

Devon Zastrow Newman (State Bar # 36462)  
Johnathan E. Mansfield (State Bar # 27779)  
SCHWABE, WILLIAMSON & WYATT  
1211 SW 5<sup>TH</sup> Avenue, Suite 1900  
Portland, OR 97204  
Phone: (503) 222-9981  
Fax: (503) 796-2900  
Email: dnewman@schwabe.com  
Email: jmansfield@schwabe.com

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

BROADBAND GRAPHICS, LLC, a  
Washington limited liability company,

Plaintiff,

v.

FXCM HOLDINGS, L.L.C., a  
Delaware limited liability company and  
FOREX CAPITAL MARKETS,  
L.L.C., a Delaware limited liability  
company,

Defendants.

Case No. \_\_\_\_\_

COMPLAINT  
FOR PATENT INFRINGEMENT

DEMAND FOR JURY TRIAL

Plaintiff, Broadband Graphics Holding, LLC (“Broadband Graphics”) alleges as follows:

**I. NATURE OF LAWSUIT**

1. This is a patent infringement lawsuit brought under the patent laws of the United States, 35 U.S.C. §§ 271, 281, 283-285.

**II. THE PARTIES**

2. Broadband Graphics is a Washington limited liability company with its principal place of business in Spokane, Washington.

3. Upon information and belief, Defendants FXCM Holdings, LLC, and Forex Capital Markets, LLC (hereinafter “FXCM”) are Delaware limited

COMPLAINT FOR PATENT INFRINGEMENT - 1

SCHWABE, WILLIAMSON & WYATT, P.C.  
Attorneys at Law  
PacWest Center  
1211 SW 5<sup>TH</sup> Ave., Suite 1900  
Portland, OR 97204  
Telephone 503.222.9981 Fax 503.796.2900

liability companies with their principal business address at Financial Square 32 Old Slip, 10<sup>th</sup> Floor, New York, NY 10005.

### III. JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.

5. This Court has personal jurisdiction over FXCM because FXCM maintains a website at www.fxcm.com through which it conducts interactive business and through which it provides FX Trading Station software in multiple versions, and other products and related services. The website maintained by FXCM is accessed by users of the Trading Station software who use it in this district, and FXCM's sale, offer for sale and use of FXCM's Trading Station software has caused damage to Broadband Graphics in this district.

6. Venue is proper in this Court under 28 U.S.C. §§ 1391(b), 1391(c), and/or 1400(b).

### IV. BACKGROUND

7. Broadband Graphics is the owner of the entire right, title and interest in U.S. Patent No. 7,313,765 ("the '765 Patent"), entitled "Cell Based EUI Methods & Apparatuses," issued December 25, 2007 (attached as "Exhibit A"). All maintenance fees have been paid.

8. The '765 patent is generally directed to automatically shifting or resizing cells nested within a host display container to adjust available space in a cell based end-user interface, known as an "EUI."

9. Broadband Graphics is the owner of all right, title and interest in U.S. Patent No. 7,539,947 ("the '947 Patent"), entitled "Display Container

1 Cell Modification in a Cell Based EUI,” issued May 26, 2009 (attached as  
2 Exhibit B). All maintenance fees have been paid.

3 10. The ‘947 patent is generally directed to automatically shifting or  
4 resizing cells nested within a host display container to adjust available space in  
5 a cell based EUI.

6 11. FXCM is engaged in the business of providing software products  
7 and services to others, including, but not limited to, products and services  
8 relating to online foreign exchange currency trading, known in the industry as  
9 “forex.”

10 12. FXCM’s FX Trading Station software includes the ability to  
11 automatically shift and/or downsize display container cells in a cell-based EUI.

12 13. FXCM transacts business and has provided to customers in this  
13 judicial district and throughout the State of Washington software products and  
14 services that embody the patented inventions of the ‘765 Patent and the  
15 ‘947 Patent. FXCM’s software products infringe and/or enable infringement  
16 of one or more claims of the ‘765 Patent and one or more claims of the  
17 ‘947 Patent.

#### 18 **V. FXCM INFRINGES THE ‘765 PATENT**

19 14. Upon information and belief, FXCM has been and is directly  
20 infringing one or more claims of the ‘765 Patent under 35 U.S.C. § 271(a) by  
21 making, using, selling and/or offering for sale its Trading Station software.

22 15. The Trading Station products infringe one or more claims of  
23 Broadband Graphics’ ‘765 Patent, and on information and belief, the use of  
24 these products by FXCM’s customers and others directly infringes one or more  
25 claims of the ‘765 Patent under 35 U.S.C. § 271(a). FXCM offers to sell  
26 and/or sells or provides for download of the Trading Station software, which is

1 a material or apparatus for use in practicing a patented process constituting a  
 2 material part of the invention of one or more claims of the '765 Patent,  
 3 knowing the same to be especially made or especially adapted for use in an  
 4 infringement of the '765 Patent, which is not a staple article or commodity of  
 5 commerce suitable for substantial noninfringing use. FXCM is thus a  
 6 contributory infringer of the '765 Patent under 35 U.S.C. § 271(c).

7 16. FXCM's infringement of the '765 Patent has injured and will  
 8 continue to injure Broadband Graphics unless and until the Court enters an  
 9 injunction enjoining further infringement of the '765 Patent.

#### 10 **VI. FXCM INFRINGES THE '947 PATENT**

11 17. Upon information and belief, FXCM has been and is directly  
 12 infringing one or more claims of the '947 Patent under 35 U.S.C. § 271(a) by  
 13 making, using, selling and/or offering for sale its Trading Station software.

14 18. The Trading Station products infringe one or more claims of  
 15 Broadband Graphics' '947 Patent, and on information and belief, the use of  
 16 these products by CMS's customers and others directly infringes one or more  
 17 claims of the '947 Patent under 35 U.S.C. § 271(a). FXCM offers to sell  
 18 and/or sells the Trading Station software, which is a material or apparatus for  
 19 use in practicing a patented process constituting a material part of the  
 20 invention of one or more claims of the '947 Patent, knowing the same to be  
 21 especially made or especially adapted for use in an infringement of the  
 22 '947 Patent, which is not a staple article or commodity of commerce suitable  
 23 for substantial noninfringing use. FXCM is thus a contributory infringer of the  
 24 '947 Patent under 35 U.S.C. § 271(c).

19. FXCM's infringement of the '947 Patent has injured and will continue to injure Broadband Graphics unless and until the Court enters an injunction enjoining further infringement of the '947 Patent.

## VII. JURY DEMAND

20. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Broadband Graphics requests a trial by jury of all issues so triable.

## VIII. PRAYER FOR RELIEF

WHEREFORE, Broadband Graphics asks this Court to enter judgment against FXCM and against its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with FXCM, granting the following relief:

A. A judgment or order declaring that FXCM has infringed the '765 Patent;

B. A judgment or order declaring that FXCM has infringed the '947 Patent;

C. A judgment, order, or award of damages adequate to compensate Broadband Graphics for FXCM's infringement of the '765 Patent, in no event less than a reasonable royalty, together with prejudgment interest from the date infringement of the '765 Patent began;

D. A judgment, order, or award of damages adequate to compensate Broadband Graphics for FXCM's infringement of the '947 Patent, in no event less than a reasonable royalty, together with prejudgment interest from the date infringement of the '947 Patent began;

E. A preliminary and/or permanent injunction prohibiting FXCM and its subsidiaries, affiliates, parents, successors, assigns, officers, employees, attorneys, agents, and all other persons acting with FXCM or on its behalf

1 from infringing the '765 Patent;

2 F. A preliminary and/or permanent injunction prohibiting FXCM  
3 and its subsidiaries, affiliates, parents, successors, assigns, officers, employees,  
4 attorneys, agents, and all other persons acting with FXCM or on its behalf  
5 from infringing the '947 Patent;

6 G. An accounting to determine information relevant to establishing  
7 the extent of FXCM's infringement and amount of Broadband Graphic's  
8 damages;

9 H. An award of costs and attorneys' fees, pursuant to 35 U.S.C.  
10 § 285 to the extent the Court finds this case to be exceptional;

11 I. An order trebling the damage award under 35 U.S.C. § 284,  
12 together with prejudgment interest; and

13 J. Such other and further relief as this Court may deem proper and  
14 just.

15  
16 Dated August 13, 2010

17 SCHWABE, WILLIAMSON &  
18 WYATT, P.C.

19 By: s/ Devon Zastrow Newman  
20 Devon Zastrow Newman WSBA #36462  
21 Johnathan E. Mansfield WSBA # 27779  
22 Attorney for Plaintiff  
23 Broadband Graphics, LLC  
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