GROUP

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Eclipse IP LLC ("Eclipse"), by counsel, complains of defendant Victoria's Secret Stores, LLC ("Victoria's Secret") as follows:

NATURE OF LAWSUIT

1. This is a suit for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code § 1 *et seq*. This Court has exclusive jurisdiction over the subject matter of the Complaint under 28 U.S.C. §§ 1331 and 1338(a).

PARTIES AND PATENTS

- 2. Eclipse is a company organized and existing under the laws of Florida and having a principal place of business address at 115 NW 17th Street, Delray Beach, Florida 33444.
- 3. Eclipse owns all right, title, and interest in and has standing to sue for infringement of United States Patent No. 7,876,239 ("the '239 patent"), entitled "Secure Notification Messaging Systems and Methods Using Authentication Indicia" (Exhibit A) and United States Patent No. 7,119,716 ("the '716 patent"), entitled "Response Systems and Methods for Notification Systems for Modifying Future Notifications" (Exhibit B) (collectively, "the Eclipse Patents").
- 4. On information and belief, Victoria's Secret is a company organized under the laws of Delaware and has its principal place of business at 3 Limited Parkway, Columbus, Ohio 43230.
- 5. On information and belief, Victoria's Secret does regular business in this judicial district and has committed acts of infringement in this judicial district.

JURISDICTION AND VENUE

6. This Court has personal jurisdiction over Victoria's Secret under Cal. Civ. Proc. Code § 410.10 because Victoria's Secret is transacting business within the State of California and this judicial district; is operating and/or supporting products or

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services that fall within one or more claims of Eclipse's patents in this judicial district; and has committed the tort of patent infringement in this judicial district.

7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(d) and 1400(b).

DEFENDANT'S ACTS OF PATENT INFRINGEMENT

- Victoria's Secret has infringed one or more claims of the '239 patent 8. through, among other activities, enabling customers to provide or select authentication information for use in connection with online orders, storing the authentication information, and providing the authentication information in notification communications to customers.
- 9. Victoria's Secret has actively induced and/or contributed to the infringement by others of one or more claims of the '239 patent through, among other activities, continuing to enable customers to provide or select authentication information for use in connection with online orders, storing the authentication information, and providing the authentication information in notification communications to customers, after having received notice of its infringement of the '239 patent.
- 10. On information and belief, Victoria's Secret's infringement of the '239 patent as set forth herein has been and is willful, deliberate and in disregard of Eclipse's patent rights, and Eclipse is therefore entitled to increased damages up to three times the amount of actual damages and attorneys' fees, pursuant to 35 U.S.C. §§ 284, 285.
- 11. Victoria's Secret has infringed one or more claims of the '716 patent through, among other activities, storing customers' email addresses in memory and providing notification communications to the customers which enable them to change the contact data.
- 12. Victoria's Secret has actively induced and/or contributed to the infringement by others of one or more claims of the '716 patent through, among other activities, storing customers' email addresses in memory and providing notification

communications to the customers which enable them to change the contact data, after having received notice of its infringement of the '716 patent.

13. On information and belief, Victoria's Secret's infringement of the '716 patent as set forth herein has been and is willful, deliberate and in disregard of Eclipse's patent rights, and Eclipse is therefore entitled to increased damages up to three times the amount of actual damages and attorneys' fees, pursuant to 35 U.S.C. §§ 284, 285.

CLAIMS FOR RELIEF

COUNT I

(Patent Infringement of U.S. Patent No. 7,876,239

Under 35 U.S.C. § 271, et seq.)

- Eclipse incorporates by reference and realleges the allegations set forth in 14. paragraphs 1 through 13 above and incorporates them by reference.
- 15. On January 25, 2011, United States Patent No. 7,876,239, entitled, "Secure Notification Messaging System and Methods Using Authentication Indicia" was duly and legally issued by the United States Patent and Trademark Office. Eclipse IP is the owner of the entire right, title and interest in and to the '239 patent. A true and correct copy of the '239 patent is attached as Exhibit B to this complaint.
- 16. Eclipse is informed and believes, and thereupon alleges, that Victoria's Secret: (1) has infringed and continues to infringe claims of the '239 patent, literally and/or under the doctrine of equivalents, and/or (2) has contributed and continues to contribute to the literal infringement and/or infringement under the doctrine of equivalents of claims of the '239 patent, and/or has actively induced and continues to actively induce others to infringe claims of the '239 patent, literally and/or under the doctrine of equivalents, in this district and elsewhere in the United States.

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COUNT II

(Patent Infringement of U.S. Patent No. 7,119,716 Under 35 U.S.C. § 271, et seq.)

- 17. Eclipse incorporates by reference and realleges the allegations set forth in paragraphs 1 through 16 above and incorporates them by reference.
- 18. On October 10, 2006, United States Patent No. 7,119,716, entitled, "Response Systems and Methods for Notification Systems for Modifying Future Notifications" was duly and legally issued by the United States Patent and Trademark Office. Eclipse IP is the owner of the entire right, title and interest in and to the '716 patent. A true and correct copy of the '716 patent is attached as Exhibit E to this complaint.
- 19. Eclipse is informed and believes, and thereupon alleges, that Victoria's Secret: (1) has infringed and continues to infringe claims of the '716 patent, literally and/or under the doctrine of equivalents, and/or (2) has contributed and continues to contribute to the literal infringement and/or infringement under the doctrine of equivalents of claims of the '716 patent, and/or has actively induced and continues to actively induce others to infringe claims of the '716 patent, literally and/or under the doctrine of equivalents, in this district and elsewhere in the United States.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Eclipse asks this Court to enter judgment against Victoria's Secret and against each of the its respective subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with it, granting the following relief:

- (a) An award of damages adequate to compensate Eclipse for the infringement that has occurred, together with prejudgment interest from the date infringement of the Eclipse Patents began;
- ||III||
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- (b) An award to Eclipse of all remedies available under 35 U.S.C. §§ 284 and 285, including enhanced damages up to and including trebling of Eclipse's damages for Victoria's Secret's willful infringement, and reasonable attorneys' fees and costs; and
- (c) Such other and further relief as this Court or a jury may deem proper and just.

JURY DEMAND

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

Respectfully submitted this 6^{th} day of June, 2013.

NEWPORT TRIAL GROUP

By: Tyler J Woods

Attorney for Plaintiff ECLIPSE IP LLC

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Dean D. Pregerson and the assigned discovery Magistrate Judge is John E. McDermott.

The case number on all documents filed with the Court should read as follows:

CV13- 4091 DDP (JEMx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related

A	all discovery related motion	s shou	ald be noticed on the calendar	of th	e Magistrate Judge
<u>-</u>	<u> </u>	· ·			
			NOTICE TO COUNSEL		
	opy of this notice must be served I, a copy of this notice must be se		e summons and complaint on all de n all plaintiffs).	fendaı	nts (if a removal action is
Sub	sequent documents must be filed	at the	following location:		
[_]	Western Division 312 N. Spring St., Rm. G-8 Los Angeles, CA 90012		Southern Division 411 West Fourth St., Rm. 1-053 Santa Ana, CA 92701-4516		Eastern Division 3470 Twelfth St., Rm. 134 Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Name & Address: NEWPORT TRIAL GROUP Tyler J. Woods, Bar No. 232464 4100 Newport Place, Suite 800 Newport Beach, Ca 92660	
UNITED STATES I CENTRAL DISTRIC	
ECLIPSE IP LLC	CASE NUMBER
PLAINTIFF(S) V.	CV 13 - 04091 DDP (JEMx)
VICTORIA'S SECRET STORES, LLC	SUMMONS
DEFENDANT(S).	
TO: DEFENDANT(S): A lawsuit has been filed against you. Within 21 days after service of this summon must serve on the plaintiff an answer to the attached of counterclaim or cross-claim or a motion under Rule 12 or motion must be served on the plaintiff's attorney, New 4100 Newport Place, Suite 800, Newport Beach, CA 92 judgment by default will be entered against you for the reyour answer or motion with the court.	2 of the Federal Rules of Civil Procedure. The answer wport Trial Group, whose address is If you fail to do so,
Dated: 6 6 2013	By: Deputy Clerk (Seal of the Court)
[Use 60 days if the defendant is the United States or a United States 60 days by Rule 12(a)(3)].	agency, or is an officer or employee of the United States. Allowed

SUMMONS

CV-01A (10/11

Name & Address: NEWPORT TRIAL GROUP Tyler J. Woods, Bar No. 232464	
4100 Newport Place, Suite 800	
Newport Beach, Ca 92660	
	DISTRICT COURT T OF CALIFORNIA
ECLIPSE IP LLC	CASE NUMBER
	CV 13 - 04091 DDP (JEMx)
PLAINTIFF(S)	- (02,724)
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VICTORIA'S SECRET STORES, LLC	
	SUMMONS
DEFENDANT(S).	
DEPENDANT(a).	
TO: DEFENDANT(S): A lawsuit has been filed against you. Within 21 days after service of this summon must serve on the plaintiff an answer to the attached □ counterclaim □ cross-claim or a motion under Rule 12 or motion must be served on the plaintiff's attorney, New 4100 Newport Place, Suite 800, Newport Beach, CA 92 judgment by default will be entered against you for the reyour answer or motion with the court.	2 of the Federal Rules of Civil Procedure. The answer wport Trial Group, whose address is If you fail to do so,
Dated: 6 2013	By: DENISE VO Deputy Clerk (Seal of the Court)
[Use 60 days if the defendant is the United States or a United States 60 days by Rule 12(a)(3)].	agency, or is an officer or employee of the United States. Allowed

CV-01A (10/11 SUMMONS

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

		CIVIL CO	VER SHEET				
I (a) PLAINTIFFS (Check box if you are representing yourself []) ECLIPSE IP LLC			DEFENDANTS VICTORIA'S SECR	ret stores,	LLC		
(b) Attorneys (Firm Name, Acyourself, provide same.)	ddress and Telephone Number. If	you are representing	Attorneys (If Known)	·····	· · · · · · · · · · · · · · · · · · ·		
NEWPORT TRIAL GRO CA 92660	UP, 4100 Newport Place, Suite 80	00, Newport Beach,					
		THE CHANGE	NEVER OF BRINGER &	DADTERO 7		- 0.1 -	
II. BASIS OF JURISDICTIO	N (Place an X in one box only.)		NSHIP OF PRINCIPAL n X in one box for plaintiff			s Only	
☐ 1 U.S. Government Plaintiff	☐ 3 Federal Question (U.S. Government Not a Party	Citizen of Th	is State	PTF DEF	Incorporated or I of Business in th	Principal Place 🗆	FF DEF 4 □4
□ 2 U.S. Government Defendan	t 🗹 4 Diversity (Indicate Citiz of Parties in Item III)	enship Citizen of Ar	other State	□2 □2	Incorporated and of Business in A	Principal Place III	5 🗹 5
		Citizen or Su	bject of a Foreign Country	□3 □3	Foreign Nation	Ω	6 □6
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V. REQUESTED IN COMPL	AINT: JURY DEMAND: MY	Yes □ No (Check 'Y	es' only if demanded in co	omplaint.)			
CLASS ACTION under F.R.C	.P. 23: □ Yes □ No	·	MONEY DEMANDED	IN COMPLA	INT: \$ TBD		
VI. CAUSE OF ACTION (Cit	e the U.S. Civil Statute under whi	ch you are filing and v	vrite a brief statement of ca	ause. Do not ci	te jurisdictional st	atutes unless diversi	y.)
,	U.S.C. §§§331 and 1338(a)						
VII. NATURE OF SUIT (Plac	e an X in one box only.)						
OTHER STATUTES	CONTRACT	TORTS	TORTS		PRISONER	LABOR	
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Act 3 893 Environmental Matters	☐ 196 Franchise REAL PROPERTY	☐ 368 Asbestos Pers Injury Produc		l l	Liquor Laws R.R. & Truck	□ 863 DIWC/DIV (405(g))	r YY
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OR OFFICE USE ONLY:	Case Number:	- (-	·,				

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA CIVIL COVER SHEET

		eviously filed in this court and o	dismissed, remanded or closed? ☑No □ Yes			
VIII(b). RELATED CASES: Have If yes, list case number(s):		viously filed in this court that a	•			
□ B. □ C.	Arise from the same Call for determinati For other reasons w	e or closely related transactions, on of the same or substantially r ould entail substantial duplicati	, happenings, or events; or related or similar questions of law and fact; or on of labor if heard by different judges; or and one of the factors identified above in a, b or c also is present.			
IX. VENUE: (When completing the	following informat	ion, use an additional sheet if ne	ecessary.)			
 (a) List the County in this District; □ Check here if the government, it 	California County o s agencies or emplo	utside of this District; State if or yees is a named plaintiff. If this	ther than California; or Foreign Country, in which EACH named plaintiff resides. s box is checked, go to item (b).			
County in this District:*		(California County outside of this District; State, if other than California; or Foreign Country			
		Е	clipse IP LLC - Palm Beach County, Florida			
(b) List the County in this District; (☐ Check here if the government, it	California County o s agencies or emplo	utside of this District; State if of yees is a named defendant. If the	ther than California; or Foreign Country, in which EACH named defendant resides. his box is checked, go to item (c).			
County in this District:*		C	California County outside of this District; State, if other than California; or Foreign Country			
			ICTORIA'S SECRET STORES, LLC Franklin County, Ohio			
(c) List the County in this District; C Note: In land condemnation ca			ther than California; or Foreign Country, in which EACH claim arose.			
County in this District:*		C	California County outside of this District; State, if other than California; or Foreign Country			
Eclipse IP LLC's claim - Los Angeles						
* Los Angeles, Orange, San Bernar Note: In land condemnation cases, us	dino, Riverside, Vo	tract of land involved	<u> </u>			
X. SIGNATURE OF ATTORNEY (OR PRO PER):	/yest.v	Date June 6, 2013			
or other papers as required by law	This form, approv	ed by the Judicial Conference of	tion contained herein neither replace nor supplement the filing and service of pleadings f the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed g the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)			
Key to Statistical codes relating to So	cial Security Cases:					
Nature of Suit Code	Abbreviation	Substantive Statement of Ca	ause of Action			
861	ШΑ	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))				
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)				
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))				
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))				
864	SSID	All claims for supplemental se Act, as amended.	ecurity income payments based upon disability filed under Title 16 of the Social Security			
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))				

CV-71 (05/08) CIVIL COVER SHEET Page 2 of 2