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12 Attorneys for Plaintiffs
13 WORLDPANTRY.COM, INC. AND BALANCE BAR, INC.

14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE CENTRAL DISTRICT OF CALIFORNIA

16 WORLDPANTRY.COM, INC. AND
17 BALANCE BAR, INC.,

18 Plaintiffs,

19 v.

20 ECLIPSE IP, LLC,

21 Defendant.

Case No. 2:14-cv-9588

**COMPLAINT FOR DECLARATORY
JUDGMENT**

DEMAND FOR JURY TRIAL

1 Plaintiffs WorldPantry.com, Inc. (“WorldPantry”) and Balance Bar, Inc. (“Balance
2 Bar”) (collectively, “Plaintiffs”) complain as follows:

3 **NATURE OF ACTION**

4 1. This is an action seeking Declaratory Judgment that twenty-two United States
5 Patents (“Patents-in-Suit” or “Eclipse Patent Portfolio”), that are owned by Defendant
6 Eclipse IP, LLC (“Eclipse” or “Defendant”), are invalid.

7 2. This action arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and
8 2202, and the Patent Laws of the United States, Title 35 of the United States Code.

9 **THE PARTIES**

10 3. WorldPantry is a corporation organized under the laws of Delaware, with its
11 principal place of business in San Francisco, CA.

12 4. Balance Bar is a corporation organized under the laws of Delaware, with its
13 principal place of business in Ronkonkoma, New York.

14 5. On information and belief, Eclipse is a Texas limited liability company with a
15 place of business at 711 SW 24th, Boyton Beach, Florida 33435. On information and
16 belief, Eclipse is the owner of the Patents-in-Suit.

17 6. Upon information and belief, Eclipse is in the business of patent licensing
18 through the threat of litigation.

19 7. Upon information and belief, a key part of Eclipse’s business model is
20 sending letters, emails, and making telephone calls threatening patent litigation and
21 following through on that threat.

22 **JURISDICTION AND VENUE**

23 8. The Court has subject matter jurisdiction of this action under 28 U.S.C. §§
24 1331 and 1338(a) in that it arises under the United States Patent Laws.

25 9. This Court has personal jurisdiction over the Defendant pursuant to the laws
26 of the State of California, including California’s long-arm statute and California Code of
27 Civil Procedure § 410.10.

1 continuation application of the '716 Patent, which had claims invalidated for claiming
2 unpatentable subject matter.

3 18. On January 20, 2009, U.S. Patent No. 7,479,900 (the '900 Patent), entitled
4 Notification Systems and Methods that Consider Traffic Flow Predicament Data was
5 issued. The '900 Patent resulted from a divisional application of the '716 Patent, which
6 had claims invalidated for claiming unpatentable subject matter.

7 19. On January 20, 2009, U.S. Patent No. 7,479,901 (the '901 Patent), entitled
8 Mobile Thing Determination Systems and Methods Based upon User-Device Location was
9 issued. The '901 Patent claims priority to the '716 Patent, which had claims invalidated
10 for claiming unpatentable subject matter.

11 20. On January 27, 2009, U.S. Patent No. 7,482,952 (the '952 Patent), entitled
12 Response Systems and Methods for Notification Systems for Modifying Future
13 Notifications was issued. The '952 Patent resulted from a divisional application of the
14 '716 Patent, which had claims invalidated for claiming unpatentable subject matter.

15 21. On March 17, 2009, U.S. Patent No. 7,504,966 (the '966 Patent), entitled
16 Response Systems and Methods for Notification Systems for Modifying Future
17 Notifications was issued. The '966 Patent claims priority to the '716 Patent, which had
18 claims invalidated for claiming unpatentable subject matter.

19 22. On May 5, 2009, U.S. Patent No. 7,528,742 (the '742 Patent), entitled
20 Response System and Methods for Notification Systems for Modifying Future
21 Notifications was issued. The '742 Patent claims priority to the '716 Patent, which had
22 claims invalidated for claiming unpatentable subject matter.

23 23. On May 26, 2009, U.S. Patent No. 7,538,691 (the '691 Patent), entitled
24 Mobile Thing Determination Systems and Methods Based upon User-Device Location was
25 issued. The '691 Patent claims priority to the '716 Patent, which had claims invalidated
26 for claiming unpatentable subject matter.

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1 24. On July 14, 2009, U.S. Patent No. 7,561,069 (the '069 Patent), entitled
2 Notification Systems and Methods Enabling a Response to Change Particulars of Delivery
3 or Pickup was issued. The '069 Patent resulted from a divisional application of the '716
4 Patent, which had claims invalidated for claiming unpatentable subject matter

5 25. On January 25, 2011, U.S. Patent No. 7,876,239 (the '239 Patent), entitled
6 Secure Notification Messaging Systems and Methods Using Authentication Indicia was
7 issued. The '239 Patent resulted from a continuation application of the '414 Patent, which
8 resulted from a continuation application of the '716 Patent, which had claims invalidated
9 for claiming unpatentable subject matter.

10 26. On November 29, 2011, U.S. Patent No. 8,068,037 (the '037 Patent), entitled
11 Advertisement Systems and Methods for Notification Systems was issued. The '037
12 Patent claims priority to the '716 Patent, which had claims invalidated for claiming
13 unpatentable subject matter.

14 27. On July 31, 2012, U.S. Patent No. 8,232,899, entitled Notification System and
15 Methods Enabling Selection of Arrival or Departure Times of Tracked Mobile Things in
16 Relation to Locations was issued. U.S. Patent No. 8,232,899 claims priority to the '716
17 Patent, which had claims invalidated for claiming unpatentable subject matter.

18 28. On August 14, 2012, U.S. Patent No. 8,242,935 (the '935 Patent), entitled
19 Notification System and Methods Where a Notified PCD Causes Implementation of a
20 Task(s) Based Upon Failure to Receive a Notification was issued. The '935 Patent claims
21 priority to the '716 Patent, which had claims invalidated for claiming unpatentable subject
22 matter.

23 29. On October 10, 2012, U.S. Patent No. 8,284,076 (the '076 Patent), entitled
24 Systems and Methods for a Notification System that Enable User Changes to Quantity of
25 Goods and/or Services for Deliver and/or Pickup was issued. The '076 Patent claims
26 priority to the '716 Patent, which had claims invalidated for claiming unpatentable subject
27 matter.

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1 30. On January 29, 2013, U.S. Patent No. 8,362,927 (the '927 Patent), entitled
2 Advertisement Systems and Methods for Notification Systems was issued. The '927
3 Patent claims priority to the '716 Patent, which had claims invalidated for claiming
4 unpatentable subject matter.

5 31. On February 5, 2013, U.S. Patent No. 8,368,562 (the '562 Patent), entitled
6 Systems and Methods for a Notification System that Enable User Changes to Stop
7 Location for Delivery and/or Pickup of Good and/or Service was issued. The '562 Patent
8 claims priority to the '716 Patent, which had claims invalidated for claiming unpatentable
9 subject matter.

10 32. On September 10, 2013, U.S. Patent No. 8,531,317 (the '317 Patent), entitled
11 Notification Systems and Methods Enabling Selection of Arrival or Departure Times of
12 Tracked Mobile Things in Relation to Locations was issued. The '317 Patent claims
13 priority to the '716 Patent, which had claims invalidated for claiming unpatentable subject
14 matter.

15 33. On October 22, 2013, U.S. Patent No. 8,564,459 (the '459 Patent), entitled
16 Systems and Methods for a Notification System that Enable User Changes to Purchase
17 Order Information for Delivery and/or Pickup of Goods and/or Services was issued. The
18 '459 Patent claims priority to the '716 Patent, which had claims invalidated for claiming
19 unpatentable subject matter.

20 34. On April 29, 2014, U.S. Patent No. 8,711,010 (the '010 Patent), entitled
21 Notification Systems and Methods that Consider Traffic Flow Predicament Data was
22 issued. The '010 Patent claims priority to the '716 Patent, which had claims invalidated
23 for claiming unpatentable subject matter.

24 35. Collectively the twenty-two patents identified in paragraphs 12 to 33 are the
25 Patents-in-Suit and the known Eclipse Patent Portfolio.

26 36. All the Patents-in-Suit are related and claim priority to the '716 Patent.

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1 suggesting that Balance Bar requires a license to the Eclipse Patent Portfolio.

2 44. Balance Bar receives the software accused by Eclipse from WorldPantry.

3 45. WorldPantry provides the software accused by Eclipse to Balance Bar and
4 other third parties.

5 46. WorldPantry has agreed to defend and indemnify Balance Bar with respect to
6 any claims from Eclipse against accused software provided by WorldPantry.

7 47. WorldPantry has obligations to defend and indemnify other third parties who
8 receive the software accused by Eclipse.

9 48. Eclipse's letter, as well as its pattern of aggressive litigation, WorldPantry's
10 indemnification of Balance Bar, and WorldPantry's indemnification obligations to its other
11 customers show that there is a substantial controversy between the parties having adverse
12 legal interest, of sufficient immediacy and reality to warrant the issuance of a declaratory
13 judgment.

14 **FIRST CLAIM FOR RELIEF**

15 **(Declaratory Judgment of Invalidity of the**
16 **Patents-in-Suit / Eclipse Patent Portfolio)**

17 49. Plaintiffs incorporate by reference and realleges each of the allegations set
18 forth in preceding paragraphs as though fully set forth herein.

19 50. All of the claims of the Patents-in-Suit are invalid pursuant to 35 U.S.C. § 101
20 because they purport to claim unpatentable abstract concepts.

21 51. Based on Eclipse's letter, its threat of litigation for patent infringement, and
22 Eclipse's pattern of litigation, an actual case or controversy exists as to whether Plaintiffs
23 infringes any valid or enforceable claim of the Patents-in-Suit, and Plaintiffs is entitled to a
24 declaration that the claims of the Patents-in-Suit are invalid.

25 **REQUEST FOR RELIEF**

26 Therefore, Plaintiffs requests for judgment:

27 52. A declaration that the claims of the patents comprising the Eclipse Patent
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