

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

**JUDGE STEIN**

VRASTON TRADING, INC.,

Plaintiff,

v.

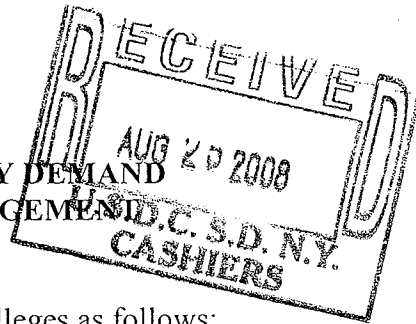
THE NASDAQ OMX GROUP, INC.,

Defendant.

**'08 CIV 7500**

Civil Action No. \_\_\_\_\_

Jury Trial Demanded



**COMPLAINT AND JURY DEMAND  
FOR PATENT INFRINGEMENT**

Plaintiff Vraston Trading, Inc. ("Vraston") alleges as follows:

**PARTIES**

1. Vraston is a Delaware Limited Liability Corporation with a principal place of business at 16192 Coastal Highway, Lewes, DE 19958.

2. On information and belief, The NASDAQ OMX Group, Inc. ("NASDAQ") is a Delaware corporation with a principal place of business at One Liberty Plaza, New York, New York 10006.

**NATURE OF ACTION**

3. This is an action for patent infringement pursuant to 35 U.S.C. §101, et seq.

**JURISDICTION AND VENUE**

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§1331 and 1338.

5. Venue is proper in this judicial district under 28 U.S.C. §§1391 and 1400(b).

**CLAIM FOR RELIEF**

6. On July 17, 2001, United States Letters patent No. 6,263,321 entitled “Apparatus and Process for Calculating an Option” was duly and legally issued to Vergil L. Daughtery, III (the “‘321 Patent”). A true and correct copy of the ‘321 Patent is attached hereto as Exhibit A.

7. By license, Vraston is the exclusive sub-licensee of the ‘321 patent to make, use, sell and offer to sell certain financial instruments known as exchange traded funds (“ETFs”). Vraston also has an exclusive license under the ‘321 patent to grant sub-licenses and to sue for infringement with respect to ETFs.

8. The ‘321 patent discloses and claims, among other things, methods for transacting expirationless option contracts.

9. NASDAQ is making, using, selling and/or offering to sell products (“Products”) which infringe the ‘321 patent. These Products include those listed on the attached Exhibit B.

10. NASDAQ has directly, indirectly, contributorily, and/or by inducement, literally or under the doctrine of equivalents, infringed and continues to infringe the ‘321 patent by its use, sale, and/or offer for sale of Products, within this judicial district and

elsewhere in the United States, that infringe one or more claims of the '321 patent. NASDAQ is liable for its infringement of the '321 patent pursuant to 35 U.S.C. §271.

11. NASDAQ's actions in infringing the '321 patent have been, and continue to be, willful, deliberate and/or in conscious disregard to the rights of Vraston and/or its predecessor in-interest, making this an exceptional case within the meaning of 35. U.S.C. §285.

12. NASDAQ's infringement of the '321 patent has caused and continues to cause irreparable injury to Vraston in an amount to be proven at trial. The infringement of the '321 patent by NASDAQ will continue unless enjoined by this Court.

**PRAYER FOR RELIEF**

**WHEREFORE**, Vraston prays for judgment against NASDAQ as follows:

- A. Declaring NASDAQ has infringed United States Patent No. 6,263,321;
- B. Permanently enjoining NASDAQ, its officers, directors, agents, subsidiaries and employees, and those in privity or in active concert with them, from further activities that constitute infringement, contributory infringement and/or inducing infringement of United States Patent No. 6,263,321;
- C. Awarding lost profits or a reasonable royalty and other damages arising from NASDAQ's infringement of United States patent No. 6,263,321 including treble damages, to Vraston, together with prejudgment and post-judgment interest, in an amount according to proof;
- D. This case be declared an "exceptional case" within the meaning of 35 U.S.C. §285 and awarding treble damages and reasonable attorneys' fees to Vraston; and

E. Awarding Vraston such other and further relief as the Court deems just and proper.

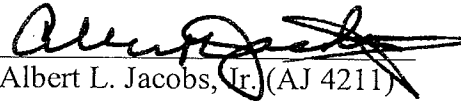
**DEMAND FOR JURY TRIAL**

Plaintiff requests a trial by jury of all issues.

Dated this 22<sup>nd</sup> of August, 2008

Respectfully submitted,

DREIER LLP

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