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12 Attorneys for Plaintiffs
13 FARFETCH UK LIMITED and FARFETCH.COM US, LLC

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

16 FARFETCH UK LIMITED AND
17 FARFETCH.COM US, LLC,
18
19 Plaintiffs,
20
21 v.
22 ECLIPSE IP, LLC,
23
24 Defendant.

25 Case No. 2:14-cv-09733
26 **COMPLAINT FOR DECLARATORY
27 JUDGMENT**
28 **DEMAND FOR JURY TRIAL**

1 Plaintiffs Farfetch UK Limited and Farfetch.com US LLC (“Plaintiffs” or
2 “Farfetch”) 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. Farfetch UK Limited is a corporation organized under the laws of England
11 and Wales, with its principal place of business in London, England.

12 4. Farfetch UK Limited’s U.S. subsidiary, Farfetch.com US, LLC, is a
13 corporation organized under the laws of California, with its principal place of business in
14 Los Angeles, California.

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

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

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

23 **JURISDICTION AND VENUE**

24 8. The Court has subject matter jurisdiction of this action under 28 U.S.C. §§
25 1331 and 1338(a) in that it arises under the United States Patent Laws.

26 9. This Court has personal jurisdiction over the Defendant pursuant to the laws
27 of the State of California, including California’s long-arm statute and California Code of
28 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.

27 24. On July 14, 2009, U.S. Patent No. 7,561,069 (the '069 Patent), entitled
28 Notification Systems and Methods Enabling a Response to Change Particulars of Delivery

1 or Pickup was issued. The '069 Patent resulted from a divisional application of the '716
2 Patent, which had claims invalidated for claiming unpatentable subject matter

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

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

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

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

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

26 30. On January 29, 2013, U.S. Patent No. 8,362,927 (the '927 Patent), entitled
27 Advertisement Systems and Methods for Notification Systems was issued. The '927
28

1 Patent claims priority to the '716 Patent, which had claims invalidated for claiming
2 unpatentable subject matter.

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

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

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

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

22 35. Collectively the twenty-two patents identified in paragraphs 13 to 34 are the
23 Patents-in-Suit and the known Eclipse Patent Portfolio.

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

25 37. On September 4, 2014, District Court Judge George H. Wu, presiding over the
26 case of *Eclipse IP LLC v. McKinley Equipment Corporation*, granted the defendant's
27 Motion to Dismiss for Lack of Patentable Subject Matter, and invalidated every claim he
28 was asked to consider from the '681, '110, and '716 Patents. On September 4, 2014, the

1 Court entered a final judgment in favor of the defendant. On October 7, 2014, Eclipse filed
2 a Notice of Appeal to the Federal Circuit. On October 22, 2014, the Federal Circuit
3 dismissed the appeal pursuant to Eclipse’s voluntary dismissal.

4 **ECLIPSE’S THREATS AGAINST FARFETCH**

5 38. On October 7, 2014, Matt Olavi of the law firm Olavi Dunne LLP, counsel for
6 Eclipse, sent a letter to José Neves, Chief Executive Officer and Founder of the Farfetch
7 Group (the “Olavi letter”).

8 39. The Olavi letter asserts that Farfetch, Inc. infringes patents in the Eclipse
9 Patent Portfolio, warns that Eclipse “aggressively litigates patent infringement lawsuits,”
10 and gave November 11, 2014 as a cutoff date, after which, Eclipse “assume[s] that
11 [Farfetch is] not interested in resolving this matter without litigation.” A true and correct
12 copy of that letter is attached hereto as Exhibit 1.

13 40. The Olavi letter references the entire Eclipse Patent Portfolio, noting that
14 “Eclipse IP’s patent portfolio currently includes 21 issued patents comprising over 595
15 claims in the field of data communications and information and messaging systems”

16 41. The Olavi letter states that a flash drive with copies of all the patents in
17 Eclipse Patent Portfolio is enclosed.

18 42. In the Olavi letter, Eclipse accuses the “electronic messaging features of
19 [Farfetch’s] online ordering system” and contends that those features “infringe claims of at
20 least several of Eclipse’s Patents.”

21 43. The Olavi letter specifically identifies as representative examples of
22 Farfetch’s alleged infringement of the Eclipse Patent Portfolio two patents by patent
23 number: U.S. Patent No. 7,479,899 and the ’716 Patent.

24 44. Eclipse concludes the letter by offering a worldwide license to the entire
25 Eclipse Patent Portfolio and threatens litigation if Farfetch does not take such a license,
26 suggesting that Farfetch requires a license to the Eclipse Patent Portfolio.

1 45. Eclipse’s letter, as well as its pattern of aggressive litigation, show that there
2 is a substantial controversy between the parties having adverse legal interest, of sufficient
3 immediacy and reality to warrant the issuance of a declaratory judgment.

4 **FIRST CLAIM FOR RELIEF**

5 **(Declaratory Judgment of Invalidity of the Patents-in-Suit)**

6 46. Farfetch incorporates by reference and realleges each of the allegations set
7 forth in preceding paragraphs as though fully set forth herein.

8 47. All of the claims of the Patents-in-Suit are invalid under the United States
9 Patent Act pursuant to 35 U.S.C. § 101 because they purport to claim unpatentable abstract
10 concepts.

11 48. Based on Eclipse’s letter, its threat of litigation for patent infringement, and
12 Eclipse’s pattern of litigation, an actual case or controversy exists as to whether Farfetch
13 infringes any valid or enforceable claim of the Patents-in-Suit, and Farfetch is entitled to a
14 declaration that the claims of the Patents-in-Suit are invalid.

15 **REQUEST FOR RELIEF**

16 Therefore, Farfetch requests for judgment:

17 49. A declaration that the claims of the patents comprising the Eclipse Patent
18 Portfolio are invalid;

19 50. That Farfetch be awarded its costs of suit;

20 51. That the Court declare this to be an exceptional case pursuant to 35 U.S.C. §
21 285, and award Farfetch its reasonable attorneys’ fees; and

22 52. For such other relief as the Court deems proper.

23 Dated: December 19, 2014

DURIE TANGRI LLP

24 Bv: _____
25 */s/ Daralyn J. Durie*
Daralyn J. Durie

26 Attorneys for Plaintiffs
27 FARFETCH UK LIMITED and
28 FARFETCH.COM US, LLC