

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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.
Petitioners,

v.

MARKETS-ALERT PTY LTD.
Patent Owner.

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

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

**PATENT OWNER MARKETS-ALERT
MOTION TO AMEND**

Case No. CBM2013-00005 (JYC)
Patent 7,941,357

On March 29, 2013, the Board issued its Decision, Institution Of Covered Business Method Patent Review (“Decision”) on the Petition For Post-Grant Review Of A Covered Business Method (“CBM Review”) Under 35 U.S.C. §321 and §18 (“Petition”). The Board granted CBM Review of Claims 1-4 of U.S. Patent No. 7,941,357 (“‘357 Patent”) on four grounds:

- (i.) Whether the ‘357 Patent is anticipated by PCT Publication No. WO 00/11587, Mar. 2, 2000 (“*Satow*”) (Ex. 1004) under 35 U.S.C. §102;
- (ii.) Whether the ‘357 Patent is anticipated by Product Review: TradeStation 4.0 Build 15, Stocks & Commodities, Dec. 1996 at 649 (“*S&C Review*”) (Ex. 1005) under 35 U.S.C. §102;
- (iii.) Whether the ‘357 Patent is anticipated by AIQ Opening Bell Monthly, Vol. 8 Issue 10, October 1999 (“*Opening Bell*”) (Ex. 1014) under 35 U.S.C. §102; and
- (iv.) Whether the ‘357 Patent is obvious under 35 U.S.C. §103 over U.S. Patent No. 5,954,793, Sep. 21, 1999 (“*Stutman*”) (Ex. 1015) and *Opening Bell*.

Decision at 40. All other grounds were denied. Decision at 40.

Pursuant to the Board’s Scheduling Order (No. 19), Order, Conduct of the Proceedings (No. 22), and 37 C.F.R. §42.221, Patent Owner Markets-Alert Pty. Ltd. (“Markets-Alert”) hereby moves to amend the ‘357 Patent.

I. INTRODUCTION

The ‘357 Patent currently contains originally issued Claims 1-4 (“Original Claims”). Pursuant to 37 C.F.R. §42.221 (a), Markets-Alert hereby cancels Claims

1-4 and adds new Claims 5-8 (“New Claims”) in order to more particularly point out the claimed invention and the distinctions over the prior art references cited in this proceeding.¹ All of the subject matter in the New Claims are fully supported by the original and earlier-filed disclosures of the ‘357 Patent. The amendments do not enlarge the scope of the claims or introduce new subject matter. The amendments respond to and overcome grounds (i) to (iv) of the Decision. Therefore, Markets-Alert respectfully requests the Board to grant this Motion to Amend and conduct these proceedings based on the New Claims.

II. CLAIM LISTING

Pursuant to 37 C.F.R. §42.221 (b), a claim listing showing the changes is set forth below. The claims of the ‘357 Patent are hereby amended, cancelled and substituted as follows:

Claims 1-4 are cancelled.

1. (cancelled) ~~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;~~

¹ Only one substitute claim has replaced each challenged claim.

~~——(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-specified 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 transactions on an instantaneous basis.~~

2. (cancelled) ~~A method as claimed in claim 1, wherein receiving step (b) includes receiving instructions from the user to provide technical analysis criteria for specific stocks, and providing the requested technical analysis criteria for the specific stocks via the remote communications device.~~

3. (cancelled) ~~A method as claimed in claim 1, wherein receiving step (b) includes receiving instructions from the user to provide technical analysis criteria of overall stock market trends, and providing the requested technical analysis criteria of the overall stock market trends via the remote communications device.~~

4. (cancelled) ~~A method as claimed in claim 1, wherein the remote communications device comprises a users fixed or mobile telephone, a personal computing device, a facsimile or pager of the user.~~

New Claims 5-8 are proposed as substitute claims. For the Board's convenient reference, the language in New Claims 5-8 that was not previously contained in the original claims is underlined.

5. (new – proposed substitute claim) A real-time method of providing technical analysis and notification of stock market events comprising the steps of:

receiving real-time stock market data on a provider's network of computers, which is server-based, scalable and redundant;

receiving watch data specified by a user on the provider's network of computers, from a user system in remote communication with the provider's network of computers, wherein the user-specified watch data comprises a request to apply more than one technical analysis formula for predicting price trends based on market action and defines a valid stock market event;

applying the watch data to the real-time stock market data as the real-time stock market data is received by the provider's network of computers to determine if the valid stock market event has occurred; and

generating a notification in real-time when the valid stock market event has been determined to have occurred by the provider's network of computers, wherein the notification is provided in real-time by the provider's network of computers to a remote communication device of the user.

6. (new – proposed substitute claim) The method of Claim 5 further comprising the steps of:

updating a cache of stock market data on a data server on the provider's network of computers in real time;

applying the technical analysis formula to the cache of stock market data on the provider's network of computers based on the user specified watch data to generate a technical analysis indicator;

updating the technical analysis indicator in real-time as the stock market data is received; and

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