

Paper No. \_\_\_\_\_  
Filed: March 9, 2020

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.,  
and TRADESTATION SECURITIES, INC.,  
Petitioners,  
v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.,  
Patent Owner.

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Case CBM2016-00090  
Patent No. 7,725,382

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**PATENT OWNER'S MOTION TO EXPUNGE**

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

Pursuant to this Board's authorization on February 25, 2020, Trading Technologies International, Inc. ("TT" or "Patent Owner"), respectfully requests that all confidential information 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 Patent Owner's Response, TT filed a Motion to Seal. (Paper 22). This motion covered the confidential version of the Patent Owner's Response (Paper 20), confidential versions of Exhibits 2172 (Declaration of J. Knobloch), 2169 (Declaration of C. Thomas), and 2403 (Deposition Transcript of John Bartleman) and thirty-eight exhibits to the Declaration of C. Thomas (Exhibits 2143, 2144, 2154, 2224, 2225, 2232, 2247, 2270, 2286, 2294, 2295, 2404, 2406, 2501, 2502, 2503, 2504, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2514, 2515, 2516, 2517, 2518, 2520, 2521, 2522, 2524, 2525, 2526, 2527, 2529, and 2530). TT also filed a confidential version of its demonstratives (Exhibit 2543), which cited to such confidential materials. TT identified that the sealed papers contain sensitive business information that would not otherwise be published or made available to the public. (Paper 22, at 1). Additionally, TT made

all of the non-confidential information publicly available in non-confidential versions. (*Id.*; *see also* Exhibit 2543 (non- confidential version of Patent Owner’s Demonstratives)).

In connection with their Reply, Petitioners also filed a Motion to Seal (Paper 40). This motion covered three exhibits (1064, 1067, and 1074)—the deposition transcripts of Christopher H. Thomas—which were marked confidential by TT pursuant to the Protective Order. (Paper 40, at 1). Petitioners represented that, to the best of their knowledge, the documents had not been made publicly available. (*Id.*). On December 6, 2017, the Board denied Petitioners’ motion to seal, but authorized the parties to jointly file a revised motion to seal along with redacted exhibits. On December 28, 2017, the parties filed a joint motion to seal along with redacted Exhibits 1064, 1067, and 1074 (Paper 57).

On January 8, 2018, the Board granted the motions to seal (Paper 59, at 2-3), finding that “good cause exists.” It also found, however, that Patent Owner’s request “that the information filed under seal in these proceedings be expunged from the record within ten days of the disposition of all appeals” was “premature.” (Paper 59, at 4). The Board instructed Patent Owner to request authorization to file a renewed motion to expunge at the conclusion of appeal. (*Id.*). Because the appeals in this case have now been concluded, with the Supreme Court denying Patent Owner’s petition for a writ of certiorari, this motion to expunge is now ripe

for decision. Because the Board already found good cause to seal these materials, the motion to expunge should be granted.

**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 the parties' motions to seal, namely that the sealed information "contain[s] information identified . . . as sensitive, non-public information, that a business would not make public," (Paper 22, at 1; *see also* Paper 40, at 1), all the information filed under seal in this matter should be expunged from the record. Expunging the sealed information will avoid the prejudice to the parties that would be caused by public disclosure of their sealed information.

In particular, the confidential materials covered by Patent Owner's motion to seal (Paper 22) include TT's internal financial information relating to the amount of money derived from royalty and settlement payments, third-party business strategy information and third-party admissions/statements, and discussions of Petitioners' own confidential information obtained in a related district court proceeding. (Paper 22, at 4-7). The materials covered by Petitioner's motion to seal (Paper 40) and the parties' joint motion to seal filed on December 28, 2017, include the deposition transcripts of Christopher H. Thomas, which were marked confidential by TT pursuant to the Protective Order. (Paper 40, at 1). None of the

materials filed under seal were relied on in the Final Written Decision. (Paper 59, at 3).

### 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.

Respectfully submitted,

Dated: March 9, 2020

By: /Jennifer M. Kurcz/

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