

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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**BLOOMBERG INC.; BLOOMBERG L.P.; BLOOMBERG FINANCE L.P.;**  
**THE CHARLES SCHWAB CORPORATION;**  
**CHARLES SCHWAB & CO., INC.;**  
**E\*TRADE FINANCIAL CORPORATION; E\*TRADE SECURITIES LLC;**  
**E\*TRADE CLEARING LLC; OPTIONSXPRESS HOLDINGS INC.;**  
**OPTIONSXPRESS, INC.; TD AMERITRADE HOLDING CORP.;**  
**TD AMERITRADE, INC.; TD AMERITRADE IP COMPANY, INC.; and**  
**THINKORSWIM GROUP INC.**  
Petitioner,

v.

**MARKETS-ALERT PTY LTD.**  
Patent Owner.

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Case CBM2013-00005 (JYC)  
Patent 7,941,357

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Before JAMESON LEE, SALLY C. MEDLEY, and JONI Y. CHANG,  
*Administrative Patent Judges.*

CHANG, *Administrative Patent Judge.*

DECISION

Bloomberg's Motion for *Pro Hac Vice* Admission of Michael B. Levin  
*37 C.F.R. § 42.10*

Petitioners Bloomberg Inc. et al. (“Bloomberg”) filed a motion for *pro hac vice* admission of Mr. Michael B. Levin. (Paper 23.) The motion is unopposed. For the reasons provided below, Bloomberg’s motion is *granted*.

Pursuant to 37 C.F.R. § 42.10(c), the Board may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause, subject to the condition that lead counsel be a registered practitioner. In its Order authorizing motions for *pro hac vice* admission, the Board requires a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* and an affidavit or declaration of the individual seeking to appear in this proceeding. (Paper 12.)

In this proceeding, lead counsel for Bloomberg, Michael T. Rosato, is a registered practitioner. Bloomberg’s motion indicates that there is good cause for the Board to recognize Mr. Levin *pro hac vice* during this proceeding, and is supported by the declaration of Mr. Levin.

In particular, Mr. Levin declares that he has been practicing law since 1994, and has extensive experience litigating patent disputes. (Ex. 1034, ¶ 8.) Mr. Levin also declares that he has established familiarity with the subject matter at issue in the instant proceeding, as he has been representing Bloomberg in related District Court litigation which involves the same patent being challenged in this proceeding. (*Id.*) Additionally, Mr. Levin’s declaration complies with the requirements set forth in the Board’s order authorizing motions for *pro hac vice* admission. (Ex. 1034, ¶¶ 1-11.)

Based on the record before us, we determine that Mr. Levin has sufficient legal and technical qualifications to represent Bloomberg in the instant proceeding. We further recognize that there is a need for Bloomberg to have its counsel in the

co-pending litigation involved in this proceeding. Accordingly, Bloomberg has established that there is good cause for Mr. Levin's admission.

The Office has published a Final Rule adopting new Rules of Professional Conduct. *See Changes to Representation of Others Before the United States Patent and Trademark Office; Final Rule*, 78 Fed. Reg. 20180 (Apr. 3, 2013). The Final Rule also removes Part 10 of Title 37, Code of Federal Regulations. The changes set forth in the Final Rule including the USPTO Rules of Professional Conduct took effect on May 3, 2013. *Id.* at 20180-81. Therefore, Mr. Levin is subject to the USPTO Rules of Professional Conduct.

It is

**ORDERED** that Bloomberg's motion for *pro hac vice* admission of Michael B. Levin is *granted*; Mr. Levin is authorized to represent Bloomberg as back-up counsel in the instant proceeding;

**FURTHER ORDERED** that Bloomberg is to continue to have a registered practitioner represent it as lead counsel for the instant proceeding;

**FURTHER ORDERED** that Mr. Levin is to comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials, as set forth in Part 42 of Title 37, Code of Federal Regulations; and

**FURTHER ORDERED** that Mr. Levin is to be subject to the Office's disciplinary jurisdiction under 37 C.F.R. § 11.19(a), and the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et. seq.*

Case CBM2013-00005  
Patent 7,941,357

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