

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 IBG LLC is a Delaware Corporation with a principal place of business at One Pickwick Plaza, Greenwich, Connecticut 06830 USA.

3. Defendant Interactive Brokers LLC is a Connecticut Corporation with a principal place of business at One Pickwick Plaza, Greenwich, Connecticut 06830 USA.

4. Defendants IBG have a corporate headquarters at One Pickwick Plaza, Greenwich, Connecticut 06830 USA.

5. IBG Holdings LLC has a ninety percent voting interest in Interactive Brokers Group, Inc. *See* Exhibit A. Interactive Brokers Group, Inc. has a ten percent economic interest in IBG LLC. *See id.* In turn, IBG LLC is a direct holding company for Interactive Brokers LLC. *Id.*

JURISDICTION AND VENUE

6. 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).

7. Defendants IBG regularly conduct business in this district. Defendants' trading software, including at a minimum the Trader Workstation product, including specifically the BookTrader module ("the IB software"), that provides access to exchanges in this district, including the Chicago Board of Trade ("CBOT"), the Chicago Mercantile Exchange ("CME"), the Chicago Board Options Exchange ("CBOE"), and OneChicago The Single Stock Futures Exchange. Therefore, this Court has general jurisdiction over Defendants IBG.

8. Defendants IBG have committed and continue to commit acts of patent infringement in this district through the manufacturing, sale, offer for sale, and/or use of the IB software, *see, e.g.*, Exhibit B (excerpts from Trader WorkStation manual). Therefore, this Court has specific jurisdiction over Defendants IBG.

9. Defendants IBG maintain an office in this district at 209 South LaSalle Street, 10th Floor, Chicago, Illinois 60604, 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. 6,766,304**

10. Plaintiff Trading Technologies incorporates paragraphs 1-9 as if set forth in full.

11. 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 was duly and legally issued on July 20, 2004. A true and correct copy of the '304 patent is attached as Exhibit C.

12. Plaintiff Trading Technologies is in compliance with any applicable marking and notice provisions of 35 U.S.C. § 287, with respect to the '304 patent.

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

14. Defendants have created and have used, or actively induced others to use, a system for electronic trading, including at a minimum the Trader Workstation Product, including specifically the BookTrader module. The system, according to instructions and tutorials on the Defendants’ websites, allows users to electronically trade using front-end trading software upon installation of the software.

15. Defendants have infringed and continue to infringe one or more claims of the '304 patent by making, using, selling and/or offering for sale products, including at a minimum the Trader

Workstation Product, including specifically the BookTrader module, covered by claims of the '304 patent without Plaintiff Trading Technologies' authorization in violation of 35 U.S.C. § 271. Infringement is direct, as well as contributory, and by actively inducing infringement by others.

16. Defendants have in the past and continue to promote, advertise and instruct customers and potential customers about the IB software and uses of the product, including infringing uses of Trader Workstation Product, including specifically the BookTrader module. *See, e.g.*, Exs. A, B. Defendants' promotion, advertising, and instruction efforts include, at a minimum, maintenance of the websites www.interactivebrokers.com and distribution of manuals, release notes and video tutorials. *See, e.g.*, Exs. A, B. Defendants engaged in these acts with the intent to cause the acts which they knew or should have known would induce actual infringements.

17. On information and belief, Defendants had actual and constructive notice of the existence of the '304 patent.

18. Defendants had at least constructive notice of the '304 patent as of August, 2004, when TT added the '304 patent to the list of markings that appear on the opening screen of TT's X_Trader product. Ex. D.

19. At a minimum, regardless of the foregoing, Defendants had actual knowledge of the '304 patent through the filing of the current lawsuit on February 3, 2010. Since that time, Defendants have continued to make, use, sell and/or offer for sale products, including at a minimum the IB software and its BookTrader module with knowledge of the '304 patent. In addition, Defendants have continued to promote, advertise and instruct customers and potential customers about its IB software and uses of the product, including infringing uses of the BookTrader module with knowledge of the '304 patent. *See, e.g.* Exs. A, B.

20. In addition, Defendants had knowledge of the '304 patent since at least about August 2010 when TT provided them with a licensing term sheet that specifically disclosed and offered for license the '304 patent.

21. In addition, Defendants had or should have had knowledge of the '304 patent based on settlements and consent judgments entered in related cases, specifically *Trading Technologies Int'l, Inc. v. Cunningham Trading Systems, LLC*, Civil Case No. 10-C-726 and *Trading Technologies Int'l, Inc. v. TradeHelm, Inc.*, Civil Case No. 10-C-931. These cases were the subject of consolidation with this case, and many of the defendants fought consolidation or reassignment based on the different patents asserted in the different cases.

22. In addition, Defendants had knowledge of the '304 patent based on meetings regarding settlement held between representatives of TT and Defendants shortly after the suits were originally filed in February 2010 at which TT discussed licenses of its portfolio.

23. In addition, Defendants have had actual notice of the '304 patent since 2004 due to the substantial press attention in the industry given to the cases TT filed against eSpeed and Ecco, and subsequent cases filed in 2005 against GL/SunGard, CQG, RCG and FuturePath, as well as settlements in approximately 17 additional cases, including cases against industry giants REFCO and Man Financial.

24. Defendants knew or should have known that Trader Workstation Product, including specifically the BookTrader module is especially made or especially adapted for use in an infringement of the '304 patent and that there is no substantially noninfringing use of the Trader Workstation Product, including specifically the BookTrader module.

25. Defendants' products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

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