

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

_____	)	
Trading Technologies International, Inc.,	)	
	)	Civil Action No. 10-CV-720
Plaintiff,	)	
	)	Judge Samuel Der-Yeghiayan
v.	)	
	)	Magistrate Sidney I. Schenkier
FuturePath Trading, LLC,	)	
	)	
Defendant.	)	
_____	)	

**AMENDED COMPLAINT FOR PATENT INFRINGEMENT AND JURY DEMAND**

Plaintiff Trading Technologies International, Inc. (“Trading Technologies”), for its amended complaint against Defendant FuturePath Trading, LLC (“FuturePath”), states as follows:

**PARTIES**

1. Plaintiff Trading Technologies is a Delaware Corporation with a principal place of business at 222 South Riverside Plaza, Suite 1100, Chicago, Illinois 60606.
2. Defendant FuturePath is an Illinois Corporation with its corporate headquarters at 209 West Jackson Boulevard, Suite 600, Chicago, IL 60606.

**JURISDICTION AND VENUE**

3. This is an action for patent infringement arising under the acts of Congress relating to patents, namely the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq.* This Court thereby has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).
4. Defendant FuturePath regularly conducts business in this district. Defendant FuturePath’s trading software provides access to exchanges in this district, including the Chicago

Board of Trade (“CBOT”) and the Chicago Mercantile Exchange (“CME”). Therefore, this Court has general jurisdiction over Defendant FuturePath.

5. Defendant FuturePath has committed and continues to commit acts of patent infringement in this district, through the manufacturing, sale, offer for sale and/or use of trading software, including at a minimum FuturePath’s trading platform PhotonTrader. *See, e.g.*, Exs. A, B. Therefore, this Court has specific jurisdiction over Defendant FuturePath.

6. Defendant FuturePath maintains an office in this district at 209 West Jackson Boulevard, Suite 600, Chicago, IL 60606, and, as such, they are subject to personal jurisdiction in this district. Therefore, this District is a proper venue pursuant to 28 U.S.C. §§ 1391(b) and 1400(b).

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

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

8. Plaintiff Trading Technologies is in compliance with any applicable marking and notice provisions of 35 U.S.C. § 287, with respect to the ‘999 patent.

9. Plaintiff Trading Technologies has never licensed Defendant FuturePath under the ‘999 patent nor otherwise authorized Defendant FuturePath to practice the ‘999 patent.

10. Defendant FuturePath has infringed and continues to infringe the ‘999 patent by making, using, selling and/or offering for sale products covered by claims of the ‘999 patent without Plaintiff Trading Technologies’ authorization in violation of 35 U.S.C. § 271(a).

11. Defendant FuturePath has in the past and continues to promote, advertise and instruct customers and potential customers about its products and how to use its products, including infringing uses. *See, e.g.*, Ex. A. Defendant's promotion, advertising, and instruction efforts include, at a minimum, maintenance of the websites [www.futurepathtrading.com](http://www.futurepathtrading.com) and [www.photontrader.com](http://www.photontrader.com) and distribution of manuals, release notes and tutorials.

12. Defendant's products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

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

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

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

15. Plaintiff Trading Technologies incorporates paragraphs 1-14 as if set forth in full.

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

17. Plaintiff Trading Technologies is in compliance with any applicable marking and notice provisions of 35 U.S.C. § 287, with respect to the '056 patent.

18. Plaintiff Trading Technologies has never licensed Defendant FuturePath under the '056 patent nor otherwise authorized Defendant FuturePath to practice the '056 patent.

19. Defendant FuturePath has infringed and continues to infringe the '056 patent by making, using, selling and/or offering for sale products covered by claims of the '056 patent without Plaintiff Trading Technologies' authorization in violation of 35 U.S.C. § 271(a).

20. Defendant FuturePath has in the past and continues to promote, advertise and instruct customers and potential customers about its products and how to use its products, including infringing uses. *See, e.g.*, Ex. A. Defendant's promotion, advertising, and instruction efforts include, at a minimum, maintenance of the websites [www.futurepathtrading.com](http://www.futurepathtrading.com) and [www.photontrader.com](http://www.photontrader.com) and distribution of manuals, release notes and tutorials.

21. Defendant's products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

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

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

**COUNT III:  
INFRINGEMENT OF U.S. PATENT NO. 7,412,416**

24. Plaintiff Trading Technologies incorporates paragraphs 1-23 as if set forth in full.

25. Plaintiff Trading Technologies is the owner of U.S. Patent No. 7,412,416 ("the '416 patent"), titled "User Interface for an Electronic Trading System," which was duly and legally issued on Aug. 12, 2008. A true and correct copy of the '416 patent is attached as Exhibit E.

26. Plaintiff Trading Technologies is in compliance with any applicable marking and notice provisions of 35 U.S.C. § 287, with respect to the '416 patent.

27. Plaintiff Trading Technologies has never licensed Defendant FuturePath under the '416 patent nor otherwise authorized Defendant FuturePath to practice the '416 patent.

28. Defendant FuturePath has infringed and continues to infringe the '416 patent by making, using, selling and/or offering for sale products covered by claims of the '416 patent without Plaintiff Trading Technologies' authorization in violation of 35 U.S.C. § 271(a).

29. Defendant FuturePath has infringed and continues to promote, advertise and instruct customers and potential customers about its products and how to use its products, including infringing uses. *See, e.g.*, Ex. B. Defendant's promotion, advertising, and instruction efforts include, at a minimum, maintenance of the websites [www.futurepathtrading.com](http://www.futurepathtrading.com) and [www.photontrader.com](http://www.photontrader.com) and distribution of manuals, release notes and tutorials.

30. Defendant's products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

31. Defendant's actions have and continue to constitute active inducement of and contributory infringement of the '416 patent in violation of 35 U.S.C. §271(b) and (c).

32. Defendant's infringement of the '416 patent has caused irreparable harm to Plaintiff Trading Technologies and will continue to do so unless enjoined.

**COUNT IV:  
INFRINGEMENT OF U.S. PATENT NO. 7,676,411**

33. Plaintiff Trading Technologies incorporates paragraphs 1-32 as if set forth in full.

34. Plaintiff Trading Technologies is the owner of U.S. Patent No. 7,676,411 ("the '411 patent"), titled "Click Based Trading with Intuitive Grid Display of Market Depth," which was duly and legally issued on March 9, 2010. A true and correct copy of the '411 patent is attached as Exhibit F.

35. Plaintiff Trading Technologies is in compliance with any applicable marking and notice provisions of 35 U.S.C. § 287 with respect to the '411 patent.

36. Defendant FuturePath infringes the '411 patent by making, using, selling and/or offering for sale products covered by claims of the '411 patent without Plaintiff Trading Technologies' authorization in violation of 35 U.S.C. § 271(a). *See, e.g.*, Ex. A.

37. Defendant FuturePath promotes, advertises and instructs customers and potential customers about its products and how to use its products, including infringing uses. *See, e.g.*, Ex. A. Defendant's promotion, advertising, and instruction efforts include, at a minimum, maintenance of the websites [www.futurepathtrading.com](http://www.futurepathtrading.com) and [www.photontrader.com](http://www.photontrader.com) and distribution of manuals, release notes and tutorials.

38. Defendant's products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

39. Defendant's actions constitute active inducement of and contributory infringement of the '411 patent in violation of 35 U.S.C. §271(b) and (c).

40. Defendant's infringement of the '411 patent causes irreparable harm to Plaintiff Trading Technologies and will continue to do so unless enjoined.

### **RELIEF REQUESTED**

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

(A) Judgment that Defendant FuturePath has been and is infringing one or more of the claims of the '999, '056, '416, and 411 patents pursuant to 35 U.S.C. §§ 271(a), (b) and (c);

(B) A preliminary and permanent injunction enjoining Defendant FuturePath and its officers, agents, servants, employees, attorneys, related business entities and those in active concert or participation with them from infringing the '999, '056, '416, and '411 patents;

(C) An award of damages incurred by Plaintiff Trading Technologies as a result of Defendant FuturePath's infringement of the '999, '056, '416, and '411 patents;

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

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

### **JURY DEMAND**

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

Respectfully submitted,

Date: March 9, 2010

By: s/ Jennifer M. Kurcz  
Leif R. Sigmond, Jr. (ID No. 6204980)  
(sigmond@mbhb.com)  
Matthew J. Sampson (ID No. 6207606)  
(sampson@mbhb.com)  
Michael D. Gannon (ID No. 6206940)  
(gannon@mbhb.com)  
S. Richard Carden (ID No. 6269504)  
(carden@mbhb.com)  
Jennifer M. Kurcz (ID No. 6279893)  
(kurcz@mbhb.com)  
Kirsten L. Thomson (ID No. 6293943)  
(thomson@mbhb.com)  
**McDonnell Boehnen Hulbert & Berghoff LLP**  
300 South Wacker Drive  
Chicago, Illinois 60606  
Tel.: (312) 913-0001  
Fax: (312) 913-0002

Steven F. Borsand (ID No. 6206597)  
(Steve.Borsand@tradingtechnologies.com)  
**Trading Technologies International, Inc.**  
222 South Riverside  
Suite 1100  
Chicago, IL 60606  
Tel: (312) 476-1000  
Fax: (312) 476-1182

**Attorneys for Plaintiff,  
TRADING TECHNOLOGIES  
INTERNATIONAL, INC.**