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10 *Attorneys for Plaintiff Eclipse IP LLC*

11 **UNITED STATES DISTRICT COURT**
 12 **CENTRAL DISTRICT OF CALIFORNIA**

<p>13 ECLIPSE IP LLC, a Florida Limited 14 Liability Company, 15 16 Plaintiff, 17 18 v. 19 US AIRWAYS, INC., a Delaware 20 Corporation, 21 22 Defendant.</p>	<p>) Case No. 2:13-cv-06651-SJO-FFM)) FIRST AMENDED COMPLAINT) FOR PATENT INFRINGEMENT)) TRIAL BY JURY DEMANDED)))))))</p>
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1 Plaintiff Eclipse IP LLC (“Eclipse”), by and through counsel, complains
2 against US Airways, Inc. (“US Airways”) 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).
9

10 **PARTIES AND PATENTS**

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

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15 3. Eclipse owns all right, title, and interest in and has standing to sue for
16 infringement of United States Patent No. 7,119,716 ("the '716 patent"), entitled
17 "Response systems and methods for notification systems for modifying future
18 notifications" (Exhibit A); United States Patent No. 7,479,899 ("the '899 patent"),
19 entitled "Notification systems and methods enabling a response to cause connection
20 between a notified PCD and a delivery or pickup representative" (Exhibit B); and
21 United States Patent No. 7,504,966 ("the '966 patent"), entitled "Response systems
22 and methods for notification systems for modifying future notifications" (Exhibit C)
23 (collectively, "the Eclipse Patents").
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27 4. On information and belief, US Airways is a corporation existing under
28 the laws of Delaware.

1 9. On information and belief, US Airways creates and maintains a
2 timetable for every scheduled US Airways flight, which includes a scheduled
3 departure time and a scheduled arrival time for every US Airways flight.
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5 10. On information and belief, US Airways, either on its own or through its
6 agents, monitors the location of its various airplanes, and based at least in part on
7 the location of a given airplane, determines whether a particular flight will depart
8 from its scheduled departure city and/or whether a particular flight will arrive at its
9 scheduled arrival city earlier than the scheduled time, at the scheduled time, or later
10 than the scheduled time.
11

12 11. On information and belief, US Airways also uses the location of its
13 various airplanes to determine whether or not to cancel flights.
14

15 12. On information and belief, US Airways uses, makes, deploys,
16 advertises, and/or operates at least one system and/or service (the “US Airways
17 System”) that can automatically notify one or more individuals about the status of a
18 flight. The at least one US Airways system may sometimes be referred to as the US
19 Airways “BeNotified” system.
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21 13. On information and belief, as one non-limiting example, the US
22 Airways System can automatically notify one or more individuals of flight schedule
23 changes, gate changes, departure reminders, arrival alerts, flight delays, and/or
24 cancellations.
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1 14. On information and belief, these notifications can occur through at least
2 one communications method, including but not limited to through email and SMS
3 messages, and that the one or more individuals can select or modify which of the at
4 least one communications method should be used.
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6 **US AIRWAYS' ACTS OF PATENT INFRINGEMENT**
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8 15. Eclipse reiterates and reincorporates the allegations set forth in
9 paragraphs 1 through 14 above as if fully set forth herein.
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11 16. US Airways owns, uses, deploys, and/or operates at least one
12 computerized service and/or system, the US Airways System, for notifying one or
13 more individuals regarding flight departure and/or arrival times.
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15 17. Based at least in part on the location of a US Airways airplane, the US
16 Airways System provides electronic notifications to one or more individuals
17 regarding flight departure and/or arrival times.
18

19 **CLAIMS FOR RELIEF**

20 **COUNT 1**

21 **(Patent Infringement of U.S. Patent No. 7,119,716**
22 **Under 35 U.S.C. § 271 et seq.)**

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

25 19. On October 10, 2006, the United States Patent and Trademark Office
26 duly and legally issued United States Patent No. 7,119,716, entitled "Response
27 systems and methods for notification systems for modifying future notifications."
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1 Eclipse is the owner of the entire right, title and interest in and to the '716 patent. A
2 true and correct copy of the '716 patent is attached as Exhibit A to this Complaint.

3
4 20. The '716 patent is valid and enforceable.

5 21. Eclipse is informed and believes, and thereupon alleges, that: (1) US
6 Airways has infringed and continues to infringe one or more claims of the '716
7 patent, literally and/or under the doctrine of equivalents and additionally and/or in
8 the alternative, (2) US Airways has actively induced and continues to actively
9 induce and/or has contributed to and continues to contribute to the infringement of
10 one or more claims of the '716 patent in this District and elsewhere in the United
11 States.
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14 22. On information and belief, US Airways has directly infringed and
15 continues to directly infringe one or more claims of the '716 patent, in violation of
16 35 U.S.C. § 271(a), by, among other things, making, using, offering for sale, and/or
17 selling a method for communications in connection with a computer-based
18 notification system to, for example: store contact data in computer memory; provide
19 electronic notification communications to a personal communications device based
20 on the contact data; receive changes to the contact data; and modify if and/or how
21 future notification communications will be sent.
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25 23. Additionally and/or in the alternative, on information and belief, US
26 Airways has actively induced and continues to actively induce and/or has
27 contributed to and continues to contribute to the infringement of one or more claims
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1 of the '716 patent, in violation of 35 U.S.C. § 271(b) and/or (c), by, among other
2 things, actively, knowingly, and intentionally encouraging, aiding, and/or abetting
3 others to make, use, offer for sale, and/or sell portions of a computer-based
4 notification system that infringes one or more claims of the '716 patent, with the
5 specific intent to encourage infringement and with the knowledge that the making,
6 using, offering to sell, and/or selling of such a system would constitute
7 infringement.
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10 24. On information and belief, US Airways has had knowledge of the '716
11 patent at least as early as September 16, 2013, the day that it was served with a copy
12 of the Complaint, which set forth factual allegations of US Airways' infringement.
13 *See* Dkt. No. 10. Additionally, at least as early as September 16, 2013, US Airways
14 knew or should have known that its continued offering, use, deployment, and/or
15 operation of the at least one flight notification service and/or system and its
16 continued support of others, if those parties perform any limitations of one or more
17 of the claims of the '716 patent, would induce direct infringement of the '716 patent,
18 as it had actual knowledge of the patent and factual allegations of its infringement
19 thereof.
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23 25. On information and belief, US Airways has not changed or modified its
24 infringing behavior since September 16, 2013.
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26 26. US Airways' aforesaid infringing activity has directly and proximately
27 caused damage to Plaintiff Eclipse, including loss of profits from sales and/or
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1 licensing revenues it would have made but for the infringements. Unless enjoined,
2 the aforesaid infringing activity will continue and cause irreparable injury to Eclipse
3 for which there is no adequate remedy at law.
4

5 **COUNT 2**
6 **(Patent Infringement of U.S. Patent No. 7,479,899**
7 **Under 35 U.S.C. § 271 *et seq.*)**

8 27. Eclipse reiterates and reincorporates the allegations set forth in
9 paragraphs 1 through 26 above as if fully set forth herein.

10 28. On January 20, 2009, the United States Patent and Trademark Office
11 duly and legally issued United States Patent No. 7,479,899, entitled "Notification
12 systems and methods enabling a response to cause connection between a notified
13 PCD and a delivery or pickup representative." Eclipse is the owner of the entire
14 right, title and interest in and to the '899 patent. A true and correct copy of the '899
15 patent is attached as Exhibit B to this Complaint.
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17 29. The '899 patent is valid and enforceable.
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19 30. Eclipse is informed and believes, and thereupon alleges, that: (1) US
20 Airways has infringed and continues to infringe one or more claims of the '899
21 patent, literally and/or under the doctrine of equivalents and additionally and/or in
22 the alternative, (2) US Airways has actively induced and continues to actively
23 induce and/or has contributed to and continues to contribute to the infringement of
24 one or more claims of the '899 patent in this District and elsewhere in the United
25 States.
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1 31. On information and belief, US Airways has directly infringed and
2 continues to directly infringe one or more claims of the '899 patent, in violation of
3 35 U.S.C. § 271(a), by, among other things, making, using, offering for sale, and/or
4 selling a method for an automated notification system to, for example: monitor the
5 location of a plane; initiate a notification to one or more individuals based on the
6 location; and enable the one or more individuals to select whether or not to
7 communicate with US Airways.
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10 32. Additionally and/or in the alternative, on information and belief, US
11 Airways has actively induced and continues to induce and/or has contributed to and
12 continues to contribute to the infringement of one or more claims of the '899 patent,
13 in violation of 35 U.S.C. § 271(b) and/or (c), by, among other things actively,
14 knowingly, and intentionally encouraging, aiding, and/or abetting others to make,
15 use, offer for sale, and/or sell portions of an automated notification system that
16 infringes one or more claims of the '899 patent, with the specific intent to encourage
17 infringement and with the knowledge that the making, using, offering to sell, and/or
18 selling of such a system would constitute infringement.
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22 33. On information and belief, US Airways has had knowledge of the '899
23 patent at least as early as September 16, 2013, the day that it was served with a copy
24 of the Complaint, which set forth factual allegations of US Airways' infringement.
25 *See* Dkt. No. 10. Additionally, at least as early as September 16, 2013, US Airways
26 knew or should have known that its continued offering, use, deployment, and/or
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1 operation of the at least one flight notification service and/or system and its
2 continued support of others, if those parties perform any limitations of one or more
3 of the claims of the '899 patent, would induce direct infringement of the '899 patent,
4 as it had actual knowledge of the patent and factual allegations of its infringement
5 thereof.
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8 34. On information and belief, US Airways has not changed or modified its
9 infringing behavior since September 16, 2013.

10 35. US Airways' aforesaid infringing activity has directly and proximately
11 caused damage to Plaintiff Eclipse, including loss of profits from sales and/or
12 licensing revenues it would have made but for the infringements. Unless enjoined,
13 the aforesaid infringing activity will continue and cause irreparable injury to Eclipse
14 for which there is no adequate remedy at law.
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17 **COUNT 3**

18 (Patent Infringement of U.S. Patent No. 7,504,966
19 Under 35 U.S.C. § 271 et seq.)

20 36. Eclipse reiterates and reincorporates the allegations set forth in
21 paragraphs 1 through 35 above as if fully set forth herein.

22 37. On March 17, 2009, the United States Patent and Trademark Office
23 duly and legally issued United States Patent No. 7,504,966, entitled "Response
24 systems and methods for notification systems for modifying future notifications."
25 Eclipse is the owner of the entire right, title and interest in and to the '966 patent. A
26 true and correct copy of the '966 patent is attached as Exhibit C to this Complaint.
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1 38. The '966 patent is valid and enforceable.

2 39. Eclipse is informed and believes, and thereupon alleges, that: (1) US
3 Airways has infringed and continues to infringe one or more claims of the '966
4 patent, literally and/or under the doctrine of equivalents and additionally and/or in
5 the alternative, (2) US Airways has actively induced and continues to actively
6 induce and/or has contributed to and continues to contribute to the infringement of
7 one or more claims of the '966 patent in this District and elsewhere in the United
8 States.
9
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11 40. On information and belief, US Airways has directly infringed and
12 continues to directly infringe one or more claims of the '966 patent, in violation of
13 35 U.S.C. § 271(a), by, among other things, making, using, offering for sale, and/or
14 selling a method for communications in connection with a computer-based
15 notification system to, for example: monitor the location of a plane; send a
16 notification communication to a personal communications device when appropriate;
17 receive a response from the personal communications device; and based upon the
18 response, initiate one or more future notifications to one or more different
19 individuals and/or initiate one or more future notifications using one or more
20 different communications methods.
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25 41. Additionally and/or in the alternative, on information and belief, US
26 Airways has actively induced and continues to actively induce and/or has
27 contributed to and continues to contribute to the infringement of one or more claims
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1 of the '966 patent, in violation of 35 U.S.C. § 271(b) and/or (c), by, among other
2 things, actively, knowingly, and intentionally encouraging, aiding, and/or abetting
3 others to make, use, offer for sale, and/or sell portions of a computer-based
4 notification system that infringes one or more claims of the '966 patent, with the
5 specific intent to encourage infringement and with the knowledge that the making,
6 using, offering to sell, and/or selling of such a system would constitute
7 infringement.
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10 42. On information and belief, US Airways has had knowledge of the '966
11 patent at least as early as September 16, 2013, the day that it was served with a copy
12 of the Complaint, which set forth factual allegations of US Airways' infringement.
13 *See* Dkt. No. 10. Additionally, at least as early as September 16, 2013, US Airways
14 knew or should have known that its continued offering, use, deployment, and/or
15 operation of the at least one flight notification service and/or system and its
16 continued support of others, if those parties perform any limitations of one or more
17 of the claims of the '966 patent, would induce direct infringement of the '966 patent,
18 as it had actual knowledge of the patent and factual allegations of its infringement
19 thereof.
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24 43. On information and belief, US Airways has not changed or modified its
25 infringing behavior since September 16, 2013.

26
27 44. US Airways' aforesaid infringing activity has directly and proximately
28 caused damage to Plaintiff Eclipse, including loss of profits from sales and/or

1 licensing revenues it would have made but for the infringements. Unless enjoined,
2 the aforesaid infringing activity will continue and cause irreparable injury to Eclipse
3 for which there is no adequate remedy at law.
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5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff Eclipse asks this Court to enter judgment against US
7 Airways and against each of US Airways' respective subsidiaries, affiliates, agents,
8 servants, employees and all persons in active concert or participation with it,
9 granting the following relief:
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11 1. A judgment that US Airways has infringed each and every one of the
12 Eclipse Patents;
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14 2. A permanent injunction against US Airways, its respective officers,
15 agents, servants, employees, attorneys, parent and subsidiary corporations, assigns
16 and successors in interest, and those persons in active concert or participation with
17 them, enjoining them from direct and indirect infringement of each and every one of
18 the Eclipse Patents;
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20 3. An award of damages adequate to compensate Eclipse for the
21 infringement that has occurred, together with prejudgment interest from the date
22 infringement of the Eclipse Patents began;
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24 4. A reasonable royalty for US Airways' use of Eclipse's patented
25 technology, as alleged herein;
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