

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

IBG LLC, INTERACTIVE BROKERS, LLC,
TRADESTATION GROUP, INC.,
TRADESTATION SECURITIES, INC., TRADESTATION
TECHNOLOGIES, INC., and IBFX, INC.,
Petitioner,

v.

TRADING TECHNOLOGIES INTERNATIONAL, INC.,
Patent Owner.

CBM2015-00179 (Patent 7,533,056)
CBM2016-00054 (Patent 7,693,768)
CBM2016-00090 (Patent 7,725,382)

Before SALLY C. MEDLEY and MEREDITH C. PETRAVICK,
Administrative Patent Judges.

PETRAVICK, *Administrative Patent Judge.*

DECISION
Denying Motions to Expunge
37 C.F.R. § 42.22, 42.56

On March 9, 2020, in each of these proceedings, Patent Owner filed motions seeking to expunge confidential information pursuant to 37 C.F.R. § 42.56. CBM2015-00179, Paper 152; CBM2016-00054, Paper 66;

CBM2015-00179 (Patent 7,533,056)

CBM2016-00054 (Patent 7,693,768)

CBM2016-00090 (Patent 7,725,382)

CBM2016-00090, Paper 61. The Motions, however, do not set forth with sufficient clarity the numbers of the papers and exhibits Patent Owner seeks to expunge. For example, although the motion in CBM2015-00179 discusses that certain documents and exhibits were covered by motions to seal and the discussion includes as cite to “Papers 69, 101, 106 and Exhibits 2143–51, 2154, and 2156-58,” the motion does not explicitly state that the cited papers and exhibits are those that should be expunged. Instead, the motion generally requests “that all confidential information be expunged from the record” and “all sealed materials be expunged from the CBM docket.” Paper 152. It is unclear from the motion whether the cited papers and exhibits are all confidential information in the record that should be expunged. We note, for example, that Paper 101 of CBM2015-00179 has already been expunged from the record.

On June 10, 2020, we sent an email requesting that, by no later than June 26, 2020, Patent Owner supplement its motions by filing an explicit list of all papers and exhibits Patent Owner seeks to expunge from the records. Patent Owner has not filed any supplements to its motions.

We deny Patent Owner’s motions to expunge because they do not sufficiently state the precise relief requested by Patent Owner. *See* 37 C.F.R. § 42.44(a)(1). Patent Owner, however, may file revised motions to expunge in each proceeding no later than July 22, 2020. The revised motions to expunge must include a list, by number, of all papers and exhibits that Patent Owner seeks to expunge from the record. In each proceeding, we will maintain all papers and exhibits containing confidential information under seal until at least July 23, 2020. In each proceeding, if Patent Owner

CBM2015-00179 (Patent 7,533,056)

CBM2016-00054 (Patent 7,693,768)

CBM2016-00090 (Patent 7,725,382)

fails to file a revised motion to expunge, the confidential information filed under seal shall be made public in due course. *See* Rules of Practice for Trials, 77 Fed. Reg. 48,612, 48,623 (Aug. 14, 2012) (“Confidential information that is subject to a protective order ordinarily will become public . . . 45 days after final judgment in a trial.”).

It is:

ORDERED that Patent Owner’s motions to expunge in each proceeding are *denied*;

FURTHER ORDERED that Patent Owner may file a revised motion to expunge in each proceeding no later than July 22, 2020; and

FURTHER ORDERED that, in each proceeding, if the Patent Owner fails to file a revised motion to expunge, the confidential information filed under seal shall be made public in due course.

CBM2015-00179 (Patent 7,533,056)
CBM2016-00054 (Patent 7,693,768)
CBM2016-00090 (Patent 7,725,382)

For PETITIONER:

Robert Sokohl
Lori Gordon
Richard Bemben
Donald Banowit
STERNE KESSLER GOLDSTEIN & FOX
Rsokohl-ptab@sternekessler.com
Lgordon-ptab@sternekessler.com
Rbemben-ptab@sternekessler.com
Dbanowit-ptab@sternekessler.com

John Phillips
Adam Kessel
FISH & RICHARDSON PC
Cbm41919-0007CP1@fr.com
kessel@fr.com

For PATENT OWNER:

Leif Sigmond
Michael Gannon
Jennifer Kurcz
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
sigmond@mbhb.com
gannon@mbhb.com
jkurcz@mbhb.com

Steve Borsand
Jay Knobloch
TRADING TECHNOLOGIES INTERNATIONAL, INC.
Steve.borsand@tradingtechnologies.com
jay.knobloch@tradingtechnologies.com