

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

Trading Technologies International, Inc.,)	
)	
Plaintiff,)	Civil Action No. 04-C-5312
)	
v.)	Judge: James B. Moran
)	
eSpeed, Inc., eSpeed International Ltd.,)	Magistrate: Sidney I. Schenkier
Ecco LLC, and EccoWare Ltd.,)	
)	
Defendants.)	
)	

SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT AND JURY DEMAND

Plaintiff Trading Technologies International, Inc. (“Trading Technologies”), for its complaint against Defendants eSpeed, Inc. (“eSpeed”), eSpeed International Ltd. (“eSpeed International”), Ecco LLC (“Ecco”), and EccoWare Ltd. (“EccoWare”) (collectively “Defendants”) 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 eSpeed is a Delaware Corporation with its corporate headquarters at 135 East 59th Street, New York, New York, 10022.
3. Defendant eSpeed has an office at 141 West Jackson Blvd., Suite 1210A, Chicago, Illinois 60604.

4. Defendant eSpeed International is a foreign company registered in the United Kingdom. Upon information and belief, eSpeed International is a wholly-owned subsidiary of Defendant eSpeed.

5. Defendant eSpeed International has offices at One America Square, London EC3N 2LS, United Kingdom.

6. Defendant Ecco is an Illinois limited liability corporation. Upon information and belief, Ecco is a wholly-owned subsidiary of Defendant eSpeed.

7. Defendant Ecco has offices at 141 West Jackson Blvd., Suite 1210A, Chicago, Illinois 60604.

8. Upon information and belief, Defendant EccoWare is a company registered in the United Kingdom and is a wholly-owned subsidiary of Defendant eSpeed.

9. Defendant EccoWare has offices at One America Square, London EC3N 2LS, United Kingdom.

JURISDICTION AND VENUE

10. 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).

11. Defendant eSpeed regularly conducts business in this district and has an office located in this district. Defendant eSpeed's trading software provides access to exchanges in this district, including the Chicago Board of Trade ("CBOT"). Defendant eSpeed actively markets, demonstrates, licenses and sells its trading software in this district. Therefore, this Court has jurisdiction generally over Defendant eSpeed.

12. Defendant eSpeed has committed and continues to commit acts of patent infringement in this district. Therefore, this Court has specific jurisdiction over Defendant eSpeed.

13. Defendant eSpeed International regularly conducts business in this district. Defendant eSpeed International's trading software provides access to exchanges in this district, including the Chicago Board of Trade ("CBOT"). Defendant eSpeed International actively markets, demonstrates, licenses and sells its trading software in this district. Therefore, this Court has jurisdiction generally over Defendant eSpeed International.

14. Defendant eSpeed International has committed and continues to commit acts of patent infringement in this district. Therefore, this Court has specific jurisdiction over Defendant eSpeed International.

15. Defendant Ecco regularly conducts business in this district and has an office located in this district.

16. Defendant Ecco's trading software provides access to exchanges in this district, including the Chicago Board of Trade ("CBOT"). Defendant Ecco actively markets, demonstrates, licenses and sells its trading software in this district. Therefore, this Court has jurisdiction generally over Defendant Ecco.

17. Defendant eSpeed purchased Defendant Ecco on or about October 20, 2004 through its acquisition of ITSEcco Holdings Limited. Exhibit C. Defendant eSpeed continues to operate Ecco in this district separately a wholly-owned subsidiary of eSpeed.

18. Defendant EccoWare regularly conducts business in this district. Defendant EccoWare's trading software provides access to exchanges in this district, including the Chicago Board of Trade ("CBOT"). Defendant EccoWare actively markets, demonstrates, licenses and sells

its trading software in this district. Therefore, this Court has jurisdiction generally over Defendant EccoWare.

19. Defendant EccoWare has committed and continues to commit acts of patent infringement in this district. Therefore, this Court has specific jurisdiction over Defendant EccoWare.

20. Defendants each reside in this district, because they are each 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**

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

22. 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 A.

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

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

25. Defendants eSpeed and eSpeed International, have infringed and continue to infringe the ‘304 patent by making, using, selling and/or offering for sale products covered by claims of the ‘304 patent without Plaintiff Trading Technologies’ authorization in violation of 35 U.S.C. § 271(a), including for example Defendant eSpeed’s futures trading products.

26. Defendants Ecco and EccoWare have infringed and continue to infringe the '304 patent by making, using, selling and/or offering for sale products covered by claims of the '304 patent, including at least EccoPro and EccoSpreader, without Plaintiff Trading Technologies' authorization in violation of 35 U.S.C. § 271(a).

27. Defendants have and continue to promote, advertise and instruct customers and potential customers about its products and how to use its products, including infringing uses.

28. Defendants' actions have 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).

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

30. 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**

31. Plaintiff Trading Technologies incorporates paragraphs 1-30 as if set forth in full.

32. 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 B.

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

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

35. Defendants eSpeed and eSpeed International have infringed and continue to infringe the '132 patent by making, using, selling and/or offering for sale products covered by claims of the

'132 patent without Plaintiff Trading Technologies' authorization in violation of 35 U.S.C. § 271(a), including for example Defendant eSpeed's futures trading products.

36. Defendants Ecco and EccoWare have infringed and continue to infringe the '132 patent by making, using, selling and/or offering for sale products covered by claims of the '132 patent, including at least EccoPro and EccoSpreader, without Plaintiff Trading Technologies' authorization in violation of 35 U.S.C. § 271(a).

37. Defendants have and continue to promote, advertise and instruct customers and potential customers about its products and how to use its products, including infringing uses.

38. Defendants' actions have 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).

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

40. 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: December 22, 2005

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**Attorneys for Plaintiff,
TRADING TECHNOLOGIES
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT AND JURY DEMAND was served on Defendants, via facsimile and First Class U.S. Mail, on December 22, 2005 to the following address:

Raymond C. Perkins
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25 W. Wacker Drive
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Fax: (312) 558-5700

s/ Jennifer M. Kurcz