

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CQG, INC., CQG, LLC (f/k/a CQGT, LLC),
INTERACTIVE BROKERS LLC, TRADESTATION GROUP, INC.
TRADESTATION SECURITIES, INC., and
TRADESTATION TECHNOLOGIES, INC.,
Petitioner,¹

v.

CHART TRADING DEVELOPMENT, LLC,
Patent Owner.

Case CBM2016-00046 (Patent No. 7,890,416 B2)
Case CBM2016-00047 (Patent No. 8,041,626 B2)
Case CBM2016-00048 (Patent No. 8,060,435 B2)²

Before JAMESON LEE, KEVIN F. TURNER, and
KEVIN W. CHERRY, *Administrative Patent Judges*.

CHERRY, *Administrative Patent Judge*.

ORDER

Trial Hearing Notice

35 U.S.C. § 326(a)(10); 37 C.F.R. § 42.70

¹ CQG, Inc. and CQG, LLC are parties in all three cases. Interactive Brokers LLC is a party in CBM2016-00046 and 47. Tradestation Group, Inc., Tradestation Securities, Inc., and Tradestation Technologies, Inc. are only parties in CBM2016-00046.

² The Board is entering this Order in each proceeding. The parties are not authorized to use a caption identifying multiple proceedings.

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Both Petitioner and Patent Owner requested a hearing pursuant to 37 C.F.R. § 42.70(a). CBM2016-00046, Papers 34, 35; CBM2016-00047, Papers 33, 34; CBM2016-00048, Papers 33, 34. In each of its requests, Petitioner requested “no more than one hour per side of oral argument.” *See* CBM2016-00046, Paper 34, 1.³ In its requests, Petitioner did not specify whether or not it was requesting that amount of time for each of the cases or for all of the cases together in a consolidated hearing for all three proceedings. Patent Owner asked for a consolidated hearing, and requested “a total of forty-five (45) minutes of argument to address issues in all three proceedings.” *See* CBM2016-00046, Paper 35, 1. In order to clarify whether Petitioner was amenable to a consolidated hearing, we issued an order asking the parties to inform us whether they would agree to a consolidated hearing. *See* CBM2016-00046, Paper 36. Judges Cherry and Lee also held a call with counsel for the parties on May 16, 2017, to obtain their views on a consolidated hearing. On the call, counsel for both parties agreed to a consolidated hearing. In view of the foregoing, the parties’ requests for oral hearing are *granted*.

These proceedings will be heard in the afternoon of **June 8, 2017**, beginning at **1:00 p.m. Eastern Time**. Given the overlap in these three proceedings, each side will have **60 minutes** of total argument time. Petitioner bears the ultimate burden of proof that Patent Owner’s original patent claims at issue are unpatentable. Also, Petitioner has filed a Motion to Exclude Evidence in each proceeding, and Patent Owner has filed a Motion to Amend Claims in each proceeding. Therefore, at oral hearing,

³ We cite to the papers in CBM2016-00046 as representative.

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Petitioner will proceed first to present its case with respect to the challenged claims and grounds with respect to which the Board instituted trial and any arguments in support of its Motions to Exclude. Thereafter, Patent Owner will respond to Petitioner's presentation and present any arguments in support of its Motions to Amend. Each party may reserve rebuttal time. Petitioner may make use of the time it has reserved to rebut Patent Owner's presentation. Patent Owner may then use its rebuttal time, if any, to present rebuttal with regard to its Motion to Amend.

New arguments not previously presented in the parties' substantive papers in this proceeding should not be raised at oral hearing.

The hearing will be open to the public for in-person attendance on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. In-person attendance will be accommodated on a first-come, first-served basis. The Board will provide a court reporter for the hearing and the reporter's transcript will constitute the official record of the hearing.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served (7) business days prior to the hearing. They shall be filed at the Board prior to the hearing, and the parties must initiate a conference call with the Board by two (2) business days prior to the hearing to resolve any dispute over the propriety of each party's demonstrative exhibits. Any dispute over the propriety of demonstrative exhibits that is not timely presented two business days prior to the hearing will be considered waived. The parties are directed to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, Case IPR2013-00033 (PTAB October 23, 2013) (Paper 118), regarding the appropriate content of demonstrative exhibits.

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Questions regarding specific audio-visual equipment should be directed to the Board at (571) 272-9797. Requests for audio-visual equipment are to be made at least five (5) business days in advance of the hearing date. The request is to be sent to Trials@uspto.gov. If the request is not received timely in the manner specified herein, the equipment may not be available on the day of the hearing.

The parties are reminded that the presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) referenced during the hearing to ensure the clarity and accuracy of the reporter's transcript. The parties also should note that at least one member of the panel will be attending the oral hearing electronically from a remote location. Paper copies of the demonstrative exhibits may be submitted to the panel at hearing time but are not required. Because of limitations of the audio transmission systems in the hearing room, the presenter may speak only when standing at the hearing room lectern. If the parties have questions as to whether demonstrative exhibits would be sufficiently visible to all of the judges, the parties are invited to contact the Board at (571) 272-9797.

The Board expects lead counsel for each party to be present at hearing, although any backup counsel may make the actual presentation, in whole or in part. If any lead counsel will not be in attendance at hearing, the Board should be notified via a joint telephone conference call no later than two business days prior to the hearing to discuss the matter.

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In consideration of the foregoing, it is hereby:

ORDERED that the parties shall take note of the above information about the oral hearing to be held on June 8, 2017.

PETITIONER:

Benjamin Lieb
John C. Heuton
SHERIDAN ROSS P.C.
blieb@sheridanross.com
jheuton@sheridanross.com

Michael Rosato
Matthew Argenti
WILSON SONSINI GOODRICH & ROSATI
mrosato@wsgr.com
margenti@wsgr.com

John Phillips
FISH & RICHARDSON
phillips@fr.com

PATENT OWNER:

James Barney
Timothy McAnulty
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP
James.barney@finnegan.com
Timothy.mcanulty@finnegan.com