

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

Trading Technologies International, Inc.,

Plaintiff,

V.

SunGard Financial Systems (France) SAS  
(f/k/a GL Trade SA), GL Trade Americas, Inc.,  
SunGard Data Systems, Inc., and SunGard  
Investment Ventures LLC

Defendants.

Civil Action No. 05-CV-4120

Judge Edmond E. Chang

Magistrate Sidney I Schenkier

**Consolidated With**

Trading Technologies International, Inc.,

Plaintiff,

V.

FuturePath Trading, LLC,

Defendant.

Civil Action No. 05-CV-5164

Judge Edmond E. Chang

Magistrate Sidney I Schenkier

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

Plaintiff Trading Technologies International, Inc. ("Trading Technologies"), for its complaint against Defendants SunGard Financial Systems (France) SAS (formerly known as GL Trade SA), GL Trade Americas, Inc. ("GL Trade"), SunGard Data Systems, Inc., and SunGard Investment Ventures LLC (collectively "SunGard") 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 SunGard Financial Systems (France) SAS (formerly known as GL Trade SA) is a French Corporation with a principal place of business at 42 Rue Notre Dame des Victoires, Paris 75002 France.

3. Defendant GL Trade is a New York Corporation with its principal place of business at 261 Madison Avenue, New York, NY 10016.

4. Defendant GL Trade has a regional office at 440 South LaSalle Street, Suite 2202, Chicago, IL 60605.

5. Defendant SunGard Data Systems, Inc. is a privately-held Delaware corporation with corporate offices at 680 East Swedesford Road, Wayne, Pennsylvania 19087.

6. Defendant SunGard has an additional office, among others, at One South Wacker Drive, Chicago, Illinois 60606.

7. Defendant SunGard Investment Ventures LLC is a Delaware corporation and a wholly-owned subsidiary of SunGard Data Systems, Inc with corporate offices at 1105 North Market Street, Wilmington, DE 19801.

8. On November 26, 2008, SunGard Investment Ventures LLC acquired a 99.23% share of the share capital and voting rights in defendant GL Trade SA.

#### **JURISDICTION AND VENUE**

9. 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).

10. Defendants regularly conduct business in this district. Defendants have offices located in this district wherein they regularly do business within this state. Defendants use, offer

for sale and sell trading software that provides access to exchanges in this district, including the Chicago Board of Trade ("CBOT") and the Chicago Mercantile Exchange ("CME"). This Court has jurisdiction generally over Defendants. *See, e.g.*, Exhibit A.

11. Defendants have committed and continue to commit acts of patent infringement in this district. Therefore, this Court has specific jurisdiction over Defendants.

12. Defendants reside in this district, because Defendants are subject to personal jurisdiction in this district. Therefore, this District is a proper venue pursuant to 28 U.S.C. §§ 1391(b) and 1400(b).

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

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

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

15. Plaintiff Trading Technologies is in compliance with any applicable marking and notice provisions of 35 U.S.C. § 287.

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

17. Defendants have infringed and continue to infringe the '304 patent by making, using, selling and/or offering for sale products and methods, including at a minimum the GL Win software and the QuickTrade window, covered by claims of the '304 patent without Plaintiff Trading Technologies' authorization in violation of 35 U.S.C. § 271(a).

18. Defendants have in the past and continue to actively and knowingly aid and abet direct infringement by promoting, advertising, and instructing customers and potential customers

about the GL Win software and the QuickTrade window, and uses of the product. Defendants' promotion, advertising, and instruction efforts include, at a minimum, maintenance of the websites [www.sungard.com/financialsystems](http://www.sungard.com/financialsystems) and [www.sungard.com/GlobalTrading](http://www.sungard.com/GlobalTrading) and distribution of brochures, manuals and/or tutorials. *See, e.g.*, Ex. A. Defendants engaged in these acts with the actual intent to cause the acts which they knew or should have known would induce actual infringements.

19. Defendants had actual knowledge of the '304 patent at least by October 7, 2005, when TT effected service of the originally filed complaint in this case. (Dkt. Nos. 15-17, 28.)

20. On June 20, 2007, the court in the related *TT v. eSpeed* action entered summary judgment of non-infringement for certain products. (04-cv-5312, Dkt. 708.) Instead of redesigning the GL Win software and the QuickTrade window to avoid infringement pursuant to the summary judgment ruling, Defendants continued to make, use, sell, and/or offer for sale infringing products and methods.

21. On October 10, 2007, the jury in the *TT v. eSpeed* action returned a verdict upholding the validity of the asserted claims of the '304 patent. (04-cv-5312, Dkt. 1061.) Instead of redesigning the GL Win software and the QuickTrade window, Defendants continued to make, use, sell, and/or offer for sale infringing products and methods.

22. On May 6, 2008, the court in the *TT v. eSpeed* action entered judgment as a matter of law that the '304 patent is not unenforceable due to inequitable conduct. (04-cv-5312, Dkt. 1215.) Instead of redesigning the GL Win software and the QuickTrade window, Defendants continued to make, use, sell, and/or offer for sale infringing products and methods.

23. On March 31, 2009, the United States Patent & Trademark Office issued a reexamination certificate confirming the patentability of the claims of the '304 patent. *See* Exhibit

B. Instead of redesigning the GL Win software and the QuickTrade window, Defendants continued to make, use, sell, and/or offer for sale infringing products and methods.

24. On February 25, 2010, the Federal Circuit affirmed the *TT v. eSpeed* court's opinion on non-infringement, validity, and enforceability. (04-cv-5312, Dkt. 1315.) Instead of redesigning the GL Win software and the QuickTrade window to avoid infringement pursuant to the Federal Circuit opinion, Defendants continued to make, use, sell, and/or offer for sale infringing products and methods.

25. Defendants knew or should have known that the GL Win software and the QuickTrade window are especially made or especially adapted for use in an infringement of the '304 patent and that there is no substantially non-infringing use of the GL Win software and the QuickTrade window.

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

27. Defendants' infringement of the '304 patent is willful and deliberate.

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

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

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

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

31. Plaintiff Trading Technologies is in compliance with any applicable marking and notice provisions of 35 U.S.C. § 287.

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

33. Defendants have infringed and continue to infringe the '132 patent by making, using, selling and/or offering for sale products and methods, including at a minimum the GL Win software and the QuickTrade window, covered by claims of the '132 patent without Plaintiff Trading Technologies' authorization in violation of 35 U.S.C. § 271(a).

34. Defendants have in the past and continue to actively and knowingly aid and abet direct infringement by promoting, advertising, and instructing customers and potential customers about the GL Win software and the QuickTrade window, and uses of the product. Defendants' promotion, advertising, and instruction efforts include, at a minimum, maintenance of the websites [www.sungard.com/financialsystems](http://www.sungard.com/financialsystems) and [www.sungard.com/GlobalTrading](http://www.sungard.com/GlobalTrading) and distribution of brochures, manuals and/or tutorials. *See, e.g.*, Ex. A. Defendants engaged in these acts with the actual intent to cause the acts which they knew or should have known would induce actual infringements.

35. Defendants had actual knowledge of the '132 patent at least by October 7, 2005, when TT effected service of the originally filed complaint in this case. (Dkt. Nos. 15-17, 28.)

36. On June 20, 2007, the court in the related *TT v. eSpeed* action entered summary judgment of non-infringement for certain products. (04-cv-5312, Dkt. 708.) Instead of redesigning the GL Win software and the QuickTrade window to avoid infringement pursuant to the summary judgment ruling, Defendants continued to make, use, sell, and/or offer for sale infringing products and methods.

37. On October 10, 2007, the jury in the *TT v. eSpeed* action returned a verdict upholding the validity of the asserted claims of the '132 patent. (04-cv-5312, Dkt. 1061.) Instead

of redesigning the GL Win software and the QuickTrade window, Defendants continued to make, use, sell, and/or offer for sale infringing products and methods.

38. On May 6, 2008, the court in the *TT v. eSpeed* action entered judgment as a matter of law that the '132 patent is not unenforceable due to inequitable conduct. (04-cv-5312, Dkt. 1215.) Instead of redesigning the GL Win software and the QuickTrade window, Defendants continued to make, use, sell, and/or offer for sale infringing products and methods.

39. On March 31, 2009, the United States Patent & Trademark Office issued a reexamination certificate confirming the patentability of the claims of the '132 patent. *See* Exhibit C. Instead of redesigning the GL Win software and the QuickTrade window, Defendants continued to make, use, sell, and/or offer for sale infringing products and methods.

40. On February 25, 2010, the Federal Circuit affirmed the *TT v. eSpeed* court's opinion on non-infringement, validity, and enforceability. (04-cv-5312, Dkt. 1315.) Instead of redesigning the GL Win software and the QuickTrade window to avoid infringement pursuant to the Federal Circuit opinion, Defendants continued to make, use, sell, and/or offer for sale infringing products and methods.

41. Defendants knew or should have known that the GL Win software and the QuickTrade window are especially made or especially adapted for use in an infringement of the '132 patent and that there is no substantially non-infringing use of the GL Win software and the QuickTrade window.

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

43. Defendants' infringement of the '132 patent is willful and deliberate.

44. Defendants' infringement of the '132 patent has caused irreparable harm to

Plaintiff Trading Technologies and will continue to do so unless enjoined.

**RELIEF REQUESTED**

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

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

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

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

(D) An award trebling the damages pursuant to 35 U.S.C. § 284 as a result of Defendants' willful infringement of the '304 and '132 patents;

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

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

**JURY DEMAND**

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

Respectfully submitted,

Date: February 15, 2011

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**Attorneys for Plaintiff,**

**TRADING TECHNOLOGIES**

**INTERNATIONAL, INC.**

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing SECOND AMENDED COMPLAINT was served on February 15, 2011 as follows:

***Via Filing Via this Court's CM-ECF System, which caused a copy to be served on all registered users and Via E-mail:***

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