IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

ECLIPSE IP LLC, **Plaintiff,** **v.** **DICK BLICK HOLDINGS, INC.,** **Defendant.**	**CASE NO. 2:15-cv-355** **PATENT CASE** **JURY TRIAL DEMANDED**

FIRST-AMENDED COMPLAINT

For its First-Amended Complaint, Plaintiff Eclipse IP LLC ("Eclipse"), by and through the undersigned counsel, complains of Defendant Dick Blick Holdings, Inc. ("Defendant") as follows:

NATURE OF LAWSUIT

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

THE PARTIES

2. Eclipse is a Florida limited liability company with a place of business located at 711 SW 24th St., Boynton Beach, FL 33435.

3. Defendant is a Delaware corporation with, upon information and belief, a principal place of business at 1849 Green Bay Rd., Suite 310, Highland, IL 60035.

JURISDICTION AND VENUE

4. Upon information and belief, this Court has personal jurisdiction over Defendant because (i) Defendant conducts substantial business in this Judicial District, directly or through intermediaries, (ii) at least a portion of the infringements alleged herein occurred in this Judicial District; and (iii) Defendant regularly does or solicits business, engages in other persistent courses of conduct and/or derives substantial revenue from goods and services provided to

individuals in this Judicial District.

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), (c), (d) and 1400(b).

THE PATENT-IN-SUIT

6. On January 25, 2011, U.S. Patent and Trademark Office duly and lawfully issued United States Patent No. 7,876,239 (the "'239 patent") entitled "Secure Notification Messaging Systems and Methods Using Authentication Indicia." A true and correct copy of the '239 patent is attached hereto as Exhibit A.

7. The '239 patent is valid and enforceable.

8. Eclipse is the assignee and owner of the right, title and interest in and to the '239 patent ("the Patent-In-Suit"), including the right to assert all causes of action arising under said patents and the right to any remedies for infringements thereof.

9. The claims of the '239 patent do not claim an abstract idea and provide an inventive concept. The inventive concepts of the '239 patent are (1) computer-based, automated notification systems and (2) methods for use in computer-based, automated notification systems that give confidence to the notification-receiving party that a notification concerning the travel status of a mobile thing is from an authorized source. For example, at some point prior to receiving an automated notification concerning the travel status of a mobile thing from a computer-based notification system, the system enables the notification-receiving party to provide or select authentication information. This authentication information, which could be a predefined symbol or text or numeric code, is stored by the computer-based notification system and provided by the system at a later time so that the user can be certain that the notification is from an authorized source. This solution is superior to those in the prior art because it allows users to have certainty regarding the source of automated notification communications sent via the Internet. For example, digital signatures relying on public-key encryption have long been used to authenticate messages sent from one party to another. While effective, these systems require the parties involved to engage in a complicated series of communications to transfer

encryption keys and are difficult to implement in notification systems where the various parties use different messaging programs and may not be sophisticated users of encryption and/or authentication software. Instead, the claims of the '239 patent describe a system where users of a system may provide and/or select authentication information that will later be provided by the system to authenticate the source of future communications. Such a system can be implemented by a variety of organizations and will allow all users of such a system, not simply those skilled in content authentication technologies, to quickly and easily verify the authenticity of communications.

10. The claims of the '239 patent do not merely recite the performance of a longstanding business practice on a computer; rather, the claims describe a solution necessarily rooted in computer technology to solve a problem specifically arising in the realm of computer networks, like the Internet. Automated notification messages sent through computer networks, like the Internet, lack the authentication information that is normally present in traditional messages that were sent by hand. For example, automated messages sent through computer networks regarding the travel status of a mobile thing, like a package or shipment, often lack authentication indicia that one would expect from traditional messages. These automated notification messages are not sent by a specific person at a company and are not signed by or attributed to specific person at a company who can be called to authenticate a message that he/she purportedly sent. Instead, these messages are sent through automated systems that provide little information about the specific sender that can be used to authenticate the message.

11. The claims of the '239 patent relate specifically to computer-based notification systems, as each claim limitation must be performed by a computer-based notification system. The problem solved by the '239 patent arises specifically in the context of computer-based notification systems because the automated notification communication contemplated by the '239 patent could not be sent by hand. In addition, problem solved by the '239 patent arises specifically in the context of computer-based notification systems, like the Internet, because communications over the Internet are difficult to authenticate due to the distributed nature of the

system and the ease of spoofing or impersonating an authorized source.

12. The technology claimed in the ‘239 patent does not preempt age-old concepts or any fundamental building blocks of human ingenuity. Instead, the technology claims a specific way to ensure the authenticity of automated communications sent over the Internet by using authentication information provided or selected by the user. When notification communications are sent to users from computer-based notification systems over the Internet, the claimed technology ensures that, based upon the authorization information provided or selected by the user, the user can be certain that the communication is from an authorized source. In addition, the ‘239 patent’s claims do not preempt all or substantially all of the ways to ensure the authenticity of notification communications sent over the Internet. For example, the claims do not prevent use of encryption and/or digital signatures for ensuring that notifications are from an authorized source. As an additional example, the claims do not prevent use of authentication information provided or selected by someone other than the user, for ensuring that notifications are from an authorized source.

13. The implementation of the ‘239 patent by a computer includes a meaningful limitation because the claimed implementations are limited to computer-based notification systems that enable the user to select and/or provide authentication information. This meaningful limitation limits the scope of the patented invention and ensures that the claims will not monopolize the abstract idea.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,876,239

14. Eclipse repeats and realleges the allegations of paragraphs 1 through 13 as if fully set forth herein.

15. Without license or authorization and in violation of 35 U.S.C. § 271(a), Eclipse is informed and believes, and thereupon alleges, that Defendant has infringed and continues to infringe one or more claims of the ‘239 patent in this District, literally and/or under the doctrine of equivalents.

16. On information and belief, Defendant has directly infringed and continues to

directly infringe one or more claims of the '239 patent, in violation of 35 U.S.C. § 271(a), by, among other things, making, using, offering for sale, and/or selling computer-based notification systems and methods to, for example: enable a customer to provide or select authentication information; store the authentication information; monitor travel data in connection with orders placed via Defendant's website, initiate notifications to the customer, and provide the stored authentication information.

17. On information and belief, Defendant has had knowledge of the '239 patent at least as early as the date that it received a November 13, 2014 licensing letter from Eclipse which specifically identified the '239 patent and provided factual allegations regarding Defendant's infringement thereof.

18. On information and belief, Defendant has not changed or modified its infringing behavior since the date it received Eclipse's November 13, 2014 letter.

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

JURY DEMAND

Eclipse hereby demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Eclipse requests that this Court enter judgment against Defendant as follows:

A. An adjudication that Defendant has infringed the Patent-In-Suit;

B. An award of damages to be paid by Defendant adequate to compensate Eclipse for Defendant's past infringement of the Patent-In-Suit and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;

C. An award to Eclipse of all remedies available under 35 U.S.C. §§ 284 and 285, including enhanced damages up to and including trebling of Eclipse's damages for Defendant's willful infringement, and reasonable attorneys' fees and costs; and

D. Such other and further relief as this Court or a jury may deem proper and just.

Dated: June 1, 2015

Respectfully submitted,

/s/ Craig Tadlock

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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on June 1, 2015.

/s/ Craig Tadlock
Craig Tadlock