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6 UBICOMM, LLC

7  
8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10  
11 UBICOMM, LLC,

12 Plaintiff,

13 v.

14 WILLIAMS-SONOMA, INC.,

15 Defendant.  
16

Case No. **'13CV1362 WQHBGS**

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**JURY TRIAL DEMANDED**

17 Plaintiff UbiComm, LLC ("UbiComm" or "Plaintiff"), for its complaint against  
18 Defendant Williams-Sonoma, Inc. ("Williams-Sonoma" or "Defendant"), hereby alleges  
19 as follows:

20 **NATURE OF THE ACTION**

21 1. This is an action for patent infringement arising under the Patent Laws of  
22 the United States, 35 U.S.C. §§ 1, *et seq.*

23 **THE PARTIES**

24 2. Plaintiff UbiComm, LLC is a Delaware limited liability company organized  
25 with its principal place of business at 1220 N. Market Street, Suite 806, Wilmington,  
26 Delaware 19801.  
27  
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1           3.     Upon information and belief, Defendant Williams-Sonoma is a California  
2 corporation with its principal place of business at 3250 Van Ness Avenue, San Francisco,  
3 CA 94109.

#### 4                                   **JURISDICTION AND VENUE**

5           4.     The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and  
6 1338(a).

7           5.     Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and  
8 1400(b).

9           6.     Upon information and belief, Williams-Sonoma is subject to the jurisdiction  
10 of this Court by virtue of the fact it is incorporated in California. Upon information and  
11 belief, Williams-Sonoma is also subject to the jurisdiction of this Court by reason of its  
12 acts of patent infringement which have been committed in this Judicial District, and by  
13 virtue of its regularly conducted and systematic business contacts in this State. As such,  
14 Williams-Sonoma has purposefully availed itself of the privilege of conducting business  
15 within this Judicial District; has established sufficient minimum contacts with this Judicial  
16 District such that it should reasonably and fairly anticipate being haled into court in this  
17 Judicial District; has purposefully directed activities at residents of this State; and at least  
18 a portion of the patent infringement claims alleged herein arise out of or are related to one  
19 or more of the foregoing activities.

#### 20                                   **THE PATENT-IN-SUIT**

21           7.     On February 11, 1997, United States Patent No. 5,603,054 (the “‘054  
22 Patent”), entitled “Method For Triggering Selected Machine Event When The Triggering  
23 Conditions Of An Identified User Are Perceived,” was duly and legally issued by the  
24 United States Patent and Trademark Office. A true and correct copy of the ‘054 Patent is  
25 attached as Exhibit A to this Complaint.

26           8.     UbiComm is the assignee and owner of the right, title and interest in and to  
27 the ‘054 Patent, including the right to assert all causes of action arising under the ‘054  
28 Patent and the right to any remedies for infringement.

1                   **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 5,603,054**

2           9.       The allegations set forth in the foregoing paragraphs 1 through 8 are hereby  
3 realleged and incorporated herein by reference.

4           10.     Without license or authorization, Williams-Sonoma has directly infringed  
5 and continues to directly infringe one or more claims of the ‘054 Patent in this Judicial  
6 District and elsewhere in the United States at least by making and/or using one or more  
7 websites, including but not limited to, <http://www.potterybarn.com/> and  
8 <http://www.williams-sonoma.com/>.

9           11.     <http://www.potterybarn.com/> and <http://www.williams-sonoma.com/>  
10 operate using a method that embodies the inventions claimed in the ‘054 Patent. The ‘054  
11 Patent covers a method of triggering a selected machine event in a system including a  
12 multiplicity of computer controlled machines and a multiplicity of users. One such  
13 machine event includes sending reminder emails to online shoppers who place items in  
14 their online shopping carts and then delay purchasing items in their online shopping carts.  
15 Williams-Sonoma sends such reminder emails to online shoppers on its website(s) who  
16 delay purchasing items in their shopping carts or who abandon their shopping carts. Such  
17 acts constitute infringement under at least 35 U.S.C. § 271(a).

18           12.     Because of Williams-Sonoma’s infringement of the ‘054 Patent, UbiComm  
19 has suffered damages and will continue to suffer damages in the future.

20                   **JURY DEMAND**

21           13.     Pursuant to Rule 38 of the Federal Rules of Civil Procedure, UbiComm  
22 demands a trial by jury on all issues and claims triable as such.

23                   **PRAYER FOR RELIEF**

24           WHEREFORE, UbiComm respectfully demands judgment for itself and against  
25 Defendant as follows:

26           A.       An adjudication that Defendant has infringed the ‘054 Patent;

27           B.       An award of damages to be paid by Defendant adequate to compensate  
28 UbiComm for its past infringement of the ‘054 Patent, and any continuing or future

1 infringement through the date such judgment is entered, including interest, costs, expenses  
2 and an accounting of all infringing acts including, but not limited to, those acts not  
3 presented at trial;

4 C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an  
5 award of Plaintiff's reasonable attorneys' fees; and

6 D. An award to UbiComm of such further relief at law or in equity as the Court  
7 deems just and proper.

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9  
10 Dated: June 11, 2013

X-PATENTS, APC

11  
12 By: s/ Jonathan Hangartner  
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14 Attorneys for Plaintiff  
15 UBICOMM, LLC  
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