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8 *Attorneys for Plaintiff Eclipse IP LLC*

9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 ECLIPSE IP LLC, a Florida Limited ) Case No. 2:13-cv-07155-SJO-JC  
12 Liability Company, )  
13 Plaintiff, ) **FIRST AMENDED COMPLAINT**  
14 ) **FOR PATENT INFRINGEMENT**  
15 v. ) **TRIAL BY JURY DEMANDED**  
16 )  
16 SIDE.CR, LLC, a Delaware Limited )  
Liability Company, )  
17 )  
18 Defendant. )  
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1 Plaintiff Eclipse IP LLC (“Eclipse”), by and through counsel, complains  
2 against Side.Cr, LLC (“Sidecar”) as follows:

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4 **NATURE OF LAWSUIT**

5 1. This is a suit for patent infringement arising under the patent laws of  
6 the United States, Title 35 of the United States Code § 1 *et seq.* This Court has  
7 exclusive jurisdiction over the subject matter of the Complaint under 28 U.S.C.  
8 §§ 1331 and 1338(a).  
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10 **PARTIES AND PATENTS**

11 2. Eclipse is a company organized under the laws of Florida and having a  
12 principal place of business at 115 NW 17<sup>th</sup> St, Delray Beach, Florida 33444.

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14 3. Eclipse owns all right, title, and interest in and has standing to sue for  
15 infringement of United States Patent No. 7,064,681 ("the '681 patent"), entitled  
16 "Response systems and methods for notification systems" (Exhibit A); United States  
17 Patent No. 7,482,952 ("the '952 patent"), entitled "Response systems and methods  
18 for notification systems for modifying future notifications" (Exhibit B); United  
19 States Patent No. 7,479,901 ("the '901 patent"), entitled "Mobile thing determination  
20 systems and methods based upon user-device location" (Exhibit C); and United  
21 States Patent No. 7,538,691 ("the '691 patent"), entitled "Mobile thing determination  
22 systems and methods based upon user-device location" (Exhibit D) (collectively,  
23 "the Eclipse Patents").  
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4. On information and belief, Sidecar is a company existing under the laws of Delaware.

5. On information and belief, Sidecar does regular business in this Judicial District and conduct leading to Sidecar’s acts of infringement has occurred in this Judicial District.

**JURISDICTION AND VENUE**

6. This Court has personal jurisdiction over Sidecar because it has engaged in continuous and systematic business in California; upon information and belief, derives substantial revenues from commercial activities in California; and upon information and belief, is operating and/or supporting products or services that fall within one or more claims of Eclipse's patents in this District.

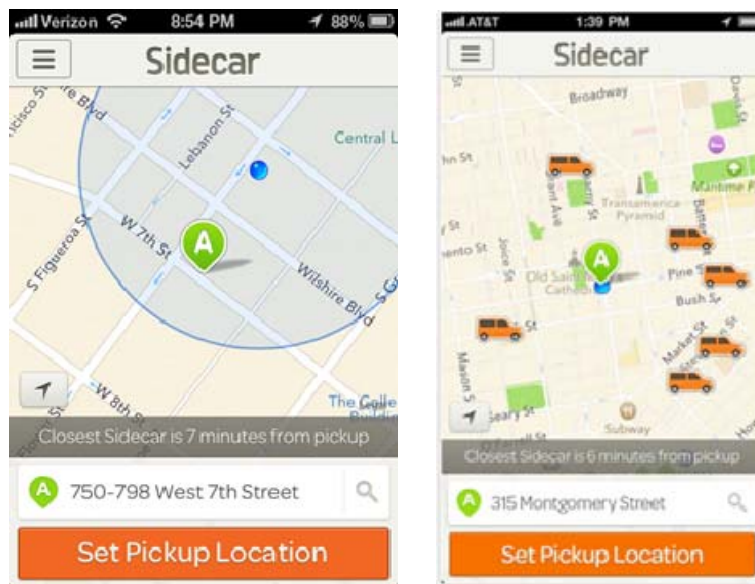
7. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(a) at least because the claim arises in this Judicial District, Sidecar may be found and transacts business in this Judicial District, and injuries suffered by Plaintiff took place in this Judicial District. Sidecar is subject to the general and specific personal jurisdiction of this Court at least because of its contacts with the State of California.

**FACTUAL BACKGROUND**

8. Publicly launched in 2012, Sidecar designs, makes, advertises, and/or distributes a mobile application (“the Sidecar Application”) that connects users of the Sidecar Application with drivers of cars for hire (“Sidecar Drivers”).

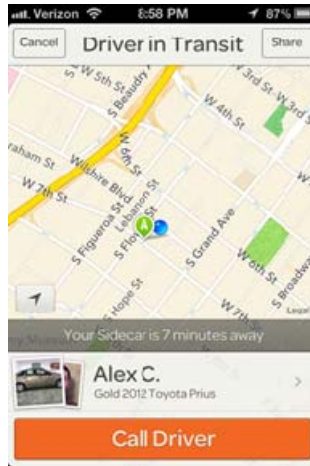
1           9.       On information and belief, users of the Sidecar Application can use  
2 their smartphone or tablet computer (“tablet”) to request that a vehicle pick them up  
3 from a given location.  
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5           10.       On information and belief, when a user opens the Sidecar Application,  
6 Sidecar tracks the location of the user’s smartphone or tablet and attempts to  
7 pinpoint the user on a map. Sidecar also tracks the location of Sidecar Drivers.  
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9 Non-limiting, exemplary images appear below:



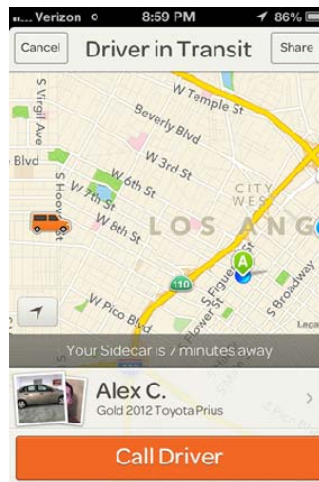
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20           11.       On information and belief, when the user of the Sidecar Application  
21 selects a pickup location, Sidecar sends a pickup request to the closest available  
22 Sidecar Driver. If that Sidecar Driver declines or is non-responsive, Sidecar sends  
23 the pickup request to other Sidecar Drivers. When Sidecar receives a response  
24 indicating that a Sidecar Driver will accept the fare, Sidecar notifies the user in at  
25 least one way. A non-limiting, exemplary image appears below:  
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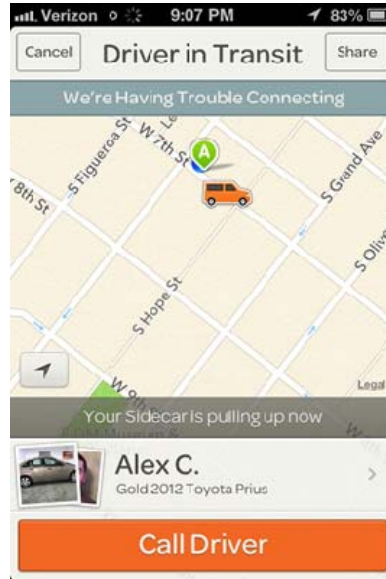
12. On information and belief, through the Sidecar Application, Sidecar displays the location of the Sidecar Driver, the pickup location, and the time until the Sidecar Driver’s arrival at the pickup location, allowing the user of the Sidecar Application to track the Sidecar Driver’s progress.

13. On information and belief, through the Sidecar Application, Sidecar allows the user to communicate with the driver or cancel the trip. A non-limiting, exemplary image appears below:



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1           14. On information and belief, Sidecar also notifies the user of the Sidecar  
2 Application in at least one way when the Sidecar Driver is arriving at the indicated  
3 pickup location. A non-limiting, exemplary image appears below:  
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15                           **SIDECAR'S ACTS OF PATENT INFRINGEMENT**

16           15. Eclipse reiterates and reincorporates the allegations set forth in  
17 paragraphs 1 through 14 above as if fully set forth herein.  
18

19           16. Sidecar owns, uses, deploys, and/or operates at least one service and/or  
20 system for booking a car electronically.

21           17. The at least one service and/or system allows users of a smartphone or  
22 tablet to request a car to pick them up.  
23

24           18. To implement the at least one service and/or system, Sidecar created  
25 and/or developed at least one smartphone application – the Sidecar Application –  
26 which plays a material role in the at least one car booking service and/or system.  
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1 19. The Sidecar Application is available on several different platforms,  
2 including but not limited to on smartphones and tablets running versions of Apple  
3 Inc.'s iOS platform and Google, Inc.'s Android platform.

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5 20. Among other things, the Sidecar Application allows users to schedule  
6 or arrange a pickup on their smartphone or tablet, and track the status of the vehicle  
7 on a map.

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9 21. Among other things, Sidecar tracks the location of the user's  
10 smartphone or tablet, tracks the location of a smartphone being used by each Sidecar  
11 Driver, distributes requests for pickups received from users of the Sidecar  
12 Application, receives responses from at least one Sidecar Driver, and notifies the  
13 user when their vehicle is arriving at the pickup location.

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16 **CLAIMS FOR RELIEF**

17 **COUNT 1**

18 (Patent Infringement of U.S. Patent No. 7,064,681  
19 Under 35 U.S.C. § 271 et seq.)

20 22. Eclipse reiterates and reincorporates the allegations set forth in  
21 paragraphs 1 through 21 above as if fully set forth herein.

22 23. On June 20, 2006, the United States Patent and Trademark Office duly  
23 and legally issued United States Patent No. 7,064,681, entitled "Response systems  
24 and methods for notification systems." Eclipse is the owner of the entire right, title  
25 and interest in and to the '681 patent. A true and correct copy of the '681 patent is  
26 attached as Exhibit A to this Complaint.

1           24.    The '681 patent is valid and enforceable.

2           25.    Eclipse is informed and believes, and thereupon alleges, that:

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4           (1) Sidecar has infringed and continues to infringe one or more claims of the '681  
5 patent, literally and/or under the doctrine of equivalents and additionally and/or in  
6 the alternative, (2) Sidecar has actively induced and continues to actively induce  
7 and/or has contributed to and continues to contribute to the infringement of one or  
8 more claims of the '681 patent in this District and elsewhere in the United States.  
9

10           26.    On information and belief, Sidecar has directly infringed and continues  
11 to directly infringe one or more claims of the '681 patent, in violation of 35 U.S.C.  
12 § 271(a), by, among other things, making, using, offering for sale, and/or selling a  
13 method for communication in connection with a computer-based notification system  
14 to, for example: notify a Sidecar Driver of a requested pickup; receive a response  
15 indicating whether or not the Sidecar Driver will perform the pickup; if the Sidecar  
16 Driver will perform the pickup, refrain from sending additional notifications to the  
17 Sidecar Driver until detection of one or more events indicating that the user's trip is  
18 complete; and if the Sidecar Driver will not pickup the user, notify another Sidecar  
19 Driver in order to request assistance in picking up the user.  
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24           27.    Additionally and/or in the alternative, on information and belief,  
25 Sidecar has actively induced and continues to actively induce and/or has contributed  
26 to and continues to contribute to the infringement of one or more claims of the '681  
27 patent, in violation of 35 U.S.C. § 271(b) and/or (c), by, among other things,  
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1 actively, knowingly, and intentionally encouraging, aiding, and/or abetting others to  
2 make, use, offer for sale, and/or sell portions of a computer-based notification  
3 system that infringes one or more claims of the '681 patent, with the specific intent  
4 to encourage infringement and with the knowledge that the making, using, offering  
5 to sell, and/or selling of such a system would constitute infringement.  
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8 28. On information and belief, Sidecar has had knowledge of the '681  
9 patent at least as early as September 27, 2013, the day that it received a courtesy  
10 copy of the Complaint, which set forth factual allegations of Sidecar's infringement.  
11 *See* Olavi Decl., ¶¶2-5. Additionally, at least as early as September 27, 2013,  
12 Sidecar knew or should have known that its continued offering, use, deployment,  
13 and/or operation of the at least one service and/or system for booking a car  
14 electronically and its continued support of others, if those parties perform any  
15 limitations of one or more of the claims of the '681 patent, would induce direct  
16 infringement of the '681 patent, as it had actual knowledge of the patent and factual  
17 allegations of its infringement thereof.  
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21 29. On information and belief, Sidecar has not changed or modified its  
22 infringing behavior since September 27, 2013.  
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24 30. Sidecar's aforesaid infringing activity has directly and proximately  
25 caused damage to Plaintiff Eclipse, including loss of profits from sales and/or  
26 licensing revenues it would have made but for the infringements. Unless enjoined,  
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1 the aforesaid infringing activity will continue and cause irreparable injury to Eclipse  
2 for which there is no adequate remedy at law.

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4 **COUNT 2**

5 **(Patent Infringement of U.S. Patent No. 7,482,952**  
6 **Under 35 U.S.C. § 271 et seq.)**

7 31. Eclipse reiterates and reincorporates the allegations set forth in  
8 paragraphs 1 through 30 above as if fully set forth herein.

9 32. On January 27, 2009, the United States Patent and Trademark Office  
10 duly and legally issued United States Patent No. 7,482,952, entitled "Response  
11 systems and methods for notification systems for modifying future notifications."  
12 Eclipse is the owner of the entire right, title and interest in and to the '952 patent. A  
13 true and correct copy of the '952 patent is attached as Exhibit B to this Complaint.

14 33. The '952 patent is valid and enforceable.

15 34. Eclipse is informed and believes, and thereupon alleges, that:

16 (1) Sidecar has infringed and continues to infringe one or more claims of the '952  
17 patent, literally and/or under the doctrine of equivalents and additionally and/or in  
18 the alternative, (2) Sidecar has actively induced and continues to actively induce  
19 and/or has contributed to and continues to contribute to the infringement of one or  
20 more claims of the '952 patent in this District and elsewhere in the United States.

21 35. On information and belief, Sidecar has directly infringed and continues  
22 to directly infringe one or more claims of the '952 patent, in violation of 35 U.S.C.  
23 § 271(a), by, among other things, making, using, offering for sale, and/or selling a  
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1 method for a computer-based notification system to, for example: schedule a time  
2 for a car to arrive at a pickup location; schedule a notification communication when  
3 the car arrives; determine a change in the schedule of the car; notify the user of the  
4 change in schedule; and allow the user to cancel the later-scheduled notification.  
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6 36. Additionally and/or in the alternative, on information and belief,  
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8 Sidecar has actively induced and continues to actively induce and/or has contributed  
9 to and continues to contribute to the infringement of one or more claims of the '952  
10 patent, in violation of 35 U.S.C. § 271(b) and/or (c), by, among other things,  
11 actively, knowingly, and intentionally encouraging, aiding, and/or abetting others to  
12 make, use, offer for sale, and/or sell portions of a computer-based notification  
13 system that infringes one or more claims of the '952 patent, with the specific intent  
14 to encourage infringement and with the knowledge that the making, using, offering  
15 to sell, and/or selling of such a system would constitute infringement.  
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18 37. On information and belief, Sidecar has had knowledge of the '952  
19 patent at least as early as September 27, 2013, the day that it received a courtesy  
20 copy of the Complaint, which set forth factual allegations of Sidecar's infringement.  
21 *See* Olavi Decl., ¶¶2-5. Additionally, at least as early as September 27, 2013,  
22 Sidecar knew or should have known that its continued offering, use, deployment,  
23 and/or operation of the at least one service and/or system for booking a car  
24 electronically and its continued support of others, if those parties perform any  
25 limitations of one or more of the claims of the '952 patent, would induce direct  
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1 infringement of the '952 patent, as it had actual knowledge of the patent and factual  
2 allegations of its infringement thereof.

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4 38. On information and belief, Sidecar has not changed or modified its  
5 infringing behavior since September 27, 2013.

6  
7 39. Sidecar's aforesaid infringing activity has directly and proximately  
8 caused damage to Plaintiff Eclipse, including loss of profits from sales and/or  
9 licensing revenues it would have made but for the infringements. Unless enjoined,  
10 the aforesaid infringing activity will continue and cause irreparable injury to Eclipse  
11 for which there is no adequate remedy at law.  
12

13 **COUNT 3**

14 **(Patent Infringement of U.S. Patent No. 7,479,901**  
15 **Under 35 U.S.C. § 271 et seq.)**

16 40. Eclipse reiterates and reincorporates the allegations set forth in  
17 paragraphs 1 through 39 above as if fully set forth herein.

18 41. On January 20, 2009, the United States Patent and Trademark Office  
19 duly and legally issued United States Patent No. 7,479,901, entitled "Mobile thing  
20 determination systems and methods based upon user-device location." Eclipse is the  
21 owner of the entire right, title and interest in and to the '901 patent. A true and  
22 correct copy of the '901 patent is attached as Exhibit C to this Complaint.  
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24 42. The '901 patent is valid and enforceable.

25 43. Eclipse is informed and believes, and thereupon alleges, that:

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28 (1) Sidecar has infringed and continues to infringe one or more claims of the '901

1 patent, literally and/or under the doctrine of equivalents and additionally and/or in  
2 the alternative, (2) Sidecar has actively induced and continues to actively induce  
3 and/or has contributed to and continues to contribute to the infringement of one or  
4 more claims of the '901 patent in this District and elsewhere in the United States.  
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6 44. On information and belief, Sidecar has directly infringed and continues  
7 to directly infringe one or more claims of the '901 patent, in violation of 35 U.S.C.  
8 § 271(a), by, among other things, making, using, offering for sale, and/or selling a  
9 method for a notification system to, for example: monitor the user's location;  
10 receive a request for a pickup; notify a Sidecar Driver of the requested pickup;  
11 receive a response from the Sidecar Driver; and communicate the response to the  
12 user.  
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15 45. Additionally and/or in the alternative, on information and belief,  
16 Sidecar has actively induced and continues to actively induce and/or has contributed  
17 to and continues to contribute to the infringement of one or more claims of the '901  
18 patent, in violation of 35 U.S.C. § 271(b) and/or (c), by, among other things,  
19 actively, knowingly, and intentionally encouraging, aiding, and/or abetting others to  
20 make, use, offer for sale, and/or sell portions of a notification system that infringes  
21 one or more claims of the '901 patent, with the specific intent to encourage  
22 infringement and with the knowledge that the making, using, offering to sell, and/or  
23 selling of such a system would constitute infringement.  
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1 46. On information and belief, Sidecar has had knowledge of the '901  
2 patent at least as early as September 27, 2013, the day that it received a courtesy  
3 copy of the Complaint, which set forth factual allegations of Sidecar's infringement.  
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5 *See* Olavi Decl., ¶¶2-5. Additionally, at least as early as September 27, 2013,  
6 Sidecar knew or should have known that its continued offering, use, deployment,  
7  
8 and/or operation of the at least one service and/or system for booking a car  
9 electronically and its continued support of others, if those parties perform any  
10 limitations of one or more of the claims of the '901 patent, would induce direct  
11 infringement of the '901 patent, as it had actual knowledge of the patent and factual  
12 allegations of its infringement thereof.  
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14 47. On information and belief, Sidecar has not changed or modified its  
15 infringing behavior since September 27, 2013.  
16

17 48. Sidecar's aforesaid infringing activity has directly and proximately  
18 caused damage to Plaintiff Eclipse, including loss of profits from sales and/or  
19 licensing revenues it would have made but for the infringements. Unless enjoined,  
20 the aforesaid infringing activity will continue and cause irreparable injury to Eclipse  
21 for which there is no adequate remedy at law.  
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24 **COUNT 4**

25 (Patent Infringement of U.S. Patent No. 7,538,691  
26 Under 35 U.S.C. § 271 et seq.)

27 49. Eclipse reiterates and reincorporates the allegations set forth in  
28 paragraphs 1 through 48 above as if fully set forth herein.

1           50.     On May 26, 2009, the United States Patent and Trademark Office duly  
2 and legally issued United States Patent No. 7,538,691, entitled "Mobile thing  
3 determination systems and methods based upon user-device location." Eclipse is the  
4 owner of the entire right, title and interest in and to the '691 patent. A true and  
5 correct copy of the '691 patent is attached as Exhibit D to this Complaint.  
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8           51.     The '691 patent is valid and enforceable.

9           52.     Eclipse is informed and believes, and thereupon alleges, that:  
10 (1) Sidecar has infringed and continues to infringe one or more claims of the '691  
11 patent, literally and/or under the doctrine of equivalents and additionally and/or in  
12 the alternative, (2) Sidecar has actively induced and continues to actively induce  
13 and/or has contributed to and continues to contribute to the infringement of one or  
14 more claims of the '691 patent in this District and elsewhere in the United States.  
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17           53.     On information and belief, Sidecar has directly infringed and continues  
18 to directly infringe one or more claims of the '691 patent, in violation of 35 U.S.C.  
19 § 271(a), by, among other things, making, using, offering for sale, and/or selling a  
20 method for implementation in connection with a computer-based notification system  
21 to, for example: determine the user's location; identify a pickup location; and notify  
22 the user when the car is approaching the pickup location.  
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25           54.     Additionally and/or in the alternative, on information and belief,  
26 Sidecar has actively induced and continues to actively induce and/or has contributed  
27 to and continues to contribute to the infringement of one or more claims of the '691  
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1 patent, in violation of 35 U.S.C. § 271(b) and/or (c), by, among other things,  
2 actively, knowingly, and intentionally encouraging, aiding, and/or abetting others to  
3 make, use, offer for sale, and/or sell portions of a computer-based notification  
4 system that infringes one or more claims of the '691 patent, with the specific intent  
5 to encourage infringement and with the knowledge that the making, using, offering  
6 to sell, and/or selling of such a system would constitute infringement.  
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9       55. On information and belief, Sidecar has had knowledge of the '691  
10 patent at least as early as September 27, 2013, the day that it received a courtesy  
11 copy of the Complaint, which set forth factual allegations of Sidecar's infringement.  
12 *See* Olavi Decl., ¶¶2-5. Additionally, at least as early as September 27, 2013,  
13 Sidecar knew or should have known that its continued offering, use, deployment,  
14 and/or operation of the at least one service and/or system for booking a car  
15 electronically and its continued support of others, if those parties perform any  
16 limitations of one or more of the claims of the '691 patent, would induce direct  
17 infringement of the '691 patent, as it had actual knowledge of the patent and factual  
18 allegations of its infringement thereof.  
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22       56. On information and belief, Sidecar has not changed or modified its  
23 infringing behavior since September 27, 2013.  
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25       57. Sidecar's aforesaid infringing activity has directly and proximately  
26 caused damage to Plaintiff Eclipse, including loss of profits from sales and/or  
27 licensing revenues it would have made but for the infringements. Unless enjoined,  
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1 the aforesaid infringing activity will continue and cause irreparable injury to Eclipse  
2 for which there is no adequate remedy at law.

3  
4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff Eclipse asks this Court to enter judgment against  
6 Sidecar and against each of Sidecar's respective subsidiaries, affiliates, agents,  
7 servants, employees and all persons in active concert or participation with it,  
8 granting the following relief:  
9

10 1. A judgment that Sidecar has infringed each and every one of the  
11 Eclipse Patents;

12 2. A permanent injunction against Sidecar, its respective officers, agents,  
13 servants, employees, attorneys, parent and subsidiary corporations, assigns and  
14 successors in interest, and those persons in active concert or participation with them,  
15 enjoining them from direct and indirect infringement of each and every one of the  
16 Eclipse Patents;  
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19 3. An award of damages adequate to compensate Eclipse for the  
20 infringement that has occurred, together with prejudgment interest from the date  
21 infringement of the Eclipse Patents began;  
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23 4. A reasonable royalty for Sidecar's use of Eclipse's patented  
24 technology, as alleged herein;  
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26 5. An award to Eclipse of all remedies available under 35 U.S.C. §§ 284  
27 and 285; and,  
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6. Such other and further relief as this Court or a jury may deem proper  
and just.

DATED: October 21, 2013 OLAVI DUNNE LLP

By: /s/ Matt Olavi

Matt Olavi  
Brian J. Dunne  
*Attorneys for Plaintiff*  
*Eclipse IP LLC*

**JURY DEMAND**

Eclipse demands a trial by jury on all issues so triable pursuant to Federal  
Rule of Civil Procedure 38.

DATED: October 21, 2013 OLAVI DUNNE LLP

By: /s/ Matt Olavi

Matt Olavi  
Brian J. Dunne  
*Attorneys for Plaintiff*  
*Eclipse IP LLC*