

**Bloomberg Inc., et al. v. Markets-Alert Pty
CBM2013-00005**

Bloomberg et

 **Wilson Sonsini Goodrich & Rosati**
PROFESSIONAL CORPORATION

Procedural Background

- Petitioners challenged every claim of the '357 Patent (Claims 1-4) as anticipated by Satow, TradeStation (as described by several references including *S&C Review*), Window on WallStreet, Trading Expert Pro (as described by several references including *Opening Bell*), Investor/RT, eSign, and Stutman.
- The Board instituted trial based on Claims 1-4 as (1) anticipated by Satow, (2) anticipated by *S&C Review*, (3) anticipated by *Opening Bell*, and (4) obvious over Stutman and *Opening Bell*.
- Because Bloomberg established that it is more likely than not that Claims 1-4 are unpatentable under four grounds, the Board held that Bloomberg's remaining grounds were redundant and denied the petition as to the remaining grounds.
- In its motion to amend, Markets-Alert states "Claims 1-4 are cancelled" at 42 at 2.

See PN 1, PN 18, PN 42

Petitioners' Case: The Board Should Grant Request to Cancel '357 Patent Claims 1-4

- Markets-Alert's Motion to Amend at p. 1: "Markets-Alert he cancels Claims 1-4 and adds new Claims 5-8 ('New Claims
- "Nowhere in the Motion to Amend does MA request the ca to be contingent on further [action] by the Board of those c 51, p. 2.
- Unrebutted grounds on which the Board instituted trial:
 - "Instead of addressing the grounds of unpatentability ra Petitioners' Petition (PN 1, "Petition") for now canceled 4, MA dedicates its Response to arguments relevant o proposed new claims 5-8, which were submitted in its l Amend." PN. 51, p. 1

Petitioners' Response to MA's Case: MA's Motion to Amend Should Be Denied

ISSUE #1: New Claims 5-8 improperly enlarge the scope of the '357 Patent claims.

ISSUE #2: New Claims 6-8 are wholly untraceable to any challenged claim.

ISSUE #3: New claims 5-8 improperly introduce matter that is not supported by the '357 patent specification.

ISSUE #4: The motion lacks claim construction.

ISSUE #5: Markets-Alert fails to demonstrate any patentable distinction over the prior art.

See PN 50 at Table of Contents, 1, 4, 9, 10

New claims cannot be broadened

“[A] substitute claim may not enlarge the scope . . . by eliminating *any* feature.”

Idle Free Systems, Inc. v. Bergstrom, Inc., IPR2012-00027, PM (PTAB June 11, 2013).

See PN 50 at 2

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