

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA**

SHIPPING and TRANSIT, LLC,

Plaintiff,

vs.

CAVIAR, INC.,

Defendant.

**West Palm Beach Division**

**Case No. \_\_\_\_\_**

**DEMAND FOR JURY TRIAL**

\_\_\_\_\_ /

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff, Shipping and Transit, LLC, by and through its undersigned counsel, hereby sues Defendant, CAVIAR, INC. (“CAVIAR”), for patent infringement, and in support, alleges as follows:

**NATURE OF THE LAWSUIT**

1. This is an action for patent infringement of United States Patent Numbers: 6,952,645; 7,400,970; 6,904,359; and, 7,030,781, arising under the patent laws of the United States, Title 35 of the United States Code.

**JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331; 28 U.S.C. § 1338; and 35 U.S.C. § 271.

3. This Court has personal jurisdiction over CAVIAR pursuant to, *inter alia*, Florida’s long-arm statute, § 48.193, in that CAVIAR: (a) operates, conducts, engages in, and/or carries on a business or business adventure(s) in Florida and/or has an office or agency in Florida; (b) has committed one or more tortious acts within Florida; (c) was and/or is engaged in substantial and not isolated activity within Florida; and/or (d) has purposely availed itself of

Florida's laws, services and/or other benefits and therefore should reasonably anticipate being hailed into one or more of the courts within the State of Florida.

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

**THE PLAINTIFF**

5. Plaintiff, Shipping and Transit, LLC, is a Florida Limited Liability Company with a principal place of business located in Boynton Beach, Florida.

**THE DEFENDANT**

6. Defendant, CAVIAR, is a California Corporation with a principal place of business located in San Francisco, California. Upon information and belief, CAVIAR transacts business in Florida and within this Judicial District, and has, at a minimum, offered to provide and/or has provided to customers within this Judicial District and throughout the State of Florida services and/or products that infringe claims of the '359, '645, '781, and '970 patents by selling products in this State and Judicial District, and using and contributing to the use of technology which infringes the patents in suit.

**THE PLAINTIFF'S PATENTS**

7. Plaintiff owns all rights, titles and interests in, and/or has standing to sue for infringement of United States Patent Number 7,030,781 ("the '781 patent"), entitled "Notification System and Method that Informs a Party of Vehicle Delay", issued April 18, 2006. A copy of the '781 patent is attached hereto as Exhibit 1.

8. Plaintiff owns all rights, titles and interests in, and/or has standing to sue for infringement of United States Patent Number 6,952,645 ("the '645 patent"), entitled "System and Method for Activation of an Advance Notification System for Monitoring and Reporting

Status of Vehicle Travel”, issued October 4, 2005. A copy of the ‘645 patent is attached hereto as Exhibit 2.

9. Plaintiff owns all rights, titles and interests in, and/or has standing to sue for infringement of United States Patent Number 7,400,970 (“the ‘970 patent”), entitled “System and Method for an Advance Notification System for Monitoring and Reporting Proximity of a Vehicle”, issued July 15, 2008. A copy of the ‘970 patent is attached hereto as Exhibit 3.

10. Plaintiff owns all rights, titles and interests in, and/or has standing to sue for infringement of United States Patent Number 6,904,359 (“the ‘359 patent”), entitled “Notification System and Methods with User-Defineable Notifications Based Upon Occurrence of Events”, issued June 7, 2005. A copy of the ‘359 patent is attached hereto as Exhibit 4.

11. The ‘781 patent referenced in Paragraph 7 above was the subject of an Ex Parte Reexamination at the United States Patent and Trademark Office. A Re-Examination Certificate was issued on July 2, 2013 and is attached hereto as Exhibit 5.

12. The ‘359 patent referenced in Paragraph 10 above was the subject of an Inter Partes Reexamination at the United States Patent and Trademark Office. A Reexamination Certificate was issued on May 25, 2010 and is attached hereto as Exhibit 6.

**COUNT I**  
**DIRECT PATENT INFRINGEMENT**

13. Plaintiff hereby incorporates Paragraphs 1 through 12 set forth above as if fully set forth herein.

14. Pursuant to 35 U.S.C. § 271(a), CAVIAR has directly infringed claims of the ‘359, ‘645, ‘781, and ‘970 patents through, among other activities, the commercial manufacture, sale, offer for sale, and/or use of its **"CAVIAR [mobile] APP [that includes real-time GPS tracking some of which includes displays on maps]"** functions, applications, solutions, devices,

programs, products, services, methods and/or systems which utilize tracking and messaging technologies that are protected within the '359, '645, '781 and '970 patents, as every claim limitation, or its equivalent, is found in these functions, applications, solutions, devices, programs, products, services, methods and/or systems.

15. CAVIAR'S direct infringement has injured and will continue to injure Plaintiff unless and until a monetary judgment is entered in favor of Plaintiff and/or the Court enters an injunction prohibiting further infringement and, specifically, enjoining further use of methods and systems that come within the scope of the '359, '781, '645, and '970 patents.

**REQUEST FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests this Court to enter judgment against CAVIAR and its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with CAVIAR, granting the following relief:

A. An award of damages against CAVIAR adequate to compensate Plaintiff for the infringement that has occurred with respect to CAVIAR, together with prejudgment interest from the date that CAVIAR'S infringement of the patents at issue began;

B. Increased damages as permitted pursuant to 35 U.S.C. § 284;

C. A finding that this case is exceptional and award to Plaintiff its attorney's fees and costs as provided by 35 U.S.C. § 285;

D. A permanent injunction against CAVIAR prohibiting further infringement of the patents at issue; and,

E. All other relief as the Court or a jury may deem proper and just in this instance.

**COUNT II**  
**INDIRECT PATENT INFRINGEMENT**

16. Plaintiff hereby incorporates Paragraphs 1 through 15 set forth above as if fully set forth herein.

17. Pursuant to 35 U.S.C. §§ 271(b) and (c), CAVIAR has indirectly infringed claims of the '359, '781, '645, and '970 patents through, among other activities, the commercial manufacture, sale, offer for sale and/or use of its **"CAVIAR [mobile] APP [that includes real-time GPS tracking some of which includes displays on maps]"** functions, applications, solutions, devices, programs, products, services, methods and/or systems which utilize tracking and messaging technologies that are protected within the '359, '781, '645, and '970 patents, as CAVIAR actively and intentionally induced infringement with knowledge that the induced acts constituted infringement, or acted with willful blindness; and/or contributed to infringement by one or more third parties as CAVIAR had knowledge, rather than intent, that its activity caused such infringement.

18. CAVIAR'S contributory infringement and/or inducement to infringe has injured and will continue to injure Plaintiff unless and until a monetary judgment is entered in favor of Plaintiff and/or the Court enters an injunction prohibiting further infringement and, specifically, enjoining further use of methods and systems that come within the scope of the '359, '781, '645, and '970 patents.

#### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests this Court to enter judgment against CAVIAR and its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with CAVIAR, granting the following relief:

- A. An award of damages against CAVIAR adequate to compensate Plaintiff for the infringement that has occurred with respect to CAVIAR, together with prejudgment interest from the date that CAVIAR'S infringement of the patents at issue began;
- B. Increased damages as permitted pursuant to 35 U.S.C. § 284;
- C. A finding that this case is exceptional and award to Plaintiff its attorney's fees and costs as provided by 35 U.S.C. § 285;
- D. A permanent injunction against CAVIAR prohibiting further infringement of the patents at issue; and,
- E. All other relief as the Court or a jury may deem proper and just in this instance.

**JURY DEMAND**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: May 13, 2015.

Respectfully submitted,

/s/ William R. McMahon  
William R. McMahon, Esquire  
Florida Bar Number: 39044  
WRM Law, LLC  
37 Edinburgh Drive  
Palm Beach Gardens, Florida 33418  
Telephone: 561-699-3456  
Email: bill@mlflc.com  
**Counsel for Plaintiff**