

1 MITCHELL + COMPANY  
2 Brian E. Mitchell (SBN 190095)  
3 *brian.mitchell@mcollawoffices.com*  
4 Marcel F. De Armas (SBN 289282)  
5 *mdearmas@mcollawoffices.com*  
6 4 Embarcadero Center, Suite 1400  
7 San Francisco, California 94111  
8 Tel: 415-766-3514  
9 Fax: 415-402-0058

10 Attorneys for Plaintiff  
11 FOURSEVENS LLC

12 UNITED STATES DISTRICT COURT  
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 FOURSEVENS LLC.

15 Plaintiff,

16 v.

17 ECLIPSE IP, LLC,

18 Defendant.

Case No.: 15-cv-3923

**COMPLAINT FOR DECLARATORY  
JUDGMENT**

**DEMAND FOR JURY TRIAL**

1 Plaintiff FOURSEVENS LLC (“Plaintiff” or “FOURSEVENS”) complains as  
2 follows:

3 **NATURE OF ACTION**

4 1. This is an action seeking Declaratory Judgment that twenty-four United  
5 States Patents (“Patents-in-Suit” or “Eclipse Patent Portfolio”), which are owned by  
6 Defendant Eclipse IP, LLC (“Eclipse” or “Defendant”), have not been infringed by  
7 Plaintiff are invalid and unenforceable.

8 2. This action arises under the Declaratory Judgment Act, 28 U.S.C. §§  
9 2201 and 2202, and the Patent Laws of the United States, Title 35 of the United  
10 States Code.

11 **THE PARTIES**

12 3. FOURSEVENS is a Georgia company that specializes in LED  
13 illumination and a leading innovator that is constantly pushing the boundaries of  
14 LED technology, design, and performance.

15 4. On information and belief, Eclipse is a Florida limited liability  
16 company with a principal place of business at 115 NW 17th Street, Delray Beach,  
17 Florida 33444. On information and belief, Eclipse is the owner of the Patents-in-  
18 Suit.

19 5. Eclipse is in the business of patent licensing through the threat of  
20 litigation.

21 6. A key part of Eclipse’s business model is sending letters, emails, and  
22 making telephone calls threatening patent litigation and following through on that  
23 threat.

24 **JURISDICTION AND VENUE**

25 7. The Court has subject matter jurisdiction of this action under 28 U.S.C.  
26 §§ 1331 and 1338(a) in that it arises under the United States Patent Laws.



1           16. On January 20, 2009, U.S. Patent No. 7,479,899 (the ‘9,899 Patent),  
2 entitled Notification Systems and Methods Enabling a Response to Cause  
3 Connection Between a Notified PCD and a Delivery or Pickup Representative was  
4 issued. The ‘9,899 Patent resulted from a continuation application of the ‘716  
5 Patent, which had claims invalidated for claiming unpatentable subject matter.

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

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

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

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

23           21. On May 5, 2009, U.S. Patent No. 7,528,742 (the ‘742 Patent), entitled  
24 Response System and Methods for Notification Systems for Modifying Future  
25 Notifications was issued. The ‘742 Patent claims priority to the ‘716 Patent, which  
26 had claims invalidated for claiming upatentable subject matter.

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1 issued. The '935 Patent claims priority to the '716 Patent, which had claims  
2 invalidated for claiming unpatentable subject matter.

3 28. On October 10, 2012, U.S. Patent No. 8,284,076 (the '076 Patent),  
4 entitled Systems and Methods for a Notification System that Enable User Changes  
5 to Quantity of Goods and/or Services for Deliver and/or Pickup was issued. The  
6 '076 Patent claims priority to the '716 Patent, which had claims invalidated for  
7 claiming unpatentable subject matter.

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

12 30. On February 5, 2013, U.S. Patent No. 8,368,562 (the '562 Patent),  
13 entitled Systems and Methods for a Notification System that Enable User Changes  
14 to Stop Location for Delivery and/or Pickup of Good and/or Service was issued. The  
15 '562 Patent claims priority to the '716 Patent, which had claims invalidated for  
16 claiming unpatentable subject matter.

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

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

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1           33. On April 29, 2014, U.S. Patent No. 8,711,010 (the ‘010 Patent),  
2 entitled Notification Systems and Methods that Consider Traffic Flow Predicament  
3 Data was issued. The ‘010 Patent claims priority to the ‘716 Patent, which had  
4 claims invalidated for claiming unpatentable subject matter.

5           34. On April 21, 2015, U.S. Patent No. 9,013,334 B2 (the ‘334 Patent),  
6 entitled Notification Systems and Methods that Permit Change of Quantity for  
7 Delivery and/or Pickup of Goods and/or Services was issued. The ‘334 Patent  
8 claims priority to the ‘716 Patent, which had claims invalidated for claiming  
9 unpatentable subject matter.

10           35. On April 28, 2015, U.S. Patent No. 9,019,130 B2 (the ‘130 Patent),  
11 entitled Notification Systems and Methods that Permit Change of Time Information  
12 for Delivery and/or Pickup of Goods and/or Services was issued. The ‘130 Patent  
13 claims priority to the ‘716 Patent, which had claims invalidated for claiming  
14 unpatentable subject matter.

15           36. Collectively the twenty-four patents identified in paragraphs 12 to 35  
16 are the Patents-in-Suit and the known Eclipse Patent Portfolio.

17           37. All the Patents-in-Suit are related and claim priority to the ‘716 Patent.

18                           **ECLIPSE’S THREATS AGAINST FOURSEVENS**

19           38. Upon information and belief, on or about March 4, 2015, Matt Olavi of  
20 the law firm Olavi Dunne LLP, counsel for Eclipse, sent a letter to, FOURSEVENS,  
21 at FOURSEVENS’ Kennesaw, Georgia offices (the “Olavi letter”).

22           39. Upon information and belief the Olavi letter asserts that  
23 FOURSEVENS infringes the Eclipse Patent Portfolio, warns that Eclipse  
24 “aggressively litigates patent infringement lawsuits,” and gave a cutoff date prior to  
25 April 17, 2015, after which, Eclipse “assume[s] that [FOURSEVENS is] not  
26 interested in resolving this matter without litigation.”





1           45.    These three representative examples were provided after Judge Wu had  
2 ruled nearly identical claims invalid.

3           46.    Upon information and belief, Eclipse concludes the letter by offering a  
4 worldwide license to the entire Eclipse Patent Portfolio in exchange for \$45,000 or  
5 threatening litigation.

6           47.    On or about April 17, 2015, Eclipse filed a complaint for patent  
7 infringement in the United States District court for the District of New Jersey—case  
8 number 1:15-cv-02794 (“New Jersey Litigation”)—asserting the ‘239, ‘716, and  
9 ‘9,899 Patents.

10          48.    Upon information and belief, Eclipse intentionally asserted less than  
11 the patents it offered to license so as not to risk the Court invalidating the entire  
12 Eclipse Patent Portfolio.

13          49.    Upon information and belief, Eclipse has no connection to New Jersey.  
14 Upon information and belief, Scott Horstemeyer, the inventor of the Patents-in-Suit,  
15 is located in Atlanta, Georgia. Upon information and belief, Eclipse is a Florida  
16 company with a principal place of business in Boynton Beach, Florida. Upon  
17 information and belief, Pete A Sirianni III, Eclipse’s managing partner and  
18 registered agent, is located in Delray Beach, Florida. Upon information and belief,  
19 Edward Turnbull, Eclipse’s licensing agent, is located in Vancouver, Canada. Upon  
20 information and belief, Matt Olavi, Partner at Olavi Dunne LLP and Eclipse’s  
21 counsel, is located in Los Angeles, California.

22          50.    Eclipse’s letter, its pattern of aggressive litigation, and willingness to  
23 file litigation against FOURSEVENS show that there is a substantial controversy  
24 between the parties having adverse legal interest, of sufficient immediacy and reality  
25 to warrant the issuance of a declaratory judgment.

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1 **ECLIPSE’S FAILURE TO DISCLOSE INFORMATION MATERIAL TO PATENTABILITY**

2 51. Upon information and belief, Eclipse knowingly failed to disclose  
3 material information to the United State Patent and Trademark Office (“PTO”)  
4 during the prosecution of the ‘334 and ‘130 Patents.

5 52. Upon information and belief, Eclipse intentionally did not disclose  
6 Judge Wu’s Order to the PTO during the prosecution of the ‘334 and ‘130 Patents.

7 53. The reasoning in Judge Wu’s Order directly applies to the ‘334 and  
8 ‘130 Patents. Specifically Judge Wu reasoned that “‘the mere recitation of a generic  
9 computer cannot transform a patent-ineligible abstract idea into a patent-eligible  
10 invention’ . . . [n]or can the generic recitation to ‘a transportation vehicle’ save the  
11 claims.”

12 54. Eclipse’s independent claims in the ‘334 Patent—Claims 1 and 11—are  
13 similar to the now invalid Claims 1 and 18 of the ‘716 Patent except that they are  
14 directed to updating quantity information necessary for completing a task as  
15 opposed to completing tasks generally.

16 55. Eclipse’s independent claims in the ‘130 Patent—Claims 1 and 11—are  
17 similar to the now invalid Claims 1 and 18 of the ‘716 Patent except that they are  
18 directed to updating the time information for completing a task as opposed to  
19 completing tasks generally.

20 56. Eclipse’s independent claims in the ‘334 Patent—Claims 1 and 11—are  
21 like to the now invalid Claim 1 of the ‘110 Patent except that it adds a second  
22 communication to update quantity information.

23 57. Eclipse’s independent claims in the ‘130 Patent—Claims 1 and 11—are  
24 like to the now invalid Claim 1 of the ‘110 Patent except that it adds a second  
25 communication to update time information.

26 58. By offering a license to or threatening litigation on the entire Eclipse  
27 Patent Portfolio and providing representative examples of FOURSEVENS’ alleged  
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1 infringement of the Eclipse Patent Portfolio, Eclipse has threatened to assert claims  
2 against FOURSEVENS for alleged infringement of one or more claims from each  
3 and every Patent-in-Suit, including the '334 and '130 Patents.

4 **FIRST CLAIM FOR RELIEF**

5 **(Declaratory Judgment of Non-Infringement of the**  
6 **Patents-in-Suit / Eclipse Patent Portfolio)**

7 59. FOURSEVENS incorporates by reference and realleges each of the  
8 allegations set forth in the preceding paragraphs as though fully set forth herein.

9 60. FOURSEVENS' online ordering system does not infringe the Patents-  
10 in-Suit, directly or indirectly.

11 61. FOURSEVENS is not infringing, and has never infringed, any valid  
12 claim of the Patents-in-Suit either directly or indirectly, literally or under the  
13 doctrine of equivalents.

14 62. FOURSEVENS is entitled to a judgment declaring that it has never  
15 infringed and is not infringing any valid claim of the Patents-in-Suit.

16 **SECOND CLAIM FOR RELIEF**

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

19 63. FOURSEVENS incorporates by reference and realleges each of the  
20 allegations set forth in preceding paragraphs as though fully set forth herein.

21 64. All of the claims of the Patents-in-Suit are invalid under the United  
22 States Patent Act, including pursuant to 35 U.S.C. §§ 101, 102, 103, and 112.

23 65. All of the claims of the Patents-in-Suit are invalid pursuant to 35  
24 U.S.C. § 101 because they purport to claim unpatentable abstract concepts. For  
25 example, some of the claims of the '716 Patent are directed to the abstract idea of  
26 assigning someone to perform a task and then waiting until they complete it.

1 66. All of the claims of the Patents-in-Suit are invalid pursuant to 35  
2 U.S.C. §§ 102 and/or 103 because they are anticipated or rendered obvious by prior  
3 art.

4 67. All of the claims of the Patents-in-Suit are invalid pursuant to 35  
5 U.S.C. § 112 because they are indefinite, not enabled, or lack sufficient written  
6 description.

7 68. Based on Eclipse’s letter, its threat of litigation for patent infringement  
8 of the entire Eclipse Patent Portfolio, Eclipse’s pattern of litigation, and  
9 FOURSEVENS’ denial of infringement, an actual case or controversy exists as to  
10 whether FOURSEVENS infringes any valid or enforceable claim of the Patents-in-  
11 Suit, and FOURSEVENS is entitled to a declaration that the claims of the Patents-  
12 in-Suit are invalid.

13 **THIRD CLAIM FOR RELIEF**

14 **(Declaratory Judgment of Unenforceability Based on Inequitable Conduct)**

15 69. FOURSEVENS incorporates by reference and realleges each of the  
16 allegations set forth in the preceding paragraphs as though fully set forth herein.

17 70. Judge Wu’s Order is information material to the patentability of the  
18 ‘334 and ‘130 Patents.

19 71. Upon information and belief, Eclipse knew that Judge Wu’s Order was  
20 material to patentability, knew withholding such information was a violation of its  
21 duty of candor toward the PTO, and intended to deceive the PTO by withholding  
22 such information.

23 72. Upon information and belief, had Judge Wu’s Order been properly  
24 disclosed to the PTO the ‘334 Patent would not have issued.

25 73. Upon information and belief, had Judge Wu’s Order been properly  
26 disclosed to the PTO the ‘130 Patent would not have issued.

1 74. Because of the inequitable conduct during prosecution, the ‘334 and  
2 ‘130 Patents are unenforceable. Because the inequitable conduct related to the  
3 invalidity of claims in the ‘716 Patent, among others, and the ‘334 and ‘130 Patents  
4 claim priority to the ‘716 Patent, all related patents that claim priority to the ‘716  
5 Patent are also rendered unenforceable.

6 75. Based on Eclipse’s inequitable conduct and the existence of an actual  
7 case or controversy as to whether FOURSEVENS infringes any claim of the  
8 Patents-in-Suit, FOURSEVENS is entitled to a declaration that the claims of the  
9 Patents-in-Suit are unenforceable.

10 **REQUEST FOR RELIEF**

11 Therefore, FOURSEVENS requests for judgment:

12 1. That FOURSEVENS has not infringed any claim of the patents in the  
13 Eclipse Patent Portfolio;

14 2. That the claims of the patents comprising the Eclipse Patent Portfolio  
15 are invalid;

16 3. That the claims of the patents comprising the Eclipse Patent Portfolio  
17 are unenforceable;

18 4. That FOURSEVENS be awarded its costs of suit, and pre- and post-  
19 judgment interest on any money judgment;

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

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

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24 Dated: May 22, 2015

Respectfully submitted,

25 */s/ Brian E. Mitchell*

26 Brian E. Mitchell

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Marcel F. De Armas  
MITCHELL + COMPANY  
4 Embarcadero Center, Suite 1400  
San Francisco, CA 94111  
Telephone: (415) 766-3515  
Facsimile: (415) 402-0058  
brian.mitchell@mcollawoffices.com  
mdearmas@mcollawoffices.com

Attorneys for Plaintiff  
FOURSEVENS LLC

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DEMAND FOR JURY TRIAL

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

Dated: May 22, 2015

Respectfully submitted,

/s/ Brian E. Mitchell  
Brian E. Mitchell

Brian E. Mitchell  
Marcel F. De Armas  
MITCHELL + COMPANY  
4 Embarcadero Center, Suite 1400  
San Francisco, CA 94111  
Telephone: (415) 766-3515  
Facsimile: (415) 402-0058  
brian.mitchell@mcollawoffices.com  
mdearmas@mcollawoffices.com

Attorneys for Plaintiff  
FOURSEVENS LLC