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
***SUBSTITUTE* MOTION TO AMEND**

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. *Id*.

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. Only one substitute claim has replaced each challenged claim. All of the subject matter in the New Claims are fully supported by the original and earlier-filed disclosures of the '357 Patent. Although some of the original language has been rephrased to clarify the claim structure and remove ambiguities, none of the amendments or substitutions enlarges the scope of the originally issued claims or introduces new subject matter. New Claim 5 and its dependent claims, New Claims 6 and 7, include all of the substantive limitations of Original Claim 1. New Claim 8 includes all of the structural and functional limitations of Original Claim 1 and further recites system elements within the original scope of the '357 Patent. Pursuant to 37 C.F.R. §42.221 (a), the amendment is responsive to grounds (i) to (iv) of the Decision because it distinguishes the claimed invention over the cited references. As set forth in greater detail in Markets-Alert's Response submitted concurrently, Markets-Alert respectfully submits that New Claims 5-8 are allowable over the cited references.

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. Claims 1-4 are cancelled. 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 <u>provider's</u> network of computers, <u>which is server-based, scalable and redundant</u>;

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

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

<u>generating</u> a notification in real-time <u>when the valid stock market event has been determined to have occurred</u> by the <u>provider's</u> network of computers, wherein the notification is <u>provided in real-time</u> by the <u>provider's</u> 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:

<u>updating a cache of stock market data on a data server</u> 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 <u>to generate a technical analysis indicator</u>;

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

<u>determining</u> in real-time as the stock market data is received if the valid stock market event has occurred <u>based on the technical analysis indicator and user-specified watch data</u>.

7. **(new – proposed substitute claim)** The method of Claim 6 wherein the step of generating the real-time notification further comprises the step of:

including in the real-time notification <u>a live link</u> between the user's remote communication device and the provider's network of computers, <u>to enable the user to provide an instruction for a stock market transaction from the notification</u>.

8. **(new – proposed substitute claim)** A real-time system for providing technical analysis and notification of stock market events comprising:

<u>a network guardian, which comprises one or more switches</u>, for receiving watch data specified by a user from a user system in remote communication with the system and <u>for routing and load balancing across the system</u>, 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;

<u>a history database subsystem, which comprises one or more history clients</u>, <u>for receiving, storing and distributing stock market data in real-time, throughout the system</u>;

<u>an alert managing subsystem, which comprises one or more alert clients</u> and is <u>networked to the history database subsystem by the network guardian</u>, <u>for requesting the stock market data from the history clients in accordance with the user-specified watch data</u>, for applying technical analysis in real-time to the stock market data to determine if the valid stock market event has occurred in accordance with the user-specified watch data, and for generating a notification in real-time when the valid stock market event has been determined to have occurred; and

<u>an output connector</u>, which is <u>networked to the alert managing subsystem by the network guardian</u>, for providing the notification in real-time to a remote communication device of the user.

III. SUPPORTING DISCLOSURE

Pursuant to 37 C.F.R. §42.221 (b), each of New Claims 5-8 is fully

supported by the original and earlier-filed disclosures of the '357 Patent, including

U.S. Application No. 10/415,022, PCT Publication No. WO 02/35400A1, and

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.