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8 *Attorneys for Plaintiff Shipping and Transit, LLC*

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

11 SHIPPING AND TRANSIT LLC, a Florida
12 Limited Liability Corporation,

13 Plaintiff,

14 vs.

15 ZZOUNDS MUSIC, L.L.C., a New Jersey
16 Limited Liability Corporation; and DOES 1
17 through 10, Inclusive,

18 Defendants.
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Case No. 2:15-cv-9793

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

Complaint Filed: N/A

Trial Date: N/A

1 **COMPLAINT FOR PATENT INFRINGEMENT**

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

4 **THE PARTIES**

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

7 2. On information and belief, defendant zZounds Music, L.L.C., a
8 (“Defendant”) is a limited liability corporation existing under the laws of New Jersey.

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

15 **JURISDICTION AND VENUE**

16 4. This is a suit for patent infringement arising under the patent laws of the
17 United States, Title 35 of the United States Code § 1 *et seq.*

18 5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and
19 1338(a).

20 6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and
21 1400(b).

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

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THE PATENT-IN-SUIT

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

7 9. Plaintiff is the assignee and owner of the right, title and interest in and to the
8 ’970 Patent including the right to assert all causes of action arising under said patents and
9 the right to any remedies for infringement of them.

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

11 10. Plaintiff repeats and realleges the allegations of paragraphs 1 through 9 as if
12 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.

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

1 dock/out of warehouse, etc.) to its destination (delivery address). This process is
2 evidenced on Defendant’s web page <http://www.zzounds.com/validorder>:

The screenshot shows the zZounds.com website interface. At the top, there is a blue header with the phone number 800-ZZOUNDS (800-996-8637) and a note about a priority code 1V7K-0M1K. Navigation links for Contact, Hours, FAQ, and My Order are present. Below the header, there is a search bar, a '5 reasons to shop with zZounds' banner, and a 'Payment Plans' section offering Free Shipping and Lowest Price. A secondary navigation bar lists product categories like Guitar, Bass, Keyboard, Recording, Computer Audio, Live Sound, Drums, DJ, Accessories, and Blowouts, with sub-brands like Bose, Epiphone, EV, Fender, Gibson, JBL, Korg, KRK, Line 6, Mackie, Martin, Orange Amps, Peavey, PreSonus, PRS, QSC, Roland, Shure, Taylor, Yamaha, and ALL. A 'Print' button is visible in the top right. The main content area features a 'Submitting a Valid Order' section with text explaining the importance of providing sufficient information for immediate shipment. To the right, a 'Contact Us' sidebar provides quick answers by phone, including the toll-free number and available hours (EST) from Monday to Sunday.

14 13. Plaintiff is entitled to recover from Defendant the damages sustained by
15 Plaintiff as a result of Defendant’s infringement of the ’970 Patent in an amount subject
16 to proof at trial, which, by law, cannot be less than a reasonable royalty, together with
17 interest and costs as fixed by this Court under 35 U.S.C. § 284.

18 14. Prior to the filing of this Complaint, Plaintiff, by letter dated September 2,
19 2015, informed Defendant of Defendant’s infringement of the ’970 Patent.

20 15. Thus, Defendant has been on notice of the ’970 Patent since at least the date
21 it received Plaintiff’s letter dated September 2, 2015.

22 16. Upon information and belief, Defendant has not altered its infringing
23 conduct after receiving Plaintiff’s letter dated September 2, 2015.

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

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PRAYER FOR RELIEF

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

A. 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

E. An award to Plaintiff of such further relief at law or in equity as the Court deems just and proper.

Respectfully submitted,

Dated: December 21, 2015

NEWPORT TRIAL GROUP

By: /s/Tyler J Woods
Tyler J. Woods
Attorney for Plaintiff
Shipping and Transit, LLC

JURY DEMAND

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

Respectfully submitted,

Dated: December 21, 2015

NEWPORT TRIAL GROUP

By: /s/Tyler J Woods

Tyler J. Woods
Attorney for Plaintiff
Shipping and Transit, LLC