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17 LAUFER GROUP INTERNATIONAL LTD.

18
19 IN THE UNITED STATES DISTRICT COURT
20 FOR THE CENTRAL DISTRICT OF CALIFORNIA

21 LAUFER GROUP INTERNATIONAL
22 LTD.,

23 Plaintiff,

24 vs.

25 ECLIPSE IP, LLC,

26 Defendant.

Case No.: _____

**COMPLAINT FOR
DECLARATORY JUDGMENT
DEMAND FOR JURY TRIAL**

27 NOW COMES Plaintiff, LAUFER GROUP INTERNATIONAL LTD.
28 (hereinafter "LAUFER" or "Plaintiff"), by and through its undersigned counsel,
and for its Complaint for Declaratory Judgment against Defendant, ECLIPSE IP,
LLC ("ECLIPSE" or "Defendant"), states as follows:

NATURE OF ACTION

1. This is an action for a Declaratory Judgment that twenty-two (22)
United States Patents ("Patents-in-Suit" or "Eclipse Patents"), that are owned by
ECLIPSE, are invalid.

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

4 **PARTIES**

5 3. Plaintiff, LAUFER, is a an entity incorporated under the laws of the
6 State of New York with its corporate office located at 20 Vesey Street, Suite 601,
7 New York, New York 10007. LAUFER is authorized to do business in California
8 and has an office in California.

9 4. Upon information and belief, ECLIPSE is a Texas limited liability
10 company with a place of business at 711 SW 24th Ave., Boynton Beach, Florida
11 33435. Upon information and belief, ECLIPSE is the owner or owner by
12 assignment of the Patents-in-Suit.

13 5. Upon information and belief, ECLIPSE is in the business of patent
14 licensing through the threat of litigation and is commonly and colloquially known
15 as a “patent troll.”

16 6. Upon information and belief, a key part of ECLIPSE’s business model
17 is sending letters, e-mails, and making telephone calls threatening patent litigation,
18 using those threats to try to obtain monetary payments, and if payments are not
19 forthcoming, filing lawsuits to try to extract monetary payments.

20 **JURISDICTION AND VENUE**

21 7. This Court has subject matter jurisdiction over this action under 28
22 U.S.C. §§ 1331 and 1338(a) in that it arises under the United States Patent Laws.

23 8. This Court has personal jurisdiction over the Defendant ECLIPSE
24 under the laws of the State of California, including California’s long-arm statute
25 and California Code of Civil Procedure § 410.10.

26 9. ECLIPSE has filed approximately 36 cases asserting patent
27 infringement in this District, so ECLIPSE has availed itself of the protection and
28 jurisdiction of courts in California.

1 10. ECLIPSE has also been involved in approximately 140 lawsuits
2 involving the Eclipse Patents nationwide.

3 11. ECLIPSE has litigated the Patents-in-Suit extensively in this judicial
4 district.

5 12. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400.

6 **PATENTS-IN-SUIT / ECLIPSE PATENTS**

7 13. On October 10, 2006, U.S. Patent No. 7,119,716 (the “’716 Patent”),
8 entitled “Response Systems and Methods for Notification Systems for Modifying
9 Future Notifications” was issued. Claims 1, 2, 4, 6, 7, 18, 19, 20, 41, 43, 44, 45,
10 and 46 of the ’716 Patent have already been found to be invalid for failing to
11 satisfy 35 U.S.C. § 101 in a decision of this Court from which no appeal can now
12 be taken.

13 14. On June 20, 2006, U.S. Patent No. 7,064,681 (the “’681 Patent”),
14 entitled “Response Systems and Methods for Notification Systems” was issued. The
15 ’681 Patent resulted from a continuation application of the ’716 Patent’s application.
16 Claims 1, 3, 4, and 6 of the ’681 Patent were found to be invalid for failing to satisfy
17 35 U.S.C. § 101 in a decision of this Court from which no appeal can now be taken.

18 15. On September 26, 2006, U.S. Patent No. 7,113,110 (the “’110
19 Patent”), entitled “Stop List Generation Systems and Methods Based upon Tracked
20 PCD’s and Responses from Notified PCD’s” was issued. The ’110 Patent resulted
21 from a continuation application of the ’716 Patent’s application. Claims 1, 2, 7,
22 and 8 of the ’110 Patent were found to be invalid for failing to satisfy 35 U.S.C. §
23 101 in a decision of this Court from which no appeal can now be taken.

24 16. On January 15, 2008, U.S. Patent No. 7,319,414 (the “’414 Patent”),
25 entitled “Secure Notification Messaging Systems and Methods Using
26 Authentication Indicia” was issued. The ’414 Patent resulted from a continuation
27 application of the ’716 Patent, which had claims invalidated for claiming
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1 unpatentable subject matter in a decision of this Court from which no appeal can
2 now be taken.

3 17. On January 20, 2009, U.S. Patent No. 7,479,899, (the “’9,899 Patent”)
4 entitled “Notification Systems and Methods Enabling a Response to Cause
5 Connection Between a Notified PCD and a Delivery or Pickup Representative” was
6 issued. The ’9,899 Patent resulted from a continuation application of the ’716
7 Patent, which had claims invalidated for claiming unpatentable subject matter in a
8 decision of this Court from which no appeal can now be taken.

9 18. On January 20, 2009, U.S. Patent No. 7,479,900 (the “’900 Patent”),
10 entitled “Notification Systems and Methods that Consider Traffic Flow
11 Predicament Data” was issued. The ’900 Patent resulted from a divisional
12 application of the ’716 Patent, which had claims invalidated for claiming
13 unpatentable subject matter in a decision of this Court from which no appeal can
14 now be taken.

15 19. On January 20, 2009, U.S. Patent No. 7,479,901 (the “’901 Patent”),
16 entitled “Mobile Thing Determination Systems and Methods Based upon User-
17 Device Location” was issued. The ’901 Patent claims priority to the ’716 Patent,
18 which had claims invalidated for claiming unpatentable subject matter in a decision
19 of this Court from which no appeal can now be taken.

20 20. On January 27, 2009, U.S. Patent No. 7,482,952 (the “’952 Patent”),
21 entitled “Response Systems and Methods for Notification Systems for Modifying
22 Future Notifications” was issued. The ’952 Patent resulted from a divisional
23 application of the ’716 Patent, which had claims invalidated for claiming
24 unpatentable subject matter in a decision of this Court from which no appeal can
25 now be taken.

26 21. On March 17, 2009, U.S. Patent No. 7,504,966 (the “’966 Patent”),
27 entitled “Response Systems and Methods for Notification Systems for Modifying
28 Future Notifications” was issued. The ’966 Patent claims priority to the ’716

1 Patent, which had claims invalidated for claiming unpatentable subject matter in a
2 decision of this Court from which no appeal can now be taken.

3 22. On May 5, 2009, U.S. Patent No. 7,528,742 (the “’742 Patent”),
4 entitled “Response System and Methods for Notification Systems for Modifying
5 Future Notifications” was issued. The ’742 Patent claims priority to the ’716
6 Patent, which had claims invalidated for claiming unpatentable subject matter in a
7 decision of this Court from which no appeal can now be taken.

8 23. On May 26, 2009, U.S. Patent No. 7,538,691 (the “’691 Patent”),
9 entitled “Mobile Thing Determination Systems and Methods Based upon User-
10 Device Location” was issued. The ’691 Patent claims priority to the ’716 Patent,
11 which had claims invalidated for claiming unpatentable subject matter in a decision
12 of this Court from which no appeal can now be taken.

13 24. On July 14, 2009, U.S. Patent No. 7,561,069 (the “’069 Patent”),
14 entitled “Notification Systems and Methods Enabling a Response to Change
15 Particulars of Delivery or Pickup” was issued. The ’069 Patent resulted from a
16 divisional application of the ’716 Patent, which had claims invalidated for claiming
17 unpatentable subject matter in a decision of this Court from which no appeal can
18 now be taken.

19 25. On January 25, 2011, U.S. Patent No. 7,876,239 (the “’239 Patent”),
20 entitled “Secure Notification Messaging Systems and Methods Using
21 Authentication Indicia” was issued. The ’239 Patent resulted from a continuation
22 application of the ’414 Patent, which resulted from a continuation application of
23 the ’716 Patent, which had claims invalidated for claiming unpatentable subject
24 matter in a decision of this Court from which no appeal can now be taken.

25 26. On November 29, 2011, U.S. Patent No. 8,068,037 (the “’037
26 Patent”), entitled “Advertisement Systems and Methods for Notification Systems”
27 was issued. The ’037 Patent claims priority to the ’716 Patent, which had claims
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1 invalidated for claiming unpatentable subject matter in a decision of this Court
2 from which no appeal can now be taken.

3 27. On July 31, 2012, U.S. Patent No. 8,232,899, (the “’2,899 Patent”),
4 entitled “Notification System and Methods Enabling Selection of Arrival or
5 Departure Times of Tracked Mobile Things in Relation to Locations” was issued.
6 The ’2,899 Patent claims priority to the ’716 Patent, which had claims invalidated
7 for claiming unpatentable subject matter in a decision of this Court from which no
8 appeal can now be taken.

9 28. On August 14, 2012, U.S. Patent No. 8,242,935 (the “’935 Patent”),
10 entitled “Notification System and Methods Where a Notified PCD Causes
11 Implementation of a Task(s) Based Upon Failure to Receive a Notification” was
12 issued. The ’935 Patent claims priority to the ’716 Patent, which had claims
13 invalidated for claiming unpatentable subject matter in a decision of this Court
14 from which no appeal can now be taken.

15 29. On October 9, 2012, U.S. Patent No. 8,284,076 (the “’076 Patent”),
16 entitled “Systems and Methods for a Notification System that Enable User
17 Changes to Quantity of Goods and/or Services for Delivery and/or Pickup” was
18 issued. The ’076 Patent claims priority to the ’716 Patent, which had claims
19 invalidated for claiming unpatentable subject matter in a decision of this Court
20 from which no appeal can now be taken.

21 30. On January 29, 2013, U.S. Patent No. 8,362,927 (the “’927 Patent”),
22 entitled “Advertisement Systems and Methods for Notification Systems” was
23 issued. The ’927 Patent claims priority to the ’716 Patent, which had claims
24 invalidated for claiming unpatentable subject matter in a decision of this Court
25 from which no appeal can now be taken.

26 31. On February 5, 2013, U.S. Patent No. 8,368,562 (the “’562 Patent”),
27 entitled “Systems and Methods for a Notification System that Enable User
28 Changes to Stop Location for Delivery and/or Pickup of Good and/or Service” was

1 issued. The '562 Patent claims priority to the '716 Patent, which had claims
2 invalidated for claiming unpatentable subject matter in a decision of this Court
3 from which no appeal can now be taken.

4 32. On September 10, 2013, U.S. Patent No. 8,531,317 (the "'317
5 Patent"), entitled "Notification Systems and Methods Enabling Selection of Arrival
6 or Departure Times of Tracked Mobile Things in Relation to Locations" was
7 issued. The '317 Patent claims priority to the '716 Patent, which had claims
8 invalidated for claiming unpatentable subject matter in a decision of this Court
9 from which no appeal can now be taken.

10 33. On October 22, 2013, U.S. Patent No. 8,564,459 (the "'459 Patent"),
11 entitled "Systems and Methods for a Notification System that Enable User
12 Changes to Purchase Order Information for Delivery and/or Pickup of Goods
13 and/or Services" was issued. The '459 Patent claims priority to the '716 Patent,
14 which had claims invalidated for claiming unpatentable subject matter in a decision
15 of this Court from which no appeal can now be taken.

16 34. On April 29, 2014, U.S. Patent No. 8,711,010 (the "'010 Patent"),
17 entitled "Notification Systems and Methods that Consider Traffic Flow
18 Predicament Data" was issued. The '010 Patent claims priority to the '716 Patent,
19 which had claims invalidated for claiming unpatentable subject matter in a decision
20 of this Court from which no appeal can now be taken.

21 35. Collectively the twenty-two (22) patents identified in paragraphs 13 to
22 34 are the Patents-in-Suit and are the known Eclipse Patents.

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

25 37. On September 4, 2014, District Court Judge George H. Wu, presiding
26 over the case of *Eclipse IP LLC v. McKinley Equipment Corporation*, Case No.
27 8:14-cv-00742, granted the defendant's Motion to Dismiss for Lack of Patentable
28 Subject Matter, and invalidated every claim he was asked to consider from the

1 '681 Patent, the '110 Patent, and the '716 Patent. On September 4, 2014, the Court
2 entered a final judgment in favor of the defendant McKinley Equipment
3 Corporation. On October 1, 2014, ECLIPSE filed a Notice of Appeal to the
4 Federal Circuit. On October 22, 2014, the Federal Circuit dismissed the appeal
5 pursuant to ECLIPSE's voluntary dismissal. As a result, the invalidity decision in
6 *Eclipse IP LLC v. McKinley Equipment Corporation* is now a final decision from
7 which no appeal can be taken and operates as a collateral estoppel to any effort by
8 ECLIPSE to enforce at least the invalidated claims.

9 ECLIPSE'S THREATS AGAINST LAUFER

10 38. On or about December 11, 2014, Matt Olavi of the law firm Olavi
11 Dunne LLP, counsel for ECLIPSE, from its offices in Los Angeles, California, and
12 on behalf of and as an agent for ECLIPSE, sent a letter to Martin Karczewski,
13 Director, International Operations, of LAUFER (the "Olavi letter"). A true and
14 correct copy of the Olavi letter is attached hereto as **Exhibit 1**.

15 39. The Olavi letter asserts that LAUFER infringes the Eclipse Patents,
16 warns that ECLIPSE "aggressively litigates patent infringement lawsuits," and
17 gave January 8, 2015 as a cutoff date, after which, ECLIPSE "assume[s] that
18 [LAUFER is] not interested in resolving this matter without litigation."

19 40. The Olavi letter references all of the Eclipse Patents, noting that
20 ECLIPSE's "patent portfolio currently includes 22 issued patents comprising over
21 600 claims in the field of data communications and information and messaging
22 systems"

23 41. The Olavi letter states that ECLIPSE has "provided [LAUFER] with
24 all of the materials necessary to undertake a thorough review of this matter."

25 42. In the Olavi letter, ECLIPSE alleges that the "electronic messaging
26 features of [LAUFER's] tracking and notification systems infringe claims of at
27 least several of Eclipse's patents."
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1 43. The Olavi letter provides three claims as representative examples of
2 LAUFER's alleged infringement of the Eclipse Patents, specifically identifying
3 three patents by patent number: the '9,899 Patent, the '239 Patent, and the '952
4 Patent.

5 44. ECLIPSE concludes the Olavi letter by offering "a paid-up worldwide
6 license under all of [the Eclipse Patents]" for "a lump sum fee of \$195,000" and
7 threatens litigation if LAUFER does not take such a license, suggesting that
8 LAUFER requires a license to use the Eclipse Patents.

9 45. On January 7, 2015, Andrew P. Zappia of the law firm LeClairRyan,
10 A Professional Corporation, counsel for LAUFER, sent a letter to Mr. Olavi in
11 response to the Olavi letter (the "Zappia January 7 letter"). A true and correct
12 copy of the Zappia January 7 letter is attached hereto as **Exhibit 2**.

13 46. In the Zappia January 7 letter, LAUFER denies infringement of the
14 asserted claims of the '9,899 Patent, the '239 Patent, and the '952 Patent and
15 asserts that those patents are invalid. Each of the '9,899 Patent, the '239 Patent,
16 and the '952 Patent is a continuation or divisional of the '716 Patent, which had
17 claims invalidated for claiming unpatentable subject matter in a decision of this
18 Court from which no appeal can now be taken.

19 47. On January 13, 2015, Mr. Olavi sent an e-mail to counsel for
20 LAUFER in response to the Zappia January 7 letter (the "Olavi January 13 e-
21 mail"). A true and correct copy of the Olavi January 13 e-mail is attached hereto
22 as **Exhibit 3**.

23 48. On January 13, 2015, Edward Turnbull, an individual associated with
24 ECLIPSE, contacted counsel for LAUFER directly by telephone regarding
25 licensing the Eclipse Patents.

26 49. On January 16, 2015, Mr. Zappia sent a letter to Mr. Olavi in response
27 to the Olavi January 13 e-mail (the "Zappia January 16 letter"). A true and correct
28 copy of the Zappia January 16 letter is attached hereto as **Exhibit 4**.

1 57. All of the claims of the Patents-in-Suit are invalid pursuant to 35
2 U.S.C. § 112 because they are indefinite, not enabled, or lack sufficient written
3 description as shown by the specifications of those patents, which are incorporated
4 herein by reference.

5 58. Based on ECLIPSE’s letter, e-mails, and telephone call to LAUFER,
6 its threat of litigation for patent infringement of the Patents-in-Suit, ECLIPSE’s
7 pattern of litigation, and LAUFER’s denial of infringement, including based on the
8 assertions of invalidity of the Eclipse Patents, an actual case or controversy exists
9 as to whether the Eclipse Patents are valid and thus whether LAUFER can infringe
10 any valid or enforceable claim of the Patents-in-Suit. Therefore, LAUFER is
11 entitled to a declaration that the claims of the Patents-in-Suit are invalid.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff LAUFER, requests this Court enter Judgment in its
14 favor and against Defendant ECLIPSE, for the following relief:

15 A. A declaration that the claims of the Patents-in-Suit comprising the
16 Eclipse Patents are invalid;

17 B. A declaration that LAUFER has not infringed any valid claim of the
18 Patents-in-Suit because the claims in the Patents-in-Suit are not valid;

19 C. That LAUFER be awarded its costs of suit;

20 D. That this Court declare this to be an exceptional case pursuant to 35
21 U.S.C. § 285, and award LAUFER its reasonable attorneys’ fees and expenses
22 based on, among other reasons, the effort by ECLIPSE to try to enforce patents
23 that ECLIPSE knows are invalid based on a decision of this Court, a decision from
24 which no appeal can now be taken and a decision that acts as a collateral estoppel
25 against ECLIPSE; and

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E. For such other and further relief as this Court deems proper.

Respectfully submitted,

DATED: February 25, 2015

LECLAIRRYAN, LLP

By: /s/Philip J. Bonoli
PHILIP J. BONOLI
Attorneys for Plaintiff
LAUFER GROUP INTERNATIONAL
LTD.

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DEMAND FOR JURY TRIAL

Plaintiff, LAUFER, demands a jury trial on all claims as to which it has a right to a jury.

Respectfully submitted,

DATED: February 25, 2015

LECLAIRRYAN, LLP

By: /s/Philip J. Bonoli
PHILIP J. BONOLI
Attorneys for Plaintiff
LAUFER GROUP INTERNATIONAL
LTD.