С	ase 2:15-cv-09539-ODW-PJW Document 1	Filed 12/10/15	Page 1 of 7	Page ID #:1		
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3	NEWPORT TRIAL GROUP					
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5	Tel: (949) 706-6464 Fax: (949) 706-6469					
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7	Attorneys for Plaintiff Shipping and Tran.	sit, LLC				
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9	UNITED STATE	S DISTRICT C	COURT			
10	CENTRAL DISTRICT OF CALIFORNIA					
11	SHIPPING AND TRANSIT LLC, a Flori	da Case No. 2	2:15-cv-953	9		
12	Limited Liability Corporation,					
13		COMPLAI		ATENT		
14	Plaintiff,	INFRINGE	LIVIEIN I			
15	VS.	JURY TRI	AL DEMA	NDED		
16						
17	GILMORE & CO., INC. dba VETDEPO a California Corporation; and DOES 1	F, Complaint ITrial Date:	Filed: N/A N/A			
18	through 10, Inclusive,		11/7			
19						
20	Defendants.					
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28 Newport trial group						

COMPLAINT FOR PATENT INFRINGEMENT

For its Complaint, Plaintiff Shipping and Transit, LLC ("Plaintiff"), by and through the undersigned counsel, alleges as follows:

THE PARTIES

Plaintiff is a company organized and existing under the laws of Florida and
 having an address at 711 SW 24th, Boynton Beach, Florida 33435.

2. On information and belief, defendant Gilmore & Co., Inc. dba VetDepot ("Defendant") is a corporation existing under the laws of California.

3. The true names and capacities of the Defendants sued herein as DOES 1
through 10, inclusive, are currently unknown to Plaintiff, who therefore sues such
Defendants by fictitious names. Each of the Defendants designated herein as a DOE is
legally responsible for the unlawful acts alleged herein. Plaintiff will seek leave of
Court to amend this Complaint to reflect the true names and capacities of the DOE
Defendants when such identities become known.

JURISDICTION AND VENUE

4. 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*.

185.This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and191338(a).

206.Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and211400(b).

7. Upon information and belief, Defendant conducts substantial business in
this forum, directly or through intermediaries, including: (i) at least a portion of the
infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in
other persistent courses of conduct and/or deriving substantial revenue from goods and
services provided to individuals in this forum.

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THE PATENT-IN-SUIT

8. On July 15, 2008, United States Patent No. 7,400,970 ("the '970 Patent"),
 entitled, "System and method for an advance notification system for monitoring and
 reporting proximity of a vehicle" was duly and legally issued by the United States
 Patent and Trademark Office. A true and correct copy of the '970 Patent is attached as
 Exhibit A to this complaint.

9. Plaintiff is the assignee and owner of the right, title and interest in and to the '970 Patent including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

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COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,400,970

10. Plaintiff repeats and realleges the allegations of paragraphs 1 through 9 as if fully set forth herein.

13 11. Without license or authorization and in violation of 35 U.S.C. § 271(a),
14 Defendant has infringed and continues to infringe the '970 Patent by making, using,
15 offering for sale and/or selling within this district and elsewhere in the United States a
16 computer based notification system that enables communication with a user that is
17 designed to receive delivery of a package and provides a means for requesting entry by
18 user of a package identification number.

12. Specifically, Defendant's ship notice/manifest, sometimes referred to as 19 the Advanced Shipment Notice (ASN), or the 856 EDI document, is generated when a 20 user at a computer system elects to purchase an item via Defendant's website and enters 21 an email address as part of the purchase process. Defendant explains by purchasing 22 they will be provided "order confirmation" and more importantly "shipment 23 confirmation" by selecting to purchase from their website. When a user selects a 24 method of shipping when purchasing an item from Defendant's website, a user 25 necessarily is required to elect a shipping method that allows tracking. Once this 26 election is made, and as the order is processed, shipment confirmations are sent based 27 on a tracking input when the package starts its route (likely pick-up, placed on conveyer

28 NEWPORT TRIAL GROUP belt and/or scanned out to loading dock/out of warehouse, etc.) to its destination
(delivery address). As expressly stated on Defendant's Customer Service web page
copied below, "You will receive an order confirmation at the time your order is placed
and one or more shipping confirmation emails with tracking information as your order
is shipped."

6		Login 0 Item(s) (\$0.00) View Cart 🛒 Checl
7	Save more. Give your pet the	Search products, conditions or brands Search Search Start St
8		
	DOGS [CATS HORSES	S [FISH [SMALL PETS LIVESTOCK PET FOOD PET SUPPLIES AQUARIUM PET MEDICATION BRANDS
9	Customer Service C	all us at (800) 710-9770 9:30 - 7 est Email Us at wecare@vetdepot.com SAVE UP TO 60% SATISFACTION GUARANTEE
10	Browse by Category	Customer Service
11	Allergy Relief Antibiotics	Ordering Privacy & Security Shipping & Delivery
12	Arthritis & Pain Relief Behavior & Calming Aids	Returns & Replacements Payment: Pricing & Promotions Viewing Orders
13	Dental Care & Hygiene Deworming Diabetes Care	Updating Account Information Ordering
14	Digestive Aids Ear Care	You may place items in your shopping cart by clicking the "Add to Cart" button next to any product on our site. To view your shopping cart, click the "My Cart" tab in the top right portion of any page. From the "My Cart" page, you may click the "Proceed to Checkout" button to complete you order. Our one page checkout is simplet Enter your shipping and billing information and your order is complete. For payment, we offer Visa, MasterCard,
15	Eye Care Flea & Tick Control	American Express, Discover, and PayPal. You may also pay by check through PayPal or by mailing it to us directly. We will email you a confirmation fe your records once your order is complete. If you need to order by mail please use our form Order By Mail (PDE)
16	Food	Privacy & Security
10	Grooming Healthcare & First Aid Heartworm	Protecting your information is our highest priority. We understand how valuable your trust and personal information is and fully protect it from the possibility of unauthorized use. Although we may contact you regarding coupons or special offers, you can always ask to be removed by sending us a email or calling. We never share your information with any other party. Your order information is fully protected using the latest. Secure Sockets Lay
10	Hot Spots Itchy Skin	(SSL) technologies. Shipping & Delivery
18	Natural & Homeopathic	We offer free shipping on eligible orders over \$35 for all 48 contiguous states. These shipping offers exclude purchases of canned, fresh, frozen dog a
19	Other Medications Pet Pharmacy	cat food, cat litter, bulky or heavy items, materials requiring special handling, and orders exceeding 6 lbs. Medications ship with standard shipping for free. Additional exclusions may apply and may be note on the product details page. All products are shipped Monday through Friday. May not be valic with any other discount or offer. Terms and conditions of this offer are subject to change at the sole discretion of VetDepot.
20	Skin & Coat Care Stain & Odor Removal Supplements	Nonprescription items are often shipped within one day after the order is placed. For prescription medications, our Pharmacy Partner must obtain a written prescription prior to shipping. Please note there can sometimes be a delay in receiving approval from your veterinarian and you should take t into consideration when planning your order time. Once a prescription from your veterinarian is received, normal delivery for standard shipping is 4-
21	Supplies Syringes & Needles	business days. Any nonprescription items ordered with prescription items will be shipped together after the prescription is received. VetDepot is not a pharmacy. Our Pharmacy Partner is fully licensed, regularly inspected and can ship and dispense to all states except Arkansas and Hawaii. Refrigerative items require overnight expedited shipping and ships Monday through Thursday. During summer months, the purchase of 1 or 2 additional ice packs advised. Please call if Saturday delivery is required. No PO Box addresses may be used for vaccines or other items shipped via UPS and there are no
22	Thyroid Medications Toys	returns of refrigerated items. We currently ship via US Postal Service, Federal Express and UPS. We may fulfill items in your order from different warehouses, so your order may arrive in different boxes and at different times. You will receive shipping confirmation(s) by email at the time of shipment. We will try to notify you as soon as possible if a product becomes back ordered and you will have the option of waiting for the item to becc
23	Treats	available or canceling and receiving a refund. At this time, we only ship within the United States, APO or AFO.
24	13. Plain	tiff is entitled to recover from Defendant the damages sustained by
25	Plaintiff as a resul	t of Defendant's infringement of the '970 Patent in an amount subject

Plaintiff as a result of Defendant's infringement of the '970 Patent in an amount subject
to proof at trial, which, by law, cannot be less than a reasonable royalty, together with
interest and costs as fixed by this Court under 35 U.S.C. § 284.

28 NEWPORT TRIAL GROUP 1 14. Prior to the filing of this Complaint, Plaintiff, by letter dated November 2,
 2 2015, informed Defendant of Defendant's infringement of the '970 Patent.

3 15. Thus, Defendant has been on notice of the '970 Patent since at least the
4 date it received Plaintiff's letter dated November 2, 2015.

5 16. Upon information and belief, Defendant has not altered its infringing
6 conduct after receiving Plaintiff's letter dated November 2, 2015.

17. Upon information and belief, Defendant's continued infringement despite its knowledge of the '970 Patent and the accusations of infringement has been objectively reckless and willful.

PRAYER FOR RELIEF

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

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An adjudication that Defendant has infringed the '970 patent;

B. An award of damages to be paid by Defendant adequate to compensate
Plaintiff for Defendant's past infringement of the '970 patents 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. A declaration that this case is exceptional under 35 U.S.C. § 285, and an
award of Plaintiff's reasonable attorneys' fees;

D. To the extent Defendant's conduct subsequent to the date of its notice of the '970 patent is found to be objectively reckless, enhanced damages pursuant to 35 U.S.C. § 284 for its willful infringement of the '970 patent; and

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- NEWPORT TRIAL GROUP

1	E. An award to Plaintiff of such further relief at law or in equity as the Court
2	deems just and proper.
3	Respectfully submitted this 10th day of December, 2015
4	NEWPORT TRIAL GROUP
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6	By: <u>/s/ Tyler J. Woods</u>
7	Tyler J. Woods
8	Attorney for Plaintiff Shipping and Transit, LLC
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1	JURY DEMAND
2	Plaintiff demands a trial by jury on all issues so triable pursuant to Federal Rule
3	of Civil Procedure 38.
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5	Respectfully submitted this 10th day of December, 2015
6	NEWPORT TRIAL GROUP
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8	By: <u>/s/ Tyler J. Woods</u>
9	Tyler J. Woods Attorney for Plaintiff
10	Shipping and Transit, LLC
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