

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Trading Technologies International, Inc.,)	
)	
Plaintiff,)	Civil Action No.
)	
v.)	
)	
thinkorswim Group, Inc.,)	
TD AMERITRADE, Inc., and)	
TD AMERITRADE Holding Corp.,)	
)	
Defendants.)	

COMPLAINT FOR PATENT INFRINGEMENT AND JURY DEMAND

Plaintiff Trading Technologies International, Inc. (“TT”), for its complaint against Defendant thinkorswim Group, Inc., TD AMERITRADE, Inc. and TD AMERITRADE Holding Corporation (collectively “thinkorswim”), states as follows:

THE PARTIES

1. Plaintiff Trading Technologies is a Delaware Corporation with a principal place of business at 222 South Riverside Plaza, Suite 1100, Chicago, Illinois 60606.
2. Defendant thinkorswim Group, Inc. is a Delaware Corporation with its corporate headquarters at 45 Rockefeller Plaza, Suite 2012, New York, New York, 10111, and a principal place of business at 600 W. Chicago Avenue, Suite 100, Chicago, Illinois 60654-2597.
3. Defendant TD AMERITRADE, Inc. is a New York Corporation with its principal place of business at 4211 South 102nd Street, Omaha, Nebraska, 68127.

4. Defendant TD AMERITRADE Holding Corporation is a Delaware Corporation with its corporate headquarters and principal place of business at 4211 South 102nd Street, Omaha, Nebraska, 68127.

5. Defendants TD AMERITRADE, Inc. and TD AMERITRADE Holding Corporation also maintain offices at 10 South Wacker Drive, Chicago, Illinois, 60606; 1315 West 22nd Street, Oak Brook, Illinois 60523; and 630 East Golf Road, Schaumburg, Illinois 60173.

JURISDICTION AND VENUE

6. This is an action for patent infringement arising under the acts of Congress relating to patents, namely the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq.* This Court thereby has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. Defendant thinkorswim Group, Inc. regularly conducts business in this district. Thinkorswim's trading software products, including at a minimum thinkDesktop, webBasedTrading, thinkAnywhere, thinkMobile, thinkMicro, and paperMoney, and the ActiveTrader component of such products ("the thinkorswim products") provide access to exchanges in this district, including the Chicago Board Options Exchange ("CBOE"). Ex. A.

8. Defendant thinkorswim Group Inc. has committed and continues to commit acts of patent infringement in this district. Therefore, this Court has specific jurisdiction over Defendant thinkorswim.

9. Defendant thinkorswim Group, Inc. is a wholly-owned subsidiary of Defendant TD AMERITRADE Holding Corp.

10. Defendants TD AMERITRADE, Inc. and TD AMERITRADE Holding Corp. have committed and continue to commit acts of patent infringement in this district. Defendants TD

AMERITRADE, Inc. and TD AMERITRADE Holding Corp., have, at a minimum, advertised and offered for sale the thinkorswim products in this jurisdiction. Therefore, this Court has specific jurisdiction over Defendants TD AMERITRADE, Inc. and TD AMERITRADE Holding Corp.

11. Defendants, TD AMERITRADE, Inc. and TD AMERITRADE Holding Corp. reside in this district and, as such, they are subject to personal jurisdiction in this district. Therefore, this District is a proper venue pursuant to 28 U.S.C. §§ 1391(b) and 1400(b).

**COUNT I:
INFRINGEMENT OF U.S. PATENT NO. 6,766,304**

12. Plaintiff Trading Technologies incorporates paragraphs 1-11 as if set forth in full.

13. Plaintiff Trading Technologies is the owner of U.S. Patent No. 6,766,304 (“the ‘304 patent”), titled “Click Based Trading with Intuitive Grid Display of Market Depth,” which was duly and legally issued on July 20, 2004. A true and correct copy of the ‘304 patent is attached as Exhibit B.

14. Plaintiff Trading Technologies has never licensed Defendants under the ‘304 patent nor otherwise authorized Defendants to practice the ‘304 patent.

15. Defendants have infringed and continue to infringe the ‘304 patent by making, using, selling and/or offering for sale the thinkorswim products covered by claims of the ‘304 patent, including, at a minimum, the Active Trader component of the thinkorswim products (Ex. C), without Plaintiff Trading Technologies’ authorization in violation of 35 U.S.C. § 271(a).

16. Defendants have in the past and continue to promote, advertise and instruct customers and potential customers about the thinkorswim products and uses of the products, including infringing uses. Defendants’ promotion, advertising and instruction efforts include, at a minimum, the maintenance of the websites www.thinkorswim.com and

www.tdameritrade.com/tradingtools/thinkorswimfromtdameritrade.com and the distribution of release notes and tutorials. *See, e.g.*, Ex. D.

17. Defendants' products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

18. Defendants' actions have and continue to constitute active inducement of and contributory infringement of the '304 patent in violation of 35 U.S.C. § 271(b) and (c).

19. Defendants' infringement of the '304 patent has caused irreparable harm to Plaintiff Trading Technologies and will continue to do so unless enjoined.

**COUNT II:
INFRINGEMENT OF U.S. PATENT NO. 6,772,132**

20. Plaintiff Trading Technologies incorporates paragraphs 1-19 as if set forth in full.

21. Plaintiff Trading Technologies is the owner of U.S. Patent No. 6,772,132 ("the '132 patent"), titled "Click Based Trading with Intuitive Grid Display of Market Depth," which was duly and legally issued on August 3, 2004. A true and correct copy of the '132 patent is attached as Exhibit E.

22. Plaintiff Trading Technologies has never licensed Defendants under the '132 patent nor otherwise authorized Defendants to practice the '132 patent.

23. Defendants have infringed and continue to infringe the '132 patent by making, using, selling and/or offering for sale products covered by claims of the '132 patent, including, at a minimum, the Active Trader component of the thinkorswim products (Ex. C), without Plaintiff Trading Technologies' authorization in violation of 35 U.S.C. § 271(a).

24. Defendants have in the past and continue to promote, advertise and instruct customers and potential customers about the thinkorswim products and uses of the products,

including infringing uses. Defendants' promotion, advertising and instruction efforts include, at a minimum, the maintenance of the websites www.thinkorswim.com and www.tdameritrade.com/tradingtools/thinkorswimfromtdameritrade.com and the distribution of release notes and tutorials. *See, e.g.*, Ex. D.

25. Defendants' products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

26. Defendants' actions have and continue to constitute active inducement of and contributory infringement of the '132 patent in violation of 35 U.S.C. § 271(b) and (c).

27. Defendants' infringement of the '132 patent has caused irreparable harm to Plaintiff Trading Technologies and will continue to do so unless enjoined.

**COUNT III:
INFRINGEMENT OF U.S. PATENT NO. 7,212,999**

28. Plaintiff Trading Technologies incorporates paragraphs 1-27 as if set forth in full.

29. Plaintiff Trading Technologies is the owner of U.S. Patent No. 7,212,999 ("the '999 patent"), titled "User Interface for an Electronic Trading System," which was duly and legally issued on May 1, 2007. A true and correct copy of the '999 patent is attached as Exhibit F.

30. Plaintiff Trading Technologies has never licensed Defendants under the '999 patent nor otherwise authorized Defendants to practice the '999 patent.

31. Defendants have infringed and continue to infringe the '999 patent by making, using, selling and/or offering for sale products covered by claims of the '999 patent, including, at a minimum, the Active Trader component of the thinkorswim products (Ex. C), without Plaintiff Trading Technologies' authorization in violation of 35 U.S.C. § 271(a).

32. Defendants have in the past and continue to promote, advertise and instruct customers and potential customers about the thinkorswim products and uses of the products, including infringing uses. Defendants' promotion, advertising and instruction efforts include, at a minimum, the maintenance of the websites www.thinkorswim.com and www.tdameritrade.com/tradingtools/thinkorswimfromtdameritrade.com and the distribution of release notes and tutorials. *See, e.g.*, Ex. D.

33. Defendants' thinkorswim products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

34. Defendants' actions have and continue to constitute active inducement of and contributory infringement of the '999 patent in violation of 35 U.S.C. § 271(b) and (c).

35. Defendants' infringement of the '999 patent has caused irreparable harm to Plaintiff Trading Technologies and will continue to do so unless enjoined.

**COUNT IV:
INFRINGEMENT OF U.S. PATENT NO. 7,533,056**

36. Plaintiff Trading Technologies incorporates paragraphs 1-35 as if set forth in full.

37. Plaintiff Trading Technologies is the owner of U.S. Patent No. 7,533,056 ("the '056 patent"), titled "User Interface for an Electronic Trading System," which was duly and legally issued on May 12, 2009. A true and correct copy of the '056 patent is attached as Exhibit G.

38. Plaintiff Trading Technologies has never licensed Defendants under the '056 patent nor otherwise authorized Defendants to practice the '056 patent.

39. Defendants have infringed and continue to infringe the '056 patent by making, using, selling and/or offering for sale products covered by claims of the '056 patent, including, at a minimum,

the Active Trader component of the thinkorswim products (Ex. C), without Plaintiff Trading Technologies' authorization in violation of 35 U.S.C. § 271(a).

40. Defendants have in the past and continue to promote, advertise and instruct customers and potential customers about the thinkorswim products and uses of the products, including infringing uses. Defendants' promotion, advertising and instruction efforts include, at a minimum, the maintenance of the websites www.thinkorswim.com and www.tdameritrade.com/tradingtools/thinkorswimfromtdameritrade.com and the distribution of release notes and tutorials. *See, e.g.*, Ex. D.

41. Defendants' thinkorswim products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

42. Defendants' actions have and continue to constitute active inducement of and contributory infringement of the '056 patent in violation of 35 U.S.C. §271(b) and (c).

43. Defendants' infringement of the '056 patent has caused irreparable harm to Plaintiff Trading Technologies and will continue to do so unless enjoined.

RELIEF REQUESTED

THEREFORE, Plaintiff Trading Technologies prays for judgment and relief including:

(A) Judgment that Defendants have been and are infringing one or more of the claims of the '304, '132, '999, and '056 patents pursuant to 35 U.S.C. §§ 271(a), (b) and (c);

(B) A preliminary and permanent injunction enjoining Defendants and their officers, agents, servants, employees, attorneys, related business entities and those in active concert or participation with them from infringing the '304, '132, '999, and '056 patents;

(C) An award of damages incurred by Plaintiff Trading Technologies as a result of Defendants' infringement of the '304, '132, '999, and '056 patents;

(D) An assessment of costs, including reasonable attorney fees pursuant to 35 U.S.C. § 285, and prejudgment interest against Defendants; and

(E) Such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff Trading Technologies demands trial by jury on all issues so triable.

Respectfully submitted,

Date: February 9, 2010

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