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MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ROSENTHAL COLLINS GROUP, LLC, an Illinois Limited Liability Company, and	)	
Plaintiff,	)	**Case No.: 05C 4088**
vs.	)	**JURY TRIAL REQUESTED**
TRADING TECHNOLOGIES INTERNATIONAL, INC., a Delaware Corporation,	)	JUDGE MORAN
Defendant.	)	MAGISTRATE JUDGE COLE

COMPLAINT

Plaintiff Rosenthal Collins Group, LLC, by and through its attorneys, for its Complaint against Defendant Trading Technologies International, Inc., alleges as follows:

PARTIES

1. Plaintiff Rosenthal Collins Group, LLC ("RCG") is an Illinois Limited Liability Company with its principal place of business at 216 W. Jackson Blvd., Suite 400, Chicago, Illinois 60606.

2. Defendant Trading Technologies International, Inc. ("TT") is a Delaware Corporation with its principal place of business at 222 South Riverside Plaza, Suite 1100, Chicago, Illinois 60606.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, 35 U.S.C. § 101, et. seq., the antitrust laws of the United States, 15 U.S.C. §§ 1, 2, 15, 25 and 26, and the laws of the State of Illinois.

4. This Court has subject matter jurisdiction of Count I and II pursuant to the laws of the United States governing actions related to patents and declaratory judgments, 28 U.S.C. §§ 1331, 1338(a), 2201 and 2202.

5. This Court has subject matter jurisdiction of Counts III-IV pursuant to the laws of the United States governing actions related to the protection of trade and commerce against restraints and monopolies, 28 U.S.C. §§ 1331 and 1337 and 1367.

6. This Court has supplemental subject matter jurisdiction of Counts V-VII pursuant to 28 U.S.C. § 1367(a).

7. This Court has personal jurisdiction over Defendant under 735 ILCS § 5/2-209(a)(1) and (2) because Defendant transacts business within the State of Illinois and Defendant committed a tortious act within the State of Illinois.

8. Venue is this judicial district is proper under 28 U.S.C. § 1391(b) and 1400(b) because the Defendant resides in this district.

TT'S ANNOUNCED PLAN TO MONOPOLIZE THE ELECTRONIC FUTURES TRADING MARKET

9. Defendant Trading Technologies ("TT") recently obtained two software patents that TT alleges cover its electronic trading software—United States Patent No. 6,766,304 that issued on July 20, 2004 and United States Patent No. 6,772,132 that issued on August 3, 2004 ("the TT patents"). Since obtaining these patents, TT has embarked on an anticompetitive campaign to monopolize the electronic futures trading market and control order flow and market internalization of these markets

10. TT first approached the major futures exchanges—the Chicago Mercantile Exchange, the Chicago Board of Trade, Eurex and EuroNext—and demanded that each pay to TT a 2.5 cent royalty on all contracts traded in perpetuity. TT demanded that the major futures

exchanges pay this 2.5-cent per trade royalty on all trades regardless of whether the trade was made using TT's newly patented software. TT's demand also exceeded the expiration dates of its patents.

11. TT's demand of a 2.5-cent royalty for every electronic trade would have increased the costs of futures trading for all exchange members. The flat rate royalty for all trades would also preclude competition and discourage innovation because exchange market participants would be paying a fee regardless of whether they used TT's patented software, thus discouraging the use of alternative software which would require an additional fee.

12. The major futures exchanges rejected TT's demand for payment of a flat rate royalty on every electronic trade. Undaunted, TT sought another avenue to pressure the major exchanges to pay the flat rate fee on every trade and prevent customers from having a choice regarding electronic futures trading software.

13. TT brought patent infringement lawsuits against Independent Software Vendor (ISV) and/or brokerage firms that offered futures trading software that competed with TT's software including eSpeed, Goldenberg, Hehmeyer & Co., Kingstree Trading LLC, ManFinancial, Inc., Ninja Trader, LLC, Patsystems (NA) LLC, Advantage Futures and REFCO Group Ltd. On information and belief, TT demanded that these firms and their various affiliated entities settle the respective lawsuits filed against them, provide an admission of patent validity and infringement, agree to a consent judgment and provide public statements bolstering the strength of the TT patents.

14. Based on a press release issued by TT in September 2004, Goldenberg, Hehmeyer settled its lawsuit with TT, and to reach its deal, was required to admit infringement and to agree to pay a license fee for TT's patents. Based on a press release issued by TT in October 2004,

Kingstree settled its lawsuit, and to reach its deal, was also required to admit infringement and to agree to pay a license fee for TT's patents.

15. On December 14, 2004, in order "to make our thoughts as clear and open as possible," TT announced its plan to monopolize the market for electronic futures trading. In a press release titled "TT's Open Letter to the Futures Industry," Exhibit 1, TT described what it called the "2.5 cent solution." Under TT's "2.5 cent solution," participating exchanges would pay TT 2.5 cents per side (buy or sell, or 5 cents total for each transaction) for every futures and futures option transaction, permanently. In exchange, TT would agree to "forfeit the right to be the aggressor in any patent infringement lawsuit."

16. TT also announced that, in addition to its two existing patents, another eighty patent applications had been filed, with TT continuing to file even more.

17. TT's statement touts its commanding position and strength in the market. TT claims that it presently has "over 50% of the 'big four' futures exchanges electronic volume," and that it is in a unique position to continue leveraging its market position because it has "captured more than a 50% volume share," and that it is "the only futures-focused ISV that is profitable." TT further projects that it will soon have 70% of the volume share of the market. TT's market share provides it with adequate market power to monopolize. TT further intends to control 100% of the market order flow.

18. TT makes its absolutely clear in its public statement that TT intends to leverage its patents to obtain payment for trades not even arguably covered by the patents and for trades after the expiration of the patents. TT's solution seeks payment for all futures contracts regardless of whether TT's patented software is used to make electronic trades. TT states that it is willing to offer the "2.5 cent solution" because "this would apply to 100% volume instead of

70% [and] the 2.5 cents would be permanent instead of 10+ cents for sixteen years." TT also notes that it would not have to "chase infringers" if the 2.5 cent solution is accepted by the industry.

19. TT also declares that it seeks to stop market innovation and development. TT states: "We believe the invention of the MD Trader concept represents an end to a process, meaning there is no way to equal or better the function that it performs."

TT'S LEVERAGING OF EXISTING LICENSE AGREEMENTS TO OBTAIN COMPLIANCE

20. REFCO is a futures brokerage firm. REFCO is also in the business of offering software, hardware and networking support to customers that trade futures on exchanges such as the Chicago Board of Trade and the Chicago Mercantile Exchange.

21. REFCO is both a competitor and a customer of TT. REFCO offers its own software that can be used to enter futures orders and REFCO also provides to its customers software made by TT and other third parties.

22. As part of its futures brokerage business, REFCO has been offering TT's software to its customers for over four years. There are several licensing agreements between REFCO and TT that govern the use of TT's software. The software license agreements authorize REFCO to provide to its customers TT's software in exchange for license payments to TT.

23. In February of 2005, REFCO paid $650,000 in licensing fees to TT. REFCO expected to pay TT approximately $7.8 million in licensing fees in 2005. REFCO is one of TT's largest customers.

24. On February 23, 2005, a TT representative contacted REFCO to inform REFCO that TT would be filing a lawsuit against REFCO. The TT representative stated that REFCO could avoid the lawsuit and obtain a good deal for licensing TT's software if REFCO agreed to

cease offering customers its own futures trading software, as wells as third party software, and move all of its electronic trading business to TT's software products. REFCO declined TT's anticompetitive request. Later that same day, TT filed a complaint for patent infringement against REFCO.

25. On April 7, 2005, TT sent to REFCO notices of termination of the parties' software licensing agreements. Under these notices, the software licensing agreements would be terminated effective May 7, 2005. TT provided no legitimate business reason for the termination of REFCO's license agreements or TT's willingness to sacrifice millions of dollars of REFCO's annual royalty payments.

26. On information and belief, based on press releases issued by TT, TT has extended the date of termination of REFCO's licensing agreements to July 15, 2005.

27. On information and belief, TT would not have attempted to terminate the REFCO license agreements if REFCO would have admitted infringement and agreed to entry of a consent judgment to settle TT's patent lawsuit against REFCO. On information and belief, TT would also demand that REFCO abet TT's scheme, in part by lobbying the exchanges to accept TT's "2.5 cent solution."

28. On information and belief, TT did not terminate or attempt to terminate REFCO's software license agreement for any good faith business reason but only to use REFCO to pressure the exchanges and/or future patent infringement defendants, such as RCG, to pay royalty fees to TT.

TT'S CHARGE OF INFRINGEMENT AGAINST RCG

29. Founded in 1922, Plaintiff Rosenthal Collins Group is a futures brokerage firm that offers trade execution, brokerage, electronic trading and clearing services to financial

institutions, commercial grain users, commodity trading advisors, fund managers and retail customers. RCG is a clearing member of the Chicago Mercantile Exchange, the Chicago Board of Trade, the New York Mercantile Exchange, the New York Board of Trade and Eurex US. Based in Chicago, RCG handles more than 20,000 trading accounts and clears approximately 75 million contracts annually.

30. A primary component of RCG's business is its electronic trading services. RCG provides software and support services to retail customers who use the software to trade futures contracts and manage their accounts online. RCG offers both its own proprietary software and third party software to its customers.

31. Like REFCO, RCG is both a customer and a competitor of Defendant TT.

32. Pursuant to a March 14, 2002 Software License Agreement, RCG licenses TT's software for its own use and the use of its customers. RCG pays TT over $100,000 per month in licensing fees for the use of TT software.

33. RCG also markets and distributes its own software, as well as software developed by third parties, to its customers. RCG provides its own software, the software of third parties and/or TT software at the request of customers who demand a variety of software trading platforms to meet their own unique needs and personal preferences.

34. In 2004, RCG developed its proprietary RCG Onyx™ software for its retail client base. RCG Onyx™ is a state-of-the-art software system that includes novel features to facilitate electronic trading. RCG began using the RCG Onyx™ software and distributing it to customers in 2005.

35. On March 8, 2005, TT contacted RCG concerning the TT patents.

36. On June 20, 2005, intellectual property counsel for TT, Mr. Steven F. Borsand, reviewed the operations, features and functions of the RCG Onyx™ software. Mr. Borsand stated to RCG, that the RCG Onyx™ software infringed the TT patents.

37. In later discussions, Mr. Borsand has repeatedly told RCG that the RCG Onyx™ software infringes the TT patents.

38. On June 21, 2005, Mr. Borsand provided to RCG a proposed "settlement agreement" to address TT's belief that the RCG Onyx™ software infringed the TT patents. Exhibit 2. Although no lawsuit had been filed against RCG, the proposed settlement agreement included a provision for settling a lawsuit in the United States District Court for the Northern District of Illinois for infringement of the TT patents. The proposed settlement agreement required RCG to admit infringement of the TT patents and consent to the filing of a Consent Judgment to dispose of the lawsuit.

39. The proposed settlement also required RCG to pay to TT a "royalty" on all trades using software covered by one or more claims of the TT patents and a "fee" on all trades "where the order entered by an End User could have been viewed and accessed" by software covered by one or more claims of the TT patents. The "royalty" payments and the "fee" payments in the proposed settlement agreement were the same.

40. On information and belief, based on TT's public statements and course of conduct with REFCO, TT intends to terminate and will terminate RCG's Software License Agreement if RCG does not capitulate to TT's settlement terms.

41. RCG does not believe that the TT patents are valid and/or enforceable. RCG also does not believe that its RCG Onyx™ software, or any other of its proprietary software, infringes the TT patents.

42. Based on Mr. Borsand's statements, TT's proposed settlement agreement terms and TT's course of conduct with other firms, RCG believes that TT intends to file and will file a patent infringement suit against RCG, if RCG refuses to acquiesce to TT's settlement demands.

COUNT I

DECLARATORY JUDGMENT OF INVALIDITY AND NONINFRINGEMENT

43. RCG reasserts and incorporates by reference paragraphs 1-42 above.

44. Each of the claims of United States Patent No. 6,766,304 is invalid for failure to comply with the conditions of patentability of 35 U.S.C. §§ 101, 102, 103 and/or 112.

45. Each of the claims of United States Patent No. 6,772,132 is invalid for failure to comply with the conditions of patentability of 35 U.S.C. §§ 101, 102, 103 and/or 112.

46. RCG has not infringed, directly, indirectly or otherwise any valid claim of United States Patent No. 6,766,304.

47. RCG has not infringed, directly, indirectly or otherwise any valid claim of United States Patent No. 6,772,132.

48. To resolve the legal and factual questions raised by TT's accusations of infringement and afford to RCG relief from the uncertainty and controversy these accusations have precipitated, RCG is entitled to a declaratory judgment that it does not infringe either United States Patent No. 6,766,304 or United States Patent No. 6,772,132 and that these patents are invalid.

COUNT II

DECLARATORY JUDGMENT OF PATENT MISUSE

49. RCG reasserts and incorporates by reference paragraphs 1-42 above.

50. TT has attempted to impermissibly broaden the physical scope of the patent grant of the TT patents with anticompetitive effect by demanding that RCG make fee payments on products that TT knows are not covered by the patents.

51. TT has attempted to impermissibly broaden the physical scope of the patent grant of the TT patents with anticompetitive effect by demanding that the futures exchanges make payments on trades that TT knows are not covered by the patents.

52. TT has attempted to impermissibly broaden the temporal scope of the TT patents by demanding that the futures exchanges make payments on the patents after their expiration.

53. TT has attempted to restrain competition unlawfully by demanding that the futures exchanges make payments on the TT patents.

54. TT has misused its patent rights by attempting to condition royalty payments on activities and conduct not covered by the TT patents.

55. United States Patent No. 6,766,304 and United States Patent No. 6,772,132 are unenforceable based on TT's misuse of these patents.

COUNT III

ATTEMPT TO MONOPOLIZE

56. RCG reasserts and incorporates by reference paragraphs 1-42 above.

57. RCG, TT and their competitors are engaged in interstate commerce and their activities substantially affect interstate commerce. TT conducts business with purchasers and licensees of electronic trading software for electronically trading futures on major futures exchanges, within and without this district.

58. Software for electronically trading futures contracts on major futures exchanges is a relevant product market, and subsets of this market may also be relevant markets. TT is

attempting to monopolize the market for electronic trading software used on major futures exchanges, and submarkets thereof, in violation of Section 2 of the Sherman Act, 15 U.S.C. § 2.

59. TT has market power in the relevant product market.

60. Through its press releases and other actions described herein, TT has expressed its intent to monopolize the market for electronic trading software used on major futures exchanges. TT, by its own admission, has already captured more than 50%-70% of the volume of the relevant market. TT's anticompetitive and exclusionary acts present a dangerous probability that TT will achieve an unlawful monopoly.

61. RCG offers its own software that competes with TT, although RCG has a substantially smaller share of the market. RCG's software contains features that TT's product does not, and RCG provides associated services, all in competition with TT.

62. TT has attempted and is attempting to restrain competition in the relevant market by requiring the major futures exchanges to pay 2.5 cents per trade on all trades, regardless of whether the trades are or could be covered by a TT patent.

63. TT has attempted and is attempting to restrain competition in the relevant market by requiring that RCG pay, as a condition of settlement, fees on products that are not covered by a TT patent.

64. As a consequence of TT's attempt to monopolize through the actions detailed above, TT threatens to injure RCG's business, and RCG has suffered and will continue to suffer damages. In addition, if TT is allowed to succeed in its attempt to monopolize, RCG's ability to compete in the electronic trading software market will be unfairly precluded. RCG will suffer irreparable and/or incalculable damage as a result.

65. The threatened injury to RCG also reflects the anticompetitive effect of the antitrust violation because TT's conduct threatens to harm not only RCG, but also the competitive process and consumers by reducing competition in the market, limiting consumer choice by artificially handicapping and removing potentially competitive software from the market, and discouraging software developers from creating new and improved electronic trading software.

66. TT has engaged in predatory and exclusionary conduct including but not limited to attempting to collect royalties after the expiration of the TT patents and attempting to receive royalty payments on trades not covered by the TT patents.

COUNT IV

ILLEGAL CONTRACT, COMBINATION OR CONSPIRACY IN RESTRAINT OF TRADE

67. RCG reasserts and incorporates by reference paragraphs 1-42 and 57-66 above.

68. RCG contracts with Patsystems to provide electronic trading services. The services provided to RCG are essential to the conduct of RCG's electronic trading business.

69. TT has entered into an agreement with Patsystems that requires Patsystems to terminate any customers that TT claims is using software that infringes TT patents.

70. On information and belief, TT intends to and will direct Patsystems to terminate customers such as RCG regardless of whether the customer is using software that infringes TT patents.

71. On information and belief, TT intends to and will attempt to coerce customers of Patsystems such as RCG into accepting unfavorable settlement terms out of the fear of being terminated by Patsystems.

72. TT's agreement with Patsystems harms competition and unreasonably restrains trade and commerce among the several states in an area of commerce not covered by the TT patents and in violation of Section 1 of the Sherman Act.

COUNT V

STATUTORY FEDERAL UNFAIR COMPETITION

73. RCG reasserts and incorporates by reference paragraphs 1-42 above.

74. TT already controls 50%-70% of the order flow of the market.

75. With this control of order flow, TT also controls 50%-70% of the market information embedded in this order flow. TT and its principals and/or officers are the only market participants with the knowledge and ability to access order flow and the market information embedded in the order flow. Knowledge of the market information embedded in the order flow means that TT and its principals alone can use such information for unfair advantage in determining market direction ahead of public customers. This provides an unfair advantage to TT and its principals over other participants in the marketplace.

76. Since TT controls 50%-70% of the order flow of the market, TT and its principals and/or officers are unfairly taking advantage of market information (i.e., order flow accepted by TT) to the disadvantage of public market participants, including RCG.

77. On information and belief, TT and/or its principals and/or officers have controlled private groups of traders that are using TT's order flow and embedded market information to unfairly execute trades to the disadvantage of public market participants, including RCG.

78. TT has 80 other pending patent applications that include a "matching engine" that will interface with the TT patents to match trades. Such a matching engine can be used by TT to match trades internally without sending the trades to a regulated exchange. The combination of

controlling order flow and market internalization using their matching engine and the TT patents will allow TT to create a "super exchange," thereby eliminating the need for other electronic exchanges.

79. Trading exchanges in general provide price discovery and risk shifting for market participants. Since TT controls a majority of the order flow and the market information embedded in such order flow, TT unfairly suppresses price discovery mechanisms and risk shifting operations of the public markets. This is not in the public interest.

80. TT through its press releases claims "TT has truly leveled the playing field among market participants through" its "innovative technology." At the same time, TT is attempting to use the same technology unfairly against market participants to the detriment of the public by dominating order flow and its embedded information. This is not in the public interest.

81. RCG has been and will continue to be injured by TT's conduct as well as the conduct of TT's officers and/or principals.

82. TT's conduct, as well as that of its officers and/or principals violates § 43(a)(1)(A) of the Lanham Act.

83. Unless enjoined by this Court, the unfair trade practices of TT and/or its officers and/or its principals will continue to irreparably harm Plaintiff and others similarly situated.

COUNT VI

STATUTORY STATE DECEPTIVE BUSINESS PRACTICE

84. RCG reasserts and incorporates by reference paragraphs 1-83 above.

85. TT's conduct, as well as that of its officers and/or principals employs deception, fraud, false pretense, false promise, misrepresentation and/or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or

omission of such material fact and therefore violates the Illinois Consumer Fraud and Deceptive Business Practices Act (815 ILCS 505/1 et seq.).

COUNT VII

STATUTORY STATE UNFAIR COMPETITION

86. RCG reasserts and incorporates by reference paragraphs 1-85 above.

87. TT's conduct, as well as that of its officers and/or principals creates a likelihood of misunderstanding and therefore violates the Illinois Uniform Deceptive Trade Practices Act (815 ILCS 510/1 et seq.).

COUNT VIII

COMMON LAW UNFAIR COMPETITION

88. RCG reasserts and incorporates by reference paragraphs 1-87 above.

89. TT's conduct, as well as that of its officers and/or principals violates Illinois common law of unfair competition.

PRAYER FOR RELIEF

Plaintiff Rosenthal Collins Group, LLC respectfully requests judgment against the Defendant Trading Technologies International, Inc. as follows:

A. A declaratory judgment that RCG does not infringe either United States Patent No. 6,766,304 or United States Patent No. 6,772,132 and that these patents are invalid.

B. A declaratory judgment that United States Patent No. 6,766,304 and United States Patent No. 6,772,132 are unenforceable under the doctrine of patent misuse.

C. Monetary compensation sufficient to compensate RCG for its damages, trebled pursuant to the antitrust laws of the United States.

D. A preliminary and permanent injunction prohibiting TT from engaging in further anticompetitive conduct.

E. Disgorge any profits unfairly obtained by TT and/or its officers and/or principals through its unfair and anticompetitive conduct.

F. Punitive damages.

G. Costs and attorney fees.

H. Such further relief as the Court may deem just and appropriate.

JURY DEMAND

Plaintiff RCG requests trial by jury.

Date: July 15, 2005

Respectfully submitted,

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Exhibit 1

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NEWS RELEASE

For Immediate Release

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TT's Open Letter to the Futures Industry

"Already, the savings that TT brings to the *futures industry* dwarf a 2.5 cent inclusion."

"The added value of the TT *volume-catalyst* effect would further dwarf a 2.5 cent inclusion."

CHICAGO, Tuesday, December 14, 2004 – Lately, there has been discussion and speculation about TT throughout the *futures industry* (customers, traders, FCMs, exchanges, ISVs, etc.). We wrote this letter to make our thoughts as clear and open as possible.

We believe that we are an important part of the *futures industry* we serve, that our position in this industry is unique, and that our value is growing. We are aiming to unlock that value and accelerate our positive contribution.

The solution that TT has offered to each of the 'big four' exchanges is as follows:

- TT and the participating exchange (PE) would guarantee each other level access, permanently.
- Inside the world of PE futures and future options (this includes traders, customers, FCMs, ISVs, exchanges, etc.), TT would forfeit the right to be the aggressor in any patent infringement lawsuit, permanently; in that way allowing absolutely anyone to use TT's current and future patent protected concepts any way they desire.
- TT would receive from PE 2.5 cents per side for every PE future and future option transaction, permanently.

We believe this 2.5 cent solution is in the best interest of the *futures industry*. The remainder of this letter will explain our reasoning.

1) <u>TT Has Built Itself into an Integral Piece of the *Futures Industry*</u>

Over the past several years, the *futures industry* has had no better friend than TT. By making a premier order-entry system commercially available, TT has truly leveled the playing field among market participants through our *innovative* technologies. The confidence derived from access to such a level playing field increases direct access, participation, and liquidity. Over 50% of the 'big four' futures exchanges' electronic volume now flows through X_TRADER® precisely because it provides commercial, desktop access to the same playing field long enjoyed only by the world's largest traders and banks.

- more -

Fast, reliable, functionality-rich, multi-exchange order-entry software is complicated and time consuming to engineer and support. TT's desktop software allows for multi-exchange, multi-product interrelation on a single screen, setting off a domino effect toward tighter, more liquid markets. This interrelation is at least as important as any other function in the *futures industry*.

TT's *innovations* (MD Trader™, Autospreader™, Autotrader™, Navigator™, FIX Gateway, etc.) have allowed for much more volume to be processed by the *futures industry*. These *innovations* have also helped the industry in launching new products. Simply put, the 'big four' are now based mostly on a direct-access, end-to-end solution (from the end-user's order entry system to the exchange matching engine), and TT manages over 50% of one end of 'big four' electronic volume. In fact, the trading volume that goes through X_TRADER dwarfs the volume of even the largest exchange.

TT's recently engineered and released FIX Gateway allows exchanges, banks, etc. to interface their existing trading infrastructures with the X_TRADER screen. As a result, many exchanges beyond the 'big four' are now in the process of interfacing to TT. In time, cash bonds, cash foreign exchange, more futures exchanges, etc. will be pulled onto the X_TRADER platform. For exchanges without a TT connection, this is a wise move, considering the customer liquidity on the other side of X_TRADER. This paradigm shift is further proof of TT's place in the *futures industry*.

TT has captured more than a 50% volume share while competing against all other ISVs, SunGard, Bloomberg, Reuters, CQG, Interactive Brokers, Tradestation, Schwab, E-Trade, eSpeed, internal bank systems, internal FCM systems, internal prop shop systems, exchange native screens, and more. We believe that most of this success is a direct result of TT's *innovative* technologies.

Protecting the results of TT's consistent *innovation* is a priority. Beyond the MD Trader patents that were recently received, another eighty patent applications have been filed, and TT continues to file more. While some of these pending patents concern products mentioned earlier, others pertain to the interaction of the matching engine and front end. TT's intellectual property will be used aggressively to protect the integral piece of the modern-day electronic *futures industry* that we built.

Over the past six years, TT was steered into its current position in a deliberate manner. $40 million was invested over four years (1999-2002). Currently, $8 million is in TT's bank account. While our company has a $32 million cumulative net income loss over the past six years, TT is the only futures-focused ISV that is profitable, and has been so for two years. In just those two years, TT has grown from 110 to 280 employees. TT is on pace to have $50 million in revenue and $6 million in profit for 2004. While the past six years have required much discipline, sacrifice, and patience, it has all been worthwhile, as TT has built a very valuable asset.

2) <u>Your Opportunity is Only as Good as Your Industry is Healthy</u>

Approximately five years ago, before Harris Brumfield (TT's CEO, who at the time was a full-time trader and TT investor) signed the MD Trader concept over to TT, he was faced with a tough decision. Either he could hoard the MD Trader concept for his trading (as virtually all traders do with anything that gives them an edge), or he could transfer ownership to TT and make it commercially available. The train of thought that gave him peace with his decision was a theoretical one. In order to feel good about signing over the MD Trader concept and all future technological *innovations*, he convinced himself that his opportunity as a trader was only as good as his industry was healthy. In the MD Trader concept, he believed he owned a key to a premier commercial order-entry system and, therefore, a key to a level playing field and his industry's health.

A premier commercial order-entry system is a great asset for the *futures industry.* There's a big difference between a few proprietary trading groups controlling the industry with premier order-entry and the whole world having access to premier order-entry, as they do now. In the former case, order-entry slippage leads to payment for order flow, block trading, and internalization. This liquidity fragmentation limits the growth of the market. In the latter and current case, growth is unimpeded. After all, any industry is only as good as the product it offers the world.

2a) *Competition, Competition, Competition*

We believe in *competition* within every sector of the *futures industry*: ISVs, traders, FCMs, and exchanges.

The futures-focused ISV space in its current form is built on quicksand. These ISVs are either unprofitable or, in TT's case, barely profitable. With the advent of eSpeed entering the multi-exchange order-entry space with its differentiating cash market and subsidized order-entry systems (in addition to eSpeed's home grown software, it has recently acquired an ISV, Ecco), the futures-focused ISV space as known is doomed. Unless a company has strong intellectual property, it will be unable to compete.

The 2.5 cent solution would create a new era of *competition* for order-entry by extending TT's intellectual property to the world, forever. Many old-model ISVs would find a place for their services amid larger, broader companies. This combination of events would lead to an industry-wide slashing of order-entry system prices. This would lay the foundation for an unprecedented distribution flood, which would lead to still higher volumes for participating exchanges. This process would further accelerate the day TT's retail version of MD Trader (in development) entered the marketplace to compete with MD Trader concept imitators already in the retail space.

Among traders, TT has improved *competition* by spreading access to a premier order-entry system all over the world. This has been a key to a level playing field, enabling the brightest minds and hardest workers to enter the market freely and *competitively.* The end results are tighter and more liquid markets. This is essential for the *futures industry* to thrive.

Among FCMs, TT has improved *competition* by allowing market participants to switch FCMs without switching their order-entry system. This has created a more *competitive* market for FCM services which has lowered costs and improved services. At the same time, TT's *innovations* have helped the FCM business to expand exponentially. The net effect of these forces has been a win for the *futures industry.*

Among exchanges, TT has improved *competition* by giving market participants freedom of choice between comparable products on different exchanges. When TT made the controversial decision to offer connectivity to Eurex US products, CBOT immediately chose (in a close vote, eight to seven) to cut transaction prices. Conversely, when BrokerTec Futures chose not to do business with TT, CBOT products dropped not one penny in price. Also, the CME and LIFFE exchanges are currently doing battle over the Eurodollar contract, causing prices in both exchanges to drop.

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TT furthered exchange-comparable product *competition* with Navigator. Also, TT is helping to aggressively spread a common protocol, FIX, throughout the *futures industry* with our FIX Gateway and FIX Adaptor. This allows for more open access, lower connectivity costs, and even more *competition*. The *competition* resulting from TT's *innovations* puts pressure on exchanges to differentiate and create new products. Also, this *competition* is slowly pushing the exchanges to do away with memberships, allowing for one common transaction rate and an even more level playing field for traders and hedgers.

Already, the savings that TT brings to the futures industry dwarf a 2.5 cent inclusion. In this ultra-*competitive* environment, the industry is enjoying the benefits of record volume and thriving more than ever. If you are concerned with *competition* in your sector, you should take comfort in the fact that there is *competition* throughout the industry, making for a greater whole. With a greater whole, many, many people across all sectors of the industry find ways to succeed.

2b) *Volume-Catalyst*: Totally Aligned with an Industry's Health

Theoretically, had each of the 'big four' futures exchanges been participating in the 2.5 cent solution, TT would have received $130 million (5.2 billion sides x 2.5 cents) over the past twelve months. Revenue in this form would give us an opportunity to be a *volume-catalyst* for the *futures industry*. We would be incentivized to seize this opportunity, since our profits would be driven by volume.

An entity in the center of a financial ecosystem that is motivated by a low, fixed, volume-based rate is unheard-of. Such an entity would be strictly aligned with an industry's health, and the benefits for the industry would be great. Similarly, all that TT has contributed to the *futures industry* to this point would pale in comparison to what TT would contribute as a *volume-catalyst*. The added value of the TT *volume-catalyst* effect would further dwarf a 2.5 cent inclusion.

3) TT – Patience, Patience, Patience

We believe in capitalism and what it does for the world. Over the past several years, TT's *innovations* have been a driving force in helping create tremendous profitability for the *futures industry*. Yet, some in the industry still connect TT's value to our $50 million revenue and $6 million profit, ignoring the fact that TT's business plan to this point has not included maximizing profit. This is letting the trees get in the way of the forest. First, we believe that the *futures industry* will embrace the 2.5 cent solution. Failing that, it seems inevitable that, once thoroughly educated about TT's value, at least one well-capitalized entity in all of financial services, etc., will offer an acceptable price for TT. Failing both of those opportunities, we control our own destiny. Whenever we desire, TT, as a stand alone company, could raise the price of the patent-protected portion of our software and immediately have enormous cash-flow. This would be a last resort, but we would go this route if forced to.

Three independent organizations (the US, UK, and EU patent offices) have validated TT's first intellectual property, MD Trader. Further, thirty-two of the who's who in trading (from around the world and across all asset classes) have independently verified the original and revolutionary nature of the invention with signed declarations, under penalty of perjury. What's more, global companies have stamped TT's patents with Consent Judgments. Every day, exposure and damages have been accumulating. Ultimately, TT should be in a position to collect triple damages for willful infringement. Let's say, in a conservative hypothetical, that the fair value of the patents is determined to be 20 to 30 cents per side; this would mean 60 to 90 cents per side in possible damages for anybody (traders, FCMs, ISVs, etc.) deemed to be willfully infringing. This doesn't even take into account the potential of obtaining a royalty based on a trader's profits for using an infringing system, which, at least for some, could turn out to have a fair value far greater than 20 to 30 cents per side, with corresponding willful infringement damages well north of $1.00 per side. TT believes there is a lot of exposure floating around out there. While we are tied up during the eSpeed litigation, we may not be able to pursue other infringers. However, regardless of when we are freed up, we will enforce our rights, including the right to recover back damages.

We believe the invention of the MD Trader concept represents an end to a process, meaning that there is no way to equal or better the function that it performs. We are confident that the court system will protect our patented *innovation*. On top of that, we believe that a vast majority of our eighty pending patents will be issued over time. We also believe that the paradigm shift represented by our FIX Gateway will lead to a wide expansion of our exchange access. Moreover, we will continue to relentlessly push *innovation*. As days pass, weeks pass, and months pass, TT's position will only become stronger and stronger. Proof of this is the fact that TT has been experiencing record-shattering sales in the past three months, and the pipeline indicates continuing exponential growth.

We know how valuable our place in the *futures industry* is. Yet, we have no specific timetable to pull any particular trigger to realize our true value. From a business perspective, we consider all of our possible paths equally attractive. In other words, speaking strictly as a business, we are indifferent as to whether the industry accepts the 2.5 cent solution or not. However, all things considered, TT's preference is the 2.5 cent solution. The *volume-catalyst* effect of the 2.5 cent solution would ensure a healthy industry. A healthy *futures industry* contributes to world productivity, which is a passion worth pursuing.

4) <u>We Believe that TT's Status is an Urgent Matter for the *Futures Industry*, but Obviously, Your Opinion is what Counts</u>

We don't understand why the *futures industry* would risk diminishing its value by allowing any player in financial services, etc., who might not be aligned with the overall industry's health, to own and control an integral piece of the industry. Already, some global firms are interested in buying TT, and if the right offer surfaced, TT would be sold without notice. Also, there are joint-venture offers for TT to be a part of launching a super-exchange. As mentioned before, a last resort would entail TT raising the price of the patent-protected portion of our product.

With a guarantee of level access to TT, with early licensees agreeing to pay 10 cents per side to license MD Trader patents for sixteen years (already a significant discount), with 70% of volume using the MD Trader concept, and with eighty quality TT patents still pending, the 2.5 cent solution is attractive. In fact, given the alternatives available to TT, it is the lowest priced solution that we can consider. If we were to accept anything less, we would be breaking our fiduciary duty to our shareholders and employees. TT is able to rationalize dropping as low as the 2.5 cent solution for the following reasons: this would apply to 100% of volume instead of 70%, the 2.5 cents would be permanent instead of 10+ cents for sixteen years, TT would not have to chase infringers, and, most of all, the TT *volume-catalyst* effect would drive volumes to still unrealized heights, ushering in the most prosperous era this industry has ever seen.

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Still, it takes two to tango—TT cannot force the *futures industry* to accept a solution that we predict would be good for the industry. While we are confident in our prediction, obviously, our prediction is not a given. If you, the *futures industry*, choose to end our current relationship, TT respects that decision. After all, sometimes, different strokes, different folks.

On the other hand, various traders, FCMs, etc. have told us that they agree that TT's status is an urgent matter and that the 2.5 cent solution would be in the industry's best interest, yet they can't publicly support the solution. It would seem to us that they would be kicking, screaming, and speaking out as loud as possible. Every voice matters—assume that yours will be the one that tips the scales.

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Exhibit 2

SETTLEMENT AGREEMENT

THIS AGREEMENT (the "Agreement") made this ___th day of ____, 2005 ("Execution Date") is by and between Trading Technologies International, Inc. ("TT"), a Delaware corporation with its principal place of business at 222 South Riverside Plaza, Suite 1100, Chicago, Illinois, 60606, and __________, a _______ corporation with its principal place of business at_________________ ("XYZ"). Each party herein also referred to as "Party" and collectively as "Parties."

WHEREAS, TT owns U.S. Patent Nos. 6,766,304 ("'304 patent") and 6,772,132 ("'132 patent"), U.K. Patent Nos. GB 2,377,527 ("'527 patent") and GB 2,340,451 ("'451 patent") and European Patent No. EP 1 319 211 ("'211 patent");

WHEREAS, there is a civil action pending in the United States District Court for the Northern District of Illinois, Eastern Division, Civil Action No. _________ (the "Lawsuit") in which TT has charged XYZ with infringement of the '304 and '132 patents;

WHEREAS, XYZ admits that it has been infringing the '304, '132, '527, '451 and '211 patents and TT and XYZ wish to settle all issues in the Lawsuit under terms which will include the granting of a nonexclusive license under the patents for certain software for a royalty rate that the parties agree to as being significantly discounted to the true value of the patented technology and the filing of a Consent Judgment to dispose of the Lawsuit;

WHEREAS, TT is willing to grant the significantly discounted license granted herein because XYZ is an early licensee of the '304, '132, '527, '451 and '211 patents and because of the specific restrictions contained herein; and

WHEREAS, TT is willing to grant the discounted license granted herein for administrative convenience because the license is worldwide and requires payments of royalties for use of Licensed Products (defined below) anywhere in the world as opposed to royalties based only on the usage of Licensed Products in countries in which there is patent protection.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, TT and XYZ agree as follows:

ARTICLE 1: DEFINITIONS

1.1. "Affiliate" means, with respect to any relevant Person, any entity that: (i) controls; (ii) is controlled by; or (iii) is controlled by a Person that also controls, such Person where "control" includes direct or indirect control, including any subsidiary, holding company or operating division of such Person from time to time.

1.2. "Applicable Trade" means a trade of at least one Base Unit of a Current or Subsequent Contract where the order entered by an End User could have been viewed and accessed with a Licensed Product or a Third Party Product at any time from the time the order was entered until the time the order was matched, filled or cancelled. A trade will be considered an Applicable Trade regardless of whether the product traded was in fact viewed or entered by an End User with a Licensed Product or a Third Party Product. By way of example without limiting the foregoing, if an End User enters an order for a contract using a non-Licensed Product that results in a trade, that trade will be considered an Applicable Trade if any End User had the capability of viewing and accessing the order with a Licensed Product or a Third Party Product.

1.3. "Base Unit" means (i) for futures and options on futures, a contract or lot; (ii) for fixed income cash products, a million dollar increment in such products; and (iii) for currency cash products, a million base currency value increment.

1.4. "Current Contracts" means futures, options on futures, currency cash, and fixed-income cash products that are in existence and actively traded electronically on an Exchange as of the Effective Date.

1.5. "Effective Date" means the date upon which the Court enters the Consent Judgment attached as Exhibit A.

1.6. "End User" means any individual with direct or indirect access to electronic trading software on any computing device, including, but not limited to, a computer, workstation, server or CPU.

1.7. "Exchange" means (i) any exchange, market or similar entity for trading futures, options on futures, or currency cash products that is designated as such by a recognized governmental regulatory agency; (ii) an inter-dealer brokerage that acts as an intermediary between dealers to trade fixed income cash (bond) products; and/or (iii) with respect to currency product markets, any bank or other entity that makes markets for currency products.

1.8. "Have Made" or "Having Made" means with respect to the license grants in Section 2.1, having any Licensed Product created with the assistance of third parties to XYZ' specification and at XYZ's direction and control. In no event shall a Have Made right granted to XYZ be interpreted to include a right for XYZ or any other Person to grant a sublicense to any third parties to utilize the Licensed Patents for any purpose other than creating or modifying the Licensed Products on XYZ's behalf as set forth herein.

1.9. "Licensed Patents" means the '304 and '132 patents and any reissue, reexamination, continuation, and divisional thereof and all foreign counterpart patents and counterpart applications including without limitation the '527, '451and '211 patents. Licensed Patents shall not include any continuation in part of the '304 and/or '132 patents except to the extent of claims that are based on the disclosure of the '132 patent specification and that are entitled to the benefit of the filing date of the '132 patent.

1.10. "Licensed Products" means electronic trading software made by XYZ and sold or otherwise distributed by or for XYZ that is covered by one or more claims of the Licensed Patents to the extent such software can be used to electronically trade Current and Subsequent Contracts on an Exchange. By way of example and without in any way limiting the foregoing, Licensed Products shall include the "_____", a screen shot of which is attached as Exhibit B.

1.11. "Person" means any individual, any corporation, partnership, limited partnership, limited liability company, joint venture, trust, foundation or other business entity, any non-profit trust, enterprise or institution, or any governmental subdivision, agency or entity.

1.12. "Subsequent Contracts" means futures, options on futures, currency cash, and fixed income cash products that become actively traded electronically on an Exchange that are substantially similar to Current Contracts.

1.13. "Third Party Products" means electronic trading software made by a third party that is covered by one or more claims of the Licensed Patents and used by XYZ or an XYZ customer to electronically trade Current and/or Subsequent Contracts with XYZ clearing and/or executing the trades.

ARTICLE 2: LICENSE GRANTS

2.1. TT hereby grants to XYZ a worldwide, non-exclusive, non-transferable license (without the right to sublicense) under the Licensed Patents to make, use, Have Made, sell or otherwise distribute Licensed Products. If new futures, options on futures, currency, or fixed-income contracts or products that are not substantially similar to the Current Contracts become offered electronically on an Exchange and XYZ desires to facilitate trading of such contracts or products with Licensed Products or the parties would otherwise like to facilitate trading of other contracts or products that are traded now or in the future electronically on an Exchange through Licensed Products, the parties agree to negotiate in good faith in an attempt to provide for license terms with respect to such new products. XYZ may sublicense the right to use the Licensed Products to XYZ's customers to the extent the XYZ customers obtain the Licensed Product from XYZ and use the Licensed Product to trade on an Exchange.

2.2. Except as provided for in Section 2.1, nothing in this Agreement shall be construed as providing any license, either express or implied, under any intellectual property not specifically named herein.

ARTICLE 3: COVENANT NOT TO SUE

3.1. TT covenants not to sue XYZ for infringement of the Licensed Patents based on the use of or distribution of Third Party Products. This covenant not to sue shall also apply to an XYZ customer to the extent the customer obtains such software from XYZ and uses it to trade Current Contracts and Subsequent Contracts with XYZ clearing the trade. This covenant not to sue shall not preclude TT from asserting its patents against any other third party, including without limitation any Person that provides Third Party Products.

3.2. Notwithstanding anything to the contrary herein, the Parties agree that TT is not granting any license (express or implied) under the Licensed Patents relating to Third Party Products to any Person for any purpose whatsoever. By way of example, and in no way limiting the foregoing, TT does not grant any license (express or implied) under the Licensed Patents (i) for making, using, selling, offering for sale, importing or otherwise distributing Third Party Products and/or (ii) to any third party that provides Third Party Products for which TT is granting a covenant not to sue (in such a case, the parties agree that TT's rights under the Licensed Patents are not exhausted as a result of the covenant not to sue granted to XYZ pursuant to Section 3.1).

ARTICLE 4: ROYALTIES AND FEES

4.1 Beginning on the Execution Date and continuing for the term of the Agreement, XYZ shall pay to TT the following royalties for Applicable Trades using Licensed Products and fees for Applicable Trades using Third Party Products:

	Royalties per Base Unit	Fees per Base Unit
Futures/Options on Futures	$.10 (except where there are multiple contracts having substantially the same underlying product, in which case the royalty for the smallest contract shall be $.10 and the royalty for the other contracts shall be increased proportionally based on the size of the contracts. For example, the royalty for the CME's E-Mini S&P 500 and E-Mini NASDAQ-100 products shall be $.10 and the royalty for the CME's S&P 500 and NASDAQ-100 products	$.10(except where there are multiple contracts having substantially the same underlying product, in which case the fee for the smallest contract shall be $.10 and the fee for the other contracts shall be increased proportionally based on the size of the contracts. For example, the fee for the CME's E-Mini S&P 500 and E-Mini NASDAQ-100 products shall be $.10 and the fee for the CME's S&P 500 and NASDAQ-100 products

	shall be $.50).	shall be $.50).
Fixed Income Cash Products	$1.00 (except the two-year treasury note, for which the royalty shall be $.50)	$1.00 (except the two-year treasury note, for which the fee shall be $.50)
Currency Cash Products	$1.00	$1.00

The royalty and/or fee per Base Unit for any futures contract that is a Current Contract shall not be subsequently increased as a result of the formation of a new smaller contract based on substantially the same underlying product. Such a new smaller product shall have a royalty and/or fee per Base Unit of $.10. A Base Unit shall be considered traded for purposes of this section if a buy or sell order for that Base Unit has been matched in any fashion, including by an Exchange or by an internalization system. For example, if a ten (10) contract (sometimes referred to as a "lot") futures order is traded that is subject to royalties hereunder, XYZ would be obligated to pay TT $1.00 ($.10 x 10). If a Person uses a Licensed Product to view or trade a strategy (whether such strategy is exchange offered or created by user software) involving multiple underlying products (e.g., a spread), XYZ shall pay to TT the appropriate royalty or fee per Base Unit traded of each underlying product. XYZ shall be responsible for paying to TT any royalties based on a XYZ customer's use of any Licensed Products and/or Third Party Products as contemplated herein.

4.2. Beginning on the Execution Date and continuing for the term of the Agreement, XYZ shall pay to TT a monthly minimum royalty of $50.00 per End User to whom a Licensed Product is licensed and a minimum fee of $50.00 per End User to whom a Third Party Product is licensed. In any given month, XYZ shall not be obligated to pay TT any further royalties until the amount of royalties and fees calculated pursuant to Section 4.1 is greater than the total minimum royalty for that month.

4.3. The Parties agree that the royalties and fees set forth in Sections 4.1 and 4.2 above are significant discounts to the true value of the patented innovations being licensed. In particular, XYZ acknowledges that the patented innovations provide a significant advantage to Exchanges, Futures Commissions Merchants ("FCM") and electronic traders such that the innovations increase the profitability of each of these entities and for an Exchange, FCM and many traders that advantage is far greater than the royalties and fees set forth above, but rather would amount to a portion of the entity's profits which could be far larger than such royalties and fees. The Parties also agree that the royalties and fees set forth in Sections 4.1 and 4.2 are discounted to reflect that the license and covenant not to sue granted herein are worldwide and require payment of royalties and fees for use of Licensed Products and Third Party Products anywhere in the world as opposed to royalties and fees based only on the usage of Licensed and Third Party Products in countries in which there is a Licensed Patent.

4.4. In the event TT enters into a written agreement with an Exchange that provides for a license right and/or a covenant not to sue under the Licensed Patents that permits XYZ's customers to trade using the Licensed Products and/or Third Party Products, then to the extent and only to the extent such trades are licensed or otherwise permitted under that agreement: (i) the licenses hereunder shall be terminated immediately and (ii) XYZ shall no longer be required to pay royalties and/or fees pursuant to this Agreement for such licensed or otherwise permitted trades. In the event a written agreement with an Exchange that triggered this Section 4.4 is subsequently terminated or cancelled, then this Agreement shall be immediately reinstated with respect to those trades that were licensed or otherwise permitted under that agreement and XYZ shall again be required to pay royalties and/or fees pursuant to this Agreement for such trades from the date of reinstatement.

ARTICLE 5: RELEASE

5.1. TT hereby releases, acquits and forever discharges XYZ and its directors, officers and employees from any and all claims, counterclaims or liability for infringement or alleged infringement of any Licensed Patents by the manufacture, creation, copying, importation, use, sale, offer for sale, lease, license, offer for license or other disposition or distribution of electronic trading software identified in Section _____ prior to the Effective Date.

5.2. XYZ hereby releases, acquits and forever discharges TT and its Affiliates, directors, officers, and employees from any and all claims, counterclaims or liability relating to the Licensed Patents and/or the Lawsuit and arising prior to the Effective Date.

ARTICLE 6: ASSERTION OF IP AGAINST TT

6.1. Notwithstanding anything to the contrary set forth herein, if XYZ asserts against TT, any TT Affiliate or any TT customer any claim alleging any material infringement of a patent, copyright or any other intellectual property relating to software based on the making, using, selling, offering for sale, importing or other distribution of a TT product, TT shall have the right to suspend or terminate (via written notice to XYZ no less than ninety (90) days prior to such suspension or termination) any license (or portion thereof) granted under Section 2.1 and/or any covenant not to sue (or portion thereof) granted under Section 3.1 with respect to XYZ making, using, selling, offering for sale or otherwise distributing Licensed Products or Third Party Products. Notwithstanding anything to the contrary set forth herein, if an XYZ customer or End User that is sublicensed under Section 2.1 or is the beneficiary of a covenant not to sue under Section 3.1 asserts against TT, any TT Affiliate or any TT customer any claim alleging infringement of a patent, copyright or any other intellectual property based on the making, using, selling, offering for sale, importing or other distribution of a TT product, TT shall have the right to suspend or terminate (via written notice to XYZ no less than ninety (90) days prior to such suspension or termination) any sublicense or covenant not to sue (or portion thereof) granted under Sections 2.1 and/or 3.1 with respect to that XYZ customer's or End User's use of Licensed Products and/or Third Party Products. In the event TT terminates or suspends such a sublicense or covenant not to sue with respect to an XYZ customer or End User, TT covenants not to sue XYZ for a claim of infringement based on the same use by such XYZ customer or End User of Licensed Products and/or Third Party Products.

ARTICLE 7: PATENT MARKING

7.1. From the Effective Date and throughout the term of this Agreement, XYZ agrees to mark all Licensed Products with the following notation in a manner to be approved by TT, which shall not be unreasonably withheld (e.g., on a splash screen and/or an about box): "Licensed under U.S. Patent Nos. 6,766,304 and 6,772,132, U.K. Patent Nos. GB 2,377,527 and GB 2,340,451 and European Patent No. EP 1 319 211". From the Effective Date and throughout the term of this Agreement, XYZ agrees to undertake reasonable efforts to mark all Third Party Products that are the subject of a covenant not to sue with the following notation: "Provided under rights to U.S. Patent Nos. 6,766,304 and 6,772,132 and U.K. Patent Nos. GB 2,377,527 and GB 2,340,451". To the extent it is not possible to provide such a marking in the Third Party Product itself, then XYZ agrees to provide such notation in the form of a notice on XYZ's website in a manner to be approved by TT, which shall not be unreasonably withheld (e.g., in association with where an XYZ customer downloads the Third Party Product) and to provide a notice containing such notation to its customers that use the Third Party Products in a manner to be approved by TT, which shall not be unreasonably withheld (e.g., a mailing to such XYZ customers). XYZ agrees that TT can amend the form of the required notices from time to time by providing XYZ with written notice thereof; provided, however, that such revised notices may only include references to the Licensed Patents.

ARTICLE 8: PAYMENTS AND RECORDS

8.1. Provided any royalties and/or fees are due, XYZ shall, within thirty (30) days following the end of each calendar month, furnish to TT a statement, in a form reasonably acceptable to TT and signed by an authorized employee or agent of XYZ, showing the number of Applicable Trades and associated Base Units that are subject to royalties and/or fees under this Agreement and shall at the same time remit payment to TT for the royalties and/or fees payable to TT pursuant to Article 4 herein.

8.2. Royalties and/or fees due to TT pursuant hereto shall be paid by check tendered to or wire transfer at the following address as may be altered from time to time by TT:

Remittance Address	Wire Transfer Account
222 S. Riverside Plaza Suite 1100 Chicago, IL 60606	Bank One Chicago, Illinois Account No. 5300066087 Routing Code 071000013

8.3. For so long as XYZ is obligated to pay any royalties and/or fees under this Agreement and for a period of two (2) years thereafter (the "Reporting Period"), XYZ shall keep and maintain complete and accurate records, for the current year and the preceding two years, of all data reasonably required for the verification and computation of the amounts to be paid and the information to be reported under or relevant to performance of this Agreement.

8.4. At any time during the Reporting Period, TT may, upon reasonable notice, request that an audit of the relevant records of XYZ, providers of Third Party Products, XYZ's customers that license Licensed Products or Third Party Products, and/or XYZ' End Users that license Licensed Products or Third Party Products ("Audit Group") be performed by third party auditors of TT (e.g., accounting and/or law firms) to certify that the reports and payments are correct. Any auditor who acts pursuant to this section shall be required to sign a non-disclosure agreement that protects disclosure of Audit Group's confidential information to third parties. In addition to the right to review all applicable records of the Audit Group, including the trading records and names of all customers and End Users, TT's audit rights shall include the right to view, operate and/or run any XYZ software, Third Party Products and/or third party software sold, offered, otherwise distributed or for which XYZ facilitates connectivity or for which XYZ clears or executes trades. TT's audit rights shall also include the right to view, operate and/or run any of the Audit Group's software or any third party software designed to track the use of Licensed Products and products traded that are subject to royalties hereunder to determine compliance with this Agreement. An audit shall be conducted during regular business hours or otherwise as agreed by TT and XYZ or the relevant customer or End User. The cost of such audits, other than costs and fees associated with the Audit Group's employees', agents' or consultants' time and effort which shall be borne by the Audit Group exclusively, will be borne by TT unless a payment discrepancy unfavorable to TT greater than five percent (5%) of the amounts paid in any period covered by the audit is discovered, in which case XYZ shall pay the cost of the audit. In the event that TT believes any other software for which XYZ facilitates connectivity, clears or executes trades, or that is developed by or on behalf of, distributed by, used by XYZ should be considered a Licensed Product or a Third Party Product covered by a claim of a Licensed Patent or that there is any other discrepancy in any reporting or payment required hereunder, TT shall notify XYZ in writing of its beliefs and the reasons therefore. In the event that the parties disagree on that determination after discussions between members of the management of XYZ and TT, and at least thirty (30) days after receipt of the written notice referred to above, then TT may assert immediately any and all claims, including without limitation infringement claims, with respect to such other XYZ software products or Third Party Products and XYZ retains the right to fully defend against such claim. In the event that TT does assert such a claim, TT shall still continue to have the same audit rights set forth herein regarding XYZ's records relating to products that are in dispute but not the records of XYZ's customers or End Users relating to products that are in dispute. XYZ shall retain its license to the undisputed Licensed Products and its covenant not to sue with respect to the undisputed Third Party Products hereunder notwithstanding the pendency or resolution of any such dispute. Absent specific allegations of disputed royalty payments or disputes regarding whether a particular product is a Licensed Product or a Third Party Product, TT's auditors will conduct no more than four (4) audits per year.

8.5. At any time upon TT's reasonable request, but in no event more often than monthly, XYZ shall provide TT written notice of:

8.5.1. the number of terminals on which Licensed Products and/or Third Party Products are installed or otherwise being used or accessed;

8.5.2. the number of total Base Units traded on a month-to-month basis through the Licensed Products and/or Third Party Products broken down by each customer and End User and the total number of Base Units traded on a month-to-month basis through any electronic trading software;

8.5.3. the name or other distinguishable identification of each customer and End User that license Licensed Products and/or Third Party Products and the number of terminals on which Licensed Products and/or Third Party Products are installed or otherwise being used or accessed per each customer and End User; and/or

8.5.4 where an End User and/or customer is connected such that an order entered by an End User or customer that licenses Licensed Products or Third Party Products is capable of being viewed and accessed with a Licensed Product or a Third Party Product, by any End User or customer at any time from the time the order was entered until the time the order was matched, filled or cancelled, regardless of whether the order is ever in fact viewed or accessed, XYZ shall provide the name or other distinguishable identification of each applicable End User and/or customer and a detailed description of the connectivity of each applicable End User and/or customer. XYZ shall also indicate whether it contends that the software applications disclosed pursuant to this section are Licensed Products or Third Party Products. By way of example and in no way limiting the foregoing, where a group of traders trade such that any trader in the group is able to see electronic orders generated from a different trading screen (e.g., a trading partner or a trader with multiple trading software programs, not all of which are Licensed Products or Third Party Products), XYZ must identify each such trader and the manner in which each trader is electronically connected to the other traders and all trading software used.

Concern

8.6. XYZ shall also require each customer and End User that licenses Licensed Products or Third Party Products to permit XYZ and/or third party auditors retained by TT, as applicable, to access trading records sufficient to comply with the audit provisions of this Agreement, including, without limitation, FCM, customer and End User names and monthly statements showing all trading activity of each customer and End User that licenses Licensed Products or Third Party Products.

8.7. In the event a payment discrepancy unfavorable to TT greater than five percent (5%) of the amounts paid in any period is discovered ("Payment Discrepancy"), and XYZ cannot then establish by clear and convincing evidence the appropriate number of Applicable Trades or separately identifiable non-Applicable Trades, then XYZ shall pay to TT as liquidated damages and not as a penalty the difference between the amount of royalties already paid during the applicable period and an amount of royalties that would have been due if all electronic trades (less the amount of separately identifiable non-Applicable Trades established by XYZ) made using any XYZ electronic trading software were Applicable Trades ("Liquidated Damages"). In the event of a second Payment Discrepancy, at TT's option, XYZ shall pay to TT as liquidated damages and not as a penalty, an amount equal to two times the Liquidated Damages. In the event of any subsequent Payment Discrepancy, at TT's option, XYZ shall pay to TT as liquidated damages and not as a penalty, an amount equal to two times the Liquidated Damages and/or TT may terminate the license granted hereunder. If an audit is conducted of a period of greater than one month and there are multiple months which would qualify as a Payment Discrepancy, then each such month shall qualify as an independent Payment Discrepancy regardless of the length of time covered by the audit. In the event that there are multiple occurrences that TT claims are Payment Discrepancies based on the same underlying reason or miscalculation (e.g., not paying royalties for a particular product that should be a Licensed Product) and where the issue of whether each occurrence was a Payment Discrepancy is not ultimately determined until some time after the actual occurrences (by a Court or otherwise), the liquidated damages and termination provisions of this Section 8.7 shall apply as if each occurrence of a Payment Discrepancy was independent.

8.8. Any payments or portions thereof due under this Agreement which are not paid on the date such payments are due under this Agreement, shall bear a monthly finance charge of the lesser of 1.5% per month or the maximum permitted by law, in each case calculated on the number of days such payment is delinquent.

ARTICLE 9: TERM, TERMINATION AND ASSIGNABILITY

9.1. This Agreement shall remain in full force and effect from the Effective Date until the expiration of the last to expire of the Licensed Patents.

9.2. Either Party to this Agreement, in addition to any other remedies that it may have, may at its election terminate this Agreement, effective upon written notice to the other Party ("Affected Party"), in the event any of a material default or material breach by the Affected Party of any of its obligations under this Agreement which default or breach remains uncured thirty (30) days after the other Party gives the Affected Party written notice thereof. TT, in addition to any other remedies it may have, may at its election terminate this Agreement, effective upon written notice to XYZ, in the event any of the following actions is committed by or occurs with respect to XYZ: (i) XYZ's admission in writing of its inability to pay its debts generally as they become due or making of an assignment for the benefit of creditors; (ii) XYZ's institution of or consent to the filing of a petition in bankruptcy; (iii) the appointment of a receiver for all or substantially all of the property of XYZ; (iv) the institution of any proceedings for the liquidation or winding up of XYZ's business or the termination of its corporate charter; or (v) a court's determination that the XYZ is bankrupt or insolvent.

9.3. This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. XYZ shall not be permitted to transfer or assign any rights granted hereunder without TT's prior written approval and any such attempted assignment shall be void and upon the occurrence of any such attempted assignment, TT may, in its sole discretion, terminate the Agreement after no less than ninety (90) days prior written notice to XYZ. In the event that XYZ (i) merges, consolidates, sells or transfers all or substantially all of its assets or ownership interest to a third party; (ii) merges into or with a third party; or (iii) enters into or takes part in any other transaction or series of transactions that result in a change of control of XYZ, then the licenses granted hereunder may be transferable to the surviving or succeeding entity only to the extent TT provides prior written approval, which shall not be unreasonably withheld or delayed.

9.4. No failure or delay on the part of either Party in exercising its right of termination or cancellation hereunder for any one or more causes shall be construed to prejudice its right of termination or cancellation for such or any other or subsequent cause.

9.5. The following provisions shall survive termination of this Agreement: Articles 5, 8, 11, 13, 14, 15 and 16. In the event of a termination pursuant to Section 4.4, Article 8 shall also survive termination with respect to XYZ as if XYZ remained obligated to pay royalties and/or fees hereunder with respect to trades that are licensed or otherwise permitted under the agreement with an Exchange or FCM.

ARTICLE 10: JUDGMENTS RELATING TO PATENTS

10.1. In the event that any claims of the '304, and '132 patents are abandoned or found invalid or otherwise unenforceable by the USPTO or any court or tribunal of competent jurisdiction in a final non-appealable judgment, at XYZ's option (which XYZ shall provide to TT by written notice within thirty (30) days of the abandonment or the finding of invalidity or unenforceability) this Agreement shall be terminated and XYZ shall no longer be obligated under this Agreement to pay any royalties. In such an event, XYZ and XYZ's customers and End Users shall no longer retain a license or any other rights under any of the Licensed Patents including without limitation any remaining valid claims of the '304 and/or '132 patents.

10.2. In the event that any claims of the '304, and '132 patents are found invalid or otherwise unenforceable by the USPTO or any court or tribunal of competent jurisdiction in a final, but appealable judgment, at XYZ's option (which XYZ shall provide to TT by written notice within thirty (30) days of the finding of invalidity or unenforceability), this Agreement shall be suspended and XYZ shall no longer be obligated under this Agreement to pay royalties. In such an event, XYZ and XYZ's customers and End Users shall no longer retain a license or any other rights under any of the Licensed Patents including without limitation any remaining valid claims of the '304 and/or '132 patents. In such event, however, XYZ shall be obligated to continue to track and maintain a detailed accounting of what royalties it would owe to TT for XYZ's and XYZ's customer's and End User's use of Licensed Products if the Agreement was not suspended and maintain records pursuant to Section 8 indefinitely until the '304 and '132 patents are found invalid or otherwise unenforceable in a final, non-appealable judgment. If at any time thereafter, the final judgment of invalidity or unenforceability is remanded or reversed specifically with respect to the finding of invalidity or unenforceability, then the Agreement shall be reinstated (except with respect to any Licensed Patents which are the subject of litigation between TT and XYZ at the time of reinstatement) and XYZ shall pay TT all unpaid royalties that accrued during the time of the suspension of the Agreement.

10.3. In the event that either 10.1 or 10.2 is invoked by XYZ, TT retains the right to assert any and all claims against XYZ and any XYZ customer or End User, including without limitation the right to assert infringement claims with respect to any remaining valid claims of the '304 and/or '132 patents.

10.4. TT shall notify XYZ in writing immediately in the event TT abandons the '304 and '132 patents or if the '304 and' 132 patents are found invalid or unenforceable.

10.5. In the event that claims of both the '304 and '132 patents are substantively modified as a result of a reexamination, the Parties shall meet within thirty (30) days of TT providing XYZ the results of the reexamination to discuss in good faith whether XYZ is infringing the modified claims. If the Parties are unable to agree within thirty (30) days, XYZ may at its option institute a declaratory judgment action in the United States District Court for the Northern District of Illinois, Eastern Division, seeking a finding of non-infringement with respect to the substantively modified claims. If XYZ elects this option, all rights and obligations in this Agreement shall continue during the pendency of the declaratory judgment action (including any appeals). In the event that XYZ prevails in the declaratory judgment action in a final and non-appealable judgment with respect to all of the claims that were at issue in the declaratory judgment action, then at XYZ's option (which XYZ shall provide to TT by written notice within thirty (30) days of final non-appealable judgment) this Agreement shall be terminated and XYZ shall no longer be obligated under this Agreement to pay any royalties. In such an event, XYZ and XYZ's customers and End Users shall no longer retain a license or any other rights under any of the Licensed Patents including without limitation any claims of the '304 and/or '132 patents. In the event that XYZ makes such an election, TT retains the right to assert any and all claims against XYZ and XYZ's customers and End Users, including without limitation the right to assert infringement claims with respect to any other claims of the '304 and/or '132 patents and/or any claims of other Licensed Patents.

ARTICLE 11: TERMINATION OF CIVIL ACTION

11.1. On the Execution Date, TT and XYZ shall cause their respective attorneys to promptly execute and file with the court in the Lawsuit a Consent Judgment in the form attached hereto as Exhibit A.

11.2. The parties agree that the Consent Judgment shall remain in full force and effect until the expiration of the '304 and '132 patents. In the event that XYZ materially breaches or defaults under the terms of this Agreement, and fails to cure such material breach or default within thirty (30) days of notice thereof or that TT terminates pursuant to Section 8.7, then TT may seek immediate enforcement of the permanent injunction set forth in the Consent Judgment together with any other available remedies

ARTICLE 12: MOST FAVORED LICENSEE

In the event TT should hereafter grant another license or covenant not to sue under the Licensed Patents with terms and conditions that are substantially similar to this Agreement and the other license or covenant not to sue contains a royalty rate that is more favorable than the royalties charged herein, TT shall notify XYZ and the more favorable royalties shall automatically apply to XYZ. Obtaining the more favorable royalties shall be XYZ' sole remedy for a breach of this provision.

ARTICLE 13: CONFIDENTIALITY

13.1. XYZ shall keep the terms of this Agreement confidential, and TT shall keep all XYZ information provided to TT under Section 8 confidential and shall not now or hereafter divulge the same or any part thereof to any third party except:

13.1.1. With the prior written consent of the other Party; or

13.1.2. As required by any governmental body or judicial entity or regulatory agency having jurisdiction and calling therefore, provided that prior notification of any such disclosure shall be provided by the disclosing Party to the non-disclosing Party and the disclosing Party shall take all reasonable efforts to preserve the confidentiality of the terms of this Agreement (including seeking a protective order); or

13.1.3. As otherwise may be required by law or a securities exchange established under law, and the rules and regulations of or pertaining to such law or exchange, including but not limited to those promulgated under the U.S. Securities Act and Securities Exchange Act, and by securities exchange established thereunder; or

13.1.4. To legal counsel representing either Party;

13.1.5. To the independent auditors of either Party; or

13.1.6 To the extent any such information is or becomes generally known to the public by any means other than a breach of the obligations of this Agreement by, or other wrongful act of either party.

13.2. Notwithstanding the provisions of Section 13.1 above, (i) the Parties may disclose to third parties the fact that XYZ is licensed under the Licensed Patents; (ii) XYZ may disclose to its customers a royalty rate and/or fee that it intends to pass on to such customers; (iii) the Parties shall jointly release the press release attached hereto as Exhibit C for general publication and release to the media, and all subsequent public statements, publications or press releases shall be consistent with the Press Release attached as Exhibit C; and (iv) TT may in its sole discretion disclose publicly any term of this Agreement.

ARTICLE 14: REPRESENTATIONS AND WARRANTIES

14.1. The Parties represent and warrant that the terms and conditions of this Agreement do not violate their respective Certificates of Incorporation or By-laws and do not conflict with any other agreements to which they are a party or by which they are bound.

14.2. Each Party represents and warrants that all of its Affiliates shall undertake all obligations contained herein as if such Affiliates were directly named as a party to this Agreement. Notwithstanding the foregoing, no right granted under this agreement shall extend to any Affiliate unless expressly stated herein.

14.3. XYZ represents and warrants that as of the Effective Date the following list of software identifies the only electronic trading software made or Have Made by XYZ and used, sold, offered for sale or otherwise distributed by or on behalf of XYZ since July 20, 2004 for electronic trading: ____________________.

14.3.1. XYZ represents and warrants that the documentation and screen shots attached as Exhibit D fully and accurately describe all of the functionality of the {infringing screens}.

14.3.2. XYZ represents and warrants that, to its knowledge, as of the effective date the following list identifies all third party electronic trading software that could be used to trade with XYZ acting as the FCM since July 20, 2004:

14.3.3. XYZ represents and warrants that, to its knowledge, as of the Effective Date the following list identifies all companies that have distributed electronic trading software to interface with XYZ Software and/or Third Party Software since July 20, 2004:

______, ________________, ______________.

14.4. XYZ admits that prior to the Effective Date it has infringed the '304, '132, '527, '451 and '211 patents by making, using, selling, otherwise distributing and/or facilitating the distribution of ____________________, including by making, using, selling and/or otherwise distributing the "_____" software, screen shots of which are attached as Exhibit B.

14.5. XYZ represents and warrants that it has the ability to track the number of contracts traded using the Licensed Products and/or Third Party Products in a manner sufficient to allow XYZ to comply with its royalty and fee obligations as set forth in Article 3. XYZ agrees that (i) XYZ shall provide TT, promptly upon receiving a request from TT, a detailed and exhaustive description and demonstration of the functionality of such tracking system and (ii) that TT shall have the right, in TT's sole discretion, to test such system to discern its ability to track appropriately and XYZ shall alter such system as reasonably requested by TT in insure compliance. XYZ acknowledges that to comply with this obligation it may need to require third parties and End Users to implement requisite tracking technology or procedures.

14.6 XYZ represents and warrants that it shall not in any way infringe the Licensed Patents except pursuant to the license and covenant not to sue granted under this Agreement.

14.7. TT represents and warrants that as of the Execution Date, to its knowledge, the Licensed Patents are valid and enforceable.

14.8. EXCEPT AS SPECIFICALLY SET FORTH HEREIN, TT MAKES NO WARRANTIES EITHER EXPRESS OR IMPLIED AS TO ANY MATTER WHATSOEVER, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OR REPRESENTATION AS TO THE VALIDITY OR ENFORCEABILITY OF ANY OF THE LICENSED PATENTS AND ANY WARRANTY THAT ANY PRODUCT LICENSED HEREUNDER DOES NOT INFRINGE THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PERSON. EACH PARTY DISCLAIMS ANY UNDERTAKING OF THE OTHER PARTY TO INDEMNIFY, DEFEND OR HOLD SUCH PARTY HARMLESS FROM ANY DAMAGES OR COSTS ARISING FROM ANY CLAIM THAT THE OTHER PARTY'S EXERCISE OF THE INTELLECTUAL PROPERTY RIGHTS LICENSED UNDER THIS AGREEMENT INFRINGES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PERSON.

ARTICLE 15: OBLIGATION NOT TO CHALLENGE PATENTS

15.1. XYZ agrees that the '304, '132, '527, '451 and '211 patents are valid and enforceable. XYZ further agrees that it shall not directly or indirectly challenge or oppose the validity, enforceability or patentability of the '304, '132, '527, '451 and '211 patents including, without limitation, directly or indirectly aiding or assisting any Person in challenging or opposing the validity, patentability or enforceability of the '304, '132, '527, '451 and '211 patents, including participating in any action contesting the validity of any of these patents or in a reexamination of any of these patents. The foregoing shall not apply to the extent XYZ is required to participate in any proceeding by any governmental body or judicial entity of competent jurisdiction.

ARTICLE 16: MISCELLANEOUS PROVISIONS

16.1. Entire Agreement. This Agreement constitutes the entire Agreement between the Parties and supersedes any prior understandings, agreements or representations by or between the Parties, written or oral, that may have related in any way to the subject matter hereof.

16.2. Nothing contained in this Agreement shall be construed as:

16.2.1. a warranty or representation that the manufacture, sale, offer for sale, lease, import, use or other disposition of Licensed Products hereunder will be free from infringement of intellectual property rights of third parties, including patents, utility models, trade secrets, trademarks, trade names, copyrights, rights in mask works, or the like;

16.2.2. an agreement to bring or prosecute actions or suits against third parties for infringement or conferring any right to bring or prosecute actions or suits against third parties for infringement;

16.2.3. conferring any rights to use in advertising, publicity or other marketing activities any name, trademark, or other designation of either Party hereto;

16.2.4. conferring by implication, estoppel or otherwise upon either Party hereunder any license or other right except the licenses and rights expressly granted hereunder to a Party hereto;

16.2.5. an obligation to furnish any technical assistance or information or know-how; or

16.2.6. limiting the rights which a Party has outside of the scope of this Agreement.

16.3. Notices. All notices, requests, demands, claims and other communications hereunder shall be in writing. Any notice, request, demand, claim or other communications hereunder shall be deemed duly given (i) three (3) business days after it is sent by registered or certified mail, return receipt requested, proper postage prepaid, (ii) one (1) business day following transmission by facsimile when receipt is electronically confirmed (provided that the original shall be contemporaneously sent by first class mail), or (iii) one (1) business day following deposit with a recognized national overnight courier service for next day delivery, charges prepaid, and, in each case, addressed to the intended recipient as set forth below:

If to XYZ:

____
____
____
____
Attention: ______________

If to TT:

Trading Technologies International, Inc.
222 South riverside Plaza, Suite 1100
Chicago, Illinois 60606
Attention: General Counsel

Any Party may give any notice, request, demand, claim or other communication hereunder using any other means (including personal delivery, expedited courier, messenger service, telex or electronic mail), but no such notice, request, demand, claim or other communication given in such other manner shall be deemed to have been duly given unless and until it is actually delivered to the individual for whom it is intended. Any Party may change the address or designated recipient to which notices, requests, demands, claims or other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

16.4. Amendments and Waivers. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by TT and XYZ. No waiver of any default, misrepresentation or breach of this Agreement shall be valid unless the same shall be in writing and signed by the Party granting such waiver. No waiver by any Party of any default, misrepresentation or breach of this Agreement, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent occurrence of such kind.

16.5. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the invalid or unenforceable term or provision in any other situation or in any other jurisdiction. If a final judgment of a court of competent jurisdiction declares that any term or provision hereof is invalid or unenforceable, the Parties agree that the court making the determination of invalidity or unenforceability shall have the power, which power the Parties hereby request such court to exercise, to reduce the scope, duration or geographic limitation of the term or provision, to delete specific words or phrases, or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be enforceable as so modified after the expiration of the time within which the judgment may be appealed.

16.6. Captions. The section numbers and captions used in this Agreement are for convenience only and shall not be used in interpreting in this Agreement.

16.7. Governing Law; Jurisdiction. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Illinois, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Illinois or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Illinois. The parties agree that the United States District Court for the Northern District of Illinois, Eastern Division shall retain jurisdiction over matters relating to this Agreement, including the right to enforce this Agreement and/or the Consent Judgment.

16.8. Independent Contractors. Nothing herein shall be construed to create any relationship of agent and principal, partnership, joint venture, or employee/employer between the Parties. Neither Party shall have the authority or right, or represent that it has such authority, to bind or obligate the other Party.

16.9. The Parties acknowledge that they have entered into this Agreement of their own free will, and have not relied on any inducement by the other Party to enter into this Agreement (even if such inducement occurred), nor have they relied on any warranty or representation by the other Party not explicitly set forth in this Agreement (even if such warranties or representations were made).

16.10. Each Party agrees that, now and in the future, the Party will not make any disparaging or derogatory statements in relation to this Agreement and about the other Party to the public or the Party's employees or engage in any conduct that would impugn, malign, denigrate, or otherwise harm the good will or public image of the other Party with respect to this Agreement. The Parties agree that any comments made to the public or to a Party's employees regarding this Agreement that accurately describe terms and/or conditions of this Agreement or that agree in spirit and context with the press release referred to in Section 13.2 shall not violate this Section 16.10.

16.11. Construction. The Parties have jointly participated in the negotiation and drafting of this Agreement. In the event that an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumptions or burdens of proof shall arise favoring any Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. Each defined term used in this Agreement has a comparable meaning when used in its plural or singular form. Each gender-specific term used herein has a comparable meaning whether used in a masculine, feminine or gender-neutral form. The term "include" and its derivatives shall have the same construction as the phrase "include, without limitation," and its derivatives. The section headings contained in this Agreement are inserted for convenience or reference only and shall not affect in any way the meaning or interpretation of this Agreement. The exhibits identified in this Agreement are incorporated by reference and made a part hereof.

16.12. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

16.13. Directly or Indirectly. Where any provision of this Agreement refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether the action in question is taken directly or indirectly by such Person.

16.14. Force Majeure. Neither Party hereto shall be in default by reason of any failure in the performance of this Agreement in accordance with its terms if such failure is due to acts of God or the public enemy, acts of the government in either its sovereign or contractual capacity, acts of terrorism, fires, floods, epidemics, quarantine restrictions, freight embargoes, or for unavailability of transportation of materials or similar reasons beyond such Party's control.

16.15. Taxes; Governmental Compliance. XYZ shall abide by all applicable export laws and regulations relating to the use and distribution of the Licensed Products and shall not market or distribute any Licensed Products to customers outside of the United States in violation of any laws and regulations of the United States or any other country or sovereign nation applicable to sales outside of the United States.

16.16. Compliance with Laws. Both Parties agree to comply and do all things necessary to enable the other Party to comply with all applicable federal, state and local laws, regulation and ordinances, including but not limited to the regulations of the United States Government as they relate to this Agreement.

16.17. Notice of Events Affecting Performance. Each Party shall promptly provide written notification to the other Party of, including a description of, the impending and/or actual occurrence of any of the following events:

16.17.1. Changes in designated place(s) of performance of the work contemplated by this Agreement;

16.17.2. Insolvency proceedings that may adversely affect a Party's performance under this Agreement;

16.17.3. Labor disputes involving employees of the Party or other parties which may adversely affect a Party's performance under this Agreement; and

16.17.4. Any other factor or event which may detrimentally affect a Party's ability to meet the requirements of this Agreement.

16.18. Enforcement Expenses. In the event of any dispute arising out of the subject matter of this Agreement, the prevailing Party shall recover, in addition to any other damages assessed, its reasonable expenses, including attorneys' fees and costs, incurred in resolving such dispute.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed as of the date first written above by its duly authorized representatives.

XYZ

By: ______________________________

Name: ______________________________

Title: CEO

TT

By:________________________________

Name: Harris C. Brumfield

Title: CEO

Exhibit A

Consent Judgment

Exhibit B

Example XYZ screenshot

Exhibit C

Press Release

Exhibit D

Reflector Documentation

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