

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TRADING TECHNOLOGIES)	Docket No. 10 C 715
INTERNATIONAL, INC.,)	
)	(Cons. with:
)	10 C 718, 10 C 720
v.)	10 C 721, 10 C 884)
)	
)	September 10, 2015
BGC PARTNERS, INC.,)	Chicago, Illinois
)	
Defendant.)	

TRANSCRIPT OF PROCEEDINGS - MOTION
BEFORE THE HONORABLE VIRGINIA M. KENDALL

APPEARANCES:

For the Plaintiff: McDONNELL BOEHNEN HULBERT & BERGHOFF by
MS. JENNIFER KURCZ
MR. LEIF R. SIGMOND, JR.
300 South Wacker Drive
Suite 3100
Chicago, Illinois 60606

For the Defendant LOEB & LOEB LLP by
CQG: MR. WILLIAM JOSHUA VOLLER
321 North Clark Street
Suite 2300
Chicago, Illinois 60610

Court Reporter: GAYLE A. MCGUIGAN, CSR, RMR, CRR
Federal Official Court Reporter
219 South Dearborn, Room 2318-A
Chicago, Illinois 60604
(312) 435-6047
Gayle_McGuigan@ilnd.uscourts.gov

1 A P P E A R A N C E S : (Continued)

2

3 For the Defendant MANDELL MENKES LLC by
4 Interactive Brokers MR. STEVEN P. MANDELL
5 Group: One North Franklin
 Suite 3000
 Chicago, Illinois 60606

6 For the Defendant STADHEIM & GREAR LTD by
7 TradeStation: MR. GEORGE C. SUMMERFIELD
8 400 North Michigan Avenue
 Suite 2200
 Chicago, Illinois 60611

9 FISH & RICHARDSON PC by
10 MR. DAVID J. HEALEY
11 One Houston Center
 1221 McKinney, Suite 2800
 Houston, Texas 77010

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 (In open court:)

2 THE CLERK: Case number 10 C 715, Trading Technologies
3 versus BGC Partners.

4 MS. KURCZ: Good morning, your Honor. Jennifer Kurcz
5 on behalf of plaintiff Trading Technologies.

6 THE COURT: Good morning.

7 MR. SIGMOND: Good morning, your Honor. Leif Sigmond
8 for Trading Technologies.

9 THE COURT: Good morning.

10 MR. HEALEY: Good morning, your Honor. David Healey,
11 Fish and Richardson, for TradeStation.

12 THE COURT: Good morning.

13 MR. MANDELL: Good morning, your Honor. Steve Mandell
14 on behalf of Interactive Brokers, LLC.

15 THE COURT: Good morning.

16 MR. VOLLER: And good morning, your Honor. Bill
17 Voller on behalf of defendants CQG.

18 THE COURT: Good morning.

19 MR. SUMMERFIELD: Good morning, Judge. George
20 Summerfield on behalf of TradeStation.

21 THE COURT: Okay. Good morning.

22 So I have to tell you I'm not surprised to see this,
23 nor does it fall on deaf ears.

24 So let me hear from TT as to what we're doing here.
25 You want to break them up and move on.

1 MS. KURCZ: Yes, your Honor.

2 THE COURT: Go ahead.

3 MS. KURCZ: As you can imagine, we're seeking
4 deconsolidation because the very basis for consolidation --
5 which is streamlining, efficiency -- has not been served by
6 consolidation in this case. The cases are over five years old,
7 and discovery hasn't even gotten off the ground.

8 THE COURT: Let's just make a record that you all
9 chose -- some of you chose to bring it up and back, so it
10 wasn't that Judge Kendall is making this five years old, but
11 that there's lots of other issues that have delayed this case
12 based upon the parties' interactions.

13 MS. KURCZ: And that's exactly where I'm going, your
14 Honor.

15 Defendants have used consolidation to gain delay --
16 delay and unfairly break the case apart by engaging in
17 piecemeal litigation tactics. They've only independently
18 attacked certain patents on certain issues. And all of this
19 has enured to the delay in this case.

20 For instance, in the trade -- or the TD Ameritrade
21 CBM, the cases were stayed because of their request, and only
22 they were the ones that were involved in those CBM petitions.
23 None of the other parties chose to join in those matters.

24 THE COURT: Right.

25 MS. KURCZ: And now they want to redo it all over

1 again.

2 THE COURT: Right.

3 MS. KURCZ: And, you know, they've had that
4 opportunity for over three years. So at this point, enough is
5 enough. The cases should proceed independently. If there is a
6 reason to delay one case, for whatever reason, the Court can
7 decide that at that time, but they shouldn't be all hinged
8 together and incurring additional delay or any delay by any
9 defendant.

10 THE COURT: Okay. You're missing one of your best
11 arguments about the prejudice, about the delay for your
12 technology as well.

13 MS. KURCZ: Yes, your Honor. And with respect to the
14 prejudice that we've suffered, not only is it economic, we've
15 lost sales. We can't be going after people who are infringing
16 in our marketplace. There's also an evidentiary loss that we
17 are suffering. For instance, in the CQG case that just went to
18 trial, we had issues with getting information from non-parties.
19 Even from CQG, who was under a duty to preserve information,
20 had, you know, overwritten important and invaluable information
21 in that case. And so we believe that that's going to continue
22 happening, while defendants are also unfairly invading our
23 market space and we're not able to preclude them from
24 infringing.

25 THE COURT: Okay. Who wants to go first?

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.