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8 *Attorneys for Plaintiff Eclipse IP LLC*

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 ECLIPSE IP LLC, a Florida Limited) Case No. 2:13-cv-07154-SJO-JC
12 Liability Company,)
13 Plaintiff,) **FIRST AMENDED COMPLAINT**
14) **FOR PATENT INFRINGEMENT**
15 v.) **TRIAL BY JURY DEMANDED**
16 UBER TECHNOLOGIES, INC., a)
17 Delaware Corporation,)
18 Defendant.)
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1 Plaintiff Eclipse IP LLC (“Eclipse”), by and through counsel, complains
2 against Uber Technologies, Inc. (“Uber”) as follows:

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4 **NATURE OF LAWSUIT**

5 1. This is a suit for patent infringement arising under the patent laws of
6 the United States, Title 35 of the United States Code § 1 *et seq.* This Court has
7 exclusive jurisdiction over the subject matter of the Complaint under 28 U.S.C.
8 §§ 1331 and 1338(a).
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10 **PARTIES AND PATENTS**

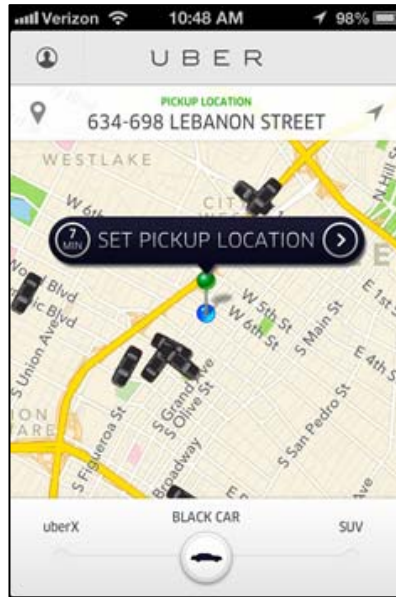
11 2. Eclipse is a company organized under the laws of Florida and having a
12 principal place of business at 115 NW 17th St, Delray Beach, Florida 33444.

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14 3. Eclipse owns all right, title, and interest in and has standing to sue for
15 infringement of United States Patent No. 7,064,681 ("the '681 patent"), entitled
16 "Response systems and methods for notification systems" (Exhibit A); United States
17 Patent No. 7,482,952 ("the '952 patent"), entitled "Response systems and methods
18 for notification systems for modifying future notifications" (Exhibit B); United
19 States Patent No. 7,479,901 ("the '901 patent"), entitled "Mobile thing determination
20 systems and methods based upon user-device location" (Exhibit C); and United
21 States Patent No. 7,538,691 ("the '691 patent"), entitled "Mobile thing determination
22 systems and methods based upon user-device location" (Exhibit D) (collectively,
23 "the Eclipse Patents").
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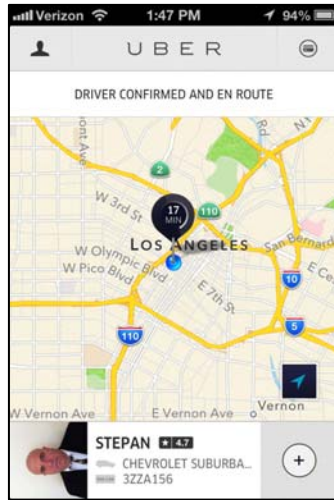
1 9. On information and belief, users of the Uber Application can use their
2 smartphone or tablet computer (“tablet”) to request that a vehicle pick them up from
3 a given location.
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5 10. On information and belief, when a user opens the Uber Application,
6 Uber tracks the location of the user’s smartphone or tablet and attempts to pinpoint
7 the user on a map. Uber also tracks the location of Uber Drivers. A non-limiting,
8 exemplary image appears below:
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21 11. On information and belief, when the user of the Uber Application
22 selects a pickup location, Uber sends a pickup request to the closest available Uber
23 Driver. If that Uber Driver declines or is non-responsive, Uber sends the pickup
24 request to other Uber Drivers. When Uber receives a response indicating that an
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1 Uber Driver will accept the fare, Uber notifies the user in at least one way. Non-
2 limiting, exemplary images appear below:



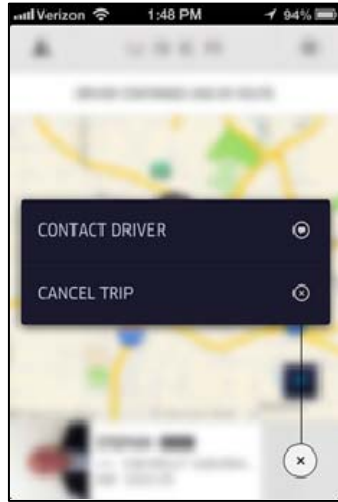
Hi [REDACTED], your Uber is en route! Ken (4.7 stars) will pick you up in 5 minutes

13 12. On information and belief, through the Uber Application, Uber displays
14 the location of the Uber Driver, the pickup location, and the time until the Uber
15 Driver's arrival at the pickup location, allowing the user of the Uber Application to
16 track the Uber Driver's progress.

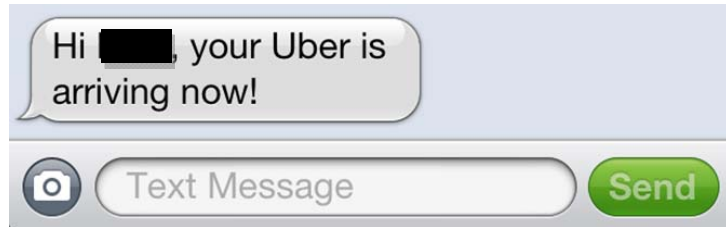
19 13. On information and belief, through the Uber Application, Uber allows
20 the user to communicate with the driver or cancel the trip. A non-limiting,
21 exemplary image appears below:

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14. On information and belief, Uber also notifies the user of the Uber Application in at least one way when the Uber Driver is arriving at the indicated pickup location. A non-limiting, exemplary image appears below:



UBER’S ACTS OF PATENT INFRINGEMENT

15. Eclipse reiterates and reincorporates the allegations set forth in paragraphs 1 through 14 above as if fully set forth herein.

16. Uber owns, uses, deploys, and/or operates at least one service and/or system for booking a taxi, car, sedan, or sport-utility vehicle electronically.

17. The at least one service and/or system allows users of a smartphone or tablet to request a taxi, car, sedan, or sport-utility vehicle to pick them up.

1 18. To implement the at least one service and/or system, Uber created
2 and/or developed at least one smartphone application – the Uber Application –
3 which plays a material role in the at least one taxi, car, sedan, or sport-utility vehicle
4 booking service and/or system.
5

6 19. The Uber application is available on several different platforms,
7 including but not limited to on smartphones and tablets running versions of Apple
8 Inc.’s iOS platform and Google, Inc.’s Android platform.
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10 20. Among other things, the Uber application allows users to schedule or
11 arrange a pickup on their smartphone or tablet, select the type of vehicle desired,
12 and track the status of the vehicle on a map.
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14 21. Among other things, Uber tracks the location of the user’s smartphone
15 or tablet, tracks the location of a smartphone being used by each Uber Driver,
16 distributes requests for pickups received from users of the Uber application, receives
17 responses from at least one Uber Driver, and notifies the user when their vehicle is
18 arriving at the pickup location.
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21 **CLAIMS FOR RELIEF**

22 **COUNT 1**

23 **(Patent Infringement of U.S. Patent No. 7,064,681**
24 **Under 35 U.S.C. § 271 et seq.)**

25 22. Eclipse reiterates and reincorporates the allegations set forth in
26 paragraphs 1 through 21 above as if fully set forth herein.
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1 23. On June 20, 2006, the United States Patent and Trademark Office duly
2 and legally issued United States Patent No. 7,064,681, entitled "Response systems
3 and methods for notification systems." Eclipse is the owner of the entire right, title
4 and interest in and to the '681 patent. A true and correct copy of the '681 patent is
5 attached as Exhibit A to this Complaint.
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8 24. The '681 patent is valid and enforceable.

9 25. Eclipse is informed and believes, and thereupon alleges, that: (1) Uber
10 has infringed and continues to infringe one or more claims of the '681 patent,
11 literally and/or under the doctrine of equivalents and additionally and/or in the
12 alternative, (2) Uber has actively induced and continues to actively induce and/or
13 has contributed to and continues to contribute to the infringement of one or more
14 claims of the '681 patent in this District and elsewhere in the United States.
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17 26. On information and belief, Uber has directly infringed and continues to
18 directly infringe one or more claims of the '681 patent, in violation of 35 U.S.C.
19 § 271(a), by, among other things, making, using, offering for sale, and/or selling a
20 method for communication in connection with a computer-based notification system
21 to, for example: notify an Uber Driver of a requested pickup; receive a response
22 indicating whether or not the Uber Driver will perform the pickup; if the Uber
23 Driver will perform the pickup, refrain from sending additional notifications to the
24 Uber Driver until detection of one or more events indicating that the user's trip is
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1 complete; and if the Uber Driver will not pickup the user, notify another Uber
2 Driver in order to request assistance in picking up the user.

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4 27. Additionally and/or in the alternative, on information and belief, Uber
5 has actively induced and continues to actively induce and/or has contributed to and
6 continues to contribute to the infringement of one or more claims of the '681 patent,
7 in violation of 35 U.S.C. § 271(b) and/or (c), by, among other things, actively,
8 knowingly, and intentionally encouraging, aiding, and/or abetting others to make,
9 use, offer for sale, and/or sell portions of a computer-based notification system that
10 infringes one or more claims of the '681 patent, with the specific intent to encourage
11 infringement and with the knowledge that the making, using, offering to sell, and/or
12 selling of such a system would constitute infringement.

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16 28. On information and belief, Uber has had knowledge of the '681 patent
17 at least as early as September 27, 2013, the day that it received a courtesy copy of
18 the Complaint, which set forth factual allegations of Uber's infringement. *See* Olavi
19 Decl., ¶¶2-5. Additionally, at least as early as September 27, 2013, Uber knew or
20 should have known that its continued offering, use, deployment, and/or operation of
21 the at least one service and/or system for booking a taxi, car, sedan, or sport-utility
22 vehicle electronically and its continued support of others, if those parties perform
23 any limitations of one or more of the claims of the '681 patent, would induce direct
24 infringement of the '681 patent, as it had actual knowledge of the patent and factual
25 allegations of its infringement thereof.

1 has contributed to and continues to contribute to the infringement of one or more
2 claims of the '952 patent in this District and elsewhere in the United States.

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4 35. On information and belief, Uber has directly infringed and continues to
5 directly infringe one or more claims of the '952 patent, in violation of 35 U.S.C.
6 § 271(a), by, among other things, making, using, offering for sale, and/or selling a
7 method for a computer-based notification system to, for example: schedule a time
8 for a taxi, car, sedan, or sport-utility vehicle to arrive at a pickup location; schedule
9 a notification communication when the taxi, car, sedan, or sport-utility vehicle
10 arrives; determine a change in the schedule of the taxi, car, sedan, or sport-utility
11 vehicle; notify the user of the change in schedule; and allow the user to cancel the
12 later-scheduled notification.
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16 36. Additionally and/or in the alternative, on information and belief, Uber
17 has actively induced and continues to actively induce and/or has contributed to and
18 continues to contribute to the infringement of one or more claims of the '952 patent,
19 in violation of 35 U.S.C. § 271(b) and/or (c), by, among other things, actively,
20 knowingly, and intentionally encouraging, aiding, and/or abetting others to make,
21 use, offer for sale, and/or sell portions of a computer-based notification system that
22 infringes one or more claims of the '952 patent, with the specific intent to encourage
23 infringement and with the knowledge that the making, using, offering to sell, and/or
24 selling of such a system would constitute infringement.
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1 41. On January 20, 2009, the United States Patent and Trademark Office
2 duly and legally issued United States Patent No. 7,479,901, entitled "Mobile thing
3 determination systems and methods based upon user-device location." Eclipse is the
4 owner of the entire right, title and interest in and to the '901 patent. A true and
5 correct copy of the '901 patent is attached as Exhibit C to this Complaint.
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7 42. The '901 patent is valid and enforceable.
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9 43. Eclipse is informed and believes, and thereupon alleges, that: (1) Uber
10 has infringed and continues to infringe one or more claims of the '901 patent,
11 literally and/or under the doctrine of equivalents and additionally and/or in the
12 alternative, (2) Uber has actively induced and continues to actively induce and/or
13 has contributed to and continues to contribute to the infringement of one or more
14 claims of the '901 patent in this District and elsewhere in the United States.
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17 44. On information and belief, Uber has directly infringed and continues to
18 directly infringe one or more claims of the '901 patent, in violation of 35 U.S.C.
19 § 271(a), by, among other things, making, using, offering for sale, and/or selling a
20 method for a notification system to, for example: monitor the user's location;
21 receive a request for a taxi, car, sedan, or sport-utility vehicle pickup; notify an Uber
22 Driver of the requested pickup; receive a response from the Uber Driver; and
23 communicate the response to the user.
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26 45. Additionally and/or in the alternative, on information and belief, Uber
27 has actively induced and continues to actively induce and/or has contributed to and
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1 continues to contribute to the infringement of one or more claims of the '901 patent,
2 in violation of 35 U.S.C. § 271(b) and/or (c), by, among other things, actively,
3 knowingly, and intentionally encouraging, aiding, and/or abetting others to make,
4 use, offer for sale, and/or sell portions of a notification system that infringes one or
5 more claims of the '901 patent, with the specific intent to encourage infringement
6 and with the knowledge that the making, using, offering to sell, and/or selling of
7 such a system would constitute infringement.
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10 46. On information and belief, Uber has had knowledge of the '901 patent
11 at least as early as September 27, 2013, the day that it received a courtesy copy of
12 the Complaint, which set forth factual allegations of Uber's infringement. *See* Olavi
13 Decl., ¶¶2-5. Additionally, at least as early as September 27, 2013, Uber knew or
14 should have known that its continued offering, use, deployment, and/or operation of
15 the at least one service and/or system for booking a taxi, car, sedan, or sport-utility
16 vehicle electronically and its continued support of others, if those parties perform
17 any limitations of one or more of the claims of the '901 patent, would induce direct
18 infringement of the '901 patent, as it had actual knowledge of the patent and factual
19 allegations of its infringement thereof.
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23 47. On information and belief, Uber has not changed or modified its
24 infringing behavior since September 27, 2013.
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26 48. Uber's aforesaid infringing activity has directly and proximately caused
27 damage to Plaintiff Eclipse, including loss of profits from sales and/or licensing
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1 revenues it would have made but for the infringements. Unless enjoined, the
2 aforesaid infringing activity will continue and cause irreparable injury to Eclipse for
3 which there is no adequate remedy at law.
4

5 **COUNT 4**

6 **(Patent Infringement of U.S. Patent No. 7,538,691**
7 **Under 35 U.S.C. § 271 et seq.)**

8 49. Eclipse reiterates and reincorporates the allegations set forth in
9 paragraphs 1 through 48 above as if fully set forth herein.

10 50. On May 26, 2009, the United States Patent and Trademark Office duly
11 and legally issued United States Patent No. 7,538,691, entitled "Mobile thing
12 determination systems and methods based upon user-device location." Eclipse is the
13 owner of the entire right, title and interest in and to the '691 patent. A true and
14 correct copy of the '691 patent is attached as Exhibit D to this Complaint.
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17 51. The '691 patent is valid and enforceable.

18 52. Eclipse is informed and believes, and thereupon alleges, that: (1) Uber
19 has infringed and continues to infringe one or more claims of the '691 patent,
20 literally and/or under the doctrine of equivalents and additionally and/or in the
21 alternative, (2) Uber has actively induced and continues to actively induce and/or
22 has contributed to and continues to contribute to the infringement of one or more
23 claims of the '691 patent in this District and elsewhere in the United States.
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26 53. On information and belief, Uber has directly infringed and continues to
27 directly infringe one or more claims of the '691 patent, in violation of 35 U.S.C.
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1 § 271(a), by, among other things, making, using, offering for sale, and/or selling a
2 method for implementation in connection with a computer-based notification system
3 to, for example: determine the user's location; identify a pickup location; and notify
4 the user when the taxi, car, sedan, or sport-utility vehicle is approaching the pickup
5 location.
6

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8 54. Additionally and/or in the alternative, on information and belief, Uber
9 has actively induced and continues to actively induce and/or has contributed to and
10 continues to contribute to the infringement of one or more claims of the '691 patent,
11 in violation of 35 U.S.C. § 271(b) and/or (c), by, among other things, actively,
12 knowingly, and intentionally encouraging, aiding, and/or abetting others to make,
13 use, offer for sale, and/or sell portions of a computer-based notification system that
14 infringes one or more claims of the '691 patent, with the specific intent to encourage
15 infringement and with the knowledge that the making, using, offering to sell, and/or
16 selling of such a system would constitute infringement.
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20 55. On information and belief, Uber has had knowledge of the '691 patent
21 at least as early as September 27, 2013, the day that it received a courtesy copy of
22 the Complaint, which set forth factual allegations of Uber's infringement. *See* Olavi
23 Decl., ¶¶2-5. Additionally, at least as early as September 27, 2013, Uber knew or
24 should have known that its continued offering, use, deployment, and/or operation of
25 the at least one service and/or system for booking a taxi, car, sedan, or sport-utility
26 vehicle electronically and its continued support of others, if those parties perform
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1 any limitations of one or more of the claims of the '691 patent, would induce direct
2 infringement of the '691 patent, as it had actual knowledge of the patent and factual
3 allegations of its infringement thereof.
4

5 56. On information and belief, Uber has not changed or modified its
6 infringing behavior since September 27, 2013.
7

8 57. Uber's aforesaid infringing activity has directly and proximately caused
9 damage to Plaintiff Eclipse, including loss of profits from sales and/or licensing
10 revenues it would have made but for the infringements. Unless enjoined, the
11 aforesaid infringing activity will continue and cause irreparable injury to Eclipse for
12 which there is no adequate remedy at law.
13

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff Eclipse asks this Court to enter judgment against
16 Uber and against each of Uber's respective subsidiaries, affiliates, agents, servants,
17 employees and all persons in active concert or participation with it, granting the
18 following relief:
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20 1. A judgment that Uber has infringed each and every one of the Eclipse
21 Patents;
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23 2. A permanent injunction against Uber, its respective officers, agents,
24 servants, employees, attorneys, parent and subsidiary corporations, assigns and
25 successors in interest, and those persons in active concert or participation with them,
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1 enjoining them from direct and indirect infringement of each and every one of the
2 Eclipse Patents;

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4 3. An award of damages adequate to compensate Eclipse for the
5 infringement that has occurred, together with prejudgment interest from the date
6 infringement of the Eclipse Patents began;

7
8 4. A reasonable royalty for Uber’s use of Eclipse’s patented technology,
9 as alleged herein;

10 5. An award to Eclipse of all remedies available under 35 U.S.C. §§ 284
11 and 285; and,

12
13 6. Such other and further relief as this Court or a jury may deem proper
14 and just.

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16
17 DATED: October 21, 2013

OLAVI DUNNE LLP

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20 By: /s/ Matt Olavi

21 Matt Olavi
22 Brian J. Dunne
23 *Attorneys for Plaintiff*
Eclipse IP LLC

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JURY DEMAND

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

DATED: October 21, 2013

OLAVI DUNNE LLP

By: /s/ Matt Olavi

Matt Olavi
Brian J. Dunne
Attorneys for Plaintiff
Eclipse IP LLC