

V.

eSpeed, Inc.

Case Number:<sup>1</sup> 04 C 5312

TO:

Patsystems, 141 W. Jackson Blvd., Suite 3100, Chicago, Illinois 60604

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
MBHB, 300 South Wacker Dr., Chicago, IL 60606 (See Exhibit A for topics)	Nov. 23, 2004 at 10:00am

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

See Exhibit B

PLACE	DATE AND TIME
McDonnell Boehnen Hulbert & Berghoff, 300 South Wacker Dr., Chicago, IL 60606	Nov. 22, 2004 at 10:00am

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR	DATE
Attorney for Plaintiff	Nov. 15, 2004

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Brian R. Harris, McDonnell Boehnen Hulbert & Berghoff, 300 South Wacker Dr., Chicago, IL 60606  
 (312) 913-0001

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

**PROOF OF SERVICE**

DATE	PLACE
SERVED	
SERVED ON (PRINT NAME)	MANNER OF SERVICE
SERVED BY (PRINT NAME)	TITLE

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on \_\_\_\_\_ DATE \_\_\_\_\_ SIGNATURE OF SERVER \_\_\_\_\_  
 \_\_\_\_\_ ADDRESS OF SERVER \_\_\_\_\_

**Rule 45, Federal Rules of Civil Procedure, Parts C & D**

**(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(2)(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection is made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of

clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) DUTIES IN RESPONDING TO SUBPOENA.**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

## **EXHIBIT A**

### **DEPOSITION TOPICS**

1. Patsystems' recent redesign of its J-Trader product, including the operation of the redesigned J-Trader product.
2. Patsystems' Reflector product or trading methodology, including the operation of Patsystems' Reflector product or trading methodology.
3. The demonstration of Patsystems' Reflector product or trading methodology at the Futures and Options Expo in Chicago on October 26-28, 2004, including any documentation used during the demonstration.
4. The competitive nature of the independent software vendor ("ISV") business.

## **EXHIBIT B**

### **DEFINITIONS**

1. The term "Trading Technologies" shall mean the Plaintiff in this lawsuit, Trading Technologies International, Inc.; any company name under which Trading Technologies is doing business; and its predecessors, parents, subsidiaries, divisions, directors, officers, employees, agents, distributors, salespersons, sales representatives, and attorneys, and each person acting or purporting to act on its or their behalf or under its or their control.

2. The term "eSpeed" shall mean eSpeed, Inc.; any company name under which eSpeed is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, including without limitation Cantor Fitzgerald, LP, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

3. The term "Patsystems" shall mean Patsystems; any company name under which Patsystems is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

4. The term "document" shall mean writings, recordings and other communications reduced to physical or electronic form, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including without limitation, correspondence, memoranda, notes, e-mail, software, screen shots, diaries,

minutes, statistics, letters, telegrams, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, receipts, returns, summaries, pamphlets, books, prospectuses, calendars, diaries, planners, interoffice and intra-office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meetings, or printouts, teletypes, telefax, invoices, work sheets, and all drafts, alterations, modifications, changes and amendments of the foregoing), graphic or oral representations of any kind (including without limitation, photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys), and electronic, or electro-mechanical records or representations of any kind (including without limitation, computer memory, tapes, cassettes, discs, and recordings).

### **DOCUMENT REQUESTS**

1. All documents that refer or relate to Patsystems' recent redesign of its J-Trader product, including documents describing the operation of the redesigned J-Trader product.
2. All documents that refer or relate to Patsystems' Reflector product or trading methodology, including documents describing the operation of Patsystems' Reflector product or trading methodology.
3. All documents from the demonstration of Patsystems' Reflector product or trading methodology at the Futures and Options Expo in Chicago on October 26-28, 2004.
4. All documents that refer or relate to eSpeed's affect on or role in the competitive nature of the independent software vendor ("ISV") business.

# APPENDIX 12

AO 88 (Rev. 1/94) Subpoena in a Civil Case

Issued by the  
**United States District Court**  
**SOUTHERN DISTRICT OF NEW YORK**

Trading Technologies, Inc.

v.

**SUBPOENA IN A CIVIL CASE**

CASE NUMBER:<sup>1</sup> 04-CV-5312  
Pending in United States District Court  
Northern District of Illinois

eSpeed, Inc.

TO: Tokyo Stock Exchange  
45 Broadway  
New York, NY 10006

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION Winston & Strawn LLP, Raymond C. Perkins, 200 Park Avenue, New York, NY 10166-4193.	DATE AND TIME November 22, 2004 10:30 a.m.
--	--

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects): See Exhibit A attached hereto.

PLACE Winston & Strawn LLP, Raymond C. Perkins, c/o Pejman Sharifi, 200 Park Avenue, New York, NY 10166-4193.	DATE AND TIME November 17, 2004 10:30 a.m.
--	--

YOU ARE COMMANDED to produce and permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

Issuing Officer Signature and Title (Indicate if attorney for Plaintiff or Defendant) <i>Andrew M. Johnstone (40)</i> Attorney for Defendant	Date November 3, 2004
Issuing Officer's Name, Address, and Phone Number Andrew M. Johnstone, Winston & Strawn LLP, 35 W. Wacker Drive, Chicago, IL 60601-9703, (312) 558-5600	

(See Rule 45, Federal Rules of Civil Procedure Parts C & D on Reverse)

AO 88 (Rev. 1/94) Subpoena in a Civil Case

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.



**PROOF OF SERVICE**

	DATE	PLACE
<b>SERVED</b>		
SERVED ON (PRINT NAME)	MANNER OF SERVICE	
SERVED BY (PRINT NAME)	TITLE	

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on	
DATE	SIGNATURE OF SERVER
	ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D

**(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(2)(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection is made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to

attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) DUTIES IN RESPONDING TO SUBPOENA.**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

**EXHIBIT A****I. DEFINITIONS**

1. "Document" shall mean any written, graphic, recorded or illustrative material of any kind or description, however produced or reproduced, and regardless of whether approved, signed, sent, received, redrafted, or executed, prepared by or for you, in your possession, custody, or control. The term "document" includes, but is not limited to, the following: correspondence, memoranda, drafts, computerized records, notes, jottings, books, records, reports, surveys, studies, analyses, things, videotapes, recordings, computer disks, electronic mail, e-mail, transcriptions of verbal conversations or statements however made, business forms, labels, papers and films filed with courts or other governmental bodies, notices, messages, calendar and diary entries, appointment books, lab notebooks, minutes and other formal or informal memoranda of meetings, and copies of documents that are not identical duplicates of the originals (e.g., because handwritten or "blind" notes appear thereon or are attached thereto).

2. "Thing" shall mean any physical specimen or tangible item other than a document.

3. "Person" shall mean any natural person, firm, association, partnership, corporation, government agency, or other entity and its officers, directors, partners, employees, representatives and agents.

4. The terms "reflecting," "referring," "relating to," or any derivation thereof shall mean, without limitation, consisting of, constituting, containing, mentioning, describing, summarizing, evidencing, listing, indicating, analyzing, explaining, supporting, undermining, contradicting, concerning, pertaining to, prepared in connection with, used in preparation for, or being in any way legally, logically, or factually connected with the matter discussed.

5. "Communication" shall mean or refer to all inquires, discussions, conversations, negotiations, agreements, understandings, meetings, telephone conversations, letters, notes, telegrams, advertisements, or other forms of information exchanged, whether oral, electronic, or written.

6. The term "Lawsuit" shall mean *Trading Technologies, Inc. v. eSpeed, Inc.*, No. 04 CV 5312, pending in the Northern District of Illinois.

7. The term "'304 patent" shall mean United States Patent No. 6,766,304.

8. The term "'132 patent" shall mean United States Patent No. 6,772,132.

9. The term "patents in suit" shall mean the '304 and '132 patents.

## II. INSTRUCTIONS

1. Unless the request specifically states otherwise, references to the singular shall include the plural and vice versa; references to one gender shall include the other gender; references to the past include the present and vice versa; and disjunctive terms include the conjunctive and vice versa.

2. These Requests are continuing in nature. In the event that additional facts, information, or documents are later discovered by or become known to you after you have made your first response to this subpoena, you shall provide further answers in accordance with your obligation to supplement responses.

3. If you at any time had possession or control of a document requested herein and if such document has been lost, destroyed, purged, or is not presently in your possession or control, identify the document, the date of its loss, destruction, purge, or separation from your possession or control, and the circumstances surrounding its loss, destruction, purge, or separation from your possession or control.

4. In the event privilege or any other immunity from discovery is claimed as a basis for objecting or not responding to any of these Requests, in whole or in part, identify the document and/or communication and describe the factual basis for the claim of privilege or other immunity in sufficient detail so as to enable the Court to determine the validity of the claim.

**III. REQUESTS FOR PRODUCTION OF DOCUMENTS**

1. Documents and things sufficient to show the screen or graphical user interface of each and every electronic trading tool or product used by, or on, the Tokyo Stock Exchange prior to April 2000.

2. Documents sufficient to identify each and every electronic trading tool or product used by, or on, the Tokyo Stock Exchange (including prototypes and versions not commercially released), which displays or is capable of displaying market data in relation to a fixed or unmoving price axis.

3. Documents sufficient to identify each and every electronic trading tool or product used by, or on, the Tokyo Stock Exchange (including prototypes and versions not commercially released), through which a user is capable of placing or executing an order or trade with a single click of a mouse or other input device.

4. Documents sufficient to identify each and every electronic trading tool or product used by, or on, the Tokyo Stock Exchange (including prototypes and versions not commercially released), through which a user is capable of placing or executing an order or trade from market depth with a single click of a mouse or other input device.

5. Documents sufficient to show the dates when each and every electronic trading tool or product responsive to Requests Nos. 2, 3, and/or 4 was developed or used in any way by you.

6. All documents and things, including but not limited to user's manuals, instructions, guides, and schematics, that relate to the operation of any trading tool or product responsive to Request Nos. 2, 3, and/or 4.

7. All documents and materials reflecting or relating to the advertising and/or marketing of each and every electronic trading tool or product responsive to Request Nos. 2, 3, and/or 4.

8. All screen shots, photographs, pictures, and/or diagrams reflecting or relating to each and every electronic trading tool or product responsive to Request Nos. 2, 3, and/or 4.

9. All documents and things that relate to any electronic trading tool or product, whether or not used or developed by you, that displays or is capable of displaying market data in relation to a fixed or unmovable price axis.

10. All documents and things relating to any electronic trading tool or product, whether or not used or developed by you, through which a user is capable of placing or executing an order or trade with a single click of a mouse or other input device.

11. All documents and things relating to any electronic trading tool or product, whether or not used or developed by you, through which a user is capable of placing or executing an order or trade from market depth with a single click of a mouse or other user input device.

12. All prior art relating to the patents in suit.

# APPENDIX 13

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

Trading Technologies International, Inc.,	)	
	)	
Plaintiff,	)	Civil Action No. 05 C 4811
	)	
v.	)	Judge James B. Moran
	)	
CQG, INC. and CQGT, LLC,	)	Magistrate Judge Cole
	)	
Defendants.	)	
	)	

**TRADING TECHNOLOGIES' FIRST SET OF REQUESTS  
FOR THE PRODUCTION OF DOCUMENTS AND THINGS  
TO DEFENDANTS (NOS. 1-63)**

Plaintiff Trading Technologies International, Inc. provides the following requests to Defendants CQG, INC (“CQG”) and CQGT, LLC (“CQGT”) (collectively “Defendants”). The documents shall be produced for inspection and copying within thirty days of service hereof at the offices of Trading Technologies’ counsel, McDonnell Boehnen Hulbert & Berghoff LLP, 300 South Wacker Drive, Chicago, Illinois, 60606.

## DEFINITIONS AND INSTRUCTIONS

In the following document requests:

1. The terms "Plaintiff" and "Trading Technologies" shall mean Trading Technologies International, Inc.; any company name under which Trading Technologies is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

2. The terms "Defendants" and shall mean CQG, INC. and/or CQGT, LLC; any company name under which CQG is doing business; and its predecessors, parents, subsidiaries, divisions, directors, officers, employees, agents, distributors, salespersons, sales representatives, and attorneys, and each person acting or purporting to act on its or their behalf or under its or their control.

3. The terms "person" and "persons" shall mean natural persons (including, without limitation, those employed by Defendants), as well as all governmental entities, agencies, officers, departments, or affiliates of any other governmental entity, and any corporation, foundation, partnership, proprietorship, association, or other organization.

4. The term "date" shall mean the exact day, month, and year (to the degree ascertainable) or, if not ascertainable, the best approximation (including relationship to other events).



5. The term "document" shall mean writings, recordings and other communications, whether reduced to tangible or electronic form, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including without limitation, correspondence, memoranda, notes, executable and non-executable electronic files, including e-mail, compiled software, source code, bug tracking, screen shots, diaries, minutes, statistics, letters, telegrams, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, receipts, returns, summaries, pamphlets, books, prospectuses, calendars, diaries, planners, interoffice and intra-office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meetings, presentations, or printouts, teletypes, fax, invoices, work sheets, and all drafts, alterations, modifications, changes and amendments of the foregoing), graphic or oral representations of any kind (including without limitation, photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys), and electronic or electro-mechanical records or representations of any kind (including without limitation, computer memory, hard drives, discs, tapes, cassettes and recordings).

6. The terms "relating to" and "referring to" shall be interpreted broadly so as to encompass the liberal scope of discovery set forth in Federal Rule of Civil Procedure 26(b).

7. The terms "identify" and "describe" shall mean providing, among other things:

(a) with respect to a natural person, home and work addresses and telephone numbers, the name of the person's present (or if unknown, the last known) place of employment, date of commencement and termination (if any) of employment, job title, and description of his or her duties and responsibilities;

(b) with respect to a corporation or other non-natural person, the full name, address, main telephone number, state of incorporation, and identity of all persons who have acted on behalf of such entity with respect to the subject matter of the request;

(c) with respect to a document, the type of document (e.g., letter, e-mail, fax, contract, calendar, invoice, report); the number of pages or size of electronic file; a description of the document's contents; an identification of the person(s) who prepared the document, for whom the document was prepared, who signed the document, to whom the document was delivered, mailed, or otherwise received, and to whom a copy of the document was sent or otherwise received; the date of writing, creation, or publication; identifying number(s), letter(s), or combination thereof, if any; the significance or meaning of such number(s), letter(s) or combination thereof; for electronic documents, the name of the software used to generate the document and the electronic file type; and the present location and identity of the custodian of that document. Documents to be identified shall include all documents in your possession, custody or control, documents you know or believe to have existed but are no longer existing, and other documents of which you have knowledge or information.

8. The terms "and," "or," and "and/or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

9. The terms "describe" and "state" shall mean to set forth fully and unambiguously every fact relevant to the subject of the request, of which Defendants (as defined herein) has knowledge or information.

10. Any word written in the singular herein shall be construed as plural or vice versa to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

11. The term "the '304 patent" shall mean U.S. Patent No. 6,766,304. The term "the '132 patent" shall mean U.S. Patent No. 6,772,132. The term "patents-in-suit" shall mean the '304 patent and the '132 patent either collectively or individually.

12. "Prior Art" includes, by way of example and without limitation, any subject matter that eSpeed contends is encompassed by 35 U.S.C. § 102 and/or 35 U.S.C. § 103.

13. "Electronic Trading Tool" shall mean any software, hardware or combination thereof, for connecting to or interacting with any public or private trading system that provides for electronic trading, including but not limited to the Chicago Board of Trade ("CBOT"), the Chicago Mercantile Exchange ("CME"), the London International Financial Futures and Options Exchange ("LIFFE"), Eurex, the New York Stock Exchange, NASDAQ, the Intercontinental Exchange ("ICE"), ICAP BrokerTec, the Tokyo Stock Exchange ("TSE"), the Tokyo International Financial Futures Exchange ("TIFFE"), the Sydney Futures Exchange ("SFE"), the eSpeed Exchange, the Cantor Exchange, or the eSpeed System.

14. "Transaction" includes, by way of example and without limitation, any original or revised order that is ultimately sent to an exchange, or any trade.

15. No request or subpart hereof shall be construed as a limitation on any other request or subpart hereof.

16. In producing documents and things responsive to these requests, Defendants shall furnish all documents and things within its possession, custody, or control, regardless of whether

these documents are possessed directly by Defendants, or by its present or past agents, employees, affiliates, related companies, subsidiaries, representatives, investigators, attorneys, or others.

17. If Defendants assert the attorney-client privilege or work product doctrine as a basis for not producing any document or thing, or if any document or thing is not produced in full, produce the document or thing to the extent the request for production is not objected to, and, in so doing:

- (a) state the specific ground(s) for not producing the document or thing in full;
- (b) state the bases for such a claim of privilege or immunity; and
- (c) fully identify the information, document, or material for which such privilege or immunity is asserted, including the name and type of any document, the name, address and title of its author, each addressee, and each person to whom a copy of the document or thing has been sent, delivered, or provided.

18. If Defendants maintain that any document or thing requested by Trading Technologies has been destroyed, lost, or is otherwise unavailable, set forth the contents of the document or thing, the date of its destruction or loss, and the name of the person who authorized its destruction (if any).

19. Where Defendants assert an objection to a request, state all grounds upon which the objection is based.

20. For each document or thing produced in response to these requests, identify the request(s) to which the document or thing relates.

## DOCUMENT REQUESTS

### REQUEST NO. 1

All documents requested for identification by TRADING TECHNOLOGIES INTERNATIONAL, INC.'S FIRST SET OF INTERROGATORIES TO DEFENDANTS (NOS. 1-13), served concurrently herewith.

### REQUEST NO. 2

All documents relied upon, referred to, or consulted in responding to TRADING TECHNOLOGIES INTERNATIONAL, INC.'S FIRST SET OF INTERROGATORIES TO DEFENDANTS (NOS. 1-13), served concurrently herewith.

### REQUEST NO. 3

Documents sufficient to identify each different Electronic Trading Tool for the trading of futures contracts developed, made, offered, sold, distributed, imported, marketed, licensed and/or used by, or with the assistance or at the direction of Defendants, including any versions that were never commercially released and any versions that have not yet been commercially released, and further including one sample of each such Electronic Trading Tool.

### REQUEST NO. 4

Documents sufficient to identify each different Electronic Trading Tool for the trading of spreads developed, made, offered, sold, distributed, marketed, licensed and/or used by, or with the assistance or at the direction of Defendants, including any versions that have not yet been

commercially released, and further including one fully operational sample of each such Electronic Trading Tool and the source code for each such sample Electronic Trading Tool.

**REQUEST NO. 5**

Documents sufficient to identify each different Electronic Trading Tool developed, made, offered, sold, imported, distributed, marketed, licensed and/or used by, or with the assistance or at the direction of, Defendants, where such Electronic Trading Tool is capable of presenting market information on a display in relation to a price axis, including any versions that have never been commercially released and any versions that have not yet been commercially released, and further including one fully operational sample of each such Electronic Trading Tool and the source code for each such sample Electronic Trading Tool.

**REQUEST NO. 6**

All documents and things showing the operation, features, and/or display formats of Defendants' Electronic Trading Tools, including, but not limited to, demonstrations or presentations, instruction manuals, user's guides, tutorials, animations, drawings, schematics, flow charts and tables.

**REQUEST NO. 7**

All product literature associated with Defendants' Electronic Trading Tools, including, but not limited to, demonstrations or presentations, product or instruction manuals, user's guides or manuals, installation guides, technical manuals and other such materials.

**REQUEST NO. 8**

Documents and things sufficient to identify the names and titles of all persons having responsibility for the research, design, development, marketing or sales of Defendants' Electronic Trading Tools.

**REQUEST NO. 9**

All documents and things referring or relating to Defendants' decisions to develop, launch, distribute, market, offer, sell, delay, or pull from the market any Electronic Trading Tool i) displaying a price axis; ii) for the trading of spreads; or iii) for the trading of futures contracts.

**REQUEST NO. 10**

All documents and things referring or relating to the design and development of each of Defendants' Electronic Trading Tools, including but not limited to any tools for trading futures contracts or spreads, or any tool capable of presenting market information on a display in relation to a price axis.

**REQUEST NO. 11**

All documents and things constituting or relating to any agreement between Defendants and any other person or entity for the design, development, or production of any Electronic Trading Tool for trading futures contracts or spreads, or any tool capable of presenting market information on a display in relation to a price axis, including any component or subpart of any such Electronic Trading Tool.

**REQUEST NO. 12**

All documents and things constituting or relating to any agreement between Defendants and any other person or entity for the license, use or deployment by Defendants or any of Defendants' customers or end users of another person's or entity's Electronic Trading Tool for trading futures contracts or spreads, or any tool capable of presenting market information on a display in relation to a price axis, including any component or subpart of any such Electronic Trading Tool.



**REQUEST NO. 13**

All documents and things constituting, referring to, or relating to advertising plans, business plans, marketing plans, promotional programs or strategies on the part of Defendants or on its behalf, concerning Defendants' Electronic Trading Tools, including but not limited to documents and things relating to the training or instruction of Defendants personnel in regard to the marketing or sales of Electronic Trading Tools for trading futures contracts, spreads, or any tool capable of presenting market information on a display in relation to a price axis.

**REQUEST NO. 14**

All advertising and promotional materials for Defendants Electronic Trading Tools, including any document or thing given to or developed for any customer or prospective customer describing Defendants Electronic Trading Tools.

**REQUEST NO. 15**

All documents and things referring or relating to the patents in suit, any related patents, or any of Trading Technologies' patent applications, including any communications between Defendants and any other entity or person and any documents related thereto, and any agreement between Defendants and any other entity or person.

**REQUEST NO. 16**

All documents and things referring or relating to the validity, invalidity, enforceability, unenforceability, infringement or non-infringement of the patents-in-suit, including any opinions prepared by or on Defendants' behalf and/or received by or on Defendants' behalf.

**REQUEST NO. 17**

All documents and things resulting from, or referring to, or relating to any literature and/or patent searches conducted by, at the request of, or with the assistance of Defendants with respect to Electronic Trading Tools.

**REQUEST NO. 18**

All patents, printed publications, other items of prior art, or other documents or things, that Defendants believe may have any bearing on the validity of the patents-in-suit.

**REQUEST NO. 19**

All documents and things referring to or relating to the state of the art relevant to the subject matter claimed in the patents-in-suit as of the time of filing of the applications that issued as the patents-in-suit.

**REQUEST NO. 20**

All documents and things referring or relating to any inspection, review, testing, analysis, or reverse engineering of any Electronic Trading Tool, including Trading Technologies' MD Trader.

**REQUEST NO. 21**

All documents and things constituting, relating to, or referring to Defendants' pricing of Electronic Trading Tools, including unit pricing structure, pricing policies, any changes in Defendants' pricing, and/or any discounts or other incentives offered or given on Electronic Trading Tools.

**REQUEST NO. 22**

All documents and things describing, analyzing, evidencing, relating to, or referring to features or capabilities, or information on the marketing or sale, of products competitive with Defendants' Electronic Trading Tools, or comparing features offered by any of Defendants' Electronic Trading Tool to any Electronic Trading Tools offered by another, including but not limited to Trading Technologies.

**REQUEST NO. 23**

All documents and things from which Defendants' unit sales, usage, and/or distribution of each Electronic Trading Tool may be determined for each monthly and annual time period from 2000 to present.

**REQUEST NO. 24**

All documents and things from which Defendants' gross and/or net dollar sales and/or licensing revenue for each Electronic Trading Tool may be determined for each monthly and annual time period from 2000 to present.

**REQUEST NO. 25**

All documents and things constituting, relating to, or referring to sales summaries, sales invoices, incentive plans or discount summaries relating to Defendants' Electronic Trading Tools.

**REQUEST NO. 26**

All documents and things referring or relating to any proposal, agreement, contract, license or other business relationship between Defendants and any exchange relating to Electronic Trading Tools for trading futures contracts or spreads, or any tool capable of presenting market information on a display in relation to a price axis.

**REQUEST NO. 27**

All documents and things referring or relating to any proposal, agreement, contract, license or other business relationship between Defendants and Trading Technologies relating to Electronic Trading Tools for trading futures contracts or spreads, or any tool capable of presenting market information on a display in relation to a price axis.

**REQUEST NO. 28**

All quarterly reports, annual reports and other shareholder reports for Defendants from 2000 to present.

**REQUEST NO. 29**

All documents comprising any and all financial statements (audited and unaudited), financial projections or forecasts, and profit and loss statements prepared by Defendants or on Defendants' behalf, including but not limited to income statements, balance sheets, and statements of cash flow for each monthly, quarterly, annual, or other period.

**REQUEST NO. 30**

All documents and things referring or relating to Defendants' information archival and/or retrieval system containing any information related to design, development, promotion, distribution, or sale of Electronic Trading Tools.

**REQUEST NO. 31**

Documents sufficient to identify all files or repositories in which any document responsive to the foregoing requests is maintained in the normal course of business and each index, key, code or other means of accessing and locating documents within such files or repositories.

**REQUEST NO. 32**

All documents and things referring or relating to Defendants' policies, practices and/or procedures now or previously in effect with respect to the retention or destruction of documents.

**REQUEST NO. 33**

All documents and things not otherwise described by the foregoing requests that refer or relate to the subject matter shown, described, or claimed in the patents-in-suit.

**REQUEST NO. 34**

All documents and things not otherwise described by the foregoing requests that refer or relate to Defendants' Electronic Trading Tools.

**REQUEST NO. 35**

All documents and things listing or otherwise identifying customers or potential customers to whom Defendants have demonstrated an Electronic Trading Tool for trading futures contracts or spreads, or any tool capable of presenting market information on a display in relation to a price axis.

**REQUEST NO. 36**

All documents and things from the files of or accessible to any CQG or CQGT salesperson referring or relating to i) meetings with customers or potential customers, including but not limited to any demonstrations or presentations, regarding any Electronic Trading Tool; ii) marketing, sales, promotion, demonstration or presentation of any Electronic Trading Tool for trading futures contracts or spreads, or any tool capable of presenting market information on a display in relation to a price axis; or iii) feedback or comments from customers or potential customers regarding any feature or capability of any Electronic Trading Tool.

**REQUEST NO. 37**

All documents that refer or relate to Trading Technologies, Trading Technologies' products or product features, or any other Electronic Trading Tool that is capable of presenting information in relation to a price axis, including comments or feedback thereon from customers or potential customers.

**REQUEST NO. 38**

All documents referring or relating to the number of transactions initiated directly or indirectly (for example, orders entered in an application other than the Electronic Trading Tool while the Electronic Trading Tool is being displayed) using any of Defendants' Electronic Trading Tools or quantifying, in any way, market volume trading through any of Defendants' Electronic Trading Tools, including documents sufficient to show, for each of Defendants' Electronic Trading Tools, the number of screens in use each month from January 2000 to present, the number of end users for each screen, and the identity of the customer and end user(s) for each screen, and, for each such screen, the number of transactions initiated that month directly or indirectly using that Electronic Trading Tool or any other quantification of trading activity.

**REQUEST NO. 39**

All documents referring or relating to the number of orders placed and orders filled using any of Defendants' Electronic Trading Tools, including documents sufficient to show the number of screens and the corresponding customer and end users of such screens for each Electronic

Trading Tool in use each month from January 2000 to present, and for each such screen, the number of orders placed and/or filled that month using that Electronic Trading Tool.

**REQUEST NO. 40**

All documents referring or relating to Defendants' organizational and management structure, including documents sufficient to show Defendants' officers, directors, shareholders or any entity having an ownership interest in Defendants, including the percentage of any ownership interest.

**REQUEST NO. 41**

All agreements, contracts, and covenants pertaining to indemnification and/or reimbursement for any judgments, settlements, injunctions, legal fees and/or expenses, or other liabilities resulting from patent infringement by devices and/or technology originating from Defendants.

**REQUEST NO. 42**

All documents and things relating or referring to any meetings, discussions, agreements, contracts, and/or covenants related in any way to indemnification and/or reimbursement for any judgments, settlements, injunctions, legal fees and/or expenses, or other liabilities resulting from patent infringement by devices and/or technology previously made, used or sold by Defendants.



**REQUEST NO. 43**

All documents relating or referring to any past or ongoing redesign of any Electronic Trading Tool, including but not limited to any Defendants futures trading screen, including all e-mail correspondence relating to the redesign, technical documents, user input or feedback, instruction manuals, user's guides, tutorials, animations, drawings, schematics, flow charts and tables.

**REQUEST NO. 44**

All documents relating or referring to any past or ongoing redesign of Defendants' Electronic Trading Tools since the filing of this lawsuit, including all e-mail correspondence relating to the redesign, technical documents, user input or feedback, instruction manuals, user's guides, tutorials, animations, drawings, schematics, flow charts and tables.

**REQUEST NO. 45**

All documents and things referring or relating to Trading Technologies.

**REQUEST NO. 46**

All documents and things upon which Defendants intend to rely at trial.

**REQUEST NO. 47**

All documents and materials reasonably expected or intended to be used at trial, including all documents or other materials intended for witness impeachment.

**REQUEST NO. 48**

All documents and things describing, referring to, or relating to Defendants market share of the total market for Electronic Trading Tools in the United States since the year 2000, or any subpart thereof.

**REQUEST NO. 49**

All documents and things describing, referring to, or relating to Defendants market share of Electronic Trading Tools for any market in the United States since the year 2000, or any subpart thereof.

**REQUEST NO. 50**

All documents and things referring or relating to market share studies, marketing analysis, or reports for Electronic Trading Tools, including those prepared by or on behalf of Defendants.

**REQUEST NO. 51**

All documents and things describing, evidencing, relating to, or referring to marketing studies showing the size, forecast size, or potential size of the market or industry for Defendants' Electronic Trading Tools.

**REQUEST NO. 52**

All documents and things describing, evidencing, relating to, or referring to marketing studies showing the size, forecast size, or potential size of the customer base for Defendants' Electronic Trading Tools.

**REQUEST NO. 53**

All documents and things describing, evidencing, relating to, or referring to information on the marketing of products competitive with Defendants' Electronic Trading Tools.

**REQUEST NO. 54**

All documents and things describing, evidencing, relating to, or referring to information on market trends for Electronic Trading Tools.

**REQUEST NO. 55**

All documents and things, including all communications, referring or relating to the development and/or modification of any Electronic Trading Tool and/or the description of the functions or features of any Electronic Trading Tool.

**REQUEST NO. 56**

All documents related to communications regarding the patents-in-suit, including documents sufficient to show when Defendants' first learned of the patents-in-suit.

**REQUEST NO. 57**

All documents and things constituting, relating to, or referring to any license agreement in regard to any Electronic Trading Tool.

**REQUEST NO. 58**

All documents which constitute, refer or relate to any actual or contemplated communications, understandings or agreements by Defendants' with any third party (including but not limited to customers or potential customers of Defendants', customers of Trading Technologies, representatives of any exchange, representatives of any bank, futures clearing merchant, broker, proprietary trading firm or independent software vendor, representatives of any governmental entity or agency, representatives of news organizations, competitors of Trading Technologies and representatives or attorneys of companies that have been or are engaged in litigation with Trading Technologies) relating to any of the following subjects: (i) Trading Technologies; (ii) the '304 or '132 patent; (iii) any lawsuit brought by or against Trading Technologies relating to the '304 or '132 patent, including settlements entered into with Trading Technologies; (iv) licensing by Trading Technologies of its patents; (v) possible prior art relating to any Trading Technologies patent.

**REQUEST NO. 59**

All documents and things referring or relating to the production, manufacture, replication, or copying of any of the Defendants' Electronic Trading Tools, or components thereof, that are accused of infringement in the present lawsuit, and that are supplied in or from the United States to

a foreign country, as well as all documents relating to the sale, lease, or licensing of such Tools or components.

**REQUEST NO. 60**

All documents and things referring or relating to the copying, replication, or production of software related to of any of the Defendants' Electronic Trading Tools, or components or software thereof, that are accused of infringement in the present lawsuit, including copying, replication, or production of the software outside of the United States.

**REQUEST NO. 61**

All documents and things referring or relating to any master disk or master software or master versions used in the copying or production of any of the Defendants' Electronic Trading Tools, or components or software thereof, that is exported from the United States to a foreign country, and all documents and things relating to the sale, lease, or license of any of the Defendants Electronic Trading Tools, or component thereof, that were copied or produced from such master disks or master software or master versions.

**REQUEST NO. 62**

All documents and things referring to, relating to, or constituting any submissions to any patent office in connection with any of the accused products, including but not limited to patent applications, information disclosure statements, office action responses, and interview summaries.

**REQUEST NO. 63**

All documents and things referring to, relating to, or constituting any indemnity agreements or requests for indemnity from any customer and/or potential customer of Defendants', wherein such indemnity agreement or request for indemnity related to charges of patent infringement.

Respectfully submitted,

Date: November 30, 2025

By: Jennifer M. Kurcz  
Paul H. Berghoff (ID No. 6180462)  
Leif R. Sigmond, Jr. (ID No. 6204980)  
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**Attorneys for Plaintiff,  
TRADING TECHNOLOGIES  
INTERNATIONAL, INC.**

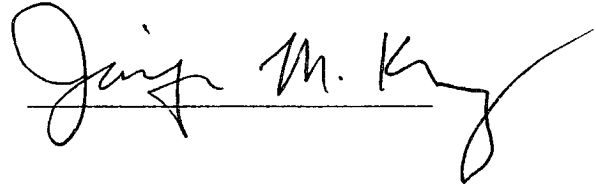
**CERTIFICATE OF SERVICE**

I certify that TRADING TECHNOLOGIES' FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO DEFENDANT (NOS. 1-63) was served via Hand Delivery, on November 30, 2005, to the following address:

David Seth Argentar  
Chuhak & Tecson, P.C.  
30 South Wacker Drive  
Suite 2600  
Chicago, IL 60606  
(312) 444-9300

And was served via First Class U.S. Mail, on November 30, 2005, to the following address:

Jared B. Briant  
Faegre & Benson, LLP  
1900 Fifteenth Street  
Boulder, CO 80302  
(303) 447-7700

A handwritten signature in black ink, appearing to read "J. M. Key", is written over a horizontal line. The signature is cursive and includes a long, sweeping tail that extends to the right.

# APPENDIX 14



**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Trading Technologies International, Inc.,	)	
	)	
Plaintiff,	)	Civil Action No. 05-4811
	)	
v.	)	Judge James B. Moran
	)	
CQGT, LLC and CQG, Inc.	)	
	)	Magistrate Judge Cole
Defendants.	)	
	)	
	)	

**TRADING TECHNOLOGIES' SECOND SET OF REQUESTS  
FOR THE PRODUCTION OF DOCUMENTS AND THINGS  
TO CQGT, LLC AND CQG, INC. (NOS. 64-84)**

Plaintiff Trading Technologies International, Inc. (“Trading Technologies”) provides the following requests to Defendants CQGT, LLC, and CQG, Inc. (collectively “CQG”). The documents shall be produced for inspection and copying within thirty days of service hereof at the offices of Trading Technologies’ counsel, McDonnell, Boehnen, Hulbert, and Berghoff LLP, 300 South Wacker Drive, Chicago, Illinois, 60606.

## DEFINITIONS AND INSTRUCTIONS

In the following document requests:

1. The terms "Plaintiff" and "Trading Technologies" shall mean Trading Technologies International, Inc.; any company name under which Trading Technologies is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

2. The term "Defendant" and "CQG" shall mean CQGT, LLC, and CQG, Inc.; any company name under which CQG is doing business; and their predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

3. The terms "person" and "persons" shall mean natural persons (including, without limitation, those employed by CQG), as well as all governmental entities, agencies, officers, departments, or affiliates of any other governmental entity, and any corporation, foundation, partnership, proprietorship, association, or other organization.

4. The term "date" shall mean the exact day, month, and year (to the degree ascertainable) or, if not ascertainable, the best approximation (including relationship to other events).

5. The term "document" shall mean writings, recordings and other communications, whether reduced to tangible or electronic form, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including without limitation, correspondence, memoranda, notes, executable and non-executable electronic files, including e-mail, compiled software, source code, bug tracking, screen shots, diaries, minutes, statistics, letters, telegrams, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, receipts, returns, summaries, pamphlets, books, prospectuses, calendars, diaries, planners, interoffice and intra-office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meetings, presentations, or printouts, teletypes, fax, invoices, work sheets, and all drafts, alterations, modifications, changes and amendments of the foregoing), graphic or oral representations of any kind (including without limitation, photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys), and electronic or electro-mechanical records or representations of any kind (including without limitation, computer memory, hard drives, discs, tapes, cassettes and recordings).

6. The terms "relating to" and "referring to" shall be interpreted broadly so as to encompass the liberal scope of discovery set forth in Federal Rule of Civil Procedure 26(b).

7. The terms "identify" and "describe" shall mean providing, among other things:

(a) with respect to a natural person, home and work addresses and telephone numbers, the name of the person's present (or if unknown, the last known) place of employment, date of commencement and termination (if any) of employment, job title, and description of his or her duties and responsibilities;

(b) with respect to a corporation or other non-natural person, the full name, address, main telephone number, state of incorporation, and identity of all persons who have acted on behalf of such entity with respect to the subject matter of the request;

(c) with respect to a document, the type of document (e.g., letter, e-mail, fax, contract, calendar, invoice, report); the number of pages or size of electronic file; a description of the document's contents; an identification of the person(s) who prepared the document, for whom the document was prepared, who signed the document, to whom the document was delivered, mailed, or otherwise received, and to whom a copy of the document was sent or otherwise received; the date of writing, creation, or publication; identifying number(s), letter(s), or combination thereof, if any; the significance or meaning of such number(s), letter(s) or combination thereof; for electronic documents, the name of the software used to generate the document and the electronic file type; and the present location and identity of the custodian of that document. Documents to be identified shall include all documents in your possession, custody or control, documents you know or believe to have existed but are no longer existing, and other documents of which you have knowledge or information.

8. The terms "and," "or," and "and/or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

9. The terms "describe" and "state" shall mean to set forth fully and unambiguously every fact relevant to the subject of the request, of which CQG (as defined herein) has knowledge or information.

10. Any word written in the singular herein shall be construed as plural or vice versa to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

11. The term "the '304 patent" shall mean U.S. Patent No. 6,766,304. The term "the '132 patent" shall mean U.S. Patent No. 6,772,132. The term "patents-in-suit" shall mean the '304 patent and the '132 patent either collectively or individually.

12. "Prior Art" includes, by way of example and without limitation, any subject matter that GL contends is encompassed by 35 U.S.C. § 102 and/or 35 U.S.C. § 103.

13. "Electronic Trading Tool" shall mean any software, hardware or combination thereof, for connecting to or interacting with any public or private trading system that provides for electronic trading, including but not limited to the Chicago Board of Trade ("CBOT"), the Chicago Mercantile Exchange ("CME"), the London International Financial Futures and Options Exchange ("LIFFE"), Eurex, the New York Stock Exchange, NASDAQ, the Intercontinental Exchange ("ICE"), ICAP BrokerTec, the Tokyo Stock Exchange ("TSE"), the Tokyo International Financial Futures Exchange ("TIFFE"), the Sydney Futures Exchange ("SFE"), the eSpeed Exchange, the Cantor Exchange, or the eSpeed System.

14. "Transaction" includes, by way of example and without limitation, any original or revised order that is ultimately sent to an exchange, or any trade.

15. The terms "CME" and "Chicago Mercantile Exchange" shall mean the Chicago Mercantile Exchange; any company name under which the CME is doing business or has done business in the past; and its predecessors, parents, subsidiaries, divisions, directors, officers, employees, agents, distributors, salespersons, sales representatives, and attorneys, and each person acting or purporting to act on its or their behalf or under its or their control.

16. No request or subpart hereof shall be construed as a limitation on any other request or subpart hereof.

17. In producing documents and things responsive to these requests, CQG shall furnish all documents and things within its possession, custody, or control, regardless of whether these documents are possessed directly by CQG, or by its present or past agents, employees, affiliates, related companies, subsidiaries, representatives, investigators, attorneys, or others.

18. If CQG asserts the attorney-client privilege or work product doctrine as a basis for not producing any document or thing, or if any document or thing is not produced in full, produce the document or thing to the extent the request for production is not objected to, and, in so doing:

- (a) state the specific ground(s) for not producing the document or thing in full;
- (b) state the bases for such a claim of privilege or immunity; and
- (c) fully identify the information, document, or material for which such privilege or immunity is asserted, including the name and type of any document, the name, address and title of its author, each addressee, and each person to whom a copy of the document or thing has been sent, delivered, or provided.

19. If CQG maintains that any document or thing requested by Trading Technologies has been destroyed, lost, or is otherwise unavailable, set forth the contents of the document or thing, the date of its destruction or loss, and the name of the person who authorized its destruction (if any).

20. Where CQG asserts an objection to a request, state all grounds upon which the objection is based.

21. For each document or thing produced in response to these requests, identify the request(s) to which the document or thing relates.

22. “GL” shall mean GL Trade Americas, Inc. and GL Trade SA; any company name under which GL is doing business or has done business in the past; and its predecessors, parents, subsidiaries, divisions, directors, officers, employees, agents, distributors, salespersons, sales representatives, and attorneys, and each person acting or purporting to act on its or their behalf or under its or their control.

23. The term “European Opposition” shall refer to the Opposition filed by GL Trade SA and other opponents on January 12, 2006 against TT’s European Patent Application No. EP 1 319 211 B1, titled “Click Based Trading With Intuitive Grid Display of Market Depth.” A copy of correspondence to the European Patent Office from Dr. Karl Barnfather of Withers & Rogers LLP, along with a Notice of Opposition and Grounds of Opposition, are attached hereto as Exhibit 1.

24. “GL Tradepad Manual” shall refer to “GL Trade SA’s User Guide V 4.51; LIFFE Connect for Futures”, listed as item 11 under “B. Other Evidence: Exhibits” on page 4 of the Notice of Opposition in the European Opposition.

25. “GL Tradepad” refers to the system, software, and/or mechanisms described in the GL Tradepad Manual.

26. “eSpeed” shall mean eSpeed, Inc.; eSpeed International Ltd.; any company name under which eSpeed, Inc. or eSpeed International Ltd. are doing business; and their predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control, including without limitation Ecco LLC and EccoWare Ltd.

## **DOCUMENT REQUESTS**

### **REQUEST NO. 64**

All documents and things sufficient to identify the bases, proofs, and supporting evidence relating to the “GL Tradepad Anticipatory Prior Art” listed as paragraphs 60-62 in the Grounds of Opposition of the European Opposition.

### **REQUEST NO. 65**

All documents and things relating to the European Opposition.

### **REQUEST NO. 66**

All documents and things constituting or relating to any communications relating to the European Opposition with any third party, including without limitation, GL, Withers & Rogers LLP, Rosenthal Collins Group, LLC, eSpeed, and Peregrine Financial Group, Inc.

### **REQUEST NO. 67**

All claim charts that include references to the GL Tradepad Manual or GL Tradepad.

### **REQUEST NO. 68**

All documents and things sufficient to identify the background, functionality, use, and operation of GL Tradepad, including without limitation any versions or variations not shown or described in the GL Tradepad Manual.



**REQUEST NO. 69**

All documents and things sufficient to identify the first publication date of the GL Tradepad Manual.

**REQUEST NO. 70**

All documents and things sufficient to identify the history, authorship, distribution, and scope of the GL Tradepad Manual, including without limitation any versions other than V. 4.51.

**REQUEST NO. 71**

All documents and things sufficient to identify the identity, content, and location of any documents and things that relate or refer to the subject matter of the GL Tradepad Manual or GL Tradepad, including without limitation, correspondence, presentations, features lists, training materials, and software.

**REQUEST NO. 72**

All documents and things sufficient to identify each different version of the GL Tradepad Manual developed, made, offered, sold, distributed, imported, marketed, licensed and/or used by, or with the assistance or at the direction of GL, including any versions that were never commercially released and any versions that have not yet been commercially released, and further including one sample of each such GL Tradepad Manual.

**REQUEST NO. 73**

All documents and things sufficient to identify each different version of the ordering system described in each version of the GL Tradepad Manual, developed, made, offered, sold, distributed, imported, marketed, licensed and/or used by, or with the assistance or at the direction of GL, including any versions that were never commercially released and any versions that have not yet been commercially released.

**REQUEST NO. 74**

All documents and things relating to the design, development, making, selling, offering for sale, distribution, marketing, licensing, or use of each version of the GL Tradepad.

**REQUEST NO. 75**

All documents and things showing any operation, features, functionality, software, or mechanism referred to in the GL Tradepad Manual, including, but not limited to, demonstrations or presentations, instruction manuals, user guides, tutorials, animations, drawings, schematics, flow charts, and tables.

**REQUEST NO. 76**

All documents and things sufficient to identify the names and titles of all persons having responsibility for or involvement in the research, design, revision, development, marketing, sales or distribution of the GL Tradepad Manual or GL Tradepad.

**REQUEST NO. 77**

All advertising and promotional materials relating to GL Tradepad.

**REQUEST NO. 78**

All documents and things showing any order screen representations of GL Tradepad.

**REQUEST NO. 79**

All documents and things referring or relating to GL's information archival and/or retrieval system containing any information related to design, development, promotion, distribution, or sale of any version of the GL Tradepad Manual or GL Tradepad.

**REQUEST NO. 80**

All documents and things listing or otherwise identifying customers or potential customers to whom GL has demonstrated GL Tradepad.

**REQUEST NO. 81**

All documents and things referring to, relating to, or constituting any submissions to any patent office or authority in connection with any version of the GL Tradepad or any version of the GL Tradepad Manual.

**REQUEST NO. 82**

All documents and things not otherwise described by the foregoing requests that refer or relate to the GL Tradepad Manual or GL Tradepad.

**REQUEST NO. 83**

All documents requested for identification by TRADING TECHNOLOGIES' SECOND SET OF INTERROGATORIES TO CQGT, LLC AND CQG, INC. (NO. 14), served concurrently herewith.

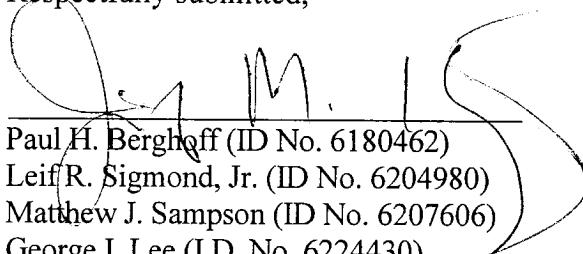
**REQUEST NO. 84**

All documents relied upon, referred to, or consulted in responding to TRADING TECHNOLOGIES' SECOND SET OF INTERROGATORIES TO CQGT, LLC AND CQG, INC. (NO. 14), served concurrently herewith.

Respectfully submitted,

Date: January 19, 2006

By:



Paul H. Berghoff (ID No. 6180462)  
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Fax: (312) 476-1182

**Attorneys for Plaintiff,  
TRADING TECHNOLOGIES  
INTERNATIONAL, INC.**

**CERTIFICATE OF SERVICE**

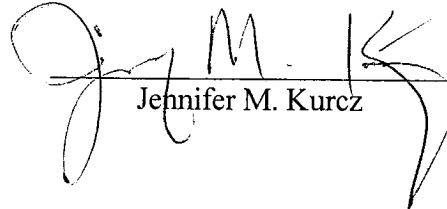
I certify that a copy of the foregoing TRADING TECHNOLOGIES' SEVENTH SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO CQGT, LLC AND CQG, INC. (NOS. 64-84), was served on January 19, 2006, as follows:

*Via Hand Delivery:*

Robert B. Breisblatt  
Joseph E. Cwik  
Kara E.F. Cenar  
Welsh & Katz, Ltd.  
120 South Riverside Plaza, 22<sup>nd</sup> Floor  
Chicago, IL 60606

*Via U.S. First Class Mail:*

Jared B. Briant  
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Boulder, CO 80302

  
Jennifer M. Kurcz

# EXHIBIT 1

# WITHERS & ROGERS

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TRADE MARK ATTORNEYS

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## FAX MESSAGE

**By fax**

TO:

COMPANY: European Patent Office

FAX NO: 0049 89 2399 4465

YOUR REF:

SUBJECT: **European Patent Application No. EP 1 319 211 B1**  
**Click Based Trading With Intuitive Grid Display Of Market Depth**

NO. OF PAGES (INCLUDING COVER): **30**

FROM: Dr Karl Barnfather

DATE: 12 January 2006

OUR REF: M306789/KJB

**Message:**

Please see attached

This facsimile is intended for the addressee only, and may contain confidential or privileged information. If you are not the named addressee, please notify us immediately by return facsimile or telephone; do not distribute, copy or disclose the contents of this facsimile to anyone else.

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# WITHERS & ROGERS

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Our Ref: M306789/KJB

European Patent Office  
D-80298  
München  
Germany

Your Ref:

12 January 2006

**BY COURIER AND FAX**

Writer's Telephone: +44 (0)121 245 3900

Dear Sirs

### European Patent Application No. EP 1 319 211 B1 Click Based Trading With Intuitive Grid Display Of Market Depth

We hereby file Opposition against the above-referenced European Patent. Please find attached the Notice of Opposition (Form 2300.1) together with the Grounds of Opposition (Annex 1) and various documentation relied upon including prior art patent publications and various exhibits identified in the Notice and the Grounds.

Our Records Department are separately attending to payment of the Opposition fee.

Yours faithfully



**Dr Karl Barnfather**  
European Patent Attorney  
WITHERS & ROGERS LLP

- Enc Form 1037 - By Fax
- Notice of Opposition Form 2300.1 - By Fax
- Grounds of Opposition (Annex 1) - By Fax
- Various Documents - By Courier

Rel. 4 (2005) LLP

Partners: David Bannerman, Michael Blitchford, Adrian Chettle, Jeff Hogg, John Dean, Ben Dempster, Karl Barnfather, Simon Beck, Howard Wright, Ivor Harrison, David Pratt, Mark Armitage\*, Colin Jones, David Croston, John Jones, Fiona McBride\*, David Elsy, Adrian Tombling, Laurel McBry\*, James Gray, Callum Wardle, Matthew Gillard, Withers & Rogers Group LLP  
\*MITMA. All other partners CPA & EPA.

Associates: Jim Ribeiro, Jackie Tolson, Nicholas Wallin, Nicholas Jones, Russell Barton, Rachel Wallis, Kathryn Cruise, Paul Foot, Keith Tart, Matthew Allen, David McWilliams, Gregory Corcoran, Rhiannon Turner, Ben Lanoe, Shelley Lunn, Karen Phillips, Rachel Williams, Marisa Foster

Translations: Rosemary Booth, EP Formulates: Karen Austen  
Practice Director: Nick Dougan, Financial Controller: Ian Smith, HR & Admin: Sonia Greaves

Withers & Rogers LLP is a limited liability partnership registered in England and Wales (registered number OC310992) with its principal place of business and registered office at Goldings House, 2 Hays Lane, London, SE1 2HW

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75 Colmore Row, Birmingham B3 2AP Tel: +44 (0)121 245 3900 Fax: +44 (0)121 245 3930





# Notice of Opposition to a European Patent

To the European Patent Office

Tabulation Marks

for EPO use only

**I. Patent opposed**

Opp. No. **OPPO (1)**

Patent No. **EP 1 319 211 B1**

Application No. **0 1920 183.9**

Date of mention of the grant in the European Patent Bulletin (Art. 97(4), 98(1) EPC) **13/4/2005**

**Title of the invention:**

**Click Based Trading With Intuitive Grid Display of Market Depth**  
**TRADING TECHNOLOGIES INTERNATIONAL INC**

**II. first named in the patent specification**

**Proprietor of the Patent**

Opponent's or representative's reference (max. 15 spaces)

**WITHERS & ROGER**

**OREF**

**III. Opponent**

Name

**Rosenthal Collins Group LLC**

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 USA**

State of residence or of principle place of business

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Telephone/Telex/Fax

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**+312 795 7630**

Multiple opponents



further opponents see additional sheet

**IV. Authorisation**

**1. Representative**

(Name only one representative to whom notification is to be made)

Name

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Address of place of business

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 London SE1 2HW**

Telephone/Telex/Fax

**020 7663 3500**

**020 7663 3550**

Additional representative(s)



(on additional sheet/see authorisation)

**OPPO (5)**

**2. Employee(s) of the opponent authorised for these opposition proceedings under act. 133(3) EPC**

Name(s):

Authorisation(s)



not considered necessary

To 1./2.



has/have been registered under No.

is/are enclosed

for EPO use only

V. Opposition is filed against

— the patent as a whole

— claim(s) No(s).

VI. Grounds for opposition:

Opposition is based on the following grounds:

(a) the subject-matter of the European patent opposed is not patentable (Art. 100(a) EPC) because:

— it is not new (Art. 52(1); 54 EPC)

— It does not involve an inventive step (Art.52(1); 56 EPC)

— patentability is excluded on other grounds, i.e.

Art.52(2)(c), 52(2)(d)

(b) the patent opposed does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art (Art. 100(b) EPC; see Art. 83 EPC).

(c) the subject-matter of the patent opposed extends beyond the content of the application/ of the earlier application as filed (Art. 100(c) EPC, see Art. 123(2) EPC).

VII. Facts and arguments

(Rule 55(c) EPC)

presented in support of the opposition are submitted herewith on a separate sheet (annex 1)

VIII. Other requests:

		for EPO use only
<b>IX. Evidence presented</b>		
Enclosed = <input type="checkbox"/> will be filed at a later date = <input checked="" type="checkbox"/>		
<b>A. Publications:</b>		Publication date
1	D1 - WO99/19821 - Publication Date 22 April 1999  Particular relevance (page, column, line, fig.): Fig 15 Page 64 line 15 to page 66 line 2	
2	D2 - WO99/53424 - Publication Date 21 October 1999  Particular relevance (page, column, line, fig.): Page 3 line 25 to page 4 line 7	
3	D3 - WO98/49639 - Publication Date 5 November 1998  Particular relevance (page, column, line, fig.): Page 20 line 25 to page 21 line 4	
4	D4 - US 5,297,031 - Publication Date 22 March 1994  Particular relevance (page, column, line, fig.): Column 10, line 34 - Column 14, line 64	
5	Particular relevance (page, column, line, fig.):	
6	Particular relevance (page, column, line, fig.):	
7	Particular relevance (page, column, line, fig.):	
Continued on additional sheet <input type="checkbox"/>		

**B. Other evidence**

## Exhibits

1. Original Japanese version of TSE Manual
2. English translation of TSE Manual
3. Deposition transcript of Mr Kawashima
4. Opposition to TTI's application
5. Manual for Release 2.7 of LIFFE Connect Prior Art Manuals
6. Manual for Release 3.0 of LIFFE Connect Prior Art Manuals
- 7A. Manual for Release 3.1 of LIFFE Connect Prior Art Manuals
- 7B. Manual for Release 3.2 of LIFFE Connect Prior Art Manuals
- 7C. Manual for Release 3.3 of LIFFE Connect Prior Art Manuals
8. Directory of Software Solutions For LIFFE CONNECT  
Exhibit 8A  
Directory of Software Solutions For LIFFE Connect issue 1 - October 1998  
Exhibit 8B  
Directory of Software Solutions For LIFFE Connect issue 2 - February 1999  
Exhibit 8C  
Directory of Software Solutions For LIFFE Connect issue 3 - June 1999  
Exhibit 8D  
Presentation slides entitled "LIFFE Connect - LIFFE's new electronic trading platform for futures - ISV Developers Conference - Thursday 24 September 1998"
9. Excerpts from deposition transcript of Mr MacGregor and APT documents  
Exhibit 9A  
MacGregor transcript  
Exhibit 9B  
"APT and Training Procedures (Atom version) of the London International Finance Sure Futures Exchange" Issue date 28 March 1991  
Exhibit 9C  
APT User Guide January 1994  
Exhibit 9D  
Attachment to General Notice number 788, issued on 28 December 1995, "APT plus trading procedures"
10. Technical and marketing material relating to the IRIS software
11. True and accurate copies of GL Trade SA's User Guide V 4.51: LIFFE Connect for Futures
12. Memorandum Opinion and Order of the Northern District of Illinois, Eastern Division (Moran J, 9 February 2005).
13. TT's prior art device, X\_Trader - all versions preceding the priority date, including Figure 2 of the patent and excerpts of priority application US 186322
14. OM Click Trade User's Guide for Windows NT

Continued on additional sheet

for EPO use only

**X. Payment of the opposition fee is made**

- as indicated in the enclosed voucher for payment of fees and costs (EPO Form 1010)
- By separate instruction relating to our deposit account

**XI. List of documents:**

Enclosure No.:		No. of copies
0	<input checked="" type="checkbox"/> Form for notice of opposition	2 (min. 2)
1	<input checked="" type="checkbox"/> facts and arguments (see VII.)	2 (min. 2)
2	Copies of documents presented as evidence (see IX.)	
2a	<input checked="" type="checkbox"/> -- Publications	2 (min. 2 of each)
2b	<input checked="" type="checkbox"/> -- Other documents	2 (min. 2 of each)
3	<input type="checkbox"/> Signed authorisation(s) (see IV.)	
4	<input type="checkbox"/> Voucher of payment of fees and costs (see X.)	
5	<input type="checkbox"/> Cheque	
6	<input checked="" type="checkbox"/> Additional sheet(s)	2 (min. 2 of each)
7	<input type="checkbox"/> Other (please specify here):	

**XII. Signature of opponent or representative**

Place Dr Karl Bamfather - Common representative, Birmingham UK

Date 12 January 2003

Please print name under signature. In the case of legal persons, the position which the person signing holds within the company should also be printed.

**Notice of Opposition to a European Patent - Patent Number EP 1319211B1**

ADDITIONAL SHEET TO FORM EPO FORM 2300.1

**II Proprietor of the Patent - Trading Technologies International Inc**

**III Multiple Opponents**

Name Peregrine Financial Group Inc

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7<sup>th</sup> Floor  
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USA

Name GL Trade SA

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France

Name CQG Inc

Address 1050 17<sup>th</sup> Street  
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Denver  
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USA

**ADDITIONAL REPRESENTATIVES**

**WITHERS & ROGERS LLP**  
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B. J. N. Dempster  
K. J. Barnfather  
S. A. Beck

H. H. B. Wright  
I. S. Harrison  
D. M. Pratt  
D. C. Jones  
D. Croston  
J. B. Jones  
D. Elsy  
A. G. Tombling

J. Gray  
C. T. Wardle  
M. P. Gillard  
J. M. Ribeiro  
N. J. Wallin  
N. A. Jones  
R. G. Barton  
N. R. Wallis

## ANNEX ONE

### GROUNDS OF OPPOSITION

#### 1. The purported invention and the claims

1. In essence, the purported invention set out in the description of the Patent is one of a presentation of trading information. ¶14 of the description makes it clear that

“Specifically the present invention is directed to a graphical user interface for displaying the market depth of a commodity traded in a market, including a dynamic display for a plurality of bids and for a plurality of asks in the market for the commodity and a static display of prices corresponding to the plurality of bids and asks.

2. Although the description and claims refer also to the ability to place orders quickly, no inventiveness is claimed in relation to the method of entry. Rather, the ability to place orders quickly and accurately stem from the purportedly logical and intuitive way that the information is presented (see ¶17).
3. The purported invention should be considered in contrast to presentation of trading information in prior art (see Fig.2). The Mercury system uses a “static vertical column of prices” (¶29). This purports to overcome the perceived prior art problem that ask and bid prices descended as prices increased which was considered “counterintuitive and difficult to follow by traders” (¶28). The difference between the prior art and the purported invention is alleged to be the difference between Fig.2 and Fig.3. These are both diagrams of computer screens whereby trading information is presented.
4. Thus, the solution to the stated prior art problem is the displaying of trading information in a manner different to that in the prior art so that it is easier to understand at a glance. Furthermore, the method of presentation of trading information gives the trader a better feel for the market depth in bids and asks and thus market trends for the product being traded.
5. Furthermore, in essence, the purported invention does not concern the display of hitherto undisplayed information but merely the *presentation* of normal

trading information (e.g. in relation to each bid or ask, the price and the quantity of the product being bid for or asked for).

### **1.1. Apparatus Claims**

6. The main apparatus claim is Claim 1. All other apparatus claims are dependent on this claim.
7. Claim 1 can be broken down as follows
  - Device comprising an interface consisting of
  - the display of trading information in a particular way
  - a means for placing an order by reference to the displayed information

#### *Dependent apparatus claims*

8. Claims 2 to 28 are dependent on Claim 1 and themselves also include second-generation dependent claims. They can be divided into the following groups:
  - 8.1. Claims 2-3. These claims seek to claim the inclusion of parameters apart from the trade order parameter and the price level aligned with a particular area (see last indent of Claim 1) to an order message.
  - 8.2. Claims 4-7. These claims seek to claim a device which includes the ability of a user to re-centre the display so that the inside market is on-screen. This reflects the difficulty that a moving inside market can cause if using a static price display.
  - 8.3. Claims 8-15. These claims seek to claim various ways of displaying the "first indicator" and "second indicator" (see 3<sup>rd</sup> and 4<sup>th</sup> indent of Claim 1). They are purely concerned with the visual presentation of the bid and ask display regions on the screen.
  - 8.4. Claims 16-17. These do little more than distinguish between bid order entry regions and ask order entry regions on screen (such distinction not being made in sixth indent of Claim 1). As such, they are concerned with the presentation of information in particular regions on the screen (although such regions are interactive)
  - 8.5. Claims 18-21. These seek to claim protection for the display of an "entered order" flag in relation to a particular price level. Save Claim 21, this is purely concerned with the display of information relating to a



particular parameter (N.B. the claim is not to the *use* of an "entered order" flag).

- 8.6. Claims 22-23. These seek to claim protection for the display of a "last trade" flag for a particular price. Again, this is purely concerned with the display of information relating to a particular parameter (again it is not concerned with the *use* of such a parameter).
- 8.7. Claim 24. This claim is not understood and lacks clarity. It is not clear what is meant by "field of static prices". In any event, it appears to add nothing to the other claims because it is implicit in all the apparatus claims that the apparatus must display (i.e. generate) the prices in a static way.
- 8.8. Claims 25-26. These seek to claim protection for the display of further information relating to the highest bid price and lowest ask price, namely the total number of bids and asks at those prices. Again, they are purely concerned with the displaying of such a parameter and not the use of such of a parameter.
- 8.9. Claim 27. This claim seeks to claim protection for the display of more than one parameter for each indicator. As it is a dependent claim and thus must incorporate the integers of Claim 1, the plurality of indicators must be associated with the current highest bid or lowest ask price. Again, it is concerned with the displaying of information and not the *use* of particular parameters within the apparatus.
- 8.10. Claim 28 merely claims the displaying of static prices in cells. It is purely concerned with the method of displaying prices.
9. The above claims can be described as either
  - 9.1. claiming further aspects relating to the display of trading information (4-7, 8-15, 18-20,22-23, 24, 25-26,27,28); ("Pure Display Claims")
  - 9.2. claiming further aspects relating to the display and selection of information relating to the placing of trade orders based on the on-screen information (2-3, 16-17 & 21). ("Hybrid Claims")

## **1.2. Method Claims (29-52)**

10. The method claims closely follow the apparatus claims. The main claim is Claim 29 and the other claims (30-52) are dependent on Claim 29. Claim 29 is essentially a claim to use of the apparatus in Claim 1.
11. The following table sets out the method claims and the corresponding apparatus claim. Shading indicates a grouping of second-generation claims.

<b>METHOD</b>	<b>CORRESPONDING APPARATUS CLAIM (where such exists)</b>
29	1
30	
31	2
32	3
33	4
34	5
35	6
36	7
37	27
38	
39	
40	
41	
42	18
43	21
44	22
45	
46	28
47	8

48	9
49	10
50	14
51	15
52	11

12. In relation to the other claims ("the Standalone Method Claims"),

12.1. Claim 30 adds very little to Claim 29. It merely adds the requirement that the placing of the order be achieved with a single action (i.e. a mouse click).

12.2. Claim 38 & 39-41 are, in essence, claims seeking protection for particular ways of placing orders based on the display of information relating to bids and asks presented on the screen.

12.3. Claim 45 seeks protection for the displaying of a particular area on the screen which permits a trader to delete all working orders. It is merely a refinement of Claim 43.

### **1.3. Computer Program Claim**

13. Claim 53 is for a "computer program product" which when executed on a computer, implements the method claims. It is thus presumably referring to a CD, disk or other recordable media (but not the computer equipment itself).

## **2. The purported invention is for the presentation of information and is excluded from patentability under Article 52(2)(d)**

### *Claim 1 and 29*

14. The main claim, Claim 1 and its associated method claim, Claim 29, in essence, relate to a device for a way of presenting trading information. Accordingly, the claims are for unpatentable subject matter.

15. The fact that the claim is framed by reference to a device which displays the information does not avoid the exclusion. As said in the EPO Guidelines (C-IV, 2.3.7),

"A representation of information defined solely by the content of the information is not patentable. This applies whether the claim is directed to the presentation of the information per se (e.g. by acoustical signals, spoken words, visual displays, books defined by their subject, gramophone records defined by the musical piece recorded, traffic signs defined by the warning thereon) or to processes and apparatus for presenting information (e.g. indicators or recorders defined solely by the information indicated or recorded)."

16. The fact that the claim also includes one integer which relates to the placing of orders (the last indent of claim 1, the second last indent of Claim 29) do not save the principal claims either. The patent does not claim that there is anything creative or inventive about this and the mere acceptance using a touch-screen or mouse method of a displayed trade cannot be considered creative or inventive. Thus, as said by *Singer/Stauder* "The European Patent Convention: A Commentary" (3<sup>rd</sup> Edition), Art.52 (on Presentations of Information)

If the creative achievement contains nothing that goes beyond the presentation of information, thereby causing technical effects, it will not be regarded as an invention and is hence excluded from patentability (§156)

#### *Apparatus Display and Hybrid Claims*

17. In relation to the Display Claims, they merely relate to further ways of presenting information and must be considered unpatentable. In relation to the Hybrid Claims, nothing creative or inventive is claimed about these methods of placing an order and must therefore also be considered to be unpatentable for the reasons given in the previous paragraph.

#### *"Use of apparatus" method claims*

18. Where the method claims are simply "use of apparatus" claims which correspond to apparatus claims (see table above), the same objections are made as have been made with regard to the corresponding apparatus claim (see Guide C-IV, ¶2.3.7 *ibid* and reference to "processes").

#### *Standalone Method Claims*

19. In relation to the Standalone Method Claims, these claims are similar to the Hybrid Apparatus Claims and suffer from the same defect as these suffer from see ¶15) above.

**3. The purported invention is for a method of doing business and/or program for computer and is excluded from patentability under Article 52(2)(c)**

20. The purported invention and its claims are concerned with a method of doing business and/or for a computer program save Claim 53. Claim 53 is discussed below.
21. It is well-established law under the EPC that a computer program is not patentable under Art.52 unless it has a technical effect. That technical effect cannot arise from the mere emission of electrical signals.
22. Apart from Claim 53, all of the claims are for computer equipment or the use of computer equipment (the method claims) to achieve a particular output of data or a particular input of data. The inputting and outputting of data is of course, the essence of computer programs. All computer programs require electronic apparatus to be executed. Accordingly, the mere framing of a claim as a "device that contains a program" is not sufficient to overcome the Art.52 objection.
23. Furthermore, there is nothing technical in the purported invention claimed in the description of the Patent. This is not an invention intended to solve a technical problem.
24. Furthermore, those claims which relate principally to the inputting of trade order and associated information are, in essence, claims to doing business, namely the placing of trade orders. As such, they are objectionable as methods of doing business.

*Computer Apparatus Claim*

25. Claim 53 must be regarded as a claim to a computer program. All computer programs must exist on some recordable media. Accordingly, the exemption against the patenting of computer programs cannot be avoided by simply

claiming the computer program on a recordable medium. This would negate the exemption in its entirety.

26. It should be emphasised that Claim 53 is not to "computer equipment running the program". The wording is for a "computer program product" and it is clear from the wording of Claim 53 that although such is intended for execution on a computer, the claim is not to the computer.

#### **4. The purported invention lacks novelty**

27. Claim 1 consists of a device comprising

- an interface for receiving highest bid and lowest ask price data from exchange
- means for setting a trade order parameter
- means for displaying a first indicator which is associated with current highest bid price for commodity
- means for displaying a second indicator associated with current lowest ask price for commodity
- means for moving the "inside market" (i.e. highest bid/lower ask spread) whilst maintaining the display of prices static
- an order entry region aligned with the static prices and which is selectable by user input means which, if selected, result in order being sent to exchange based on the trade order parameter and aligned price.

##### **4.1. Prior patent publications**

28. The prior patent publications listed in the Notice of Opposition are relied upon for the purpose of prior art. In general, they disclose the use of GUIs for displaying market data.
29. More relevantly, WO 99/19821 (D1) which was published on 22<sup>nd</sup> April 1999 is of particular relevance. At p.64, lines 24-p.65 line 9 is described a particular market detail interface (Fig.15). This interface discloses the following integers:
- 29.1. a vertical display of bid and ask prices in ascending order
- 29.2. different areas for the bid and ask prices.

29.3. quantities associated with individual asks and bids;

29.4. the ability to select any order on the screen and hit or lift the order (p.64, line 27-29, p.65, line 12-16)

29.5. a last traded price indicator

29A. Also, U.S. Patent No. 5,297,031 (D4) which was published on 22<sup>nd</sup> March 1994 is of particular relevance. At column 10, line 34 – column 14, line 64 is described a particular trading screen interface (Fig. 2a, and Fig. 2b). This interface discloses the following integers:

29.1A a vertical display of bid and ask prices in ascending order

29.2A different areas for the bid and ask prices.

29.3A quantities associated with individual asks and bids;

29.4A the ability to select any order on the screen and hit or lift the order (col. 10, lines 60 – 65 “After an incoming order is received in the incoming orders pane 120, the broker can either accept or reject it by touching the order information line, which is then highlighted in response, and then touching the ACCEPT 110 or REJECT 115 “buttons” on the touch-sensitive screen 12.”)

29.5A a last traded price indicator (col. 12, lines 65 – 67 “A preferred manner for implementing the market bar 137 is to have the bar cover the last two prices traded . . .”)

29.6A a price display (col. 12, line 62 – col. 13, line 1 “the movement of the market bar 137 in response to rapid, small (one or two price ticks) price changes could be confusing if the market bar 137 were arranged to follow each price tick. . . a second preferred manner is to have the market bar move only after the price has changed two or three price ticks.”)

30. These documents D1 and D4 disclose the essential features of Claim 1. It being noted that features such as a static price display are not technical features and hence cannot contribute to the patentable features of an alleged invention under the European Patent Convention. Likewise, Opponents do not allege that any prior art that was before the EPO (or any other similar patent granting agency in the world) contained a static price display.

#### **4.2. Third party prior publications and use**

31. Each of the following publications describes the purported invention described in the basic claims, 1 and 29. Each was published before the best priority date

available to TTI. Pursuant to Article 54, each of these publications demonstrates that TTI's invention lacks novelty.

- **Tokyo Stock Exchange Anticipatory Prior Art**

32. In August 1998, the Tokyo Stock Exchange started use a trading system which is described in a prior art manual entitled "Futures and Options Trading System, Transaction Terminal Operation Procedures" ("TSE Prior Art Manual"). The system used and described in the manual was that of an order entry system for trading commodities electronically which included the market depth for a commodity, the static vertical display of prices and the dynamic display of volumes aligned with corresponding prices.
33. Accordingly, this discloses all the features of Claim 1.

*Evidence*

34. In November 2005, a representative of the Tokyo Stock Exchange, Mr. Atsushi Kawashima, testified in US proceedings (*TTI Technologies v eSpeed (04 C 5312)*) that the TSE Prior Art Manual described an order entry system as referred to above.
35. Mr. Kawashima also testified that the system described in the TSE Prior Art Manual was used starting in 1998 [p.10, Exhibit 3]. The system used a split screen displaying prices but did not move prices in the price column if the last trade price moved; the price display was static [43-44]. Orders were entered via a double-click of a mouse on a specific part of the screen, including the price or associated volume of a bid or ask [53].
36. On April 18, 2005, the Tokyo Stock Exchange filed an opposition to the grant of TTI's application for a highly similar patent before the Japanese Patent Office.

*Documentation*

37. Original Japanese version of TSE Manual – **Exhibit 1.**
38. English translation of TSE Manual – **Exhibit 2.**
39. Deposition transcript of Mr Kawashima – **Exhibit 3.**
40. Opposition to TTI's application – **Exhibit 4.**
41. Further evidence will be provided relating to the Japanese trading system.



• **London International Financial Futures Exchange Anticipatory Prior Art**

42. In the last quarter of 1998, the London International Financial Futures Exchange ("LIFFE") published "The Application Program Interface (API) Reference Manual: For LIFFE CONNECT" ("LIFFE Connect Prior Art Manuals"). This describes an order entry system for trading commodities electronically, including the market depth for a commodity, the static vertical display of prices and the dynamic display of volumes aligned with corresponding prices combined with the ability to order using a single action.
43. Accordingly, this disclosed all the features of Claim 1.
44. Furthermore, numerous independent software vendors ("ISVs"), including the Patentee, wrote software that would work with LIFFE's Connect API to enable electronic futures trading by LIFFE's member firms. LIFFE published these ISVs information in a separate booklet, describing the ISVs' displays. This software was used as from 1999 in LIFFE.
45. In particular, amongst the ISVs describing their systems of displaying electronic order entry for futures trading on LIFFE, IRIS Investment Support Systems ("IRIS") published its system in LIFFE's software solutions directory.
46. The IRIS system clearly shows depth of market display for electronic futures trading, including vertical display of prices and corresponding dynamic display of bid and ask volumes as shown in Exhibit 10.
47. In particular, the ask and bid prices are in different columns with the inside market spread shown clearly. Likewise, IRIS clearly describes "extremely fast order entry screens supporting 'point and click' trading."
48. Furthermore, the indicators of highest bid and lowest ask move relative to the prices so as to reflect the current "inside market."

*Evidence*

49. In November 2005, a representative of LIFFE, Paul MacGregor, testified in the TTI -v- eSpeed case that the LIFFE Connect Prior Art Manuals described an order entry system as described in the previous paragraph. He also provided evidence relating to the ISVs.

50. Mr MacGregor was head of Marketing at LIFFE in 1998 [p.8, Exhibit 9]. In 1999, he became responsible for third party sales and dealing with third party software vendors [12].
51. Since prior to 1994 up to 1997 , LIFFE had used a system called Automatic Pit Trading ("APT") in its exchange [18,24]. It was accompanied with a brochure [18-20]. The system displayed in the centre of the screen, the best bids and asks (i.e. highest bid, lowest ask) [21/16-20]. The trader could buy and sell by clicking the mouse [22]. The relevant display was the Order Summary Display which showed a vertical display of bids and offers with best bid and ask in the centre [26].
52. Two versions of APT existed. The pre-1994 version did not re-centre the inside market but the post-1994 version did [38-42]. Thus, the prices remained static. In other respects, they were very similar.
53. The pre-1994 version permitted placing an entry order for the best bid or ask by a single click [47-48].
54. Following APT, LIFFE introduced another system for electronically trading on the exchange. LIFFE Connect was first released in November 1998. It was software for automated trading [67]. It was accompanied by manuals (e.g. API manuals for LIFFE CONNECT Release 3.0)[86]. That included all the features of Claim 1 including a static price display [87-90].

*Documentation.*

55. Manuals for Releases 2.7, 3.0, 3.1, 3.2 and 3.3 of LIFFE Connect Prior Art Manuals are attached hereto as **Exhibits 5, 6 and 7.**
56. Directory of Software Solutions For LIFFE CONNECT - **Exhibit 8.**
57. Excerpts from deposition transcript of Mr MacGregor and APT documents – **Exhibit 9.**
58. Technical and marketing material relating to the IRIS software – **Exhibit 10.**
59. Full details of the IRIS system and attendant manuals will be provided. Evidence supporting these allegations will include the publications and sworn testimony regarding the manuals and the attendant system.

- **GL Tradepad Anticipatory Prior Art**

60. In June 1999, or earlier, GL Trade, SA, published "USER GUIDE V4.51: LIFFE CONNECT for FUTURES" ("GL Prior Art Manual"). The GL Prior Art Manual describes an order entry system for trading commodities electronically, including the market depth for a commodity, the vertical display of prices and the display of volumes aligned with corresponding prices.

*Evidence*

61. Full details of the GL Prior Art Manual and attendant system will be provided. Evidence supporting these allegations will include the publications and sworn testimony regarding the manuals and the attendant system.

*Documentation*

62. True and accurate copies of this manual for version 4.51 are attached hereto as **Exhibit 11**.

#### ***4.3. Inventor's prior use anticipates the purported invention***

63. In addition to the foregoing publications (and uses) of the purported invention, at least one of the inventors used the purported invention before the best priority date for the Applicants. That use vitiates any novelty that the purported invention might have had.
64. Harris Brumfield, one of the named inventors, used the purported invention to trade futures during the period of at least August 1999 to March 2000.

*Evidence*

65. In sworn evidence in US proceedings, Brumfield has admitted that he used the purported invention, saying, "I basically kept it to myself a little over a year .... I didn't mind giving the screen up because I made a killing on it for over a year."
66. A federal trial judge in the United States, using Brumfield's statement above, has already found that Brumfield used his invention before the priority date in Europe. The judge stated that his finding is "supported by Brumfield's trading records – he did indeed make a killing in July and August 1999."

67. Full details of Brumfield's and others' prior use will be provided. Evidence supporting these allegations will include the judge's decision, deposition testimony of Brumfield, the other inventors and others involved in developing the software. At present, much of the deposition evidence is presently designated in the court proceedings as highly confidential by TTI and thus is not presently available for submission with this Notice of Opposition.

*Documentation*

68. Memorandum Opinion and Order of the Northern District of Illinois, Eastern Division (Moran J, 9<sup>th</sup> February 2005) – **Exhibit 12**

**5. The purported invention is obvious contrary to Art.56**

**5.1. *The purported invention is obvious over prior art***

69. The prior patent publications relied upon, as well as the other prior art relied upon, are set out above and in the Notice of Opposition.
70. Insofar as the prior art does not anticipate all of the claims of the Patent, such claims embody inventions that are obvious when considered against the prior art.
71. As described above in Part 1, in essence, the core invention claimed is the use of a graphical user interface (GUI) that displays bids and asks against a static price display. Other claims are simply workshop variations. No inventiveness is claimed in the method of entry. However, some of the dependent claims claim inventiveness (if it is argued that they have independent validity over Claim 1/29) in the method of making a trade order. As said, the description makes no real claim to the method of making a trade order being inventive in contrast to the method of display of static price making trade orders easier and quicker to execute.
72. The basic idea of a vertical display of bid and ask prices using a static price display is contained in the prior art disclosed herewith. This prior art shows that many combinations of prior art, which will be presented in full detail prior to hearing, render the purported invention obvious and show the lack of an inventive step. Among other combinations, the purported invention lacks an inventive step as it was obvious when compared to TTI's own prior art system,

X\_Trader, combined with Gutterman (USPN 5,297,031 - D4), or any combination of the prior art that Opponents believe to be anticipatory including TSE Exhibit 1 and LIFFE Exhibits 5 to 8. The purported invention is rendered obvious particularly through the combination of teachings of any two of D1, D2, TSE Exhibit 1 and LIFFE Exhibits 5 to 8. Furthermore, the purported invention is rendered obvious through combination of teachings of, inter alia, OM Click Trade User's Guide for Windows NT of October 1998 and TSE Exhibit 1 and LIFFE Exhibits 5 to 8.

73. In any event, the prior art discloses the core integers of
- 73.1. a static price display;
  - 73.2. single order "point and click" entry;
  - 73.3. a vertical display of bid and ask prices in ascending order;
  - 73.4. different regions for the bid and ask prices;
  - 73.5. quantities associated with individual asks and bids;
  - 73.6. a last traded price indicator
74. With such matters existing in the prior art, Claim 1 and 29 must be considered obvious and lacking in inventive step. The Opponents reserve the right to clarify these arguments once the Patentee has indicated which dependent claims have independent validity over the parent claims.

*Documentation*

75. Patentees prior disclosure of its X\_Trader system – **Exhibit 13**, and OM Click Trade User's Guide for Windows NT of October 1998 – **Exhibit 14**.

**5.2. Any invention consists of a non-technical solution to a non-technical problem**

76. Furthermore, insofar as any of the claims of the Patent do not consist of unpatentable subject-matter, they are obvious contrary to Art.52(1) and Art.56 as they do not represent a technical solution to a technical problem.
77. Pursuant to **T-258/03 Hitachi/Auction Method**, the issue of inventive step is to be assessed with respect to the requirement of inventive step by taking account of only those features which contribute to a technical character and

such requires that the features that make a technical contribution therefore are determined [¶39].

78. The description of the patent lays no claim to having solved a technical problem that existed in the prior art. Insofar as it exists, the problem was one of business, namely the displaying of information in a counter-intuitive and non user-friendly way.
79. Moreover, none of the claims seek to claim a technical solution to any identifiable problem (technical or otherwise). Rather, they are all directed to alleged novel or inventive ways of presenting trading information or alleged novel ways of placing trade orders. These cannot be considered to be technical problems. Insofar as there is any claimed inventiveness in the description of the Patent, it relates to non-technical aspects (i.e. the display of information) and thus cannot be considered when taking into account novelty or inventive step.

## 6. The claims add matter contrary to Article 123(2)EPC

80. In accordance with Art 123(2) EPC the patentee is not allowed to amend the application during prosecution of the application to include subject matter which extends beyond the content of the application as filed.

### Claim 1

81. Claim 1 of granted patent EP1319211B bears no resemblance to any claim of the application as originally filed in the international application PCT/US01/06792. From the annotated version of claim 1 entered in the prosecution history for this application as the "scanned annexed to a communication" dated 30 August 2004, it is evident the Patentee alleges basis for claim 1 from original claim 35.

#### *Added matter by deletion of essential features*

82. It is noted the subject matter of claim 35 of the application as originally filed is directed to "A client system for placing a trade order for a commodity on an electronics exchange ..." comprising various integers, among which, the invention as set out in the original application is said to comprise:

83. "a display device for displaying the market depth of a commodity traded in a market, through a dynamic display of a plurality of bids and of a plurality of asks in the market for the commodity, including the bid and asked quantities of the commodity..."

These features are absent from Claim 1.

84. "a user input device for positioning a pointer thereof over an area in said dynamic display of bids and asks...", and

This feature is absent from Claim 1.

85. "a trade order characteristic setting component for setting out characteristics of the trade order based in part upon preset parameters and the position of the pointer at the time of said single action".

These features are absent from Claim 1.

86. It is established European practice following the Technical Board of Appeal Decision T331/87 that features originally said to be essential for the purported invention cannot be deleted from the independent claims except in very specific circumstances. It is submitted that these circumstances are not met here.

87. There is no longer any reference to the above features including, for example, to the user input device having a pointer positionable within the display as required by original claim 35. Hence the patentee has added matter by deletion of these various features.

*Added matter by generalisation*

88. It is well held under European Patent Office practice that a specific may not be replaced by a generality without adding matter in contravention of Article 123(2) EPC.
89. In this regard, no basis can be found for the generalisation of present claim 1 for the features of, for example:
- "means for setting a trade order parameter",
  - "means for displaying a first indicator at a first area ...",

"field of static prices",

"first indicator being associated with.."

"means for displaying a second indicator ...",

"means for updating.."

"at least on of the first and second indicators is moved...to a different area..",

and

"an order entry region..", and so on.

90. Referring again to claim 1 of the patent, references are made to the generalities of "means", "parameter", "indicator", "area" and "region" whereas the application as filed makes reference purely to "commodities", "bids", "asks", "values", "columns", "cells", "prices", "quantities", "pointer", "single action", "fields" and so on. The features referred to in the application as originally filed are quite specific and accordingly the patentee has unduly broadened the subject matter beyond that of the original application.

91. This liberal generalisation is apparent based on the patentee's own submissions as filed in their "Response to Summons to attend Oral Proceedings on 30 June 2004" in which on page 16 alleged basis for various features is said to be provided. This document in fact highlights the unallowable generalisations made by the patentee. For example, reference to a "cell", being quite specific, has been unduly broadened to an "area" without any explanation as to why such a generalisation is allowable.

92. This extensive use of generalisations in claim 1 over the specific disclosure of the original application is evident upon reading the entire patent specification. For example, the specific features of a pointer and a single action (such as a click) set out in original claim 35, rather than the broader term of a "user input means" in the present claim 1, are mirrored in the description as can be seen with reference for example to the following:

The title of the application is "click based trading with ...",

Page 15 line 28 "you can trade with single clicks...",

Page 16 line 24 "a chosen price with one click",

Page 28 lines 1 to 3 "a user ..positioning a pointer...a single action...",

and so on.



93. Accordingly, in spite of the passage at the bottom of page 6 to page 7, the applicant throughout the patent specification always intended that a pointer be required for interaction with the display and a single user action and that such was essential. No such pointer or single action are specified in the present claim 1 (other than in an unallowable generalised form). The Patentee has generalised the original requirement for the trade order characteristics being dependent on the position of the pointer with no such requirement in present claim 1. Accordingly, the patentee has added matter in generalising the use of a pointer to simply being "user input means".

*Claims 29 and 53, and other dependent claims*

94. Equally the independent method claim 29 has been invalidly amended in line with above comments regarding the independent device claim 1, and consequently all dependent claims including computer program product claim 53 is also invalid.

## **7. Loss of entitlement to priority – Article 87 EPC**

95. According to Article 87(1) EPC an application is only entitled to claim priority in respect of "the same invention" described in an earlier application. It is well established under the Enlarged Board of Appeal decision G2/98, that a strict interpretation of the test for "the same invention" in accordance with the test for the "same subject matter test" under Art 123(2) should apply.

### ***7.1 First priority claim US 60/186,322 of 2 March 2000***

96. The first priority application is a provisional US patent application without any apparent definition of the purported invention in the form of claims. As such the skilled man would not be able to determine the definition of the purported invention of the priority application other than with extensive reference to the specific description of the stated innovations.

*Deletion of essential features*

97. In this regard, for example, the "Innovation 11" described on pages 23 to 30 of the first priority application is stated to comprise many features including the feature of the purported invention similar to that defined in present claim 1

of "a static vertical column of prices with the bids and asks displayed..." (bottom of page 23 to top of page 24). The patentee has argued during prosecution that this is a significant feature of the present invention in the granted patent and hence it is relied on here to illustrate the lack of entitlement to priority, where arguments can be made also in relation to other "Innovations" of the priority application.

- 98 In relation "Innovation 11" the skilled man would interpret the priority application as requiring all its features described in relation to the static price column as being essential to the purported invention. Thus, the features of colour, current order status, time of day, market volume and so on as specified in relation to "Innovation 11" are stated as essential in the first priority application. This is not the same invention as that defined in any independent claim of the patent. The patent is therefore not entitled to claim priority from the first priority application since the patent claims unallowable generalisations over the first priority application by selecting only specific features, and hence they are directed to different inventions.

*Generalisation of essential specific features in priority document*

99. Moreover, the terms referred to in independent claims 1 and 29 have no direct basis in the first priority. The terms used themselves are generalisations of the specific features set out in the first priority application and, in line with the lack of basis for these generalised terms from the application as filed, there is no basis for the generalised terms from the first priority application. These terms include use in claim 1, for example, of "means", "parameter", "indicator", "area" and "region" whereas the first priority application makes reference purely to "commodities", "bids", "asks", "values", "columns", "cells", "prices", and so on.

**7.2 Second priority claim US 09/590,692 of 5 June 2000**

100. The second priority application is substantially similar to the application as filed. Accordingly, the arguments in relation to the added matter objections set out above in relation to independent claims 1 and 29 of the patent apply in that the patentee has made unallowable generalisations in relation to the features of the independent claims of the patent and made unallowable deletion of features otherwise stated to be essential in the second priority

application. Accordingly the patent is not entitled to claim priority from the second priority application because it does not disclose the same invention.



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Karl J Barnfather

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**Items filed**

Application No./Patent No.	Your reference	Nature and date of items (optional)**
1	M306789/KJB/TTI	12.1.06 Filing Notice of Opposition
2		
3		
4		
5		
6		
7		
8		
9		
10		

\*\* The receipt of the items indicated is confirmed.  
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# APPENDIX 15

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Trading Technologies International, Inc.,	)	
	)	
Plaintiff,	)	Civil Action No. 05-4811
	)	
v.	)	Judge Sharon Johnson Coleman
	)	
CQG, Inc. and CQGT, LLC,	)	Magistrate Sidney I. Schenkier
	)	
Defendants.	)	
	)	

**TRADING TECHNOLOGIES' THIRD SET OF REQUESTS  
FOR THE PRODUCTION OF DOCUMENTS AND THINGS  
TO DEFENDANTS (NOS. 85-140)**

Plaintiff Trading Technologies International, Inc. (“TT”) provides the following requests to Defendants CQG, Inc. (“CQG”) and CQGT, LLC (“CQGT”) (collectively “Defendants”), seeking production of the documents and things specified below for inspection and copying pursuant to Federal Rules of Civil Procedure 26 and 34 and the Local Rules of the U.S. District Court for the Northern District of Illinois. The documents shall be produced for inspection and copying within thirty (30) days of service hereof at the offices of TT’s counsel, McDonnell Boehnen Hulbert & Berghoff LLP, 300 South Wacker Drive, Chicago, Illinois, 60606.

## DEFINITIONS AND INSTRUCTIONS

1. The terms “Plaintiff,” “Trading Technologies,” and “TT” shall mean Trading Technologies International, Inc.; any company name under which Trading Technologies is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.
2. The term “Defendants” and “CQG” shall mean CQG, Inc. and/or CQGT, LLC; any company name under which either entity is doing business; and their predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities including affiliates, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control. For the purposes of this definition, “affiliate” shall mean any entity that, at any relevant time: (i) controls; (ii) is controlled by; or (iii) is controlled by a separate entity that also controls CQG, Inc. or CQGT, LLC, where "control" includes direct or indirect control, including any subsidiary, holding company or operating division from time to time.
3. The terms “person” and “persons” shall mean natural persons (including, without limitation, those employed by CQG), as well as all governmental entities, agencies, officers, departments, or affiliates of any other governmental entity, and any corporation, foundation, partnership, proprietorship, association, or other organization.
4. The term “date” shall mean the exact day, month, and year (to the degree ascertainable) or, if not ascertainable, the best approximation (including relationship to other events).

5. The term “document” shall mean writings, recordings and other communications, whether reduced to tangible or electronic form, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including without limitation, correspondence, memoranda, notes, executable and non-executable electronic files, including e-mail, compiled software, source code, bug tracking, screen shots, diaries, minutes, statistics, letters, telegrams, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, receipts, returns, summaries, pamphlets, books, prospectuses, calendars, diaries, planners, interoffice and intra-office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meetings, presentations, or printouts, teletypes, fax, invoices, work sheets, and all drafts, alterations, modifications, changes and amendments of the foregoing), graphic or oral representations of any kind (including without limitation, photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys), and electronic or electro-mechanical records or representations of any kind (including without limitation, computer memory, hard drives, discs, tapes, cassettes and recordings).

6. The terms “relating to” and “referring to” shall be interpreted broadly so as to encompass the liberal scope of discovery set forth in Federal Rule of Civil Procedure 26(b).

7. The terms “identify” and “describe” shall mean providing, among other things:

- a. with respect to a natural person, home and work addresses and telephone numbers, the name of the person’s present (or if unknown, the last known) place of employment, date of commencement and termination (if any) of employment, job title, and description of his or her duties and responsibilities;



b. with respect to a corporation or other non-natural person, the full name, address, main telephone number, state of incorporation, and identity of all persons who have acted on behalf of such entity with respect to the subject matter of the request;

c. with respect to a document, the type of document (e.g., letter, e-mail, fax, contract, calendar, invoice, report); the number of pages or size of electronic file; a description of the document's contents; an identification of the person(s) who prepared the document, for whom the document was prepared, who signed the document, to whom the document was delivered, mailed, or otherwise received, and to whom a copy of the document was sent or otherwise received; the date of writing, creation, or publication; identifying number(s), letter(s), or combination thereof, if any; the significance or meaning of such number(s), letter(s) or combination thereof; for electronic documents, the name of the software used to generate the document and the electronic file type; and the present location and identity of the custodian of that document. Documents to be identified shall include all documents in your possession, custody or control, documents you know or believe to have existed but are no longer existing, and other documents of which you have knowledge or information.

8. The terms “and,” “or,” and “and/or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

9. The terms “describe” and “state” shall mean to set forth fully and unambiguously every fact relevant to the subject of the request, of which CQG (as defined herein) has knowledge or information.

10. Any word written in the singular herein shall be construed as plural or vice versa to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

11. The term “the ’304 patent” shall mean U.S. Patent No. 6,766,304. The term “the ’132 patent” shall mean U.S. Patent No. 6,772,132. The term “patents-in-suit” shall mean the ‘304 patent and the ‘132 patent either collectively or individually. The term “related patents” shall mean any continuations or continuations-in-part off of the applications that led to the ‘304 or ‘132 patents.

12. “Order Entry Screens” shall mean any electronic trading software made, used, sold, offered for sale, licensed, leased, imported, or otherwise distributed by CQG that allows for order entry, order modification, and/or order cancellation, including but not limited to DOMTrader, HeadsUP Display, Order Window, ChartTrader, Order Ticket, Order Desk, SnapTrader and SpreadSheet Trader, as present in or as part of CQG Integrated Platform, CQG Integrated Client, CQG Trader, CQG Web Trader, TFlow, Data Factory and/or any other CQG offering, or as present in any white label version of any CQG offering. References to “Order Entry Screens” are not limited to electronic trading software made by CQG, but include software made by or obtained from or through third parties on behalf of CQG, and are further not limited to just released versions and/or builds, but include all versions and builds, whether released or unreleased, such as alpha versions and/or builds, beta versions and/or builds, and internal versions and/or builds.

13. “Electronic Trading Product” shall mean any software, hardware or combination thereof, that includes one or more Order Entry Screens for connecting to or interacting with any public or private trading system that provides for electronic trading, whether live or simulated, including but not limited to the Chicago Board of Trade (“CBOT”), the Chicago Mercantile Exchange (“CME”), the London International Financial Futures and Options Exchange (“LIFFE”), Eurex, the New York

Stock Exchange (“NYSE”), NASDAQ, the Intercontinental Exchange (“ICE”), ICAP BrokerTec, the Tokyo Stock Exchange (“TSE”), the Tokyo International Financial Futures Exchange (“TIFFE”), the Sydney Futures Exchange (“SFE”), the BGC Exchange, the ELX Futures Exchange, the Cantor Exchange, or the eSpeed System, and including but not limited to CQG Integrated Client, CQG Trader, CQG Web Trader, and CQG Spreader Systems. References to “Electronic Trading Product” are not limited to electronic trading software made by CQG either on its own behalf or for other parties, but include software made by or obtained from or through third parties on behalf of CQG, and are further not limited to just released versions and/or builds, but include all versions and builds, whether released or unreleased, such as alpha versions and/or builds, beta versions and/or builds, and internal versions and/or builds.

14. “Ladder” means an Order Entry Screen on which trades may be made and sent to an exchange that displays at least one indicator representing the best bid and/or best ask price relative to a range of price levels (any level of which the at least one indicator may be displayed against), including, but not limited to CQG’s DOMTrader, CQG Spreader, Order Ticket, and ChartTrader. For clarity, the indicator is merely an indication of what the best bid or best ask price is at a particular time and does not need to remain the same visual representation from moment to moment (*e.g.*, if the indicator is a numeral also indicating the current amount of quantity available at the best bid or ask price, the numeral may be dynamically changing from moment to moment).

15. “Always Centered Trading Screen” means an Order Entry Screen on which trades may be made to an Exchange that displays at least one indicator representing the best bid and/or best ask price relative to a range of price levels in which the best bid price, best ask price or last traded price is continuously displayed in the center of the displayed range of prices (*i.e.*, the center cell or one off of the center cell if an even number of rows are displayed). To qualify as an Always Centered

Trading Screen, there can never be a mode or condition in which continuous display of the best bid price, best ask price or last traded price in the center described above does not occur. For example, the continuous display of such type of price in the center can never be disabled in anyway (e.g., turned off by user, turned off by software, temporarily disabled based on a location of mouse pointer, etc.).

16. “White-Labeled Product” shall mean any CQG Order Entry Screen and/or Electronic Trading Product that is used, licensed, sold, offered for license or offered for sale by an entity other than CQG, using a different name for the Order Entry Screen and/or Electronic Trading Product.

17. “CQG Software Product” shall mean any software made, used, sold, offered for sale, licensed, leased, imported, or otherwise distributed by CQG, including but not limited to Order Entry Screens and Electronic Trading Products, CQG APIs, charting software, data display software, software made on behalf of CQG by other parties, software made by CQG for other parties, and White-Labeled Product, or rebranded CQG software.

18. “CQG API” shall mean CQG Integrated Client API, CQG Trader API, Enterprise API, CQG Data API, CQG Trading API or any other method by which CQG allows a customer or end user to use their own tools to interface with CQG’s data feeds, exchange connectivity, order entry routing or CQG Software Products.

19. “Transaction” includes, by way of example and without limitation, any original, filled, modified, revised, consolidated or canceled order that is either sent to an exchange or entered in a simulation, or any executed trade.

20. “Indirectly” includes, by way of example and without limitation, all transactions initiated, modified or canceled in an application other than the Electronic Trading Products, but which can be or are displayed in the Electronic Trading Products.

21. The term “Acquisition of or Merger with Defendants” shall mean any acquisition of or merger with Defendants (whether by stock purchase, asset purchase, stock swap, merger or any other method), including any communications, inquiries, or discussions regarding any potential, proposed, or finalized purchase, sale, or merger of Defendants.

22. The term “potential Purchaser” shall mean any person or entity that had any communications, inquiries, or discussions regarding the possible purchase, sale, or merger of Defendants.

23. No request or subpart hereof shall be construed as a limitation on any other request or subpart hereof.

24. Where Defendants assert an objection to a request, state all grounds upon which the objection is based.

25. No interrogatory or subpart hereof shall be construed as a limitation on any other interrogatory or subpart hereof.

26. If any information called for by an interrogatory is withheld on the basis of a claim of privilege or work product, the nature of the claim of privilege or work product and the nature of the information in respect to which it is claimed shall be set forth.

27. Where CQG asserts an objection to an interrogatory, state all grounds upon which the objection is based.

**REQUEST NO. 86**

All documents and things described or referred to in TRADING TECHNOLOGIES INTERNATIONAL, INC.'S FIRST NOTICE OF DEPOSITION OF DEFENDANTS PURSUANT TO FED. R. CIV. P. 30(b)(6), served concurrently herewith.

**REQUEST NO. 87**

All documents and things reviewed by, referred to, consulted, or relied upon in preparing any witnesses designated to respond to any topic(s) in TRADING TECHNOLOGIES INTERNATIONAL, INC.'S FIRST NOTICE OF DEPOSITION OF DEFENDANTS PURSUANT TO FED. R. CIV. P. 30(b)(6), served concurrently herewith.

**REQUEST NO. 88**

All documents and things described or referred to in TRADING TECHNOLOGIES INTERNATIONAL, INC.'S SECOND NOTICE OF DEPOSITION OF DEFENDANTS PURSUANT TO FED. R. CIV. P. 30(b)(6), served concurrently herewith.

**REQUEST NO. 89**

All documents and things reviewed by, referred to, consulted, or relied upon in preparing any witnesses designated to respond to any topic(s) in TRADING TECHNOLOGIES INTERNATIONAL, INC.'S SECOND NOTICE OF DEPOSITION OF DEFENDANTS PURSUANT TO FED. R. CIV. P. 30(b)(6), served concurrently herewith.

**REQUEST NO. 90**

All documents and things described or referred to in TRADING TECHNOLOGIES INTERNATIONAL, INC.'S THIRD SET OF INTERROGATORIES (NOS. 15-17), served concurrently herewith.

**REQUEST NO. 91**

All documents and things referring to, relating to, or describing any method through which Defendants distribute or have distributed any Order Entry Screen or Electronic Trading Product, including White-Labeled versions, since July 2004, inside or outside the United States, whether through download (e.g. via “personalized site” as referred to in Defendants’ response to TT’s Interrogatory No. 6), CD, DVD, thumb drive, ftp site, e-mail or other method, including the identification of each person or entity who received any Order Entry Screen or Electronic Trading Product by each method, the dates each customer and/or end user received any Order Entry Screen or Electronic Trading Product by each method, the location of each customer and/or end user, the number of Order Entry Screens or Electronic Trading Products distributed by each method, and any limitations on redistribution of such Order Entry Screens or Electronic Trading Products.

**REQUEST NO. 92**

All documents and things referring or relating to the distribution of any of the Electronic Trading Products or Order Entry Screens by Defendants’ customers and/or end users to others, inside or outside the United States, with or without Defendants’ consent or knowledge.

**REQUEST NO. 93**

All documents and things referring or relating to the process by which CQG allowed or allows customers and/or end users to upgrade and/or downgrade each version of its CQG Software Products, including all Electronic Trading Products and Order Entry Screens, to another version, including but not limited to whether each upgrade and/or downgrade was mandatory or voluntary.

**REQUEST NO. 94**

All documents and things referring or relating to all circumstances where CQG has used, tested, demonstrated or operated any of its Electronic Trading Products and/or Order Entry Screens from July 1999 to present, including demonstrating the products to customers and/or end users or potential customers and/or end users, for assessing performance or operation, and/or for quality control or quality assurance purposes including beta testing, including but not limited to each feature demonstrated, how the features were demonstrated, what settings were used and/or demonstrated, and how orders were entered, modified, and/or cancelled in each such use, test, or operation.

**REQUEST NO. 95**

All documents and things referring or relating to Defendants' decision to offer any Order Entry Screen, including but not limited to the date Defendants first offered any Order Entry Screen, all internal communications regarding or related to any Order Entry Screen, all communications with customers regarding or related to any Order Entry Screen, all communications with attorneys regarding the decision to offer any Order Entry Screen, and all market studies and competitive analyses performed related to this decision.

**REQUEST NO. 96**

All documents and things referring or relating to Defendants' decision to include any feature in any Electronic Trading Product and/or Order Entry Screen from July 2004 to present, including but not limited to the Ladder, automatic or manual repositioning, order entry, order modification, or order cancellation.



**REQUEST NO. 97**

All documents and things referring or relating to any settings or methods required to enable any Ladders within any Electronic Trading Product and/or Order Entry Screen from July 2004 to present.

**REQUEST NO. 98**

All documents and things referring or relating to Defendants' capability to monitor, track, count and or store information related to transactions or trading activity taking place through the Order Entry Screens and/or Electronic Trading Products, including all White-Labeled versions, and any API used by each customer and/or end user, from July 2004 to present for each trader and/or end user (including Defendants' employees or traders); and to the extent Defendants actually do so, an identification of how such monitoring, tracking, counting and/or storing is accomplished; a description of the data that is collected during monitoring, tracking, counting and/or storing; and customer-by-customer details related to all such monitored, tracked, counted or stored transactions or trading activity, including but not limited to the volume of entered orders, any modifications of orders, any cancellations of order, any filling of orders, the specific Order Entry Screen and/or Electronic Trading Product used for each transaction, the settings for the specific Order Entry Screen and/or Electronic Trading Product used for each transaction, the identification of the instrument that is the subject of the transaction, any fees associated with each transaction, and any other related data.

**REQUEST NO. 99**

One computer-operable sample of every version of each Electronic Trading Product and/or Order Entry Screen with a Ladder developed, made, offered, sold, distributed, marketed,

and/or licensed by or with the assistance of or at the direction of Defendants from July 2004 to present, whether or not actually used by Defendants or provided to Defendants' customers.

**REQUEST NO. 100**

For each customer and/or end user, all documents and things referring or relating to all CQG Software Products, including but not limited to all Electronic Trading Products, CQG APIs and/or Order Entry Screens, provided to each customer and/or end user by Defendants' or by any other entity on Defendants' behalf from July 2004 to present.

**REQUEST NO. 101**

For each customer and/or end user of any CQG API, all documents and things reflecting all software, products and/or algorithms each customer and/or end user uses to interface with the CQG API, all documents and things reflecting transactions entered through the CQG API from July 2004 to the present and any details of those transactions, and all revenue CQG received from sale and/or license of the CQG API from July 2004 to the present by month.

**REQUEST NO. 102**

For each version or build of the Electronic Trading Products, including all White-Labeled versions, from July 2004 to present all documents and things referring or relating to any transactions (whether or not filled) initiated, modified or canceled directly or indirectly using any such version or build, including but not limited to documents sufficient to show, for each such version or build, the number of screens in use each month from July 2004 to present, the number of end users for each screen, the identity of the customer and/or end user(s) for each screen, and, for each such screen, the number of transactions initiated that month directly or indirectly using that Electronic Trading Product or any other quantification of trading activity, the details of each

such transaction, the extent to which orders placed using any Electronic Trading Product are matched or filled, and any fees associated with such transactions.

**REQUEST NO. 103**

For each customer and/or each end user, regardless of how the customer and/or end user received each Electronic Trading Product and/or Order Entry Screen, all documents and things referring or relating to the number of orders, whether or not filled, broken down by Electronic Trading Product and Order Entry Screen for each transaction, settings and configurations used by each customer and/or end user to enter, modify, and/or cancel orders on each Electronic Trading Product and/or Order Entry Screen used, and all information regarding the customer and/or end user's connection to any API.

**REQUEST NO. 104**

All documents and things referring or relating to the number of transactions for each customer and/or each end user, broken down by the instrument or instruments traded for each transaction, including but not limited to monthly and/or annual reports.

**REQUEST NO. 105**

All documents and things referring or relating to the settings and configurations used by each customer and/or end user to view the market and to enter, modify, and/or cancel orders on each Order Entry Screen within each Electronic Trading Product, including but not limited to the enabling or disabling of confirmation windows, and the enabling or disabling of any repositioning features.

**REQUEST NO. 106**

All documents and things referring or relating to Defendants' revenue from July 2004 to present, including but not limited to Defendants' revenue from each Electronic Trading Product

and/or Order Entry Screen, and, if available, further broken by settings and/or configurations available to and/or used by each customer and/or end user, and each asset class.

**REQUEST NO. 107**

Documents sufficient to identify each FCM involved in any transaction entered, modified or canceled using any CQG Software Product, Order Entry Screen, Electronic Trading Product or CQG API from July 2004 to present, and for each FCM all documents and things regarding whether each individual FCM allows or allowed a customer and/or end user to enable fast-click mode or any other single-click order entry mode or method in any of Defendants' Electronic Trading Products and/or Order Entry Screens, including but not limited to which customers and/or end users each FCM allowed to enable fast-click mode or any other single-click order entry mode or method, and, for each version, which Electronic Trading Products and/or Order Entry Screens each FCM allowed customers and/or end users to enable fast-click mode and/or any other single-click order entry mode or method.

**REQUEST NO. 108**

All documents and things referring or relating to each customer and/or end user's connection to any CQG API, including but not limited to the software, products and or algorithms each customer and/or end user used to interface with the CQG API, any issues reported by a customer and/or end user and any requests and/or suggestions by customers and/or end users, whether or not these requests and/or suggestions were implemented.

**REQUEST NO. 109**

All documents and things referring or relating to customers and/or end users of Electronic Trading Products, including but not limited to any customer relationship management database, such as Salesforce.com, any bug reporting database, and any customer call logging database.

**REQUEST NO. 110**

All documents and things referring or relating to any White-Labeled versions of Defendants' Electronic Trading Products and/or Order Entry Screens, including but not limited to the names of customers or entities that have used, licensed, sold, offered for license or offered for sale any such White-Labeled Product; the name of any such White-Labeled Product; the users and/or licensees of any such White-Labeled Product; all transactions entered, modified or canceled through any such White-Labeled Product; Defendants' ability to monitor, track, count or store information related to transactions entered, modified or canceled through any such White-Labeled Product; Defendants' methods of distributing any such White-Labeled Product; Defendants' pricing for any such White-Labeled Product; and Defendants' revenue associated with any such White-Labeled Product.

**REQUEST NO. 111**

All documents and things referring or relating to any name change or rebranding of any of Defendants' Electronic Trading Products and/or Order Entry Screens, and Defendants' decision to change the name or rebrand any of its Electronic Trading Products and/or Order Entry Screens.

**REQUEST NO. 112**

All documents and things referring or relating to any bug or event reporting system used by Defendants from July 2004 to present for any of their Electronic Trading Products and/or Order Entry Screens, all testing performed by Defendants or on Defendants' behalf regarding any reported bugs or events, including but not limited to any testing results and internal communications regarding the reported bugs or events, or the testing results.

**REQUEST NO. 113**

All documents and things referring or relating to any bugs or issues/events reported by customers from July 2004 to present for any Electronic Trading Product and/or Order Entry System.

**REQUEST NO. 114**

All documents and things referring or relating to Defendants' Customer Account Service Tool ("CAST"), Defendants' INFO environment, and any other similar system used by Defendants' from July 2004 to present.

**REQUEST NO. 115**

All emails referring or relating to Defendants' Electronic Trading Products and/or Order Entry Screens.

**REQUEST NO. 116**

All documents and things referring or relating to the date DOMTrader was first developed, made, offered, sold, distributed, marketed, licensed, and/or used by, or with the assistance or at the direction of Defendants, including any versions that were never commercially released.

**REQUEST NO. 117**

All documents and things referring or relating to Defendants' decision to develop, make, offer, sell, distribute, market, license, and/or use DOMTrader and/or the Market Window, including but not limited to all customer and/or end user feedback or suggestions, and all market research and competitive analysis.

**REQUEST NO. 118**

All documents and things sufficient to identify the names and titles of all persons having responsibility for the decision to develop DOMTrader and/or the Market Window.

**REQUEST NO. 119**

All documents and things referring or relating to any requests or suggestions to alter or enhance any feature of Defendants' Electronic Trading Products and/or Order Entry Screens and all reports regarding implementation of any changes.

**REQUEST NO. 120**

All documents and things referring or relating to CQG Integrated Client Version 8.2, including but not limited to when Version 8.2 was released, including all releases of Version 8.2, each new or modified feature in DOMTrader and/or the Market Window, why each new or modified feature in DOMTrader and/or the Market Window was included in Version 8.2, the decision to remove any of these new or modified features in DOMTrader and/or the Market Window from CQG Integrated Client, all versions of CQG Integrated Client in which any of these new or modified features in DOMTrader and/or the Market Window were removed, and the date each of these versions was released.

**REQUEST NO. 121**

All documents and things sufficient to identify the names and titles of all persons having responsibility for the decision to include any new feature or to modify any existing feature in DOMTrader and/or the Market Window within CQG Integrated Client Version 8.2, and/or the development of any new or modified feature within Version 8.2.

**REQUEST NO. 122**

All documents and things referring or relating to if and when Defendants' attorneys had any knowledge of the addition of new features and/or modifications of existing features within CQG Integrated Client Version 8.2.

**REQUEST NO. 123**

All documents and things referring or relating to Defendants' decision to remove any feature included in DOMTrader and/or the Market Window in CQG Integrated Client Version 8.2, including but not limited to each version in which a feature was removed, the date each of these versions was released, and all reasons for removing any of these features.

**REQUEST NO. 124**

All documents and things sufficient to identify the names and titles of all persons having responsibility for the decision to remove any new or modified feature in DOMTrader and/or the Market Window within CQG Integrated Client Version 8.2.

**REQUEST NO. 125**

All documents and things referring or relating to the date Defendants' first had knowledge of TT's patents-in-suit.

**REQUEST NO. 126**

All documents and things referring or relating to use of Defendants' Electronic Trading Products and/or Order Entry Screens by Defendants or their customers.

**REQUEST NO. 127**

All documents and things referring or relating to Defendants' alleged development of an Electronic Trading Product or Order Entry Screen ("trade routing software" in Defendants' Response to TT's Interrogatory No. 9) prior to the priority date of TT's patents-in-suit.



**REQUEST NO. 128**

All documents and things referring or relating to any potential or finalized agreements, contracts, communications, discussions, or covenants pertaining to indemnification of Defendants or by Defendants, whether agreed to or refused, for any judgments, settlements, injunctions, legal fees and/or expenses, or other liabilities resulting from any infringement of any TT patents, including the patents-in-suit, TT's asserted patents, or other TT patents.

**REQUEST NO. 129**

All documents or things referring or relating to any meetings, discussions, agreements, contracts, covenants, or communications related in any way to indemnification and/or reimbursement, whether agreed to or refused, for any judgments, settlements, injunctions, legal fees and/or expenses, or other liabilities from any patent infringement by software or products previously made, used, sold, or licensed by Defendants or any of Defendants' customers and/or end users.

**REQUEST NO. 130**

All documents and things referring or relating to (1) any refusal by CQG to indemnify any individual or entity for any judgments, settlements, injunctions, legal fees and/or expenses, or other liabilities resulting from any infringement of any TT patents, including the patents-in-suit, TT's asserted patents, or other TT patents, and (2) refusal by any individual or entity of any request by CQG for indemnification for any judgments, settlements, injunctions, legal fees and/or expenses, or other liabilities resulting from any infringement of any TT patents, including the patents-in-suit, TT's asserted patents, or other TT patents.

**REQUEST NO. 131**

All documents and things referring or relating to any proposed, potential, or finalized Acquisition of or Merger with Defendants, including any correspondence (including e-mails) exchanged between Defendants and any potential Purchaser referring or relating to an Acquisition of or Merger with Defendants, any documents exchanged between Defendants and any potential Purchaser relating to an Acquisition of or Merger with Defendants, any of Defendants' internal documents referring or relating to any proposed, potential or finalized Acquisition of or Merger with Defendants, any closing documents, and any draft agreements, proposals, letters or memoranda of understanding, term sheets, bids, requests for bids, or other documents related to any proposed, potential or finalized Acquisition of or Merger with Defendants.

**REQUEST NO. 132**

All agreements, contracts, covenants, or memorandums of understanding referring or relating in any way to any proposed, potential, or finalized Acquisition of or Merger with Defendants, including all attachments, schedules, and any other documents referred to in any of these documents.

**REQUEST NO. 133**

All documents and things referring or relating to any meetings, discussions, agreements, contracts, and/or covenants related in any way to any proposed, potential, or finalized Acquisition of or Merger with Defendants.

**REQUEST NO. 134**

All documents and things referring or relating to any offer or possible offer (including term sheets) made by any potential Purchaser for an Acquisition of or Merger with Defendants,

or any offer or possible offer (including term sheets) solicited or requested by Defendants, including all terms of any such offer or possible offer.

**REQUEST NO. 135**

All documents and things referring or relating to any side letters or any other agreements (whether written or oral) regarding any proposed, potential or finalized Acquisition of or Merger with Defendants.

**REQUEST NO. 136**

All documents and things referring or relating to any negotiations between Defendants and any potential Purchaser regarding an Acquisition of or Merger with Defendants.

**REQUEST NO. 137**

All documents or things referring or relating to any escrow agreements or accounts, or deferred payments or compensation, or any other type of set-aside, hold back or reserve regarding any proposed, potential, or finalized Acquisition of or Merger with Defendants, relating in any way to potential liability for infringement of any TT patents, including the patents-in-suit, TT's asserted patents, or other TT patents.

**REQUEST NO. 138**

All documents or things referring or relating to any proposed, potential, or finalized Acquisition of or Merger with Defendants pertaining to how any possible patent infringement, including the present lawsuit, TT's patent infringement lawsuit Civil Action No. 10-cv-00718 against Defendants, the patents-in-suit, TT's asserted patents or the possibility of the assertion of additional patents among TT's patents affected or reduced the value of Defendants, the possible purchase price or purchase price for Defendants, or the terms of any proposed, potential, or finalized Acquisition of or Merger with Defendants.

**REQUEST NO. 139**

All documents and things referring or relating to the amount of liability or potential liability of Defendants for any infringement of any patents, including the patents-in-suit, TT's asserted patents, or TT's patents.

**REQUEST NO. 140**

All documents and things referring or relating to the amount of liability or potential liability of Defendants for each Transaction executed on Defendants' Electronic Trading Tools for any infringement of any patents, including the patents-in-suit, TT's asserted patents, or TT's patents.

Respectfully submitted,

s/ Andrea K. Orth

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**Attorneys for Plaintiff,  
TRADING TECHNOLOGIES  
INTERNATIONAL, INC.**

**CERTIFICATE OF SERVICE**

I certify that TRADING TECHNOLOGIES' THIRD SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO DEFENDANTS (NOS. 85-140) was served on Tuesday, June 26, 2012, as follows:

***Counsel for CQG, Inc., and CQGT, LLC:***

***Via email and First Class U.S. Mail:***

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s/Andrea K. Orth

# APPENDIX 16

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Trading Technologies International, Inc.,	)	
	)	
Plaintiff,	)	Civil Action No. 05-4811
	)	
v.	)	Judge Sharon Johnson Coleman
	)	
CQG, Inc. and CQGT, LLC,	)	Magistrate Sidney I. Schenkier
	)	
Defendants.	)	
	)	

**TRADING TECHNOLOGIES’ FOURTH SET OF REQUESTS  
FOR THE PRODUCTION OF DOCUMENTS AND THINGS  
TO DEFENDANTS (NOS. 141-142)**

Plaintiff Trading Technologies International, Inc. (“TT”) provides the following requests to Defendants CQG, Inc. (“CQG”) and CQGT, LLC (“CQGT”) (collectively “Defendants”), seeking production of the documents and things specified below for inspection and copying pursuant to Federal Rules of Civil Procedure 26 and 34 and the Local Rules of the U.S. District Court for the Northern District of Illinois. The documents shall be produced for inspection and copying within thirty (30) days of service hereof at the offices of TT’s counsel, McDonnell Boehnen Hulbert & Berghoff LLP, 300 South Wacker Drive, Chicago, Illinois, 60606.



## DEFINITIONS AND INSTRUCTIONS

1. The terms “Plaintiff,” “Trading Technologies,” and “TT” shall mean Trading Technologies International, Inc.; any company name under which Trading Technologies is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.
2. The term “Defendants” and “CQG” shall mean CQG, Inc. and/or CQGT, LLC; any company name under which either entity is doing business; and their predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities including affiliates, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control. For the purposes of this definition, “affiliate” shall mean any entity that, at any relevant time: (i) controls; (ii) is controlled by; or (iii) is controlled by a separate entity that also controls CQG, Inc. or CQGT, LLC, where "control" includes direct or indirect control, including any subsidiary, holding company or operating division from time to time.
3. The terms “person” and “persons” shall mean natural persons (including, without limitation, those employed by CQG), as well as all governmental entities, agencies, officers, departments, or affiliates of any other governmental entity, and any corporation, foundation, partnership, proprietorship, association, or other organization.
4. The term “date” shall mean the exact day, month, and year (to the degree ascertainable) or, if not ascertainable, the best approximation (including relationship to other events).

5. The term “document” shall mean writings, recordings and other communications, whether reduced to tangible or electronic form, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including without limitation, correspondence, memoranda, notes, executable and non-executable electronic files, including e-mail, compiled software, source code, bug tracking, screen shots, diaries, minutes, statistics, letters, telegrams, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, receipts, returns, summaries, pamphlets, books, prospectuses, calendars, diaries, planners, interoffice and intra-office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meetings, presentations, or printouts, teletypes, fax, invoices, work sheets, and all drafts, alterations, modifications, changes and amendments of the foregoing), graphic or oral representations of any kind (including without limitation, photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys), and electronic or electro-mechanical records or representations of any kind (including without limitation, computer memory, hard drives, discs, tapes, cassettes and recordings).

6. The terms “relating to” and “referring to” shall be interpreted broadly so as to encompass the liberal scope of discovery set forth in Federal Rule of Civil Procedure 26(b).

7. The terms “identify” and “describe” shall mean providing, among other things:

- a. with respect to a natural person, home and work addresses and telephone numbers, the name of the person’s present (or if unknown, the last known) place of employment, date of commencement and termination (if any) of employment, job title, and description of his or her duties and responsibilities;

b. with respect to a corporation or other non-natural person, the full name, address, main telephone number, state of incorporation, and identity of all persons who have acted on behalf of such entity with respect to the subject matter of the request;

c. with respect to a document, the type of document (e.g., letter, e-mail, fax, contract, calendar, invoice, report); the number of pages or size of electronic file; a description of the document's contents; an identification of the person(s) who prepared the document, for whom the document was prepared, who signed the document, to whom the document was delivered, mailed, or otherwise received, and to whom a copy of the document was sent or otherwise received; the date of writing, creation, or publication; identifying number(s), letter(s), or combination thereof, if any; the significance or meaning of such number(s), letter(s) or combination thereof; for electronic documents, the name of the software used to generate the document and the electronic file type; and the present location and identity of the custodian of that document. Documents to be identified shall include all documents in your possession, custody or control, documents you know or believe to have existed but are no longer existing, and other documents of which you have knowledge or information.

8. The terms “and,” “or,” and “and/or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

9. The terms “describe” and “state” shall mean to set forth fully and unambiguously every fact relevant to the subject of the request, of which CQG (as defined herein) has knowledge or information.

10. Any word written in the singular herein shall be construed as plural or vice versa to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

11. The term “the ’304 patent” shall mean U.S. Patent No. 6,766,304. The term “the ’132 patent” shall mean U.S. Patent No. 6,772,132. The term “patents-in-suit” shall mean the ’304 patent and the ’132 patent either collectively or individually. The term “related patents” shall mean any continuations or continuations-in-part off of the applications that led to the ’304 or ’132 patents.

12. “Order Entry Screens” shall mean any electronic trading software made, used, sold, offered for sale, licensed, leased, imported, or otherwise distributed by CQG that allows for order entry, order modification, and/or order cancellation, including but not limited to DOMTrader, HeadsUP Display, Order Window, ChartTrader, Order Ticket, Order Desk, SnapTrader and SpreadSheet Trader, as present in or as part of CQG Integrated Platform, CQG Integrated Client, CQG Trader, CQG Web Trader, TFlow, Data Factory and/or any other CQG offering, or as present in any white label version of any CQG offering. References to “Order Entry Screens” are not limited to electronic trading software made by CQG, but include software made by or obtained from or through third parties on behalf of CQG, and are further not limited to just released versions and/or builds, but include all versions and builds, whether released or unreleased, such as alpha versions and/or builds, beta versions and/or builds, and internal versions and/or builds.

13. “Electronic Trading Product” shall mean any software, hardware or combination thereof, that includes one or more Order Entry Screens for connecting to or interacting with any public or private trading system that provides for electronic trading, whether live or simulated, including but not limited to the Chicago Board of Trade (“CBOT”), the Chicago Mercantile Exchange (“CME”), the London International Financial Futures and Options Exchange (“LIFFE”), Eurex, the New York

Stock Exchange (“NYSE”), NASDAQ, the Intercontinental Exchange (“ICE”), ICAP BrokerTec, the Tokyo Stock Exchange (“TSE”), the Tokyo International Financial Futures Exchange (“TIFFE”), the Sydney Futures Exchange (“SFE”), the BGC Exchange, the ELX Futures Exchange, the Cantor Exchange, or the eSpeed System, and including but not limited to CQG Integrated Client, CQG Trader, CQG Web Trader, and CQG Spreader Systems. References to “Electronic Trading Product” are not limited to electronic trading software made by CQG either on its own behalf or for other parties, but include software made by or obtained from or through third parties on behalf of CQG, and are further not limited to just released versions and/or builds, but include all versions and builds, whether released or unreleased, such as alpha versions and/or builds, beta versions and/or builds, and internal versions and/or builds.

14. “Ladder” means an Order Entry Screen on which trades may be made and sent to an exchange that displays at least one indicator representing the best bid and/or best ask price relative to a range of price levels (any level of which the at least one indicator may be displayed against), including, but not limited to CQG’s DOMTrader, CQG Spreader, Order Ticket, and ChartTrader. For clarity, the indicator is merely an indication of what the best bid or best ask price is at a particular time and does not need to remain the same visual representation from moment to moment (*e.g.*, if the indicator is a numeral also indicating the current amount of quantity available at the best bid or ask price, the numeral may be dynamically changing from moment to moment).

15. “Always Centered Trading Screen” means an Order Entry Screen on which trades may be made to an Exchange that displays at least one indicator representing the best bid and/or best ask price relative to a range of price levels in which the best bid price, best ask price or last traded price is continuously displayed in the center of the displayed range of prices (*i.e.*, the center cell or one off of the center cell if an even number of rows are displayed). To qualify as an Always Centered

Trading Screen, there can never be a mode or condition in which continuous display of the best bid price, best ask price or last traded price in the center described above does not occur. For example, the continuous display of such type of price in the center can never be disabled in anyway (e.g., turned off by user, turned off by software, temporarily disabled based on a location of mouse pointer, etc.).

16. “White-Labeled Product” shall mean any CQG Order Entry Screen and/or Electronic Trading Product that is used, licensed, sold, offered for license or offered for sale by an entity other than CQG, using a different name for the Order Entry Screen and/or Electronic Trading Product.

17. “CQG Software Product” shall mean any software made, used, sold, offered for sale, licensed, leased, imported, or otherwise distributed by CQG, including but not limited to Order Entry Screens and Electronic Trading Products, CQG APIs, charting software, data display software, software made on behalf of CQG by other parties, software made by CQG for other parties, and White-Labeled Product, or rebranded CQG software.

18. “CQG API” shall mean CQG Integrated Client API, CQG Trader API, Enterprise API, CQG Data API, CQG Trading API or any other method by which CQG allows a customer or end user to use their own tools to interface with CQG’s data feeds, exchange connectivity, order entry routing or CQG Software Products.

19. “Transaction” includes, by way of example and without limitation, any original, filled, modified, revised, consolidated or canceled order that is either sent to an exchange or entered in a simulation, or any executed trade.

20. “Indirectly” includes, by way of example and without limitation, all transactions initiated, modified or canceled in an application other than the Electronic Trading Products, but which can be or are displayed in the Electronic Trading Products.

21. The term “Acquisition of or Merger with Defendants” shall mean any acquisition of or merger with Defendants (whether by stock purchase, asset purchase, stock swap, merger or any other method), including any communications, inquiries, or discussions regarding any potential, proposed, or finalized purchase, sale, or merger of Defendants.

22. The term “potential Purchaser” shall mean any person or entity that had any communications, inquiries, or discussions regarding the possible purchase, sale, or merger of Defendants.

23. No request or subpart hereof shall be construed as a limitation on any other request or subpart hereof.

24. Where Defendants assert an objection to a request, state all grounds upon which the objection is based.

25. No interrogatory or subpart hereof shall be construed as a limitation on any other interrogatory or subpart hereof.

26. If any information called for by an interrogatory is withheld on the basis of a claim of privilege or work product, the nature of the claim of privilege or work product and the nature of the information in respect to which it is claimed shall be set forth.

27. Where CQG asserts an objection to an interrogatory, state all grounds upon which the objection is based.

**REQUEST NO. 141:**

All documents and things referring or relating to Defendants' capability to monitor, track, count and/or store information related to price selection and resizing of windows within the Order Entry Screens and/or Electronic Trading Products, including all White-Labeled versions, and any API used by each customer and/or end user, from July 2004 to present for each trader and/or end user (including Defendants' employees or traders), including but not limited to the selection of prices and/or scrolling between prices, the location of any selected prices within the Order Entry Screen and/or Electronic Trading Product, any resizing of the Market Window, DOMTrader, and/or Order Ticket, and the opening any new DOMTrader or Order Ticket Window; and to the extent Defendants have such capability, an identification of how such monitoring, tracking, counting and/or storing is accomplished; a description of the data that is collected during monitoring, tracking, counting and/or storing; and customer-by-customer details related to all such monitored, tracked, counted or stored information, including but not limited to the specific Order Entry Screen and/or Electronic Trading Product used, the settings for the specific Order Entry Screen and/or Electronic Trading Product used, and any other related data.

**REQUEST NO. 142:**

All documents and things referring or relating to any comments maintained in Defendants' version control system that is used to track the source code for each version or build of each Electronic Trading Product from July 2004 to present that includes a Ladder and/or Always Centered Screen, and the names of all programmers who checked the source code into the version control system.



Respectfully submitted,

Date: September 17, 2012

By: s/Brandon J. Kennedy

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**Attorneys for Plaintiff,**

**TRADING TECHNOLOGIES**

**INTERNATIONAL, INC.**

**CERTIFICATE OF SERVICE**

I certify that TRADING TECHNOLOGIES' FOURTH SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO DEFENDANTS (NOS. 141-142) was served on September 17, 2012, as follows:

***Counsel for CQG, Inc., and CQGT, LLC:***

***Via email and First Class U.S. Mail:***

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s/ Brandon J. Kennedy

# APPENDIX 17



## **DEFINITIONS AND INSTRUCTIONS**

In the following document requests:

1. The terms “Plaintiff,” “Trading Technologies,” and “TT” shall mean Trading Technologies International, Inc.; any company name under which Trading Technologies is doing business; and its predecessor or successor, and any past or present parents, subsidiaries, affiliates, divisions, joint ventures, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

2. The term “Defendants” and “IB” shall mean IBG LLC and Interactive Brokers LLC; any company name under which IB is doing business; and their predecessors or successors, any past or present parents, subsidiaries, shareholders, affiliates, divisions, joint ventures, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

3. The terms “person” and “persons” shall mean natural persons (including, without limitation, those employed by Defendants), as well as all governmental entities, agencies, officers, departments, or affiliates of any other governmental entity, and any corporation, foundation, partnership, proprietorship, association, or other organization.

4. The term “date” shall mean the exact day, month, and year (to the degree ascertainable) or, if not ascertainable, the best approximation (including relationship to other events).

5. The term “document” shall mean writings, recordings and other communications, whether reduced to tangible or electronic form, including the originals and all non-identical

copies, whether different from the original by reason of any notation made on such copies or otherwise (including without limitation, correspondence, memoranda, notes, executable and nonexecutable electronic files, including e-mail, compiled software, source code, bug tracking, screen shots, diaries, minutes, statistics, letters, telegrams, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, receipts, returns, summaries, pamphlets, books, prospectuses, calendars, diaries, planners, interoffice and intra-office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meetings, presentations, or printouts, teletypes, fax, invoices, work sheets, and all drafts, alterations, modifications, changes and amendments of the foregoing), graphic or oral representations of any kind (including without limitation, photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys), and electronic or electro-mechanical records or representations of any kind (including without limitation, computer memory, hard drives, discs, DVDs, CDs, flash drives, tapes, cassettes and recordings).

6. The terms “relating to” and “referring to” shall be interpreted broadly so as to encompass the liberal scope of discovery set forth in Federal Rule of Civil Procedure 26(b) and means regarding, respecting, noting, mentioning, reflecting, pertaining to, evidencing, identifying, involving, describing, discussing, commenting on, analyzing, evaluating, studying, embodying, responding to, supporting, contradicting, containing, concerning, comprising, or constituting (in whole or in part).

7. The terms “identify” and “describe” shall mean providing, among other things:

a) with respect to a natural person, home and work addresses and telephone numbers, the name of the person’s present (or if unknown, the last known) place of

employment, date of commencement and termination (if any) of employment, job title, and description of his or her duties and responsibilities;

b) with respect to a corporation or other non-natural person, the full name, address, main telephone number, state of incorporation, and identity of all persons who have acted on behalf of such entity with respect to the subject matter of the request;

c) with respect to a document, the type of document (e.g., letter, e-mail, fax, contract, calendar, invoice, report); the number of pages or size of electronic file; a description of the document's contents; an identification of the person(s) who prepared the document, for whom the document was prepared, who signed the document, to whom the document was delivered, mailed, or otherwise received, and to whom a copy of the document was sent or otherwise received; the date of writing, creation, or publication; identifying number(s), letter(s), or combination thereof, if any; the significance or meaning of such number(s), letter(s) or combination thereof; for electronic documents, the name of the software used to generate the document and the electronic file type; and the present location and identity of the custodian of that document. Documents to be identified shall include all documents in your possession, custody or control, documents you know or believe to have existed but are no longer existing, and other documents of which you have knowledge or information.

8. The terms "and," "or," and "and/or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

9. The terms "describe" and "state" shall mean to set forth fully and unambiguously every fact relevant to the subject of the request, of which Defendants (as defined herein) have

knowledge or information.

10. Any word written in the singular herein shall be construed as plural or vice versa to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

11. The term “the ‘304 patent” shall mean U.S. Patent No. 6,766,304, as well as its application and any publications thereof. The term “the ‘132 patent” shall mean U.S. Patent No. 6,772,132, as well as its application and any publications thereof. The term “the ‘999 patent” shall mean U.S. Patent No. 7,212,999, as well as its application and any publications thereof. The term “the ‘416 patent” shall mean U.S. Patent No. 7,412,416, as well as its application and any publications thereof. The term “the ‘056 patent” shall mean U.S. Patent No. 7,533,056, as well as its application and any publications thereof. The term “the ‘411 patent” shall mean U.S. Patent No. 7,676,411, as well as its application and any publications thereof. The term “the ‘055 patent” shall mean U.S. Patent No. 7,685,055, as well as its application and any publications thereof. The term “the ‘768 patent” shall mean U.S. Patent No. 7,693,768, as well as its application and any publications thereof. The term “the ‘382 patent” shall mean U.S. Patent No. 7,725,382, as well as its application and any publications thereof. The term “the ‘556 patent” shall mean U.S. Patent No. 7,783,556, as well as its application and any publications thereof. The term “the ‘996 patent” shall mean U.S. Patent No. 7,813,996, as well as its application and any publications thereof. The term “the ‘374 patent” shall mean U.S. Patent No. 7,904,374, as well as its application and any publications thereof. The term “patents-in-suit” shall mean the ‘304 patent, the ‘132 patent, the ‘999 patent, the ‘416 patent, the ‘056 patent, the ‘411 patent, the ‘055 patent, the ‘768 patent, the ‘382 patent, the ‘556 patent, the ‘996 patent, and the ‘374 patent, as well as any additional patents asserted by TT in this lawsuit, either collectively or individually.



The term “TT’s patents” shall mean all patents owned by TT.

12. “Order Entry Screens” shall mean any electronic trading software made, used, sold, offered for sale, licensed, leased, imported, or otherwise distributed to customers by Defendants that allows for order entry, order modification, and/or order cancellation, including but not limited to IB’s Trader Workstation Product, which includes IB’s BookTrader and ChartTrader modules, and IB’s WebTrader and Mobile TWS Products, which include IB’s BookTrader module, or any white label of any IB product. References to “Order Entry Screens” are not limited to electronic trading software made by Defendants, but include software made by or obtained from or through third parties and are further not limited to only released versions and/or builds, but include all versions and builds, whether released or unreleased, such as alpha versions and/or builds, beta versions and/or builds, and internal versions and/or builds.

13. “Electronic Trading Product” shall mean any software, hardware or combination thereof, that presently allows for or in the past has allowed for, and includes one or more Order Entry Screens, for connecting to or interacting with any public or private trading system that provides for electronic trading, whether live or simulated, including but not limited to the Chicago Board of Trade (“CBOT”), the Chicago Mercantile Exchange (“CME”), the London International Financial Futures and Options Exchange (“LIFFE”), Eurex, the New York Stock Exchange (“NYSE”), NASDAQ, the Intercontinental Exchange (“ICE”), ICAP BrokerTec, the Tokyo Stock Exchange (“TSE”), the Tokyo International Financial Futures Exchange (“TIFFE”), the Sydney Futures Exchange (“SFE”), the eSpeed Exchange, the Cantor Exchange, or the eSpeed System. References to “Electronic Trading Product” are not limited to electronic trading software made by Defendants, but include software made by or obtained from or through third parties and are further not limited to only released versions and/or builds, but include all versions

and builds, whether released or unreleased, such as alpha versions and/or builds, beta versions and/or builds, and internal versions and/or builds.

14. “Prior Art” includes, by way of example and without limitation, any subject matter that Defendants contend is encompassed by 35 U.S.C. § 102 and/or 35 U.S.C. § 103.

15. “IB Accused Product(s)” or “Accused Product(s)” shall mean any of Defendants’ Electronic Trading Products accused of infringing the patents-in-suit, including IB’s Trader Workstation Product, which includes IB’s BookTrader and ChartTrader modules, and IB’s WebTrader and Mobile TWS Products, which include IB’s BookTrader module, or any product which falls within the scope of the patents-in-suit, including any tool capable of (a) presenting market information on a display in relation to a price axis, and/or (b) permitting drag and drop or moving of working orders from one price level to another price level, and/or (c) presetting a default quantity for order entry, and/or (d) using a single action to both set trade order prices and send trade orders, and/or (e) using a single action to cancel orders, and/or (f) consolidating the price levels of the price axis and/or a plurality of bid and ask indicators, and/or (g) permitting setting trade orders and sending trade orders from a chart, and/or (h) recentering or repositioning a display of prices along a price axis.

16. “Transaction” includes, by way of example and without limitation, any original, modified, revised, consolidated or canceled order that is either sent to an exchange or entered in a simulation, or any trade.

17. No request or subpart hereof shall be construed as a limitation on any other request or subpart hereof.

18. In producing documents and things responsive to these requests, Defendants shall furnish all documents and things within its possession, custody, or control, regardless of whether

these documents are possessed directly by Defendants, or by its present or past agents, employees, affiliates, related companies, subsidiaries, representatives, investigators, attorneys, or others.

19. If Defendants assert the attorney-client privilege or work product doctrine as a basis for not producing any document or thing, or if any document or thing is not produced in full, produce the document or thing to the extent the request for production is not objected to, and, in so doing:

- (a) state the specific ground(s) for not producing the document or thing in full;
- (b) state the bases for such a claim of privilege or immunity; and
- (c) state the author(s), addressee(s) and any indicated or blind copyee(s); the document's date, number of pages and attachments or appendices; and the subject matter(s) of the document.

20. If Defendants maintain that any document or thing requested by TT has been destroyed, lost, or is otherwise unavailable, set forth the contents of the document or thing, the date of its destruction or loss, and the name of the person who authorized its destruction (if any).

21. Where Defendants assert an objection to a request, state all grounds upon which the objection is based.

22. These requests for production shall be deemed continuing so as to require further and supplemental production in accordance with the Federal Rules of Civil Procedure.

23. Pursuant to Federal Rule of Civil Procedure 34(b), and unless otherwise specified, TT requests that documents be produced as .tif files with opticon load files. However, TT requests that financials and any other responsive information stored in a database, source code, and executable files be produced in a native file format.

## **DOCUMENT REQUESTS**

### **REQUEST NO. 1**

All documents requested for identification by TRADING TECHNOLOGIES INTERNATIONAL, INC.'S FIRST SET OF INTERROGATORIES TO IBG LLC AND INTERACTIVE BROKERS LLC (NOS. 1-11), served concurrently herewith.

### **REQUEST NO. 2**

All documents relied upon, referred to, or consulted in responding to TRADING TECHNOLOGIES INTERNATIONAL, INC.'S FIRST SET OF INTERROGATORIES TO IBG LLC AND INTERACTIVE BROKERS LLC (NOS. 1-11), served concurrently herewith.

### **REQUEST NO. 3**

Documents sufficient to identify each version or build of each different Electronic Trading Product (whether internal, alpha, beta, commercially released or otherwise) developed, tested, made, offered, sold, distributed, imported, marketed, licensed and/or used by, or with the assistance of, the direction of, or on behalf of IB, including but not limited to every Order Entry Screen developed, tested, made, offered, sold, imported, distributed, marketed, licensed and/or used by, or with the assistance or at the direction of Defendant since 1998.

### **REQUEST NO. 4**

Documents sufficient to identify each version or build of each different Electronic Trading Product developed, tested, made, offered, sold, imported, distributed, marketed, licensed and/or

used by, or with the assistance or at the direction of Defendant, where such Electronic Trading Product is capable of (a) presenting market information on a display in relation to a price axis, and/or (b) permitting drag and drop or moving of working orders from one price level to another price level, and/or (c) presetting a default quantity for order entry, and/or (d) using a single action to both set trade order prices and send trade orders, and/or (e) using a single action to cancel orders, and/or (f) consolidating the price levels of the price axis and/or a plurality of bid and ask indicators, and/or (g) permitting setting trade orders and sending trade orders from a chart, and/or (h) recentering or repositioning a display of prices along a price axis presenting market information on a display in relation to a price axis, including any versions or builds that have never been commercially released and any versions or builds that have not yet been commercially released.

**REQUEST NO. 5**

One computer-operable sample of every version or build of each Electronic Trading Product with a non-expiring license key that is operable and ready to operate on a personal computer, including any instructions necessary to operate.

**REQUEST NO. 6**

Source code produced in native, searchable format for every version or build of each Electronic Trading Product.

### **REQUEST NO. 7**

For each version or build of each Electronic Trading Product, all documents and things showing, demonstrating, describing, instructing, or otherwise referencing the operation, features, and/or display formats of such version or build, including, but not limited to, product specifications, release notes, source code repository reports, demonstrations or presentations, product or instruction manuals, user guides or manuals, installation guides, technical manuals, communications regarding functionality or features, and other such materials.

### **REQUEST NO. 8**

For each version or build of each Electronic Trading Product, all documents and things, including all communications, referring or relating to the design and development of such version or build, and/or the description of the functions or features of such version or build.

### **REQUEST NO. 9**

For each version or build of each Electronic Trading Product, documents and things sufficient to identify the names and titles of all persons having responsibility for or involved in the research, design, programming, development, marketing or sales of such version or build, whether employees of Defendants or third parties.

### **REQUEST NO. 10**

For each version or build of each Electronic Trading Product, all documents and things referring or relating to IB's decisions to develop, test, launch, distribute, market, offer, sell, delay, modify or pull from the market any such version or build.

**REQUEST NO. 11**

For each version or build of each Electronic Trading Product, all documents and things, including all communications, referring or relating to modifications to the design and development of each such version or build, and/or the description of the functions or features of such version or build that were modified.

**REQUEST NO. 12**

For each version or build of each Electronic Trading Product, all documents and things, including all communications, referring or relating to the decision to enable or disable single action order entry, including any modifications to single action order entry functionality, including, but not limited to, the implementation of confirmation windows or “arming,” made in each version or build of each Electronic Trading Product.

**REQUEST NO. 13**

For each version or build of each Electronic Trading Product, all documents and things constituting or relating to any agreement between IB and any other person or entity for the design, development, testing, programming or production of each such version or build, including any component or subpart of any such version or build.

**REQUEST NO. 14**

Documents sufficient to identify every method of order entry present in each Electronic Trading Product from 1999 to present used by an IB customer or end user (including Defendants’ employees and/or customers).

### **REQUEST NO. 15**

All documents and things referring or relating to IB's decision to include any feature in any Electronic Trading Product and/or Order Entry Screen, including but not limited to a price axis, chart trading, price consolidation, historical charting, default order quantities, automatic or manual recentering/repositioning, order entry, order modification, or order cancellation.

### **REQUEST NO. 16**

All documents and things referring or relating to IB's decision to develop trading software, such as, but not limited to, IB's BookTrader or ChartTrader modules, including any analysis of requests, feedback, suggestions, or comments from customers or potential customers, or analysis of competing software.

### **REQUEST NO. 17**

All documents and things referring or relating to any settings or methods required to enable any display of prices along a price axis within any Electronic Trading Product and/or Order Entry Screen.

### **REQUEST NO. 18**

For each version or build of each Electronic Trading Product, all documents and things showing, demonstrating, describing, instructing, or otherwise referencing methods for recentering or repositioning of the display of prices in the Electronic Trading Product, including, but not limited to, product specifications, release notes, source code repository reports, websites,



demonstrations or presentations, product or instruction manuals, user guides or manuals, installation guides, technical manuals, correspondence with end users, records of communications with end users and other such materials.

**REQUEST NO. 19**

All documents and things concerning, referring to or relating to modification of the recentering functionality in each version or build of IB's Electronic Trading Products, including, but not limited to, the modifications described in TWS Release Notes for build 891, build 904, and build 908.

**REQUEST NO. 20**

All documents and things referring or relating to the settings and configurations used by each customer and/or end user to view the market and to enter, modify, and/or cancel orders on each Order Entry Screen within each Electronic Trading Product, including but not limited to the enabling or disabling of confirmation windows, the enabling or disabling of any repositioning features, the dragging and dropping, or moving of orders from one price level to a different price level, the use of default quantities for order entry, and/or the consolidation of price levels of the price axis and/or plurality of bid and ask indicators.

**REQUEST NO. 21**

All documents and things referring or relating to the date IB's Trader Workstation Product, including the BookTrader module, was first developed, made, offered, sold, distributed, marketed, licensed, and/or used by, or with the assistance or at the direction of Defendants,

including any versions or builds that were never commercially released.

**REQUEST NO. 22**

All documents and things (including but not limited to transaction data, customer records, trading logs) referring to or relating to a price axis, chart trading, price consolidation, historical charting, default order quantities, automatic or manual recentering/repositioning, order entry, order modification, or order cancellation in any Electronic Trading Product from July 2004 to present by IB, any IB customer or any IB end/user.

**REQUEST NO. 23**

All documents and things constituting or relating to any agreement between IB and any other person or entity for the license, use or deployment by IB or any of IB's customers or end users of another person's or entity's Electronic Trading Products.

**REQUEST NO. 24**

For each version or build of each Electronic Trading Product, documents and things sufficient to identify the customers and/or end users for each such version or build, and the time period each such customer or end user had that build.

**REQUEST NO. 25**

For each version or build of each Electronic Trading Product, all documents and things referring to, relating to, or evidencing use of any such version or build by customers and/or end users.

**REQUEST NO. 26**

For each version or build of each Electronic Trading Product, all documents and things listing or otherwise identifying customers or potential customers to whom IB has demonstrated any such version or build.

**REQUEST NO. 27**

All documents and things relating to IB's knowledge, whether direct or anecdotal, regarding use of the Electronic Trading Products by customers and/or end users, including but not limited to knowledge of which screens, features (including but not limited to price axis, price consolidation, charting, default order quantities, automatic or manual recentering/repositioning, order entry, order modification, or order cancellation) and/or settings are used by each customer and/or end user, under what circumstances and extent customers and/or end users use such screens, features and/or settings, and feedback received from customers and/or end users regarding such screens, features and/or settings.

**REQUEST NO. 28**

All documents and things relating to Hull Trading Company's use of the Electronic Trading Products, including but not limited to screens, features, and/or settings used, extent of use, and communications to or from Hull Trading regarding any Electronic Trading Product, feature, or setting.

### **REQUEST NO. 29**

All documents and things relating to the use of any Electronic Trading Product from July 2004 to present by IB or its contractors or licensees, for any purpose including trading, software testing, functionality testing, or beta testing; such documents and things including but not limited to identification of usernames and account names, transaction data, account records, bug tracking records, and enablement records.

### **REQUEST NO. 30**

All documents and things relating to the use of any Electronic Trading Product from July 2004 to present by any IB customer or end/user for any purpose including trading, software testing, functionality testing, or beta testing; such documents and things including but not limited to identification of usernames and account names, transaction data, account records, bug tracking records, and enablement records.

### **REQUEST NO. 31**

All documents and things referring or relating to all circumstances where IB has used, tested, demonstrated or operated any of its Electronic Trading Products and/or Order Entry Screens from 1999 to present, including demonstrating the products to customers and/or end users or potential customers and/or end users, for assessing performance or operation, and/or for quality control or quality assurance purposes including beta testing, including but not limited to each feature demonstrated, how the features were demonstrated, what settings were used and/or demonstrated, and how orders were entered, modified, and/or cancelled in each such use, test, or operation.

**REQUEST NO. 32**

All documents and things referring or relating to any White-Labeled versions of IB's Electronic Trading Products and/or Order Entry Screens, including but not limited to the names of customers or entities that have used, licensed, sold, offered for license or offered for sale any such White-Labeled Product; the name of any such White-Labeled Product; the users and/or licensees of any such White-Labeled Product; all transactions entered, modified or canceled through any such White-Labeled Product; IB's ability to monitor, track, count or store information related to transactions entered, modified or canceled through any such White-Labeled Product; IB's methods of distributing any such White-Labeled Product; IB's pricing for any such White-Labeled Product; and Defendants' revenue associated with any such White-Labeled Product.

**REQUEST NO. 33**

All documents sufficient to identify all of Defendants' employees who have offered for sale or license, sold, licensed, demonstrated or presented IB's Electronic Trading Products to customers or prospective customers.

**REQUEST NO. 34**

All documents sufficient to identify all of Defendants' employees who have provided training, assistance, or customer support regarding the operation of IB's Electronic Trading Products to customers or prospective customers.

**REQUEST NO. 35**

For each version or build of each Electronic Trading Product, all documents and things referring or relating to communications or meetings with customers or potential customers, including but not limited to any demonstrations or presentations, regarding any such version or build.

**REQUEST NO. 36**

For each version or build of each Electronic Trading Product, all documents and things referring or relating to any requests, feedback, suggestions, customer surveys, or comments from customers or potential customers regarding any feature or capability of any such version or build.

**REQUEST NO. 37**

All documents and things referring or relating to customers and/or end users (including IB employees) of Electronic Trading Products, including but not limited to any customer relationship management database, such as Salesforce.com, any bug reporting database, and any customer call logging database.

**REQUEST NO. 38**

All documents and things referring or relating to any bug or event reporting system used by Defendants for any of their Electronic Trading Products and/or Order Entry Screens, all testing performed by Defendants or on Defendants' behalf regarding any reported bugs or events, including but not limited to any testing results and internal communications regarding the reported bugs or events, or the testing results.

**REQUEST NO. 39**

All documents and things referring or relating to any bugs or issues/events reported by customers for any Electronic Trading Product and/or Order Entry Screen.

**REQUEST NO. 40**

All emails referring or relating to Defendants' Electronic Trading Products and/or Order Entry Screens.

**REQUEST NO. 41**

All documents and things referring or relating to any requests or suggestions to alter or enhance any feature of Defendants' Electronic Trading Products and/or Order Entry Screens and all reports regarding implementation of any changes.

**REQUEST NO. 342**

For each version or build of each Electronic Trading Product, all documents and things referring or relating to marketing, sales, promotion, demonstration or presentation of any such version or build.

**REQUEST NO. 43**

For each version or build of each Electronic Trading Product, all documents and things constituting, referring to, or relating to advertising plans, business plans, marketing plans, promotional programs or strategies on the part of IB or on its behalf, concerning IB's Electronic

Trading Products, including but not limited to documents and things relating to the training or instruction of IB personnel in regard to the marketing or sales of any such version or build.

**REQUEST NO. 44**

For each version or build of each Electronic Trading Product, all advertising and promotional materials for any such version or build, including any document or thing given to or developed for any customer or prospective customer describing any such version or build.

**REQUEST NO. 45**

All documents that refer or relate to Trading Technologies, TT, MD Trader, market depth trader, ladders, Autospreader, any of TT's products or product features, or any other Electronic Trading Product that is capable of presenting information in relation to a price axis, including comments or feedback thereon from customers or potential customers.

**REQUEST NO. 46**

All documents and things referring or relating to the patents-in-suit, any related patents, or any of TT's patent applications, including any communications between IB and any other entity or person and any documents related thereto, and any agreement between IB and any other entity or person.

**REQUEST NO. 47**

All documents and things constituting, referring to, or relating to a joint defense agreement or understanding relating to a common interest, among IB and any other entity(ies) or



person(s) adverse or potentially adverse to TT, and any documents related thereto, including any documents or communications evidencing when the agreement commenced.

**REQUEST NO. 48**

All agreements and communications between IB and any other defendant (including its counsel) in this suit, or in case numbers 10-715, 10-716, 10-718, 10-720, 10-726, 10-882, 10-883, 10-884, 10-885, 10-929, 10-931, 05-4120, 05-4811, or 05-5164 filed in the Northern District of Illinois, pertaining to TT, TT's patent rights, TT's allegations of infringement, any defendant's defenses to TT's allegations, including validity, unenforceability, or any other defense that are the subject matter of this suit or the subject matter of case numbers 10-715, 10-716, 10-718, 10-720, 10-726, 10-882, 10-883, 10-884, 10-885, 10-929, or 10-931, 05-4120, 05-4811, or 05-5164.

**REQUEST NO. 49**

All documents and things relating to proceedings before the United States Patent and Trademark Office ("USPTO") with respect to the patents-in-suit, including, but not limited to, all documents and things relating to any reexamination or post-grant review of the patents-in-suit previously or currently before the USPTO.

**REQUEST NO. 50**

All documents and things referring or relating to the validity, invalidity, enforceability, unenforceability, infringement or non-infringement of the patents-in-suit, including any opinions prepared by or on Defendants' behalf and/or received by IB or on IB's behalf.

**REQUEST NO. 51**

All documents and things concerning, referring to or relating to any discussion or communication, whether written or oral, of the validity, invalidity, enforceability, unenforceability, infringement and/or non-infringement of the patents-in-suit.

**REQUEST NO. 52**

All documents and things concerning, referring to or relating to the billing, such as bills or invoices, for any opinion, discussion and/or communication, whether written or oral, regarding validity, invalidity, enforceability, unenforceability, infringement and/or noninfringement of the patents-in-suit or any claim thereof.

**REQUEST NO. 53**

All documents and things resulting from, or referring to, or relating to any literature and/or patent searches conducted by, at the request of, or with the assistance of IB with respect to IB's Electronic Trading Products or the patents-in-suit.

**REQUEST NO. 54**

All patents, printed publications, other items of prior art, or other documents or things, including any English translations thereof, that IB believes may have any bearing on the validity of the patents-in-suit.

**REQUEST NO. 55**

All documents and things that IB intends to rely on to assert invalidity, unenforceability or non-infringement of any of the patents-in-suit or which otherwise refer or relate to any defense asserted by IB.

**REQUEST NO. 56**

All documents and things concerning, referring or relating to IB's awareness of any of the patents-in-suit, or any applications leading to the patents-in-suit, and what steps IB took to investigate or analyze any of the patents-in-suit, or any applications leading to the patents-in-suit, including but not limited to any documents and things reflecting, referring to or discussing the results of such investigation.

**REQUEST NO. 57**

All documents and things concerning, referring to or relating to any analysis, consideration, negotiation, recommendation or proposal relating to obtaining a license or other rights under the patents-in-suit.

**REQUEST NO. 58**

All documents and things concerning, referring to or relating to any decisions or efforts made by IB to design Electronic Trading Products that would not infringe the patents-in-suit.

**REQUEST NO. 59**

All documents concerning, relating or referring to any past or ongoing redesign of IB's Electronic Trading Products, including all e-mail correspondence relating to the redesign, technical documents, user input or feedback, instruction manuals, user guides, tutorials, animations, drawings, schematics, flow charts and tables.

**REQUEST NO. 60**

All documents and things referring or relating to any submissions, filings, or communications with any governmental entity relating to the patents-in-suit, including but not limited to any requests for reexamination.

**REQUEST NO. 61**

All documents and things constituting, referring to or relating to IB's issued patents or pending patent applications directed to any aspect of IB's Electronic Trading Products, including any patents and pending patent applications on which IB is a licensee.

**REQUEST NO. 62**

All documents and things concerning, referring to or relating to United States or foreign patent applications, requests for reexamination, requests for inter partes reexamination, requests for covered business method reviews, patents, invention certificates, reissues, reexaminations, covered business method reviews, invention disclosures and file histories concerning or relating to any aspect of IB's Electronic Trading Products.

**REQUEST NO. 63**

All documents and things evidencing the level of ordinary skill in the art to which IB contends the subject matter of the patents-in-suit pertain.

**REQUEST NO. 64**

All documents and things referring or relating to any inspection, review, testing, analysis, or reverse engineering of any of TT's trading software, including TT's X\_Trader, MD Trader, or AutoSpreader, and/or IB's Electronic Trading Product(s).

**REQUEST NO. 65**

All documents and thing referring or relating to customer, potential customer, or end user use of any of TT's trading software, including TT's X\_Trader, MD Trader, or AutoSpreader.

**REQUEST NO. 66**

All documents and things constituting, relating to, or referring to IB's pricing of Electronic Trading Products, including unit pricing structure, pricing policies, any changes in IB's pricing, cost per transaction, and/or any discounts or other incentives offered or given on Electronic Trading Products.

**REQUEST NO. 67**

All documents and things describing, analyzing, evidencing, relating to, or referring to features or capabilities, or information on the marketing or sale, of products competitive with IB's Electronic Trading Products, or comparing features offered by any of IB's Electronic

Trading Products to any Electronic Trading Products offered by another, including but not limited to TT.

**REQUEST NO. 68**

All documents and things concerning, referring to or relating to competition for the sale of Electronic Trading Products, including competition between IB and its competitors, including but not limited to TT, and any other defendants currently being sued by TT for patent infringement.

**REQUEST NO. 69**

All documents and things constituting, relating to, or referring to any license agreement in regard to any Electronic Trading Product, including, but not limited to, all patent or technical licenses to which IB is a party.

**REQUEST NO. 70**

All documents and things from which IB's unit sales, usage, and/or distribution of each Electronic Trading Product may be determined for each monthly and annual time period from July 2004 to present.

**REQUEST NO. 71**

All documents and things from which IB's gross and/or net dollar sales and/or licensing revenue for each Electronic Trading Products may be determined for each monthly and annual time period from July 2004 to present.

**REQUEST NO. 72**

All documents and things constituting, relating to, or referring to sales summaries, sales invoices, incentive plans or discount summaries relating to IB's Electronic Trading Products.

**REQUEST NO. 73**

All documents and things referring or relating to any proposal, agreement, contract, license or other business relationship between IB and any exchange relating to the Electronic Trading Products.

**REQUEST NO. 74**

All documents and things referring or relating to any proposal, agreement, contract, license or other business relationship between IB and TT relating to the Electronic Trading Products.

**REQUEST NO. 75**

All documents referring or relating to Defendants' organizational and management structure, and the relationships among the IB entities, including documents sufficient to show which of Defendants' entities are involved in the development, manufacture, sale, offer for sale, distribution and/or usage of any Electronic Trading Product and documents sufficient to show Defendants' officers, directors, shareholders or any entity having an ownership interest in IB, including the percentage of any ownership interest.

**REQUEST NO. 76**

All documents referring or relating to any agreements, contracts, communications, or covenants pertaining to indemnification and/or reimbursement for any judgments, settlements, injunctions, legal fees and/or expenses, or other liabilities resulting from patent infringement by devices and/or technology originating from IB of the patents-in-suit, TT's asserted patents, or TT's patents.

**REQUEST NO. 77**

All documents and things concerning, relating or referring to any meetings, discussions, agreements, contracts, communications, and/or covenants related in any way to indemnification and/or reimbursement for any judgments, settlements, injunctions, legal fees and/or expenses, or other liabilities resulting from patent infringement by devices, software, products, and/or technology previously made, used, licensed, or sold by IB.

**REQUEST NO. 78**

All documents and things referring or relating to (1) any refusal by IB to indemnify any individual or entity for any judgments, settlements, injunctions, legal fees and/or expenses, or other liabilities resulting from any infringement of any TT patents, including the patents-in-suit, TT's asserted patents, or other TT patents, and (2) refusal by any individual or entity of any request by IB for indemnification for any judgments, settlements, injunctions, legal fees and/or expenses, or other liabilities resulting from any infringement of any TT patents, including the patents-in-suit, TT's asserted patents, or other TT patents.



**REQUEST NO. 79**

All documents and things referring to or relating to prior or current competitors, such as TT, in the Electronic Trading Product industry, including any documents and things relating to the competitive landscape of the Electronic Trading Product industry.

**REQUEST NO. 80**

All documents and things describing, referring to, or relating to IB's and/or TT's market share of the total market for Electronic Trading Tools in the United States since the year 2004, or any subpart thereof.

**REQUEST NO. 81**

All documents and things describing, referring to, or relating to IB's and/or TT's market share of Electronic Trading Products for any market in the United States since the year 2004, or any subpart thereof.

**REQUEST NO. 82**

All documents and things referring or relating to market share studies, marketing analysis, or reports for IB's Electronic Trading Products, including those prepared by or on behalf of IB.

**REQUEST NO. 83**

All documents and things describing, evidencing, relating to, or referring to marketing studies showing the size, forecast size, or potential size of the market or industry for IB's Electronic Trading Products, and/or TT's products.

**REQUEST NO. 84**

All documents and things describing, evidencing, relating to, or referring to marketing studies showing the size, forecast size, or potential size of the customer base for IB's Electronic Trading Products, and/or TT's products.

**REQUEST NO. 85**

All documents and things describing, evidencing, relating to, or referring to information on market trends for IB's Electronic Trading Products.

**REQUEST NO. 86**

All documents and things describing, evidencing, relating to, or referring to information on the marketing of products competitive with IB's Electronic Trading Products.

**REQUEST NO. 87**

All documents relating to, supporting, or contradicting TT's claim for damages or the calculation of such damages.

**REQUEST NO. 88**

All documents and things referring or relating to IB's information archival and/or retrieval system containing any information related to design, development, promotion, distribution, or sale of Electronic Trading Products.

**REQUEST NO. 89**

Documents sufficient to identify all files or repositories in which any document responsive to the foregoing requests is maintained in the normal course of business and each index, key, code or other means of accessing and locating documents within such files or repositories.

**REQUEST NO. 90**

All documents and things referring or relating to IB's policies, practices and/or procedures now or previously in effect with respect to the retention or destruction of documents or information.

**REQUEST NO. 91**

All documents and things upon which IB intends to rely at trial.

**REQUEST NO. 92**

All documents and materials reasonably expected or intended to be used at trial, including all documents or other materials intended for witness impeachment.

**REQUEST NO. 93**

All documents which constitute, refer to, or relate to any communication by IB with any actual or potential witness in this litigation.

**REQUEST NO. 94**

All documents and things prepared by or for, or concerning, referring to or relating to any expert retained by IB in this litigation.

**REQUEST NO. 95**

All publications authored by Defendants' consultant(s), expert(s) and/or witness(es), within the preceding ten years that Defendants will call at either the Markman Hearing and/or Trial in this lawsuit.

**REQUEST NO. 96**

All documents and things referring or relating to ePit Systems, Richard Friesen, Peter Hart, Harris Brumfield, Gary Kemp, Jens Uwe-Schleutter, Scott F. Singer, Michael J. Burns, or Fred Monroe.

**REQUEST NO. 97**

All documents and things relating to any patent or technical license agreements IB has negotiated or entered into for any of its Electronic Trading Products, including the terms of any such patent license agreements.

### **REQUEST NO. 98**

All documents supporting IB's contention that the patents-in-suit are invalid under one or more of the provisions of 35 U.S.C. §§ 101, 102, 103, and/or 112.

### **REQUEST NO. 99**

For each version or build of the Electronic Trading Products, all documents referring or relating to the number of Transactions initiated directly (for example, orders entered or modified directly in an Electronic Trading Product) or indirectly (for example, orders entered or modified in an application other than the Electronic Trading Product but are capable of being viewed or accessed using the Electronic Trading Product), including orders entered or modified, either directly or indirectly, regardless of whether they are filled, using any such version or build or quantifying, in any way, and market volume trading through any of Defendants' Electronic Trading Products, including documents sufficient to show, for each such version or build, the number of screens in use each month from July 2004 to present, the number of end users for each screen, and the identity of the customer and end user(s) for each screen, and, for each such screen, the number of Transactions initiated that month directly or indirectly using that Electronic Trading Product or any other quantification of trading activity, and any fees associated with such Transactions.

### **REQUEST NO. 100**

For each version or build of any Electronic Trading Product, all documents concerning, referring or relating to the number of orders initiated directly or indirectly using any such build or version, including filled orders and orders entered but not filled, and documents sufficient to

show the number of screens and the corresponding customer and end users of such screens for each Electronic Trading Product in use each month from July 2004 to present, and for each such screen, the number of orders initiated directly or indirectly, including filled orders and orders entered but not filled, that month using that Electronic Trading Product, and any fees associated with such orders.

**REQUEST NO. 101**

All documents and things relating to the volume of trades initiated directly or indirectly, including filled orders and orders entered but not filled, using the Electronic Trading Products, and each version or build thereof and as relating to each monthly and annual period from 2004 to present, and all methods for measuring the volume of trades made using the Electronic Trading Products, including logs relating to the trading activity of each user of an Electronic Trading Product.

**REQUEST NO. 102**

All documents and things relating to the number of Transactions initiated directly or indirectly, including filled orders and orders entered but not filled, (whether in a simulation or live market) through any of IB's Electronic Trading Products, where any resulting order can be accessed, modified, canceled, sent or viewed through an IB Accused Product at any time during the pendency of the order, including for each Transaction on a daily basis from July 2004 to date: (a) the date of the Transaction, (b) the number and/or size of orders (e.g., contracts, lots, shares, amounts etc.) placed and the corresponding number and/or size of orders (e.g., contracts, lots, shares, amounts etc.) filled, (c) the customer associated with the Transaction, (d) the clearing

house and/or FCM associated with the Transaction, (e) the version or build of the Electronic Trading Product to carry out the Transaction, (f) the specific Order Entry Screen used within the Electronic Trading Product to carry out the Transaction, (g) the exchange on which the Transaction was entered, (h) the instrument or asset class being traded, (i) any fees or commissions associated with the Transaction, and j) the location and extent of logs of trading activity (whether or not filled) for each trader using the Electronic Trading Products.

#### **REQUEST NO. 103**

All document and things relating to use or trading activity of an Electronic Trading Product from July 2004 to present for each user of an Electronic Trading Product, including IB employees, customers, or end/users, including a transaction-by-transaction breakdown of (a) the number of trades initiated, either directly or indirectly, including filled orders and orders entered but not filled, and the corresponding instruments traded for each such user; (b) the particular version or build of the Electronic Trading Product being used each day for each such user, as well as all trading records relating to the foregoing; (c) the order entry screen or module used to enter each transaction; (d) the settings for the particular order entry screen or module, as well as for the Electronic Trading Tool; (e) any other data that IB maintains with respect to the transaction; and (f) the logs of trading activity for each person trading on an Electronic Trading Product.

#### **REQUEST NO. 104**

All documents and things relating to IB's capability to monitor and/or count Transactions or trading activity (including orders entered, orders modified, orders canceled, and the number of

users with access to each Electronic Trading Product) taking place through the Electronic Trading Products; and to the extent IB actually does so, those showing how such monitoring and/or tracking is accomplished, a description of the data that is collected during monitoring and/or tracking, and customer-by-customer counts of all such monitored and/or tracked Transactions or trading activity.

### **REQUEST NO. 105**

All documents and things referring or relating to IB's capability to monitor, track, count and or store any information related to transactions or trading activity taking place through the Order Entry Screens and/or Electronic Trading Products, including all White-Labeled versions, such as information relating to entered orders, modified orders, canceled orders, and the number of users with access to each Electronic Trading Product, and any API used by each customer and/or end user, from July 2004 to present for each trader and/or end user (including IB's employees or traders); and to the extent IB actually does so, an identification of how such monitoring, tracking, counting and/or storing is accomplished; a description of the data that is collected during monitoring, tracking, counting and/or storing; and customer-by-customer details, such as log files, related to all such monitored, tracked, counted or stored transactions or trading activity, including but not limited to the volume of entered orders, any modifications of orders, any cancellations of order, any filling of orders, the specific Order Entry Screen and/or Electronic Trading Product used for each transaction, the settings for the specific Order Entry Screen and/or Electronic Trading Product used for each transaction, such as, but not limited to, price selection and market window disabling, the identification of the instrument that is the subject of the transaction, any fees associated with each transaction, and any other related data.



**REQUEST NO. 106**

For each version or build of the Electronic Trading Products, including all White-Labeled versions, from July 2004 to present, all documents and things referring or relating to any transactions (whether or not filled) initiated, modified or canceled directly or indirectly using any such version or build, including but not limited to documents sufficient to show, for each such version or build, the number of screens licensed each month from July 2004 to the present, whether used or not; the number of screens in use each month from July 2004 to present; the number of end users for each screen; the identity of the customer and/or end user(s) for each screen; and, for each such screen, the number of transactions initiated that month directly or indirectly using that Electronic Trading Product or any other quantification of trading activity, the details of each such transaction, the extent to which orders placed using any Electronic Trading Product are matched or filled, and any fees associated with such transactions.

**REQUEST NO. 107**

For each Electronic Trading Product, from July 2004 to present, all documents and things referring to the number of screens in use each month, the number of users associated with each screen, the price per month for such screen(s), and/or any charge on a per-transaction basis.

**REQUEST NO. 108**

For each customer and/or each end user (including IB employees), regardless of how the customer and/or end user received each Electronic Trading product and/or Order Entry Screen, all documents and things referring or relating to the number of orders initiated directly or

indirectly, whether or not filled, broken down by Electronic Trading Product and Order Entry Screen for each transaction, settings and configurations used by each customer and/or end user to enter, modify, and/or cancel orders on each Electronic Trading Product and/or Order Entry Screen used, and all information regarding the customer and/or end user's connection to any API.

**REQUEST NO. 109**

All documents and things referring or relating to the number of transactions, including orders initiated either directly or indirectly, whether filled or not, for each customer and/or each end user, broken down by asset class and by the instrument or instruments traded for each transaction, including but not limited to monthly and/or annual reports.

**REQUEST NO. 110**

All documents and things relating to any licenses, offers to license, sales or offers to sell, or agreements relating to any version or build of any Electronic Trading Product, including but not limited to those showing: an identification of all persons or entities receiving each version or build of each Electronic Trading Product (whether internal, alpha, beta, commercially released or otherwise), including the date each person or entity first received each version or build and the date each version or build was upgraded for each person or entity, if any; and those showing an identification of all licenses, offers to license, offers to sell or sales, or agreements for each version or build of each Electronic Trading Product (whether internal, alpha, beta, commercially released or otherwise), including the identity of each actual or potential licensee or purchaser, the terms of each actual or proffered license or sale, or agreements, and an identification of all monies or other remuneration received for each license, sale, or agreement.

**REQUEST NO. 111**

All documents and things relating to invoices and payments received from customers or end users for trading, including but not limited to any direct or indirect fee or cost charged to the customer for access or use of any Electronic Trading Product or Accused Product.

**REQUEST NO. 112**

All documents and things sufficient to show IB's gross revenue, net revenue, and profitability on an annual, quarterly, and monthly basis.

**REQUEST NO. 113**

All documents and things sufficient to show IB's gross revenue, net revenue and profitability, including but not limited to the dollar amounts and percentage that are attributable to sales, license fees, or other transaction fees associated with the use of (i) IB's Electronic Trading Products, (ii) IB's Trader Workstation Product, including the BookTrader ChartTrader modules, and those showing all distinct transaction fees received by IB when its Electronic Trading Products are used by customers or end users, and an explanation of all distinct transaction fees that are paid when its Electronic Trading Products are used by IB's employees, traders, customers, agents, or end users.

**REQUEST NO. 114**

All documents and things relating to what IB believes to be a reasonable royalty under 35 U.S.C. § 284, including, but not limited to any products IB believes to be an acceptable non

infringing alternative to the patented product, as well as the amount of damages that TT is entitled to.

**REQUEST NO. 115**

All documents and things relating to all factual and legal bases supporting each and every affirmative defense or counterclaim pleaded by IB, including the allegations set forth in each and every such affirmative defense or counterclaim, including the alleged affirmative defenses of failing to state a claim; non-infringement; invalidity under 35 U.S.C. §§ 101, 102, 103 and/or 112; prosecution history estoppel, estoppel, and/or collateral estoppel based on the grounds articulated in the Federal Circuit's opinion in *Trading Technologies Int'l, Inc. v. eSpeed, Inc.*, 595 F.3d 1340 (Fed. Cir. 2010); unenforceability due to unclean hands; the doctrine of laches; and the doctrine of waiver.

**REQUEST NO. 116**

All documents referring or relating to the amount of liability or potential liability of IB (in the past or in the future) for any infringement of the patents-in-suit, TT's asserted patents, or TT's patents.

**REQUEST NO. 117**

All documents referring or relating to the amount of liability or potential liability of IB (in the past or in the future) for each Transaction executed on IB's Accused Products for any infringement of the patents-in-suit, TT's asserted patents, or TT's patents.

**REQUEST NO. 118**

All documents and things referring to, relating to, or describing any method through which Defendants distribute or have distributed any Order Entry Screen or Electronic Trading Product, including White-Labeled versions, since July 2004, inside or outside the United States, whether through download, CD, DVD, thumb drive, ftp site, e-mail or other method, including the identification of each person or entity who received any Order Entry Screen or Electronic Trading Product by each method, the dates each customer and/or end user received any Order Entry Screen or Electronic Trading Product by each method, the location of each customer and/or end user, the number of Order Entry Screens or Electronic Trading Products distributed by each method, and any limitations on redistribution of such Order Entry Screens or Electronic Trading Products.

**REQUEST NO. 119**

All documents and things referring or relating to the distribution of any of the Electronic Trading Products or Order Entry Screens by Defendants' customers and/or end users to others, inside or outside the United States, with or without Defendants' consent or knowledge.

**REQUEST NO. 120**

All documents and things referring or relating to use of IB's Electronic Trading Products internally at IB.

### **REQUEST NO. 121**

All documents and things referring or relating to the process by which IB allowed or allows employees, customers and/or end users to upgrade and/or downgrade each version or build of its IB Software Products, including all Electronic Trading Products and Order Entry Screens, to another version or build, including but not limited to whether/why each upgrade and/or downgrade was mandatory or voluntary.

### **REQUEST NO. 122**

All documents and things sufficient to identify any customers who at any time were not required to make mandatory upgrades, including but not limited to any document related or referring to which customers were not required to make upgrades, the reasons why the customers were not required to make mandatory upgrades, the versions or builds the customers were using at the time of the mandatory upgrade, any correspondence regarding with said customers regarding the mandatory upgrades.

### **REQUEST NO. 123**

All documents and things referring or relating to IB's decision to offer any Order Entry Screen, including but not limited to the date IB first offered any Order Entry Screen, all internal communications regarding or related to any Order Entry Screen, all communications with external consultants or developers regarding or related to any Order Entry Screen, all communications with customers regarding or related to any Order Entry Screen, all communications with attorneys regarding the decision to offer any Order Entry Screen, and all market studies and competitive analyses performed related to this decision.

**REQUEST NO. 124**

For each customer and/or end user of any IB API (including IB employees), all documents and things reflecting all software, products and/or algorithms each customer and/or end user uses to interface with the IB API, all documents and things reflecting transactions initiated either directly or indirectly, whether filled or not, through the IB API from July 2004 to the present and any details of those transactions, and all revenue IB received from sale and/or license of the IB API from July 2004 to the present by month.

**REQUEST NO. 125**

All documents and things referring or relating to Defendants' revenue from July 2004 to present, including but not limited to Defendants' revenue from transactions initiated directly or indirectly for each Electronic Trading Product and/or Order Entry Screen, and, if available, further broken by settings and/or configurations available to and/or used by each customer and/or end user, and each asset class.

**REQUEST NO. 126**

Documents sufficient to identify each FCM involved in any transaction entered, modified or canceled using any IB Software Product, Order Entry Screen, Electronic Trading Product or IB API from July 2004 to present, and for each FCM all documents and things regarding whether each individual FCM allows or allowed a customer and/or end user to (1) view market information on a display in relation to a price axis, and/or (2) enable drag and drop, or moving, of orders, and/or (3) select a default quantity for order entry, and/or (4) enable single action order

entry to set trade order prices and send trade orders, and/or (5) enable single action order cancellation, and/or (6) consolidate the price levels of the price axis and/or a plurality of bid and ask indicators, and/or (7) enable order entry or cancellation on a chart, and/or (8) recenter or reposition a display of prices along a price axis in any of Defendants' Electronic Trading Products and/or Order Entry Screens, including but not limited to which customers and/or end users each FCM allowed to enable the aforementioned functionality, and, for each version or build, which Electronic Trading Products and/or Order Entry Screens each FCM allowed customers and/or end users to enable the aforementioned functionality.

**REQUEST NO. 127**

All documents and things referring or relating to each customer and/or end user's (including IB employees) connection to any IB API, including but not limited to the software, products and or algorithms each customer and/or end user used to interface with the IB API, any issues reported by a customer and/or end user and any requests and/or suggestions by customers and/or end users, whether or not these requests and/or suggestions were implemented.

**REQUEST NO. 128**

All documents and things referring or relating to any name change or rebranding of any of Defendants' Electronic Trading Products and/or Order Entry Screens, and Defendants' decision to change the name or rebrand any of its Electronic Trading Products and/or Order Entry Screens.



**REQUEST NO. 129**

All documents and things concerning, referring to or relating to any compensation paid to or benefit provided to any testifying expert or witness, including any company or person affiliated with any testifying expert.

**REQUEST NO. 130**

All quarterly reports, annual reports and other shareholder reports for IB from July 2004 to present.

**REQUEST NO. 131**

All documents comprising any and all financial statements (audited and unaudited), financial projections or forecasts, and profit and loss statements prepared by IB or on IB's behalf from July 2004 to present, including but not limited to income statements, balance sheets, and statements of cash flow for each monthly, quarterly, annual, or other period.

**REQUEST NO. 132**

All documents and things concerning, referring to, or relating to IB's capital transactions, including as IB's shareholder distributions (e.g., transfer of assets, cash payments, dividends, etc.), including supporting bank statements, tax forms, and/or other financial documents, from July 2004 to the present, between IB and its shareholders, including Thomas Peterffy, or any other individuals associated with IB.

**REQUEST NO. 133**

All documents and things sufficient to identify the names and titles of all persons who have been, or currently are, IB shareholders, or have received shareholder distributions, from July 2004 until present, and the date and amount of each payment received by each IB shareholder.

**REQUEST NO. 134**

All documents and things sufficient to identify all distributions paid to Thomas Peterffy, including the date and amount of each distribution made by IB to Mr. Peterffy.

**REQUEST NO. 135**

All documents and things sufficient to identify all investments, contributions, and/or loans, made by Thomas Peterffy from 2000 to present, including the date, amount, and source of each investment, contribution, loan, or other financial assistance.

**REQUEST NO. 136**

All documents and things concerning, referring to or relating to Mr. Peterffy's involvement in decision-making at IB, including but not limited to any control Mr. Peterffy exerts over IB and/or its officers or employees.

**REQUEST NO. 137**

All documents constituting, referring to or relating to any financial analysis, annual financial statements and drafts thereof, any profit and loss analysis or statements, tax returns,

communications with auditors, board meeting minutes and/or other financial documents, from January 2000 to the present, prepared for or by IB.

**REQUEST NO. 138**

All documents constituting, referring to, or relating to any financial analysis, tax returns, communications regarding such analysis or returns, from January 2000 to the present, prepared for or by Thomas Peterffy.

**REQUEST NO. 139**

All documents and things relating to any financial relationship between IB and any other corporation in the trading industry, including, but not limited to, Hull Trading Company.

**REQUEST NO. 140**

All documents and things concerning, referring to or relating to cash distributions paid to IBG Holdings LLC.

**REQUEST NO. 141**

All documents and things concerning, referring to or relating to the IBG Holdings LLC interest, or any interest relating to IB, held by Thomas Peterffy.

**REQUEST NO. 142**

All documents and things sufficient to identify any and all predecessors in interest, related, associated, and/or affiliates of IB's.

**REQUEST NO. 143**

All documents and things referring to or reflecting IB's first awareness of software products manufactured, used, sold, or offered for sale by Trading Technologies, including, without limitation, MD\_Trader or Autospreader.

**REQUEST NO. 144**

All documents and things relating to any sales taken from TT.

**REQUEST NO. 145**

All documents and things referring or relating to commercial success of the accused products.

**REQUEST NO. 146**

All non-privileged documents and things referring to any communication between Defendants and any third person, non-party or entity regarding the patents-in-suit and/or subject matter disclosed therein, both prior to and subsequent to the filing of this lawsuit.

**REQUEST NO. 147**

All documents and things relating to any statements by Defendants or any person on its behalf to actual or potential investors in, lenders to, or sources of financing for Defendants concerning whether the patents-in-suit are valid, enforceable, or infringed by any Electronic Trading Product.

**REQUEST NO. 148**

All documents and things relating to any attempts by others to make any of the inventions claimed in the patents-in-suit.

**REQUEST NO. 149**

All documents and things relating to any long-felt need for any of the inventions claimed in the patents-in-suit.

**REQUEST NO. 150**

All documents and things relating to any skepticism in the art to which the patents-in-suit pertain that greeted any of the Accused Products.

**REQUEST NO. 151**

All documents and things relating to any unexpected, superior results obtained by any of the purported inventions claimed in the patents-in-suit.

**REQUEST NO. 152**

All documents and things relating to any non-infringing alternatives to any claims of the patents-in-suit.

**REQUEST NO. 153**

All documents and things referring or relating to the scope of the claims, construction and/or meaning of the term(s) used in the patents-in-suit.

**REQUEST NO. 154**

All documents and things relating to employee personnel records for all individuals having responsibility for or involved in the research, design, programming, development, marketing or sales of each Electronic Trading Product, including, but not limited to, all prior and current employees of Defendants.

Respectfully submitted,

Date: September 22, 2015

By: /s/ Ann C. Palma

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Attorneys for Plaintiff,  
TRADING TECHNOLOGIES  
INTERNATIONAL, INC.

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing TRADING TECHNOLOGIES' FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS TO IBG LLC AND INTERACTIVE BROKERS LLC (NOS. 1-154) was served on September 22, 2015 as follows:

***Via Email:***

***Counsel for IBG LLC and Interactive Brokers LLC:***

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/s/ Ann C. Palma

# APPENDIX 18



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

Trading Technologies International, Inc.	)	
	)	
Plaintiff,	)	Civil Action No. 10-cv-884
	)	
v.	)	Judge James F. Holderman
	)	
TradeStation Securities, Inc., and	)	Magistrate Judge Arlander Keys
TradeStation Group, Inc.,	)	
	)	
Defendants.	)	
	)	

**PLAINTIFF TRADING TECHNOLOGIES INTERNATIONAL, INC.'S FIRST SET OF  
REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS (NOS. 1-82)  
TO TRADESTATION SECURITIES, INC. AND TRADESTATION GROUP, INC.**

Plaintiff Trading Technologies International, Inc. ("TT") provides the following requests to Defendants TradeStation Securities, Inc. and TradeStation Group, Inc. (collectively "TradeStation"), seeking production of the documents and things specified below for inspection and copying pursuant to Federal Rules of Civil Procedure 26 and 34 and the Local Rules of the U.S. District Court for the Northern District of Illinois. The documents shall be produced for inspection and copying within thirty (30) days of service hereof at the offices of TT's counsel, McDonnell Boehnen Hulbert & Berghoff LLP, 300 South Wacker Drive, Suite 3100, Chicago, Illinois, 60606.

## DEFINITIONS AND INSTRUCTIONS

In the following document requests:

1. The terms "Plaintiff," "TT," and "Trading Technologies" shall mean Trading Technologies International, Inc.; any company name under which TT is doing business; and any predecessor or successor, and any past or present parents, subsidiaries, affiliates, divisions, joint ventures, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

2. The term "Defendants" and "TradeStation" shall mean TradeStation Securities, Inc. and TradeStation Group, Inc.; any company name under which TradeStation is doing business; and their predecessors or successors, any past or present parents, subsidiaries, affiliates, divisions, joint ventures, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

3. The terms "person" and "persons" shall mean natural persons (including, without limitation, those employed by TradeStation), as well as all governmental entities, agencies, officers, departments, or affiliates of any other governmental entity, and any corporation, foundation, partnership, proprietorship, association, or other organization.

4. The term "date" shall mean the exact day, month, and year (to the degree ascertainable) or, if not ascertainable, the best approximation (including relationship to other events).

5. The terms "document" and "documents" shall have the broadest meaning ascribed to it by Federal Rule of Civil Procedure 34 and Federal Rule of Evidence 1001 and include Electronically Stored Information, including but not limited to writings, recordings and other communications, whether reduced to tangible or electronic form, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including without limitation, correspondence, memoranda, notes, executable and non-executable electronic files, including e-mail, compiled software, source code, bug tracking, screen shots, diaries, minutes, statistics, letters, telegrams, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, receipts, returns, summaries, pamphlets, books, prospectuses, calendars, diaries, planners, interoffice and intra-office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meetings, presentations, or printouts, teletypes, fax, invoices, work sheets, and all drafts, alterations, modifications, changes and amendments of the foregoing), graphic or oral representations of any kind (including without limitation, photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys), and electronic or electro-mechanical records or representations of any kind (including without limitation, computer memory, hard drives, discs, DVDs, CDs, flash drives, tapes, cassettes and recordings).

6. The terms "relating to" and "referring to" shall be interpreted broadly so as to encompass the liberal scope of discovery set forth in Federal Rule of Civil Procedure 26(b), and means regarding, respecting, noting, mentioning, reflecting, pertaining to, evidencing, identifying, involving, describing, discussing, commenting on, analyzing, evaluating, studying,

embodying, responding to, supporting, contradicting, containing, concerning, comprising, or constituting (in whole or in part).

7. The terms “identify” and “describe” shall mean providing, among other things:

(a) with respect to a natural person, home and work addresses and telephone numbers, the name of the person’s present (or if unknown, the last known) place of employment, date of commencement and termination (if any) of employment, job title, and description of his or her duties and responsibilities;

(b) with respect to a corporation or other non-natural person, the full name, address, main telephone number, state of incorporation, and identity of all persons who have acted on behalf of such entity with respect to the subject matter of the request;

(c) with respect to a document, the type of document (e.g., letter, e-mail, fax, contract, calendar, invoice, report); the number of pages or size of electronic file; a description of the document’s contents; an identification of the person(s) who prepared the document, for whom the document was prepared, who signed the document, to whom the document was delivered, mailed, or otherwise received, and to whom a copy of the document was sent or otherwise received; the date of writing, creation, or publication; identifying number(s), letter(s), or combination thereof, if any; the significance or meaning of such number(s), letter(s) or combination thereof; for electronic documents, the name of the software used to generate the document and the electronic file type; and the present location and identity of the custodian of that document. Documents to be identified shall include all documents in your possession, custody or control, documents you know or believe to have existed but are no longer existing, and other documents of which you have knowledge or information.

8. The terms “and,” “or,” and “and/or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

9. The terms “describe” and “state” shall mean to set forth fully and unambiguously every fact relevant to the subject of the request, of which TradeStation (as defined herein) has knowledge or information.

10. Any word written in the singular herein shall be construed as plural or vice versa to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

11. The term “the ‘304 patent” shall mean U.S. Patent No. 6,766,304, as well as its application and any publications thereof. The term “the ‘132 patent” shall mean U.S. Patent No. 6,772,132, as well as its application and any publications thereof. The term “the ‘999 patent” shall mean U.S. Patent No. 7,212,999, as well as its application and any publications thereof. The term “the ‘056 patent” shall mean U.S. Patent No. 7,533,056, as well as its application and any publications thereof. The term “the ‘411 patent” shall mean U.S. Patent No. 7,676,411, as well as its application and any publications thereof. The term “the ‘768 patent” shall mean U.S. Patent No. 7,693,768, as well as its application and any publications thereof. The term “the ‘382 patent” shall mean U.S. Patent No. 7,725,382, as well as its application and any publications thereof. The term “patents-in-suit” shall mean the ‘304 patent, the ‘132 patent, the ‘999 patent, the ‘056 patent, the ‘411 patent, the ‘768 patent, and the ‘382 patent, either collectively or individually.

12. “Order Entry Screens” shall mean any electronic trading software made, used, sold, offered for sale, licensed, leased, imported, or otherwise distributed to customers by TradeStation

that allows for order entry, order modification, and/or order cancellation, including but not limited to TradeStation's MATRIX Window. References to "Order Entry Screens" are not limited to electronic trading software made by TradeStation, but include software made by or obtained from or through third parties and are further not limited to only released versions and/or builds, but include all versions and builds, whether released or unreleased, such as alpha versions and/or builds, beta versions and/or builds, and internal versions and/or builds.

13. "Electronic Trading Product" shall mean any software, hardware or combination thereof, and includes one or more Order Entry Screens for connecting to or interacting with any public or private trading system that provides for electronic trading, whether live or simulated, including but not limited to the Chicago Board of Trade ("CBOT"), the Chicago Mercantile Exchange ("CME"), the London International Financial Futures and Options Exchange ("LIFFE"), Eurex, the New York Stock Exchange ("NYSE"), NASDAQ, the Intercontinental Exchange ("ICE"), ICAP BrokerTec, the Tokyo Stock Exchange ("TSE"), the Tokyo International Financial Futures Exchange ("TIFFE"), the Sydney Futures Exchange ("SFE"), the eSpeed Exchange, the Cantor Exchange, or the eSpeed System. References to "Electronic Trading Product" are not limited to electronic trading software made by TradeStation, but include software made by or obtained from or through third parties and are further not limited to only released versions and/or builds, but include all versions and builds, whether released or unreleased, such as alpha versions and/or builds, beta versions and/or builds, and internal versions and/or builds.

14. "Prior Art" includes, by way of example and without limitation, any subject matter TradeStation contends is encompassed by 35 U.S.C. § 102 and/or 35 U.S.C. § 103.

15. "Accused Products" shall mean any of TradeStation's Electronic Trading Products accused of infringing the patents-in-suit, including TradeStation MATRIX Window, or any product which falls within the scope of the patents-in-suit, including any tool capable of presenting market information on a display in relation to a price axis and capable of a) permitting drag and drop of orders, or b) presetting a default quantity for order entry, c) using a single action to both set trade order prices and send trade orders, and/or d) using a single action to cancel orders.

16. "Transaction" includes, by way of example and without limitation, any original, modified, revised, consolidated or canceled order that is either sent to an exchange or entered in a simulation, or any trade.

17. No request or subpart hereof shall be construed as a limitation on any other request or subpart hereof.

18. In producing documents and things responsive to these requests, TradeStation shall furnish all documents and things within its possession, custody, or control, regardless of whether these documents are possessed directly by TradeStation, or by its present or past agents, employees, affiliates, related companies, subsidiaries, representatives, investigators, attorneys, or others.

19. If TradeStation asserts the attorney-client privilege or work product doctrine as a basis for not producing any document or thing, or if any document or thing is not produced in full, produce the document or thing to the extent the request for production is not objected to, and, in so doing:

- (a) state the specific ground(s) for not producing the document or thing in full;
- (b) state the bases for such a claim of privilege or immunity; and

(c) state the author(s), addressee(s) and any indicated or blind copyee(s); the document's date, number of pages and attachments or appendices; and the subject matter(s) of the document.

20. If TradeStation maintains that any document or thing requested by TT has been destroyed, lost, or is otherwise unavailable, set forth the contents of the document or thing, the date of its destruction or loss, and the name of the person who authorized its destruction (if any).

21. Where TradeStation asserts an objection to a request, state all grounds upon which the objection is based.

22. These requests for production shall be deemed continuing so as to require further and supplemental production in accordance with the Federal Rules of Civil Procedure.

23. Pursuant to Federal Rule of Civil Procedure 34(b), and unless otherwise specified, TT requests that documents be produced as .tif files with opticon load files. However, TT requests that financials and any other responsive information stored in a database, source code, and executable files be produced in a native file format.



## DOCUMENT REQUESTS

### **REQUEST NO. 1**

All documents requested for identification by TRADING TECHNOLOGIES INTERNATIONAL, INC.'S FIRST SET OF INTERROGATORIES TO DEFENDANT (NOS. 1-11, served concurrently herewith).

### **REQUEST NO. 2**

All documents relied upon, referred to, or consulted in responding to TRADING TECHNOLOGIES INTERNATIONAL, INC.'S FIRST SET OF INTERROGATORIES TO DEFENDANT (NOS. 1-11), served concurrently herewith.

### **REQUEST NO. 3**

Documents sufficient to identify each version or build of each different Electronic Trading Product (whether internal, alpha, beta, commercially released or otherwise) developed, tested, made, offered, sold, distributed, imported, marketed, licensed and/or used by, or with the assistance of, the direction of, or on behalf of TradeStation.

### **REQUEST NO. 4**

Documents sufficient to identify each version or build of each different Electronic Trading Product developed, tested, made, offered, sold, imported, distributed, marketed, licensed and/or used by, or with the assistance or at the direction of, TradeStation, where such Electronic Trading Product is (1) capable of presenting market information on a display in relation to a

price axis, and/or (2) permits drag and drop of orders, and/or (3) allows presetting a default quantity for order entry, and/or (4) permits using a single action to set trade order prices and send trade orders, and/or permits using a single action to cancel orders, including any versions that have never been commercially released and any versions that have not yet been commercially released.

#### **REQUEST NO. 5**

One computer-operable sample of every version or build of each Electronic Trading Product with a non-expiring license key, that is easily operable and ready to operate as a simulation on a personal computer, including any instructions necessary to operate.

#### **REQUEST NO. 6**

Source code produced in native, searchable format for every version or build of each Electronic Trading Product.

#### **REQUEST NO. 7**

For each version or build of each Electronic Trading Product, all documents and things showing, demonstrating, describing, instructing, or otherwise referencing the operation, features, and/or display formats of such version or build, including, but not limited to, product specifications, release notes, source code repository reports, demonstrations or presentations, product or instruction manuals, user guides or manuals, installation guides, technical manuals and other such materials.

**REQUEST NO. 8**

For each version or build of each Electronic Trading Product, all documents and things, including all communications, referring or relating to the development and/or modification of such version or build and/or the description of the functions or features of such version or build.

**REQUEST NO. 9**

For each version or build of each Electronic Trading Product, documents and things sufficient to identify the names and titles of all persons having responsibility for or involved in the research, design, programming, development, marketing or sales of such version or build.

**REQUEST NO. 10**

For each version or build of each Electronic Trading Product, all documents and things referring or relating to TradeStation's decisions to develop, test, launch, distribute, market, offer, sell, delay, or pull from the market any such version or build.

**REQUEST NO. 11**

For each version or build of each Electronic Trading Product, all documents and things referring or relating to the design and development of each such version or build.

**REQUEST NO. 12**

For each version or build of each Electronic Trading Product, all documents and things constituting or relating to any agreement between TradeStation and any other person or entity for the design, development, testing, programming or production of each such version or build, including any component or subpart of any such version or build.

**REQUEST NO. 13**

All documents and things constituting or relating to any agreement between TradeStation and any other person or entity for the license, use or deployment by TradeStation or any of TradeStation's customers or end users of another person's or entity's Electronic Trading Products.

**REQUEST NO. 14**

For each version or build of each Electronic Trading Product, documents and things sufficient to identify the customers and/or end users for each such version or build, and the time period each such customer or end user had that build.

**REQUEST NO. 15**

For each version or build of each Electronic Trading Product, all documents and things referring to, relating to, or evidencing use of any such version or build by customers and/or end users.

**REQUEST NO. 16**

For each version or build of each Electronic Trading Product, all documents and things listing or otherwise identifying customers or potential customers to whom TradeStation has demonstrated any such version or build.

**REQUEST NO. 17**

For each version or build of each Electronic Trading Product, all documents and things referring or relating to meetings with customers or potential customers, including but not limited to any demonstrations or presentations, regarding any such version or build.

**REQUEST NO. 18**

For each version or build of each Electronic Trading Product, all documents and things referring or relating to marketing, sales, promotion, demonstration or presentation of any such version or build.

**REQUEST NO. 19**

For each version or build of each Electronic Trading Product, all documents and things referring or relating to feedback or comments from customers or potential customers regarding any feature or capability of any such version or build.

**REQUEST NO. 20**

For each version or build of each Electronic Trading Product, all documents and things constituting, referring to, or relating to advertising plans, business plans, marketing plans, promotional programs or strategies on the part of TradeStation or on its behalf, concerning TradeStation's Electronic Trading Products, including but not limited to documents and things relating to the training or instruction of TradeStation personnel in regard to the marketing or sales of any such version or build.

**REQUEST NO. 21**

For each version or build of each Electronic Trading Product, all advertising and promotional materials for any such version or build, including any document or thing given to or developed for any customer or prospective customer describing any such version or build.

**REQUEST NO. 22**

All documents that refer or relate to TT, TT's products or product features, or any other Electronic Trading Product that is capable of presenting information in relation to a price axis, including comments or feedback thereon from customers or potential customers.

**REQUEST NO. 23**

All documents and things referring or relating to the patents-in-suit, any related patents, or any of TT's patent applications, including any communications between TradeStation and any other entity or person and any documents related thereto, and any agreement between TradeStation and any other entity or person.

**REQUEST NO. 24**

All documents and things constituting, referring to, or relating to a joint defense agreement or understanding relating to a common interest, among TradeStation and any other entity(ies) or person(s) adverse or potentially adverse to TT, and any documents related thereto, including any documents or communications evidencing when the agreement commenced.

**REQUEST NO. 25**

All documents and things referring or relating to the validity, invalidity, enforceability, unenforceability, infringement or non-infringement of the patents-in-suit, including any opinions prepared by or on TradeStation's behalf and/or received by TradeStation or on TradeStation's behalf.

**REQUEST NO. 26**

All documents and things concerning, referring to or relating to any discussion or communication, whether written or oral, of the validity, invalidity, enforceability, unenforceability, infringement and/or non-infringement of the patents-in-suit.

**REQUEST NO. 27**

All documents and things concerning, referring to or relating to the billing, such as bills or invoices, for any opinion, discussion and/or communication, whether written or oral, regarding validity, invalidity, enforceability, unenforceability, infringement and/or non-

infringement of the patents-in-suit or any claim thereof.

**REQUEST NO. 28**

All documents and things resulting from, or referring to, or relating to any literature and/or patent searches conducted by, at the request of, or with the assistance of TradeStation with respect to TradeStation's Electronic Trading Products.

**REQUEST NO. 29**

All patents, printed publications, other items of prior art, or other documents or things, including any English translations thereof, that TradeStation believes may have any bearing on the validity of the patents-in-suit.

**REQUEST NO. 30**

All documents that TradeStation intends to rely on to assert invalidity, unenforceability or non-infringement of any of the patents-in-suit or which otherwise refer or relate to any defense or counterclaim asserted by TradeStation.

**REQUEST NO. 31**

All documents and things concerning, referring or relating to when TradeStation first became aware of any of the patents-in-suit, or any applications leading to the patents-in-suit, and what steps TradeStation took to investigate or study any of the patents-in-suit, or any



applications leading to the patents-in-suit, including but not limited to any documents and things reflecting, referring to or discussing the results of such investigation.

**REQUEST NO. 32**

All documents and things concerning, referring to or relating to any analysis, consideration, negotiation, recommendation or proposal relating to obtaining a license or other rights under the patents-in-suit.

**REQUEST NO. 33**

All documents and things concerning, referring to or relating to any decisions or efforts made by TradeStation to design Electronic Trading Products that would not infringe the patents-in-suit.

**REQUEST NO. 34**

All documents concerning, relating or referring to any past or ongoing redesign of TradeStation's Electronic Trading Products, including all e-mail correspondence relating to the redesign, technical documents, user input or feedback, instruction manuals, user guides, tutorials, animations, drawings, schematics, flow charts and tables.

**REQUEST NO. 35**

All documents and things referring or relating to any submissions, filings, or communications with any governmental entity relating to the patents-in-suit, including but not limited to any requests for reexamination.

**REQUEST NO. 36**

All documents and things constituting, referring to or relating to TradeStation's issued patents or pending patent applications directed to any aspect of TradeStation's Electronic Trading Products, including any patents and pending patent applications on which TradeStation is a licensee.

**REQUEST NO. 37**

All documents and things concerning, referring to or relating to United States or foreign patent applications, requests for reexamination, patents, invention certificates, reissues, reexaminations, invention disclosures and file histories concerning or relating to any aspect of TradeStation's Electronic Trading Products.

**REQUEST NO. 38**

All documents and things evidencing the level of ordinary skill in the art to which TradeStation contends the subject matter of the Patents-in-Suit pertain.

**REQUEST NO. 39**

All documents and things referring or relating to any inspection, review, testing, analysis, or reverse engineering of any of TT's trading software, including TT's X\_Trader, MD Trader, or AutoSpreader) and/or TradeStation's Electronic Trading Product(s).

**REQUEST NO. 40**

All documents and things constituting, relating to, or referring to TradeStation's pricing of Electronic Trading Products, including unit pricing structure, pricing policies, any changes in TradeStation's pricing, and/or any discounts or other incentives offered or given on Electronic Trading Products.

**REQUEST NO. 41**

All documents and things describing, analyzing, evidencing, relating to, or referring to features or capabilities, or information on the marketing or sale, of products competitive with TradeStation's Electronic Trading Products, or comparing features offered by any of TradeStation's Electronic Trading Products to any Electronic Trading Products offered by another, including but not limited to TT.

**REQUEST NO. 42**

All documents and things concerning, referring to or relating to competition for the sale of Electronic Trading Products, including competition between TradeStation and its competitors, including but not limited to TT, and any other defendants currently being sued by TT for patent

infringement.

**REQUEST NO. 43**

All documents and things constituting, relating to, or referring to any license agreement in regard to any Electronic Trading Product.

**REQUEST NO. 44**

All documents and things from which TradeStation's unit sales, usage, and/or distribution of each Electronic Trading Product may be determined for each monthly and annual time period from July 2004 to present.

**REQUEST NO. 45**

All documents and things from which TradeStation's gross and/or net dollar sales and/or licensing revenue for each Electronic Trading Products may be determined for each monthly and annual time period from July 2004 to present.

**REQUEST NO. 46**

All documents and things constituting, relating to, or referring to sales summaries, sales invoices, incentive plans or discount summaries relating to TradeStation's Electronic Trading Products.

**REQUEST NO. 47**

All documents and things referring or relating to any proposal, agreement, contract, license or other business relationship between TradeStation and any exchange relating to the Electronic Trading Products.

**REQUEST NO. 48**

All documents and things referring or relating to any proposal, agreement, contract, license or other business relationship between TradeStation and TT relating to the Electronic Trading Products.

**REQUEST NO. 49**

All quarterly reports, annual reports and other shareholder reports for TradeStation July 2004 to present.

**REQUEST NO. 50**

All documents comprising any and all financial statements (audited and unaudited), financial projections or forecasts, and profit and loss statements prepared by TradeStation or on TradeStation's behalf from July 2004 to present, including but not limited to income statements, balance sheets, and statements of cash flow for each monthly, quarterly, annual, or other period.

**REQUEST NO. 51**

For each version or build of the Electronic Trading Products, all documents referring or relating to the number of Transactions initiated directly or indirectly (for example, orders entered in an application other than the Electronic Trading Products while the Electronic Trading Products are being displayed) using any such version or build or quantifying, in any way, market volume trading through any of TradeStation's Electronic Trading Products, including documents sufficient to show, for each such version or build, the number of screens in use each month from July 2004 to present, the number of end users for each screen, and the identity of the customer and end user(s) for each screen, and, for each such screen, the number of Transactions initiated that month directly or indirectly using that Electronic Trading Product or any other quantification of trading activity, and any fees associated with such Transactions.

**REQUEST NO. 52**

For each version or build of any Electronic Trading Product, all documents concerning, referring or relating to the number of orders placed and orders filled using any such build or version, including documents sufficient to show the number of screens and the corresponding customer and end users of such screens for each Electronic Trading Product in use each month from July 2004 to present, and for each such screen, the number of orders placed and/or filled that month using that Electronic Trading Product, and any fees associated with such orders.

**REQUEST NO. 53**

All documents referring or relating to TradeStation's organizational and management structure, and the relationships among the TradeStation entities, including documents sufficient to show which TradeStation entities are involved in the development, manufacture, sale, offer for sale, distribution and/or usage of any Electronic Trading Product and documents sufficient to show TradeStation's officers, directors, shareholders or any entity having an ownership interest in TradeStation, including the percentage of any ownership interest.

**REQUEST NO. 54**

All agreements, contracts, and covenants pertaining to indemnification and/or reimbursement for any judgments, settlements, injunctions, legal fees and/or expenses, or other liabilities resulting from patent infringement by devices and/or technology originating from TradeStation.

**REQUEST NO. 55**

All documents and things concerning, relating or referring to any meetings, discussions, agreements, contracts, and/or covenants related in any way to indemnification and/or reimbursement for any judgments, settlements, injunctions, legal fees and/or expenses, or other liabilities resulting from patent infringement by devices and/or technology previously made, used or sold by TradeStation.

**REQUEST NO. 56**

All documents and things describing, referring to, or relating to TradeStation's and/or TT's market share of the total market for Electronic Trading Tools in the United States since the year 2004, or any subpart thereof.

**REQUEST NO. 57**

All documents and things describing, referring to, or relating to TradeStation's and/or TT's market share of Electronic Trading Tools for any market in the United States since the year 2004, or any subpart thereof.

**REQUEST NO. 58**

All documents and things referring or relating to market share studies, marketing analysis, or reports for TradeStation's Electronic Trading Products, including those prepared by or on behalf of TradeStation.

**REQUEST NO. 59**

All documents and things describing, evidencing, relating to, or referring to marketing studies showing the size, forecast size, or potential size of the market or industry for TradeStation's Electronic Trading Products, and/or TT's products.



**REQUEST NO. 60**

All documents and things describing, evidencing, relating to, or referring to marketing studies showing the size, forecast size, or potential size of the customer base for TradeStation's Electronic Trading Products, and/or TT's products.

**REQUEST NO. 61**

All documents and things describing, evidencing, relating to, or referring to information on market trends for TradeStation's Electronic Trading Products.

**REQUEST NO. 62**

All documents and things describing, evidencing, relating to, or referring to information on the marketing of products competitive with TradeStation's Electronic Trading Products.

**REQUEST NO. 63**

All documents relating to, supporting, or contradicting TT's claim for damages or the calculation of such damages.

**REQUEST NO. 64**

All documents and things referring or relating to TradeStation's information archival and/or retrieval system containing any information related to design, development, promotion, distribution, or sale of Electronic Trading Products.

**REQUEST NO. 65**

Documents sufficient to identify all files or repositories in which any document responsive to the foregoing requests is maintained in the normal course of business and each index, key, code or other means of accessing and locating documents within such files or repositories.

**REQUEST NO. 66**

All documents and things referring or relating to TradeStation's policies, practices and/or procedures now or previously in effect with respect to the retention or destruction of documents.

**REQUEST NO. 67**

All documents and things upon which TradeStation intends to rely at trial.

**REQUEST NO. 68**

All documents and materials reasonably expected or intended to be used at trial, including all documents or other materials intended for witness impeachment.

**REQUEST NO. 69**

All documents which constitute, refer to, or relate to any communication by TradeStation with any actual or potential witness in this litigation.

**REQUEST NO. 70**

All documents and things prepared by or for, or concerning, referring to or relating to any expert retained by TradeStation in this litigation.

**REQUEST NO. 71**

All documents and things referring or relating to ePit Systems, Richard Friesen, Peter Hart, Harris Brumfield, Gary Kemp, or Jens Uwe-Schleutter.

**REQUEST NO. 72**

All documents and things relating to any patent license agreements TradeStation has negotiated or entered into for any of its Electronic Trading Products, including the terms of any such patent license agreements.

**REQUEST NO. 73**

All documents supporting TradeStation's contention that the patents-in-suit are invalid under one or more of the provisions of 35 U.S.C. §§ 101, 102, 103, and/or 112.

**REQUEST NO. 74**

All agreements and communications between TradeStation and any other defendant (including its counsel) in this suit, or in case numbers 10-715, 10-716, 10-718, 10-720, 10-721, 10-726, 10-882, 10-883, 10-884, 10-885, 10-929, or 10-931 filed in the Northern District of Illinois, pertaining to TT, TT's patent rights, TT's allegations of infringement, any defendant's

defenses to TT's allegations, including validity, unenforceability, or any other defense that are the subject matter of this suit or the subject matter of case numbers 10-715, 10-716, 10-718, 10-720, 10-721, 10-726, 10-882, 10-883, 10-884, 10-885, 10-929, or 10-931.

**REQUEST NO. 75**

All documents and things relating to the number of Transactions executed (whether in a simulation or live market) using any of TradeStation's Electronic Trading Products, where any resulting order can be accessed, modified, canceled, sent or viewed through an Accused Product at any time during the pendency of the order, including for each Transaction on a daily basis from July 2004 to date: (a) the date of the Transaction, (b) the number of lots placed and the corresponding number or percentage of lots filled, (c) the customer associated with the Transaction, (d) the clearing house and/or FCM associated with the Transaction, (e) the version or build of the Electronic Trading Product to carry out the Transaction, (f) the specific Order Entry Screen used within the Electronic Trading Product to carry out the Transaction, (g) the exchange on which the Transaction was entered, (h) the instrument or asset class being traded, (i) any fees or commissions associated with the Transaction, and (j) the location and extent of logs of trading activity (whether or not filled) for each trader using the Electronic Trading Products.

**REQUEST NO. 76**

All documents and things relating to circumstances where TradeStation has used, tested, or operated any of the Electronic Trading Products, including demonstrating the products to customers or potential customers, for assessing performance or operation, and/or for quality

control or quality assurance purposes including beta testing, including but not limited to an explanation of each feature demonstrated, how the features were demonstrated, what settings were used and or demonstrated, and how orders were entered, modified, or cancelled in each such use, test, or operation.

**REQUEST NO. 77**

All documents and things relating to TradeStation's knowledge, whether direct or anecdotal, regarding use of the Electronic Trading Products by customers and/or end users, including but not limited to knowledge of which screens, features (including but not limited to price axis, price consolidation, historical charting, default order quantities, automatic or manual recentering/repositioning, order entry, order modification, or order cancellation) and/or settings are used by each customer and/or end user, under what circumstances and extent customers and/or end users use such screens, features and/or settings, and feedback received from customers and/or end users regarding such screens, features and/or settings.

**REQUEST NO. 78**

All documents and things relating to any licenses, offers to license, sales or offers to sell, or agreements relating to any version or build of any Electronic Trading Product, including but not limited to those showing: (a) an identification of all persons or entities receiving each version or build of each Electronic Trading Product (whether internal, alpha, beta, commercially released or otherwise), including the date each person or entity first received each version or build and the date each version or build was upgraded for each person or entity, if any; and those showing an

identification of all licenses, offers to license, offers to sell or sales, or agreements for each version or build of each Electronic Trading Product (whether internal, alpha, beta, commercially released or otherwise), including the identity of each actual or potential licensee or purchaser, the terms of each actual or proffered license or sale, or agreements, and an identification of all monies or other remuneration received for each license, sale, or agreement.

**REQUEST NO. 79**

All documents and things relating to invoices and payments received from customers or end users for any version or build of any Electronic Trading Product.

**REQUEST NO. 80**

All documents and things sufficient to show TradeStation's gross revenue, net revenue and profitability, including but not limited to the dollar amounts and percentage that are attributable to sales, license fees, or other transaction fees associated with the use of (i) TradeStation's Electronic Trading Products, (ii) TradeStation's MATRIX Window, and those showing all distinct transaction fees received by TradeStation when its Electronic Trading Products are used by customers or end users, and an explanation of all distinct transaction fees that are paid when its Electronic Trading Products are used by TradeStation's employees, traders, customers, agents, or end users.

**REQUEST NO. 81**

All documents and things relating to the volume of trades made using the Electronic Trading Products, and each version or build thereof and as relating to each monthly and annual period from 2004 to present, and all methods for measuring the volume of trades made using the Electronic Trading Products, including logs relating to the trading activity of each user of an Electronic Trading Product.

**REQUEST NO. 82**

All documents and things relating to TradeStation's capability to monitor and/or count Transactions or trading activity taking place through the Electronic Trading Products; and to the extent TradeStation actually does so, those showing how such monitoring and/or tracking is accomplished, a description of the data that is collected during monitoring and/or tracking, and customer-by-customer counts of all such monitored and/or tracked Transactions or trading activity.

Respectfully submitted,

Date: August 23, 2010

By: s/ Jennifer M. Kurcz

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**Attorneys for Plaintiff,**

**TRADING TECHNOLOGIES**

**INTERNATIONAL, INC.**



**CERTIFICATE OF SERVICE**

I certify that PLAINTIFF TRADING TECHNOLOGIES INTERNATIONAL, INC.'S  
FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS  
(NOS. 1-82) TO TRADESTATION SECURITIES, INC. AND TRADESTATION GROUP, INC.  
was served via Overnight Mail and email on August 23, 2010 to the following:

***Via email & overnight mail:***

*Ana E. Kadala*

*[kadala@fr.com](mailto:kadala@fr.com)*

*FISH & RICHARDSON P.C.*

*1221 McKinney, Suite 2800 Houston, Texas 77010*

*713-654-5300 – Telephone*

*713-652-0109 – Facsimile*

By: s/ Jennifer M. Kurcz

DECLARATION OF INTEREST

I, the undersigned, declare that I have no financial interest in any of the companies or organizations mentioned in this document, and that I have no financial interest in any of the companies or organizations mentioned in this document, and that I have no financial interest in any of the companies or organizations mentioned in this document.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip: \_\_\_\_\_

Date: \_\_\_\_\_

# APPENDIX 19



counsel, McDonnell Boehnen Hulbert & Berghoff LLP, 300 South Wacker Drive, Suite 3100, Chicago, Illinois, 60606.

### **DEFINITIONS AND INSTRUCTIONS**

1. The terms “Plaintiff,” “Trading Technologies,” and “TT” shall mean Trading Technologies International, Inc.; any company name under which Trading Technologies is doing business; and its predecessors, parents, subsidiaries, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

2. The term “Defendants” and “TradeStation” shall mean TradeStation Securities, Inc. and TradeStation Group, Inc.; any company name under which TradeStation is doing business; and their predecessors or successors, any past or present parents, subsidiaries, affiliates, divisions, joint ventures, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control.

3. The term “Monex” shall mean Monex Group, Inc. and Monex Inc.; any company name under which Monex is doing business; their predecessors, parents, divisions, licensees, franchisees, assigns or other related business entities, as well as directors, officers, employees, agents, distributors, jobbers, salespersons, sales representatives, and each person acting or purporting to act on its or their behalf or under its or their control; and their subsidiaries, including any wholly-owned subsidiary in the United States established to serve as an acquisition vehicle for the acquisition of TradeStation.

4. The terms “person” and “persons” shall mean natural persons (including, without limitation, those employed by TradeStation or Monex), as well as all governmental entities, agencies, officers, departments, or affiliates of any other governmental entity, and any corporation, foundation, partnership, proprietorship, association, or other organization.

5. The term “date” shall mean the exact day, month, and year (to the degree ascertainable) or, if not ascertainable, the best approximation (including relationship to other events).

6. The term “document” shall mean writings, recordings and other communications, whether reduced to tangible or electronic form, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including without limitation, correspondence, memoranda, notes, executable and non-executable electronic files, including e-mail, compiled software, source code, bug tracking, screen shots, diaries, minutes, statistics, letters, telegrams, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, receipts, returns, summaries, pamphlets, books, prospectuses, calendars, diaries, planners, interoffice and intra-office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meetings, presentations, or printouts, teletypes, fax, invoices, work sheets, and all drafts, alterations, modifications, changes and amendments of the foregoing), graphic or oral representations of any kind (including without limitation, photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys), and electronic or electro-mechanical records or representations of any kind (including without limitation, computer memory, hard drives, discs, tapes, cassettes and recordings).

7. The terms “relating to” and “referring to” shall be interpreted broadly so as to encompass the liberal scope of discovery set forth in Federal Rule of Civil Procedure 26(b).

8. The terms “identify” and “describe” shall mean providing, among other things:

a. with respect to a natural person, home and work addresses and telephone numbers, the name of the person’s present (or if unknown, the last known) place of employment, date of commencement and termination (if any) of employment, job title, and description of his or her duties and responsibilities;

b. with respect to a corporation or other non-natural person, the full name, address, main telephone number, state of incorporation, and identity of all persons who have acted on behalf of such entity with respect to the subject matter of the request;

c. with respect to a document, the type of document (e.g., letter, e-mail, fax, contract, calendar, invoice, report); the number of pages or size of electronic file; a description of the document's contents; an identification of the person(s) who prepared the document, for whom the document was prepared, who signed the document, to whom the document was delivered, mailed, or otherwise received, and to whom a copy of the document was sent or otherwise received; the date of writing, creation, or publication; identifying number(s), letter(s), or combination thereof, if any; the significance or meaning of such number(s), letter(s) or combination thereof; for electronic documents, the name of the software used to generate the document and the electronic file type; and the present location and identity of the custodian of that document. Documents to be identified shall include all documents in your possession, custody or control, documents you know or believe to have existed but are no longer existing, and other documents of which you have knowledge or information.

9. The terms “and,” “or,” and “and/or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

10. The terms “describe” and “state” shall mean to set forth fully and unambiguously every fact relevant to the subject of the request, of which TradeStation or Monex has knowledge or information.

11. Any word written in the singular herein shall be construed as plural or vice versa to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

12. The term “the ‘304 patent” shall mean U.S. Patent No. 6,766,304, as well as its application and any publications thereof. The term “the ‘132 patent” shall mean U.S. Patent No. 6,772,132, as well as its application and any publications thereof. The term “the ‘999 patent” shall mean U.S. Patent No. 7,212,999, as well as its application and any publications thereof. The term “the ‘056 patent” shall mean U.S. Patent No. 7,533,056, as well as its application and any publications thereof. The term “the ‘411 patent” shall mean U.S. Patent No. 7,676,411, as well as its application and any publications thereof. The term “the ‘768 patent” shall mean U.S. Patent No. 7,693,768, as well as its application and any publications thereof. The term “the ‘382 patent” shall mean U.S. Patent No. 7,725,382, as well as its application and any publications thereof. The term “the ‘556 patent” shall mean U.S. Patent No. 7,783,556, as well as its application and any publications thereof. The term “the ‘996 patent” shall mean U.S. Patent No. 7,813,996, as well as its application and any publications thereof. The term “the ‘374 patent” shall mean U.S. Patent No. 7,904,374, as well as its application and any publications thereof. The term “patents-in-suit” shall mean the ‘304 patent, the ‘132 patent, the ‘999 patent, the ‘056



patent, the '411 patent, the '768 patent, the '382 patent, the '556 patent, the '996 patent, and the '374 patent, as well as any additional patents asserted by TT in this lawsuit, either collectively or individually. The term "TT's patents" shall mean all patents owned by TT.

13. "Order Entry Screens" shall mean any electronic trading software made, used, sold, offered for sale, licensed, leased, imported, or otherwise distributed to customers by TradeStation that allows for order entry, order modification, and/or order cancellation, including but not limited to TradeStation's TradeStation Platform and TradeStation Web Trading Products, which include TradeStation's MATRIX Window and Chart Window, and TradeStation's Mobile Product, which includes TradeStation's Chart Window, or any white label of any TradeStation product. References to "Order Entry Screens" are not limited to electronic trading software made by TradeStation, but include software made by or obtained from or through third parties and are further not limited to only released versions and/or builds, but include all versions and builds, whether released or unreleased, such as alpha versions and/or builds, beta versions and/or builds, and internal versions and/or builds.

14. "Electronic Trading Product" shall mean any software, hardware or combination thereof, and includes one or more Order Entry Screens for connecting to or interacting with any public or private trading system that provides for electronic trading, whether live or simulated, including but not limited to the Chicago Board of Trade ("CBOT"), the Chicago Mercantile Exchange ("CME"), the London International Financial Futures and Options Exchange ("LIFFE"), Eurex, the New York Stock Exchange ("NYSE"), NASDAQ, the Intercontinental Exchange ("ICE"), ICAP BrokerTec, the Tokyo Stock Exchange ("TSE"), the Tokyo International Financial Futures Exchange ("TIFFE"), the Sydney Futures Exchange ("SFE"), the BGC Exchange, the ELX Futures Exchange, the Cantor Exchange, or the eSpeed System.

References to “Electronic Trading Product” are not limited to electronic trading software made by TradeStation or Monex, but include software made by or obtained from or through third parties and are further not limited to just released versions and/or builds, but include all versions and builds, whether released or unreleased, such as alpha versions and/or builds, beta versions and/or builds, and internal versions and/or builds.

15. “Transaction” includes, by way of example and without limitation, any original, modified, revised, consolidated or canceled order that is either sent to an exchange or entered in a simulation, or any trade.

16. The term “Acquisition” shall mean any proposed or completed acquisition of TradeStation by Monex, including any communications, inquiries, or discussions regarding the purchase or sale of TradeStation both before and after TradeStation is acquired.

17. No request or subpart hereof shall be construed as a limitation on any other request or subpart hereof.

18. Where Defendants assert an objection to a request, state all grounds upon which the objection is based.

### **DOCUMENT REQUESTS**

#### **REQUEST NO. 83**

All documents referring or relating to an Acquisition of TradeStation, including any closing documents, any e-mails exchanged between TradeStation and Monex referring or relating to an Acquisition of TradeStation, any documents exchanged between TradeStation and Moxex relating to an Acquisition of TradeStation, and any draft agreements, proposals, or other documents related to the Acquisition of TradeStation.

**REQUEST NO. 84**

All agreements, contracts, covenants, or memorandums of understanding referring or relating in any way to an Acquisition of TradeStation, including all attachments and schedules.

**REQUEST NO. 85**

All documents and things referring or relating to any meetings, discussions, agreements, contracts, and/or covenants related in any way to an Acquisition of TradeStation.

**REQUEST NO. 86**

All documents and things referring or relating to a decision by TradeStation or Monex to consider or complete an Acquisition of TradeStation.

**REQUEST NO. 87**

All documents referring or relating to any offer or possible offer (including term sheets) made by Monex for an Acquisition of TradeStation, or any offer or possible offer (including term sheets) solicited or requested by TradeStation, including all terms of any such offer or possible offer.

**REQUEST NO. 88**

All documents referring or relating to any side letters or any other agreements (whether written or oral) regarding an Acquisition of TradeStation.

**REQUEST NO. 89**

All documents referring or relating to any negotiations between TradeStation and Monex regarding an Acquisition of TradeStation.

**REQUEST NO. 90**

All documents referring or relating to any agreements, contracts, communications, discussions, or covenants pertaining to indemnification for any judgments, settlements,

injunctions, legal fees and/or expenses, or other liabilities resulting from any infringement by TradeStation of any patents, including the patents-in-suit or TT's patents.

**REQUEST NO. 91**

All documents referring or relating to any meetings, discussions, agreements, contracts, covenants, or communications related in any way to indemnification and/or reimbursement for any judgments, settlements, injunctions, legal fees and/or expenses, or other liabilities from any patent infringement by software or products previously made, used, sold, or licenses by TradeStation.

**REQUEST NO. 92**

All documents referring or relating to any escrow agreements or accounts, or deferred payments or compensation, or any other type of set aside of money or hold back of money regarding an Acquisition of TradeStation, relating in any way to potential liability for infringement of any patents, including the patents-in-suit or TT's patents.

**REQUEST NO. 93**

All documents referring or relating to an Acquisition of TradeStation pertaining to any patents, including the patents-in-suit, TT's patents, or TT.

**REQUEST NO. 94**

All documents referring or relating to an Acquisition of TradeStation pertaining to the value of TradeStation or the possible purchase price or purchase price for TradeStation.

**REQUEST NO. 95**

All documents referring or relating to an Acquisition of TradeStation pertaining to how the value of TradeStation, the possible purchase price or purchase price for TradeStation, or the

terms of an Acquisition of TradeStation was affected or reduced by any possible patent infringement, including the present lawsuit, the patents-in-suit, or TT's patents.

**REQUEST NO. 96**

All documents referring or relating to the amount of liability or potential liability of TradeStation (in the past or in the future) for any infringement of any patent, including the patents-in-suit or TT's patents.

**REQUEST NO. 97**

All documents referring or relating to the amount of liability or potential liability of TradeStation (in the past or in the future) for each Transaction executed on TradeStation's Electronic Trading Tools for any infringement of any patent, including the patents-in-suit or TT's patents.

Respectfully submitted,

Date: October 21, 2015

By: /s/ Ann C. Palma

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**Attorneys for Plaintiff,**

**TRADING TECHNOLOGIES**

**INTERNATIONAL, INC.**

**CERTIFICATE OF SERVICE**

I certify that the foregoing PLAINTIFF TRADING TECHNOLOGIES INTERNATIONAL, INC.'S SECOND SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS (NOS. 83-97) TO TRADESTATION SECURITIES, INC. AND TRADESTATION GROUP, INC. was served on October 21, 2015 as follows:

***Via Email:***

David Healey  
healey@fr.com  
FISH & RICHARDSON P.C.  
1221 McKinney, Suite 2800  
Houston, Texas 77010

/s/ Ann C. Palma