

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MARKETS-ALERT PTY. LTD.,

Plaintiff,

v.

THE CHARLES SCHWAB
CORPORATION,
CHARLES SCHWAB & CO., INC.,
LIGHTSPEED FINANCIAL, INC.,
LIGHTSPEED TRADING, LLC,
OPTIONSXPRESS HOLDINGS INC.,
OPTIONSXPRESS, INC.,
RECOGNIA (U.S.) INC.,
RECOGNIA, INC.,
SCHWAB HOLDINGS, INC.,
TRADEKING GROUP, INC.,
TRADEKING HOLDINGS, LLC, and
TRADEKING, LLC,

Defendants.

Civil Action No.: _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Markets-Alert Pty. Ltd. (“Markets-Alert” or “Plaintiff”) hereby alleges patent infringement against Defendants The Charles Schwab Corporation (“Schwab Corp”), Schwab Holdings, Inc. (“Schwab Holdings”), and Charles Schwab & Co., Inc. (“Schwab & Co”) (individually and collectively, “Schwab”), LightSpeed Financial, Inc. (“LightSpeed Financial”) and LightSpeed Trading, LLC (“LightSpeed Trading”) (individually and collectively, “LightSpeed”), OptionsXpress Holdings Inc. (“OXH”) and OptionsXpress, Inc. (“OXI”) (individually and collectively, “OptionsXpress”), Recognia, Inc. (“Recognia Inc”) and Recognia (U.S.) Inc. (“Recognia US”) (individually and collectively, “Recognia”), and Tradeking Group, Inc. (“Tradeking Group”), Tradeking Holdings, LLC (“Tradeking Holdings”), and Tradeking,

LLC (“Tradeking LLC”) (individually and collectively, “Tradeking”), on personal knowledge and information and belief, as follows:

THE PARTIES

1. Plaintiff is an Australian corporation with a principal location at 7-9 Cross Street, Bankstown NSW 2200, Australia.
2. On information and belief, Defendant Schwab Corp is a Delaware corporation with a principal place of business at 211 Main Street, San Francisco, California 94105.
3. On information and belief, Defendant Schwab Holdings is a Delaware corporation with a principal place of business at 101 Montgomery Street # 2350, San Francisco, California 94104, and is a subsidiary of Schwab Corp.
4. On information and belief, Defendant Schwab & Co is a California corporation with a principal place of business at 101 Montgomery Street # 2350, San Francisco, California 94104, and is a subsidiary of Schwab Holdings and/or Schwab Corp.
5. On information and belief, Defendant LightSpeed Financial, is a Delaware corporation with a principal place of business at 148 Madison Avenue, Floor 9, New York, New York 10016.
6. On information and belief, Defendant LightSpeed Trading, is a New York limited liability company with a principal place of business at 148 Madison Avenue, Floor 9, New York, New York 10016 and is a subsidiary of LightSpeed Financial.
7. On information and belief, Defendant OXH is Delaware corporation with a principal place of business at 311 W. Monroe Street, Suite 1000, Chicago, Illinois 60606, and is a subsidiary of Schwab Corp, Schwab Holdings, and/or Schwab & Co.
8. On information and belief, Defendant OXI is Delaware corporation with a principal place of business at 311 W. Monroe Street, Suite 1000, Chicago, Illinois 60606, and is a subsidiary of OXH.
9. On information and belief, Defendant Recognia Inc is a Canadian corporation

with a principal place of business at 200-301 Moodie Drive, Ottawa, ON, Canada K2H 9C4.

10. On information and belief, Defendant Recognia US is a Delaware corporation with a principal place of business at 44 Wall Street, 12th Floor, New York, New York 10005, and is a subsidiary of Recognia Inc.

11. On information and belief, Defendant Tradeking Group is a Delaware corporation with principal place of business at 13024 Ballantyne Corporate Place, Suite 500, Charlotte, NC 28277.

12. On information and belief, Defendant Tradeking LLC is a Delaware limited liability company with principal place of business at 13024 Ballantyne Corporate Place, Suite 500, Charlotte, NC 28277, and is a subsidiary of Tradeking Group.

13. On information and belief, Defendant Tradeking Holdings, is a Delaware limited liability company with principal place of business at 13024 Ballantyne Corporate Place, Suite 500, Charlotte, NC 28277, and is affiliated with Tradeking Group.

JURISDICTION AND VENUE

14. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

15. Personal jurisdiction and venue are proper in this district under 28 U.S.C. §§ 1391(b)-(c), and 1400(b). On information and belief, each Defendant has a regular and established place of business in this district or state, has transacted business in this district or state, and/or has committed, contributed to, and/or induced acts of patent infringement in this district or state.

16. On information and belief, each Defendant is subject to this Court's specific and general personal jurisdiction consistent with the principles of due process and/or the Long Arm Statute, due at least to its substantial business in this forum directly related to the allegations set forth herein, including: (i) a portion of the infringement alleged herein, including making, using,

selling, offering to sell, and/or importing products, methods and/or systems that infringe the patent-in-suit; (ii) the presence of established distribution and/or marketing channels; and (iii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals and entities in this state and judicial district.

COUNT I INFRINGEMENT

17. Plaintiff is the exclusive owner of all rights to United States Patent No. 7,941,357, entitled “Trading System” (“‘357 Patent”), including but not limited to the right to sue for damages. The United States Patent and Trademark Office duly issued the ‘357 Patent on May 10, 2011, which has a priority date of at least October 27, 2000. A true and correct copy of the ‘357 Patent is attached to this Complaint as Exhibit A.

18. On information and belief, each of Defendants Recognia Inc and Recognia US has been and now is infringing, inducing others to infringe, and/or contributorily infringing, literally, under the doctrine of equivalents, and/or jointly, one or more claims of the ‘357 Patent in this state, in this judicial district, and elsewhere in the United States by, among other things, making, using, selling, offering to sell, and/or importing systems and methods that implement, utilize or otherwise embody the patented invention, including by way of example certain real-time stock trading platform products and services, such as its “Technical Insight,” “Technical Event Viewer,” “Intraday Trader,” “Strategy Builder,” “Value Analyzer,” “Alertwire,” and “Stock Chart Patterns,” which are described at least in part online at <http://www.recognia.com/products>. Therefore, each of Defendants Recognia Inc and Recognia US is liable for infringement of the ‘357 Patent.

19. On information and belief, each of Defendants Schwab Corp, Schwab Holdings and Schwab & Co has been and now is infringing, inducing others to infringe, and/or contributorily infringing, literally, under the doctrine of equivalents, and/or jointly, one or more claims of the ‘357 Patent in this state, in this judicial district, and elsewhere in the United States

by, among other things, making, using, selling, offering to sell, and/or importing systems and methods that implement, utilize or otherwise embody the patented invention, including by way of example certain real-time stock trading platform products and services, such as its “StreetSmart Edge,” other Web Trading and Mobile Trading Tools, and Defendant Recognia’s “Technical Insight,” “Technical Event Viewer,” “Intraday Trader,” “Strategy Builder,” “Value Analyzer,” “Alertwire,” and “Stock Chart Patterns,” which are described at least in part online at <http://activetrader.schwab.com/trading-tools/software-trading/overview.aspx>, <http://www.recognia.com/products>, and <http://activetrader.schwab.com/trading-tools/software-trading/overview.aspx#>. Therefore, each of Defendants Schwab Corp, Schwab Holdings and Schwab & Co is liable for infringement of the ‘357 Patent.

20. On information and belief, each of Defendants LightSpeed Financial and LightSpeed Trading has been and now is infringing, inducing others to infringe, and/or contributorily infringing, literally, under the doctrine of equivalents, and/or jointly, one or more claims of the ‘357 Patent in this state, in this judicial district, and elsewhere in the United States by, among other things, making, using, selling, offering to sell, and/or importing systems and methods that implement, utilize or otherwise embody the patented invention, including by way of example certain real-time stock trading platform products and services, such as its “LightSpeed Trader Active Trading Platform,” “Stock Scanning,” and “Technical Analysis,” and Defendant Recognia’s “Technical Insight,” “Technical Event Viewer,” “Intraday Trader,” “Strategy Builder,” “Value Analyzer,” “Alertwire,” and “Stock Chart Patterns,” which are described at least in part online at http://www.lightspeed.com/?page_id=5005, http://www.lightspeed.com/?page_id=5101, http://www.lightspeed.com/?page_id=5109, http://www.lightspeed.com/?page_id=10665, and <http://www.recognia.com/products>. Therefore, each of Defendants LightSpeed Financial and LightSpeed Trading is liable for infringement of the ‘357 Patent.

21. On information and belief, each of Defendants OXI and OXH has been and now

is infringing, inducing others to infringe, and/or contributorily infringing, literally, under the doctrine of equivalents, and/or jointly, one or more claims of the '357 Patent in this state, in this judicial district, and elsewhere in the United States by, among other things, making, using, selling, offering to sell, and/or importing systems and methods that implement, utilize or otherwise embody the patented invention, including by way of example certain real-time stock trading platform products and services, such as its "The Screener," "Strategy Scan," "Xtend," and "OX Mobile," and Defendant Recognia's "Technical Insight," "Technical Event Viewer," "Intraday Trader," "Strategy Builder," "Value Analyzer," "Alertwire," and "Stock Chart Patterns," which are described at least in part online at http://www.optionsxpress.com/tools_research/powerful_tools.aspx?said=TopNav_ToolsResearch_Top4, <http://www.recognia.com/products>, and <http://www.recognia.com/vendor/optionsxpress>. Therefore, each of Defendants OXI and OXH is liable for infringement of the '357 Patent.

22. On information and belief, each of Defendants Tradeking Group, Tradeking Holdings, and Tradeking LLC has been and now is infringing, inducing others to infringe, and/or contributorily infringing, literally, under the doctrine of equivalents, and/or jointly, one or more claims of the '357 Patent in this state, in this judicial district, and elsewhere in the United States by, among other things, making, using, selling, offering to sell, and/or importing systems and methods that implement, utilize or otherwise embody the patented invention, including by way of example certain real-time stock trading platform products and services, such as its "Options and Strategy Scanners," "Stock, ETF + Mutual Fund Screeners," "Technical Analysis" tools, and "Tradeking Live," and Defendant Recognia's "Technical Insight," "Technical Event Viewer," "Intraday Trader," "Strategy Builder," "Value Analyzer," "Alertwire," and "Stock Chart Patterns," which are described at least in part online at <https://www.tradeking.com/trading/tools>, <https://www.tradeking.com/labs/live>, <http://www.recognia.com/products>, and <https://www.tradeking.com/trading/research/technical-analysis>. Therefore, each of Defendants Tradeking Group, Tradeking Holdings, and Tradeking LLC is liable for infringement of the '357 Patent.

23. On information and belief, each of Defendants Schwab, OptionsXpress, Tradeking, and LightSpeed use, implement or otherwise incorporate one or more real-time technical analysis tools and/or stock trading platform products and services provided by or through Defendant Recognia in its respective trading platform products and services, such that Plaintiff's right to relief against Defendants is joint, several, or in the alternative with respect to or arises out of the same transaction, occurrence, or series of transactions or occurrences, and gives rise to common questions of law or fact.

24. Plaintiff has been and is irreparably harmed by each Defendant's infringement of the '357 Patent. Plaintiff has incurred and will continue to incur substantial damages, including monetary damages, unless each Defendant is enjoined from further acts of infringement.

25. By notice of this complaint, at least, each Defendant has been aware, since the filing date or before, that the accused instrumentalities are not staple articles or commodities of commerce suitable for substantial non-infringing use and are especially made and/or adapted for use in infringing the '357 Patent, and each Defendant's ongoing infringement is willful and deliberate.

26. To the extent that facts uncovered in discovery show that a Defendant's past infringement has been willful, Plaintiff reserves the right to seek enhanced damages and attorney fees for such past infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

(a) enter judgment in favor of Plaintiff that each Defendant has infringed, and continues to infringe, the '357 Patent;

(b) enjoin each Defendant, its officers, subsidiaries, agents, servants, employees, and all persons in active concert with any of them, from any further infringement of the '357 Patent;

(c) award Plaintiff all monetary relief available under the patent laws of the United States, including but not limited to actual damages, pre- and post- judgment interest, enhanced

damages, and costs pursuant to 35 U.S.C. § 284;

(d) declare this case exceptional and award Plaintiff its reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and

(e) grant Plaintiff such other relief as the Court deems just and equitable.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Date: June 20, 2012

Respectfully submitted,

/s/ Pilar G. Kraman

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