

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 and JONI Y. CHANG, *Administrative Patent Judges.*

CHANG, *Administrative Patent Judge.*

ORDER  
Conduct of the Proceeding  
*37 C.F.R. § 42.5*

On July 26, 2013, a telephone conference call was held between respective counsel for the parties and Judges Lee and Chang. Bloomberg initiated the conference call, requesting the Board to expunge Markets-Alert's revised motion to amend claims (Paper 42) from the record.

Because the original motion to amend claims (Paper 39) was over the 15-page limit, the Board previously authorized Markets-Alert to file a revised motion to amend claims, in order to conform to the 15-page limit requirement set forth in 37 C.F.R. § 42.24. (Paper 41.) Pursuant to the Board's Order (Paper 41), Markets-Alert filed a revised motion to amend claims (Paper 42) and a certification that its revised motion to amend claims does not add any substantive material, as well as a list of the changes made to the motion (Ex. 2077).<sup>1</sup>

During the conference call, Markets-Alert confirmed that the list of the changes reflects all of the changes made to the motion to amend. Bloomberg did not disagree, and agreed that the changes are non-substantive, except the changes to the proposed substitute claims (*see* Ex. 2077 at 3).

In that regard, Bloomberg alleged that those amendments changed the scope of the proposed substitute claims. In particular, Bloomberg identified three examples including this—in dependent claim 6, “a valid stock market event” was changed to “*the* valid stock market event.” (Paper 42 at 3; Ex. 2077 at 3.) Upon further discussion, however, it was apparent that the amendments to the proposed substitute claims are correcting typographical errors and instances of lack of formal antecedent basis. Therefore, Bloomberg *withdrew* its request that Markets-Alert's revised motion to amend claims (Paper 42) be expunged from the record.

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<sup>1</sup> Markets-Alert also filed an exhibit list as Ex. 2077 (“Markets-Alert Exhibit List”). Because exhibits must be uniquely numbered (*see* 37 C.F.R. § 42.63(c)), Ex. 2077 (“Markets-Alert Exhibit List”) is hereby expunged. The exhibit list was re-filed by Markets-Alert, as Paper 43, on July 26, 2013.

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As explained during the conference call, Markets-Alert should have sought prior authorization for making the changes to the proposed substitute claims. Nevertheless, to minimize further delay, the Board authorized, *nunc pro tunc*, the filing of Markets-Alert's revised motion to amend claims that include the changes to the proposed substitute claims (Paper 42).

In consideration of the foregoing, it is hereby

**ORDERED** that the filing of Markets-Alert's revised motion to amend claims (Paper 42) is authorized in its entirety, *nunc pro tunc*; and

**FURTHER ORDERED** that nothing in this communication constitutes any indication of appropriateness for entry of Markets-Alert's proposed substitute claims.

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