

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

PUBLISHING TECHNOLOGIES LLC

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Plaintiff,

Case No:

vs.

FMR LLC d/b/a FIDELITY INVESTMENTS

JURY TRIAL DEMANDED

Defendant.

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**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Publishing Technologies, LLC (“Plaintiff” or “PT”), by and through its attorneys, files this Complaint against FMR LLC d/b/a Fidelity Investments (“Defendant” or “FMR”) for infringement of United States Patent Nos. 7,908,342 (“the ‘342 Patent”).

**PARTIES AND JURISDICTION**

1. This is an action for patent infringement under Title 35 of the United States Code. Plaintiff is seeking injunctive relief as well as damages.

2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.

3. Plaintiff is a Texas limited liability company with its office located at 825 Watters Creek Blvd., Bldg. M, Suite 250, Allen, TX 75013.

4. Upon information and belief, Defendant is a Delaware limited liability company with a principal office at 245 Summer Street, Boston, Massachusetts 02210. Defendant may be served with process via its registered agent The Corporation Trust Company, Corporation Trust

Center, 1209 Orange Street, Wilmington, Delaware 19801. This Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in this District, has conducted business in this District, and/or has engaged in continuous and systematic activities in this District.

5. Upon information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in this District.

### **VENUE**

6. On information and belief, venue is proper in this District pursuant to 28 U.S.C. §§ 1391(c) and 1400(b). Defendant is deemed to reside in this district under § 1391(c) because Defendant is not a domestic corporation and is subject to personal jurisdiction in this District. Further, or in the alternative, under § 1400(b), acts of infringement are occurring in this District and Defendant has a regular and established place of business in this District. For example, on information and belief, Defendant has a regular and established place of business at 5905 Legacy Dr., Suite A100, Plano, TX 75024. On information and belief, Defendant has other regular and established places of business in this District.

### **COUNT I**

#### **(INFRINGEMENT OF UNITED STATES PATENT NO. 7,908,342)**

7. Plaintiff incorporates paragraphs 1 through 6 herein by reference.

8. This cause of action arises under the patent laws of the United States and, in particular, under 35 U.S.C. §§ 271, *et seq.*

9. Plaintiff is the owner by assignment of the '342 Patent with sole rights to enforce the '342 Patent and sue infringers.

10. A copy of the '342 Patent, titled "Method, apparatus and system for management

of information content for enhanced accessibility over wireless communication networks,” is attached hereto as Exhibit A.

11. The ‘342 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

12. Upon information and belief, Defendant has infringed and continues to infringe one or more claims, including at least Claim 17, of the ‘342 Patent by making, using, importing, selling, and/or offering for sale an online trading platform and system, which is covered by one or more claims of the ‘342 Patent. Defendant has infringed and continues to infringe the ‘342 Patent directly in violation of 35 U.S.C. § 271.

13. Regarding Claim 17, Defendant provides an apparatus for use in managing information content in a network-based communication system. For example, Defendant provides an online trading platform (“Product”) that is implemented using at least one server used in managing information content. The server is connected to the Internet, through which it communicates with computing clients such as customers’ computers and mobile smartphone/tablet devices. Certain aspects of the foregoing are illustrated in the screenshots below.

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14. The Product’s servers have processing elements comprising a processor coupled to a memory. The Product’s servers, for example, execute instructions in response to user requests for content, order placement and dashboard configuration using a processor. Further, the Product’s servers comprise a volatile memory (such as RAM) used for executing the instructions using the processor. Further, the Product’s servers also comprise a non-volatile

memory that stores user preferences, order history, dashboard and portfolio information. Certain aspects of the foregoing are illustrated in the screenshots below.


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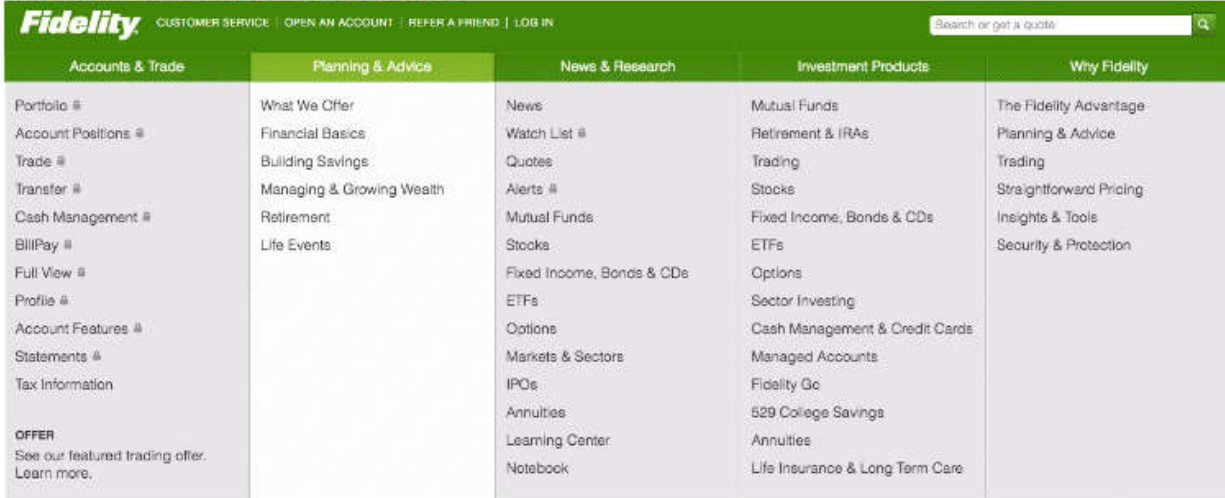
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<https://www.fidelity.com/#>

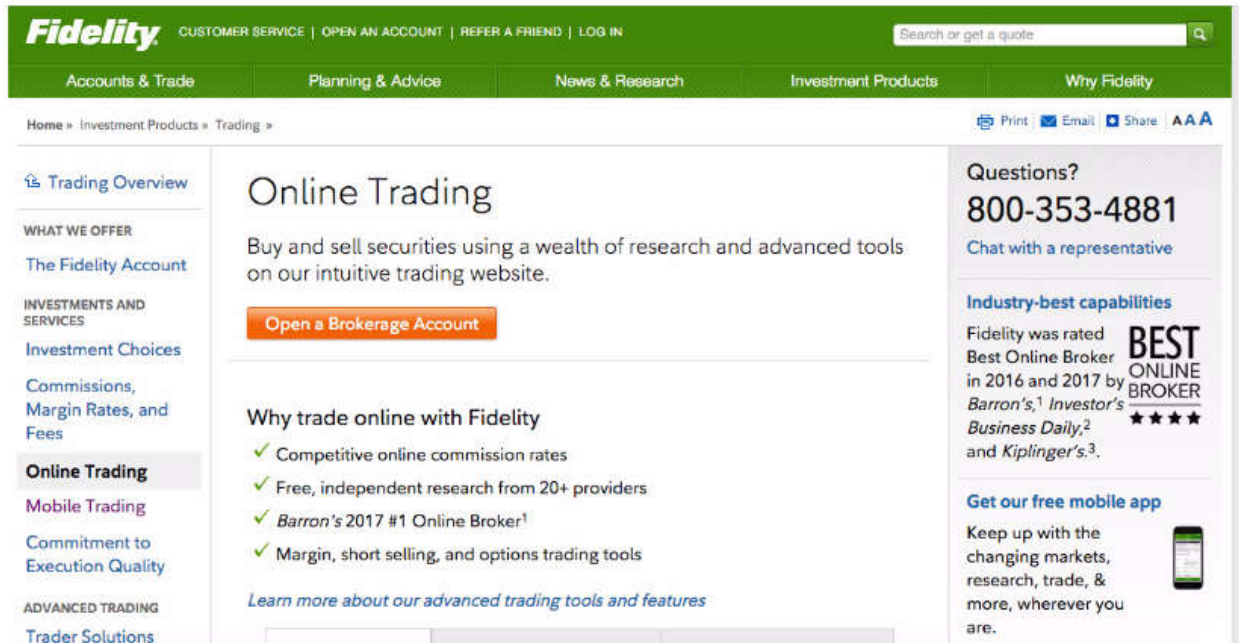


<https://www.brokerage-review.com/online-trading/platforms/fidelity-active-trader-pro-review.aspx>

15. The processors provide at least a portion of a content management website identified by a first uniform resource locator that can be accessed over the Internet using a web browser. For example, the Product’s content management website is accessible to a user and is identified by the URL <https://www.fidelity.com/>. The Product allows users to designate one or more stock symbols using the "full" website (the claimed "content management website") and add the stock symbols to one or more “watch lists.” Once a stock symbol has been added to a watch list, a user clicks on the stock symbol via a hyperlink and accesses information associated with that stock symbol from external data sources, including but not limited to news, quotes and analysis charts associated with the stock symbol. Only stock symbols designated by the user are added and accessible through such watch lists. Therefore, by designating one or more stock



symbols to be added into watch lists on the Product's content management website, a user designates the external data sources that provide information including but not limited to news, quotes and analysis charts associated with that stock symbol. Certain aspects of the foregoing are illustrated in the screen shots below.



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DJIA: 17,977.04 -80.81 (-0.45%) | NASDAQ: 4,988.249 -7.729 (-0.15%) | S&P 500: 2,082.43 -9.63 (-0.46%) — Markets closed

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**97.51** ↓ -1.04 (-1.06%) AS OF 4:00:00PM ET 04/13/2015

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Firm Name	LAST CHANGE			View
	As of Date	Action	Rating	
Ned Davis Research Group	10/15/2014	Downgrade	3.8	Firm Methodology   Report: 04/13/2015 (PDF)
S&P Capital IQ	12/31/2014	Upgrade	Marketweight	Firm Methodology   Report: 04/11/2015 (PDF)
Sabrient Systems	02/03/2015	Downgrade	Neutral	Firm Methodology   Report: 04/07/2015 (PDF)
XTF Inc.	02/27/2015	Downgrade	6.7 out of 10	Firm Methodology   Report: 02/27/2015 (PDF)
Morningstar, Inc.*	06/30/2013	Downgrade	★★★★☆	Firm Methodology   Report: 09/17/2014 (PDF)

**Analyst Reports**

Report (PDF)	Firm Name	Date
IGV Ned Davis Research Group ETF Report	Ned Davis Research Group	04/13/2015
IGV S&P ETF Report	S&P Capital IQ	04/11/2015
IGV Sabrient ETF report for IGV	Sabrient Systems	04/07/2015
IGV Mean Reversion Chart	Ned Davis Research Group	03/28/2015

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Customize

All Accounts  
**\$17,303.34**  
AS OF 04/13/2015 12:33 PM ET

Investment Account - \$17,303.34  
Cash Management Account - \$8,301.84 (\$3.64 (+0.02%))  
Brokerage Account - \$10,501.89 (\$7.82 (+0.07%))

Watch List | Edit

Mutual Funds | 1 Item  
ETFs | 1 Item  
Stocks | 1 Item  
Recently Viewed Symbols

**All Accounts**

Summary | Positions | Balances | Activity | Analysis | Manage Cash | Statements

**\$17,303.34**  
Accounts (2 of 2)

**\$80.66 (+0.47%)**  
Today's Gain/Loss\*\*

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The current asset allocation of your selected accounts most closely resembles a **Balanced mix**.

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Foreign Stock	43%
Bonds	41%
Short-Term	6%
Unknown	0%
Other	4%

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The screenshot shows the Fidelity website interface. At the top, there's a green navigation bar with 'Fidelity' logo and links for 'CUSTOMER SERVICE', 'OPEN AN ACCOUNT', 'WHY FIDELITY', 'REFER A FRIEND', and 'LOG OUT'. Below this is a secondary navigation bar with 'Accounts & Trade', 'News & Insights', 'Research', and 'Guidance'. A dark bar contains icons for 'Trade', 'Transfer', 'Pay Bills', and 'Add Note'. The main content area is titled 'INDIVIDUAL - TOD' and has tabs for 'Summary', 'Positions', 'Balances', 'Activity & Orders', 'Analysis', 'Manage Cash', 'Statements', and 'Account Features'. A 'Trade' modal window is open, showing fields for 'Select an Account', 'Transaction Type' (Stocks/ETFs), 'Symbol', 'Action' (Select), 'Quantity', 'Order Type' (Select), and 'Time In Force' (Day). There are 'Cancel' and 'Preview Order' buttons. To the right, a green box shows '\$1.69 (+0.60%)' with 'Today's Gain/Loss\*\*' below it. Further right, there's a section for 'Introducing Fidelity Go<sup>SM</sup>' and 'Your Top & Bottom Movers' with a table of stock data. Below that is 'Market Movers' with a table of securities.

Symbol	Volume	90-Day Avg.	Today's Gain/Loss
MBII	2,017.2k	93k	36.04%
SKYS	8,143.2k	108.3k	34.66%

<https://www.topratedfirms.com/brokers/reviews/fidelity-review.aspx>

16. The processor also generates a mobile website identified by a second uniform

resource locator different than the first uniform resource locator, the mobile web site being accessible independently of the content management web site via one or more mobile devices. For example, the Product's mobile trading platform (the claimed "mobile web site") is accessible via the Fidelity Investments App. This is distinct and easily distinguished from the "full" website (the claimed "content management website") accessible via the URL <https://www.fidelity.com/>. Users access the mobile web trading platform using a mobile browser application installed on their mobile devices. The Product's mobile app trading platform is thus accessible independently of the "full" website. Further, the watch lists, stock symbols designated by the user to be added in the watch lists, and the information including but not limited to news, quotes and analysis charts associated with the designated stock symbols are also made accessible to the user via the mobile web trading platform (the claimed "mobile web site"). Further, the mobile web trading platform (the claimed "mobile web site") receives the information including, but not limited to, news, quotes and analysis charts associated with the designated stock symbols directly from the external data sources that provide the aforementioned information. These external data sources include at least one or more news publishers (for news and articles), stock exchange servers (for price quotes) and Defendant and/or third party servers that process and store historical prices and analyst research (for charts), each of which are external to the "full" website and external to the mobile web trading platform. Certain aspects of the foregoing are illustrated in the screenshots below.

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*Screenshots are for illustrative purposes only*

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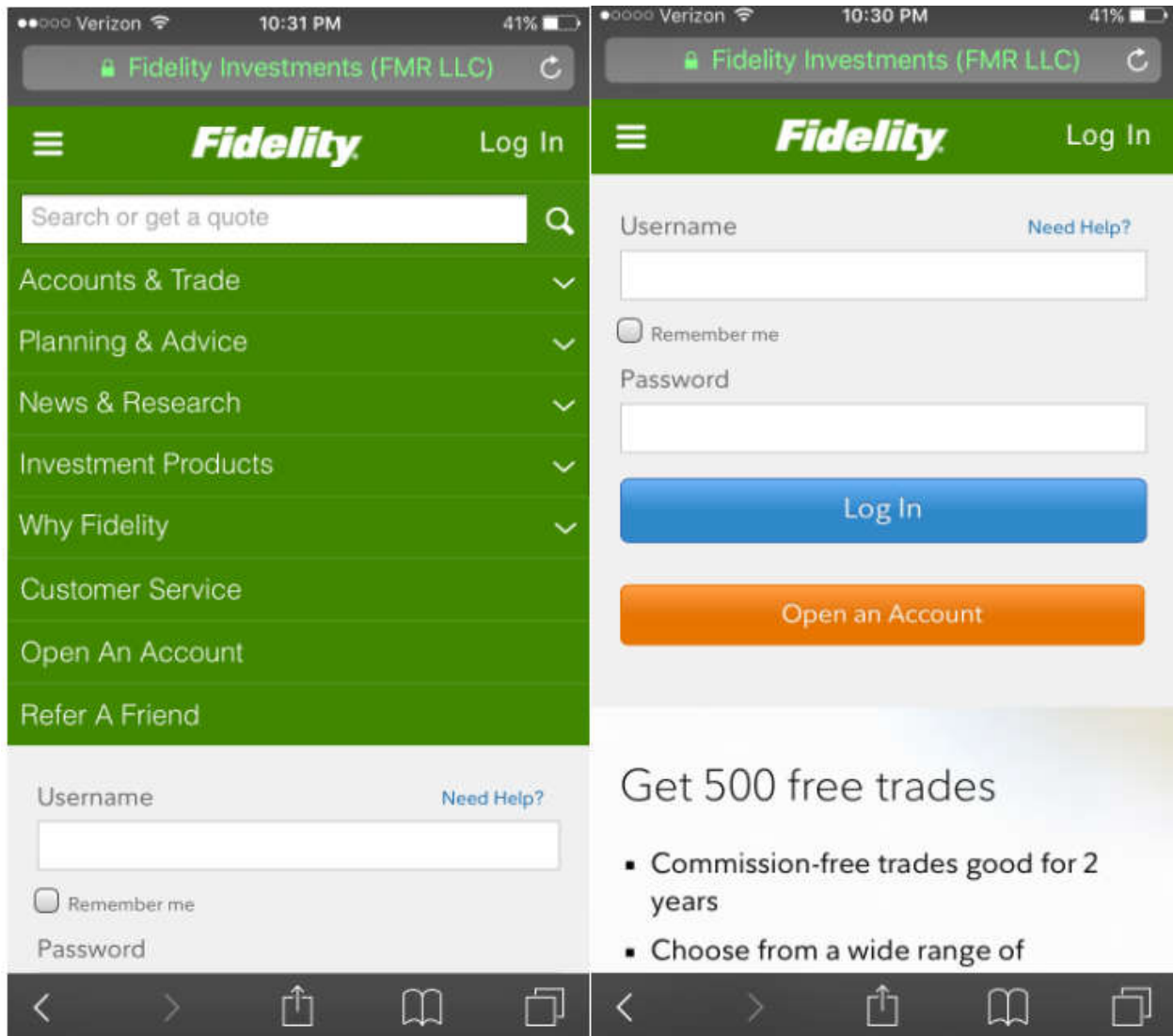
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Check balances, get intraday valuations, and keep track of positions in your brokerage or workplace savings account.

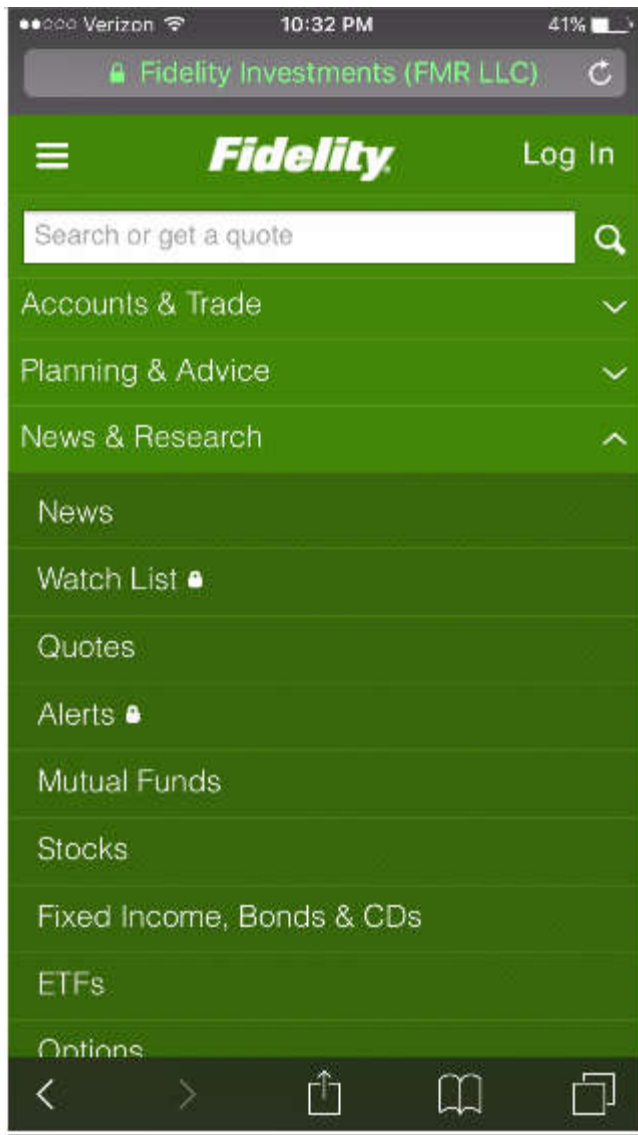
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17. Additionally, to the extent users access the trading platform not through the mobile web trading platform (using a mobile web browser installed on their mobile device), but instead through one of a plurality of mobile apps offered by Defendant, these mobile apps also practice the claim limitation under doctrine of equivalents. The mobile apps are applications that can be installed on a user's Android/iOS mobile device much like a mobile browser – and provide an interface for the user to view the same stock symbols and the associated information from external data sources as described above. Upon information and belief, the interface is generated at least in part using information received from the same URLs as the mobile web

trading platform. Defendant offers at least the following such mobile apps each for Android and iOS mobile devices:

- Fidelity Investments for iOS iPhone, iPad, Apple Watch

<https://itunes.apple.com/us/app/fidelity-investments/id348177453?mt=8?mt=8>)

- Fidelity Investments for Amazon for Android, Kindle

<https://www.amazon.com/Fidelity->

[Investments/dp/B007OWWNNO/ref=sr\\_1\\_1?ie=UTF8&qid=1336141344&sr=8-1](https://www.amazon.com/Fidelity-Investments/dp/B007OWWNNO/ref=sr_1_1?ie=UTF8&qid=1336141344&sr=8-1))

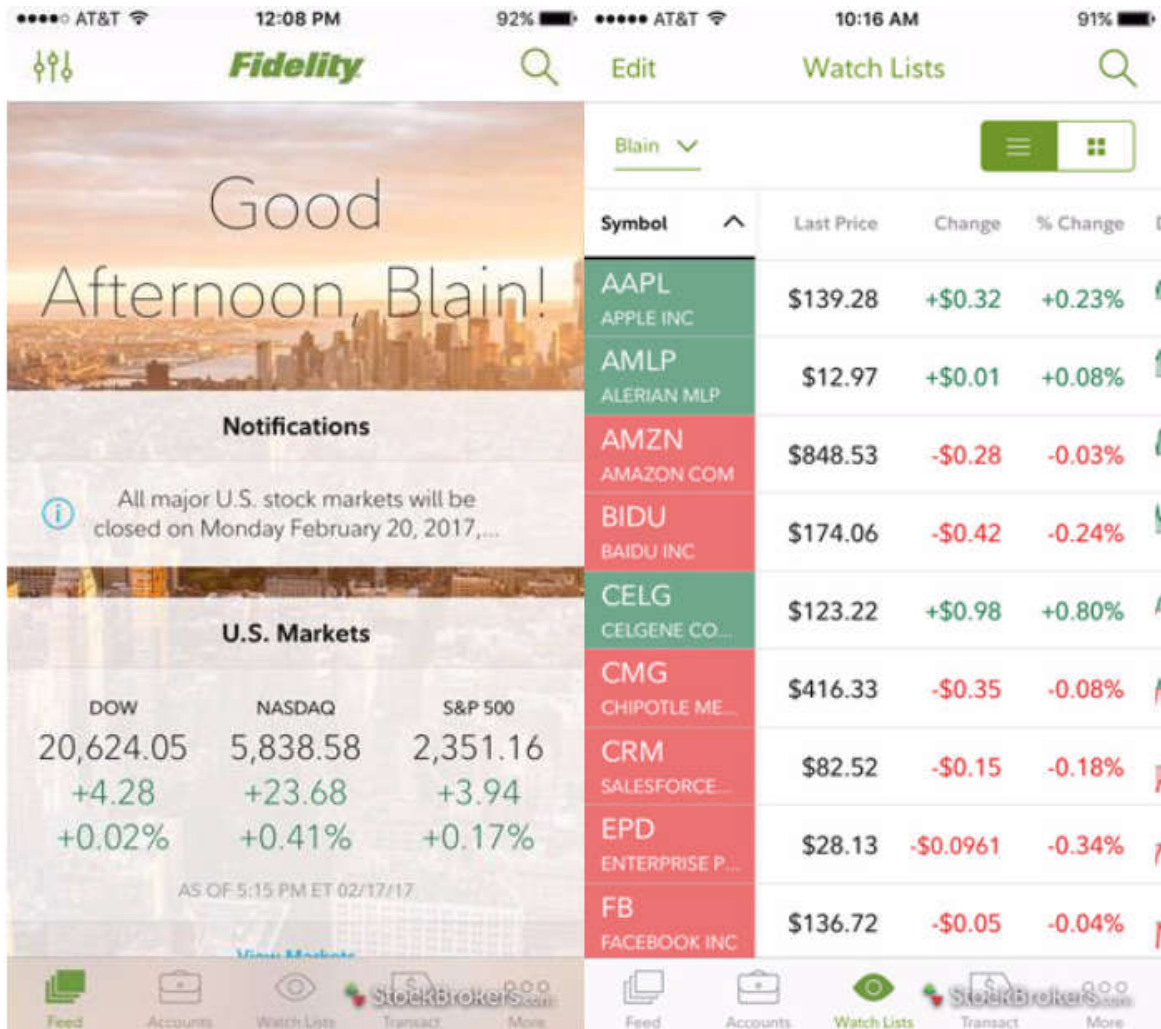
- Fidelity Investments for Android Devices

<https://play.google.com/store/apps/details?id=com.fidelity.android>)

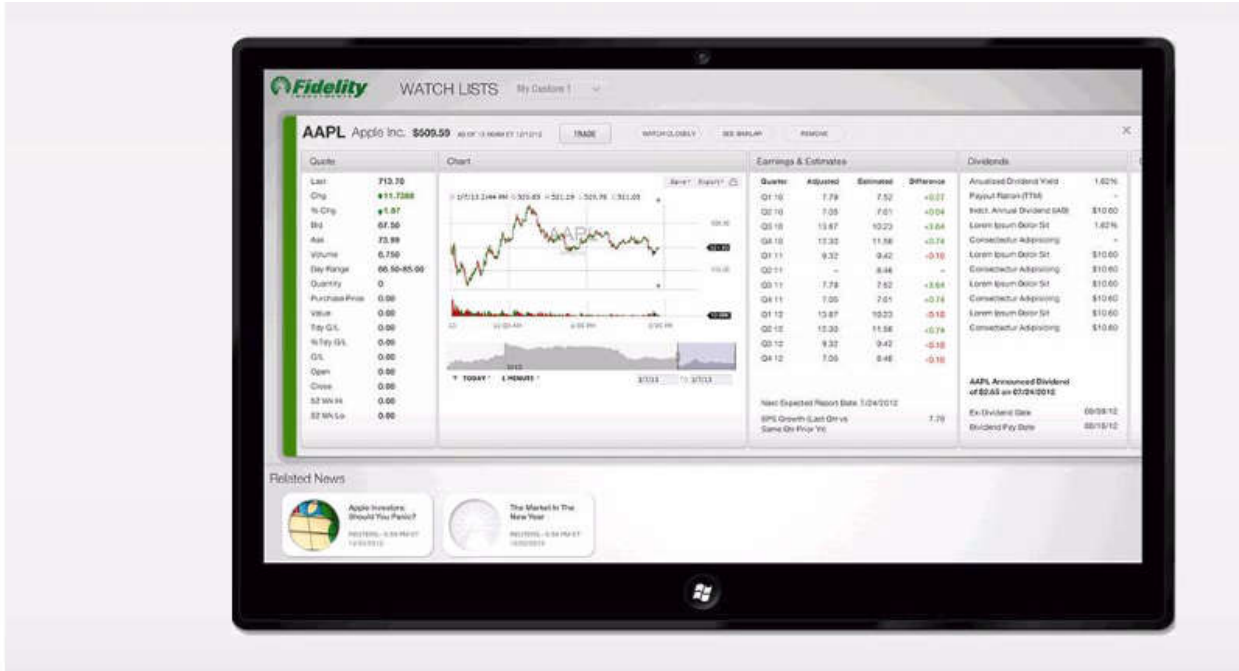
- Fidelity Investments for Windows Phone 8

<https://www.microsoft.com/en-us/windows/windows-10-mobile-upgrade>)

The following screenshots from the Fidelity Investments for iOS and Windows 8 (on tablet) as an exemplary mobile app show the interface provided to the user for viewing stock symbols designated in one or more watch lists and the associated information such as news, quotes and charts received directly from external data sources.



<https://www.stockbrokers.com/review/fidelityinvestments>



[http://www.mateyodonkor.com/pages/work\\_web\\_windows8\\_surface.html](http://www.mateyodonkor.com/pages/work_web_windows8_surface.html)

18. Defendant’s actions complained of herein will continue unless Defendant is enjoined by this court.

24. Defendant’s actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendants are enjoined and restrained by this Court.

25. Plaintiff is in compliance with 35 U.S.C. § 287.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff asks the Court to:

- (a) Enter judgment for Plaintiff on this Complaint on all causes of action asserted herein;
- (b) Award Plaintiff past and future damages, costs, and expenses resulting from Defendant’s infringement in accordance with 35 U.S.C. § 284;
- (c) Award Plaintiff pre-judgment and post-judgment interest and costs; and

(d) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: October 25, 2017

Respectfully submitted,

*/s/ Jay Johnson*

**JAY JOHNSON**

State Bar No. 24067322

**D. BRADLEY KIZZIA**

State Bar No. 11547550

**KIZZIA JOHNSON, PLLC**

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[bkizzia@kjpllc.com](mailto:bkizzia@kjpllc.com)

**ATTORNEYS FOR PLAINTIFF**

**EXHIBIT A**