

Paper No. \_\_\_\_\_  
Filed: October 2, 2019

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 CBM2015-00172<sup>1</sup>  
Patent No. 7,783,556

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**PATENT OWNER'S MOTION TO EXPUNGE**

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<sup>1</sup> Case CBM2016-00040 has been joined with this proceeding.

## **I. Statement of Relief Requested**

Pursuant to this Board's authorization on October 1, 2019, Trading Technologies International, Inc. ("TT" or "Patent Owner"), respectfully renews its request that all confidential information filed by Patent Owner be expunged from the record pursuant to Rule 42.56 and not be made public. Patent Owner has conferred with Petitioner on this request and Petitioner does not oppose.

## **II. Reasons Why Requested Relief Should Be Granted**

### **A. The Board Found Good Cause to Seal the Confidential Information**

In connection with its Motion for Additional Discovery, TT filed a Motion to Seal. (Paper 33). This motion covered certain documents and exhibits containing or referring to confidential business information. (Paper 34 and Exhibits 2143-51, 2154, and 2156-58).

On March 31, 2017, the Board granted TT's Motion to Seal. (Paper 84). The information covered by the granted Motion to Seal should be expunged because this Board has already found that there was good cause to grant the motion to seal. (Paper 84, at 2). Specifically, TT identified that the sealed papers contain sensitive business information that would not otherwise be published or made available to the public. As this information was not relied on in the Final Written Decision here, (*see id.*), expunging the confidential material does not impact the public interest in obtaining access to these proceedings. Further, any impact to the

public interest has been minimized as a non-confidential version of the Motion for Additional Discovery has already been filed. (*Id.*)

On April 30, 2019, the Federal Circuit affirmed the Final Written Decision of the Board in this case, and the formal mandate issued on August 7, 2019. On July 18, 2019, TT filed a request for an extension to file a petition for a writ of certiorari, to and including September 27, 2019, which the Supreme Court granted. On September 27, 2019, no petition for a writ of certiorari was filed with the Supreme Court. Because the appeals in this case have been concluded, as the deadline for filing a petition for a writ of certiorari has passed, this motion to expunge is now ripe for decision.

**B. The Sealed Documents Contain Confidential and Sensitive Business Information That was not Relied on by the Board in the Final Written Decision**

For the same reasons set forth in Patent Owner’s Motion to Seal, namely that the sealed information “contain[s] information identified . . . as sensitive, non-public information that a business would not make public,” (Paper 33, at 2), all the information filed under seal in this matter should be expunged from the record. Expunging the sealed information will avoid the prejudice to parties that would be caused by public disclosure of their sealed information. The information Patent Owner seeks to have expunged after the disposition of appeals is as follows: Paper 34 and Exhibits 2143-51, 2154, and 2156-58.

Because Patent Owner has already filed a redacted version of the Motion for Additional Discovery (Paper 32), expunging confidential materials after appeal addresses the “public interest in maintaining a complete and understandable file history for public notice purposes” while protecting the confidential and proprietary information of other parties. (*See* 77 FED. REG. 48623). These materials include:

[I]nternal TradeStation documents relating to its products and customers, the deposition transcripts of Mr. Bartleman (TradeStation’s President) and Mr. Galik (IB’s head of software development) and quotations from those documents and transcripts in the confidential version of the Motion for Additional Discovery. Patent Owner has been advised by counsel for Petitioners that this information has not been published or otherwise been made public.

(Paper 33, at 4). These materials were “not relied on in the Final Written Decision.” (Paper 84, at 2).

### **III. Conclusion**

Patent Owner respectfully requests that, because all appeals have been exhausted in this matter, the sealed materials be expunged from the CBM docket.

Dated: October 2, 2019

Respectfully submitted,

By: /Jennifer M. Kurcz/

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