

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

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JUN 13 2005

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

TRADING TECHNOLOGIES	:	
INTERNATIONAL, INC.,	:	CIVIL ACTION
	:	
Plaintiff,	:	NO. 04-CV-5312
	:	
v.	:	Judge James B. Moran
	:	
eSPEED, INC.,	:	
	:	
Defendant.	:	

**INTERVENORS' MOTION TO  
INTERVENE FOR THE PURPOSE OF OPENING CERTAIN  
RESTRICTED PLEADINGS AND PROCEEDINGS**

The Futures Industry Association ("FIA") and Managed Funds Association ("MFA") move, pursuant to Federal Rules of Civil Procedure 5(d) and 24(b), to intervene for the limited purpose of opening the proceedings and securing access to certain pleadings filed under a "restricted" designation by the plaintiff and defendant. Well-established First Amendment and common law principles, set forth more fully in their supporting memorandum, clearly support intervenors' request for access to documents and pleadings filed as "restricted," as defined at Local Rule 26.2(a) of the Northern District of Illinois, without the benefit of the required authorizing order of court and contrary to the strictures of that Rule. Intervenors seeks to ensure that information, which is not legitimately confidential, is no longer hidden from public view by means of unilateral, arbitrary classifications by the parties.

**WHEREFORE**, pursuant to Fed. R. Civ. P. 26(c) and NDIL LR 26.2(b), Futures Industry Association and Managed Funds Association respectfully request that this Court enter an order to:

- (1) open the court proceedings to public access;

(2) unseal each of the sealed or restricted documents filed with the Court unless the parties on a written motion demonstrate “good cause” as required by NDIL LR 26.2(b) that an order should be entered restricting access to one or more of these documents; and

(3) revise the protective order to require the parties to file public briefs, while still allowing the parties upon a written motion showing “good cause” as required by NDIL LR 26.2(b) to file sealed supplements if necessary to discuss in detail materials properly subject to the protective order.

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Respectfully submitted,

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Industry Association and Managed  
Funds Association

Dated: January 13, 2005

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TRADING TECHNOLOGIES	:	
INTERNATIONAL, INC.,	:	CIVIL ACTION
	:	
Plaintiff,	:	NO. 04-CV-5312
	:	
v.	:	Judge James B. Moran
	:	
eSPEED, INC.,	:	
Defendant.	:	

**[PROPOSED] ORDER**

Intervenors' motion to intervene for the limited purpose of modifying or vacating the protective and/or restricting order entered in this case is **GRANTED**; and

The Court orders, absent a good cause showing by one or both of the parties of specific competitive injury, that:

- (1) the transcript of previous court proceedings in this litigation shall be open for public access and all future proceedings shall be open to the public;
- (2) each of the sealed or restricted documents filed with the Court in this matter are unsealed and available for public viewing, unless the parties demonstrate "good cause" as required by NDIL LR 26.2(b) that an order should be entered restricting access to one or more of the documents; and
- (4) the protective order entered in this action is modified to require that the parties file briefs, without a restricted designation, unless "good cause" as required by NDIL LR 26.2(b) can be shown to file sealed supplements with the briefs.

\_\_\_\_\_  
Judge James B. Moran

Dated: January \_\_\_\_\_, 2005

**CERTIFICATE OF SERVICE**

The undersigned counsel for Futures Industry Association and Managed Funds Association hereby certify that on January 13, 2005, a copy of the foregoing INTERVENORS' MOTION TO INTERVENE AND TO UNSEAL COURT FILES AND PROCEEDINGS, with a proposed order, was served by email and hand delivery to the following counsel of record:

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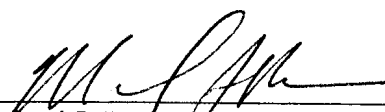
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