

Paper No. \_\_\_\_\_  
Filed: October 2, 2013

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 No. 7,941,357

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**PETITIONER'S REPLY TO  
PATENT OWNER MARKETS-ALERT RESPONSE**

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## LIST OF CITED EXHIBITS

Exhibit 1001	U.S. Patent Number 7,941,357 (the “357 Patent”)
Exhibit 1004	PCT Patent Application No. PCT/US99/18767, Publication No. WO 00/11587 (published Mar. 2, 2000)(Michael Satow <i>et al.</i> , applicants) (“Satow”)
Exhibit 1005	John Sweeney, <i>Product Review: TradeStation 4.0 Build 15</i> , Stocks & Commodities, December 1996, at 649 (“S&C Review”)
Exhibit 1014	Paul Luebbe, AIQ Opening Bell Monthly Vol. 8, Issue 10, October 1999 (“Opening Bell”)
Exhibit 1015	U.S. Patent 5,954,793 to Stutman <i>et al.</i> (“Stutman”)
Exhibit 1035	Transcript of the August 28, 2013 deposition of Markets-Alert’s technical expert, Mr. Neal Goldstein
Exhibit 1036	U.S. Patent 7,873,555 to Kraemer
Exhibit 1037	PCT WO00/28487 to Chrapaty
Exhibit 1038	PCT WO98/58356 to Keilani
Exhibit 1039	PCT WO00/33217 to Ambrose
Exhibit 1040	U.S. Patent 5,938,732 to Lim
Exhibit 1041	U.S. Patent 4,554,418 to Toy
Exhibit 1042	Errata sheets for transcript of Mr. Neil Goldstein’s August 28, 2013 deposition
Exhibit 1044	Transcript of the August 20, 2013 deposition of Markets-Alert’s expert, Mr. Graham Maxwell Lindsay, filed herewith
Exhibit 1045	Second Declaration of Graham Maxwell Lindsay, as provided to Petitioners by Markets-Alert, filed herewith
Exhibit 2023	Declaration of Mr. Neal Goldstein (“NG Decl.”)
Exhibit 2024	Declaration of Mr. Graham Maxwell Lindsay
Exhibit 2031	Benefits webpage from Markets-Alert website, previously available at <a href="http://markets-alert.net/rta-benefits.php">http://markets-alert.net/rta-benefits.php</a>
Exhibit 2032	Products webpage from Markets-Alert website, previously available at <a href="http://markets-alert.net/">http://markets-alert.net/</a>
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Exhibit 2034	Overview of RTA Benefits webpage from Markets-Alert website, previously available at <a href="http://markets-alert.net/rta-overview.php">http://markets-alert.net/rta-overview.php</a>
Exhibit 2035	RTA Technology webpage from Markets-Alert website, previously available at <a href="http://markets-alert.net/rta-technology.htm">http://markets-alert.net/rta-technology.htm</a>

Exhibit 2036	Learn More webpage from Markets-Alert website, previously available at <a href="http://markets-alert.net/rta-learnmore.php">http://markets-alert.net/rta-learnmore.php</a>
Exhibit 2037	About Us webpage from Markets-Alert website, previously available at <a href="http://markets-alert.net/aboutus.php">http://markets-alert.net/aboutus.php</a>
Exhibit 2038	Content Supply Agreement between Vodafone Network Pty Limited and Sharetech Software Pty Ltd.
Exhibit 2039	Mutual Supplier Non-Disclosure Agreement Between Bloomberg L.P. and Markets-Alert Pty. Ltd.
Exhibit 2040	Value Add Proposition For BLOOMBERG
Exhibit 2041	Real-Time Technical Analysis “RTA” (2007)
Exhibit 2043	Markets-Alert Real-time Technical Analysis Scanner A Quick Overview And Why This Platform Is A Must Have For Traders
Exhibit 2047	Diagram re Proposed requirements for test setup
Exhibit 2048	Markets-Alert Real-time Technical Analysis Platform A Quick Overview And Why This Platform Is A Must Have For Traders re: REAL TIME ANALYTICS PLATFORM (RTA)
Exhibit 2062	Markets-Alert – <i>Bloomberg – Man Financial</i> business proposal (19th May 2008)
Exhibit 2063	Draft Business Proposal Commercial In Confidence to MF Global (2008)

## I. STATEMENT OF PRECISE RELIEF AND OVERVIEW OF WHY MARKETS-ALERT'S RESPONSE SHOULD BE DISMISSED

In a conference call with the Board on July 3, 2013, Petitioners Bloomberg et al. (“Petitioners”) raised the issue of Markets-Alert’s (“MA”) Patent Owner Response’s (PN 38, “Response”) lack of compliance with 37 C.F.R. § 42.220(a), which provides that a “patent owner may file a response to the petition addressing any ground for unpatentability not already denied.” *See, e.g.*, PN 41. At the time, the Board had not yet had the opportunity to review the propriety of the Response, and encouraged Petitioners to explain this Reply how MA failed to comply with the requirements of § 42.220.

In short, MA has unambiguously *canceled* each of the challenged ’357 Patent claims 1-4, upon which the Board instituted trial. *See* MA’s Substitute Motion to Amend (PN 42, “Motion to Amend”). As a result, MA’s Response is now moot. Instead of addressing the grounds of unpatentability raised in Petitioners’ Petition (PN 1, “Petition”) for now canceled claims 1-4, MA dedicates its Response to arguments relevant only to its proposed new claims 5-8, which were submitted in its Motion to Amend. Neither the Petition nor the Board’s decision instituting trial addressed these proposed claims. Arguments directed to proposed claims submitted in a separate motion to amend are inappropriate in a patent owner response submitted under § 42.220.

Accordingly, Petitioner respectfully requests that the Response be dismissed with prejudice and expunged from the record. In the alternative, should the Board

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