IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MARKET-ALERTS PTY. LTD., Plaintiff, v. BLOOMBERG FINANCE L.P., et al, Defendants.	Civil Action No. 12-780-GMS
MARKET-ALERTS PTY. LTD., Plaintiff, v. THE CHARLES SCHWAB CORP., et al, Defendants.	Civil Action No. 12-781-GMS
MARKET-ALERTS PTY. LTD., Plaintiff, v. E*TRADE CLEARING LLC, et al, Defendants.	Civil Action No. 12-782-GMS
MARKET-ALERTS PTY. LTD., Plaintiff, v. TD AMERITRADE HOLDING CORP., et al,	Civil Action No. 12-783-GMS

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Defendants.

MARKET-ALERTS PTY. LTD.,

Plaintiff,

v. Civil Action No. 12-784-GMS

OM SECURITIES, LLC d/b/a TRADE MONSTER, et al,

Defendants.

MARKET-ALERTS PTY. LTD.,

Plaintiff,

v. Civil Action No. 12-785-GMS

ESIGNAL.COM, INC., et al,

Defendants.

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OPINION

February 5, 2013
Wilmington, Delaware

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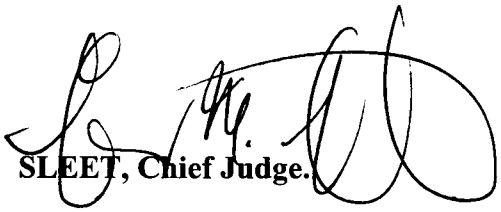

SLEET, Chief Judge.

I. INTRODUCTION

On June 20, 2012, the plaintiff, Market-Alerts Pty. Ltd. ("Market-Alerts"), brought the above-captioned six lawsuits against multiple defendants,[1] alleging infringement of U.S. Patent No. 7,941,357 (the "'357 Patent"). On October 15, 2012, several of the defendants (the "petitioning defendants") filed a Petition for Post-Grant Review of the '357 Patent under 35 U.S.C. § 321 and § 18 of the America Invents Act (the "AIA"). (D.I. 16, Ex. B.)[2] On November 9, 2012, the Bloomberg defendants, the E*TRADE defendants, the TD Ameritrade defendants, and Thinkorswim Group, Inc.[3] moved to stay this litigation pending post-grant review pursuant to § 18(b) of the AIA. (D.I. 14.) The Schwab defendants and optionsXpress defendants then

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[1] The 12-780 action names the following defendants: Bloomberg Finance LP, Bloomberg LP, and Bloomberg Inc. (collectively, the "Bloomberg defendants").

The 12-781 action names: (1) The Charles Schwab Corporation, Charles Schwab & Co., Inc., and Schwab Holdings, Inc. (collectively, the "Schwab defendants"); (2) optionsXpress Holdings Inc. and optionsXpress, Inc. (collectively, the "optionsXpress defendants"); (3) Tradeking Group Inc., Tradeking Holdings LLC, Tradeking LLC (collectively the "Tradeking defendants"); (4) Recognia Inc. and Recognia US Inc. (collectively, the "Recognia defendants"); and (5) Lightspeed Financial Inc. and Lightspeed Trading LLC (collectively, the "Lightspeed defendants").

The 12-782 action names: E*TRADE Clearing LLC, E*TRADE Financial Corporation, and E*TRADE Securities LLC (collectively, the "E*TRADE defendants").

The 12-783 action names: (1) TD Ameritrade Holding Corp., TD Ameritrade IP Company, Inc., and TD Ameritrade, Inc. (collectively, the "TD Ameritrade defendants"); and (2) Thinkorswim Group, Inc.

The 12-784 action names: OM Securities LLC and optionMonster Holdings Inc.

The 12-785 action names: eSignal.com Inc., IBG LLC, Interactive Brokers Corporation, Interactive Data LLC, and Interactive Data Corporation.

[2] Unless otherwise noted, all docket item citations are to *Market-Alerts Pty. Ltd. v. Bloomberg Fin. L.P., et al.*, No. 12-780-GMS.

[3] The court refers to those defendants who filed or joined in the original motion to stay (D.I. 14) as the "moving defendants." To summarize, those parties are: (1) the Bloomberg defendants; (2) the Schwab defendants; (3) the optionsXpress defendants; (4) the E*TRADE defendants; (5) the TD Ameritrade defendants; and (6) Thinkorswim Group, Inc. This represents all the defendants in the 12-780, 12-782, and 12-783 actions. None of the defendants in the 12-784 and 12-785 actions have joined in the motion to stay. In the 12-781 action, the following defendants also have failed to join in the motion: (1) the Tradeking defendants; (2) the Recognia defendants; and (3) the Lightspeed defendants. All defendants, however, agree that a stay is appropriate in this case, and none opposes entry of a stay. (D.I. 24 at 5.)

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filed a separate motion to stay on December 21, 2012. (No. 12-781, D.I. 38.) On January 4, 2013, they withdrew that request and joined in the pending, November 9, 2012 motion to stay. (No. 12-781, D.I. 42.) That motion is presently before the court, and, for the reasons that follow, the court will order that all six actions be stayed pending post-grant review.

II. BACKGROUND

Market-Alerts claims to be the exclusive owner of all rights to the '357 Patent, which is entitled "Trading System." (D.I. 1 at ¶ 8.) Claim 1 of the '357 Patent recites:

> A method of informing users of stock market events, comprising the steps of: (a) receiving real-time stock market data on a network of computers; (b) receiving on the network of computers instructions from a user to specify watch data defining an event, the watch data including a stock market technical analysis request specifying technical analysis formulae to be applied to the real-time stock market data; (c) using the network of computers to periodically apply the user-specified watch data including the stock market technical analysis formulae to the real-time stock market data in real-time to ascertain whether a valid response to the watch data has occurred based on the real-time stock market data, thereby determining an occurrence of the event defined by the user-specific watch data; and (d) causing a real-time notification by the network of computers to be provided to the user via a remote communications device upon the occurrence of the event defined by the user-specified watch data, the real-time notification directed to a remote communications device of the user so that the user can then provide instructions for share market transaction on an instantaneous basis.

(*Id.*, Ex. A at 9.) Market-Alerts alleges that each of the defendants infringes the'357 Patent by "provid[ing] or operat[ing] real-time stock trading products and/or services, which fall within the scope of the '357 Patent claims." (D.I. 24 at 3.)

III. STANDARD OF REVIEW

Section 18 of the AIA provides for the establishment of transitional post-grant review proceedings to reexamine the validity of covered business method patents ("CBM review"). Leahy-Smith America Invents Act, Pub. L. No. 112-29, § 18, 125 Stat. 284, 329–31 (2011). The

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