

1 Tyler J. Woods, Bar No. 232464  
2 [twoods@trialnewport.com](mailto:twoods@trialnewport.com)  
3 NEWPORT TRIAL GROUP  
4 4100 Newport Place, Suite 800  
5 Newport Beach, CA 92660  
6 Tel: (949) 706-6464  
7 Fax: (949) 706-6469

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 EBUYS, INC., a California Corporation  
16 doing business as Show Metro; and DOES  
17 1 through 10, Inclusive,

18 Defendants.  
19  
20

Case No. 2:16-cv-741

**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 24<sup>th</sup>, Boynton Beach, Florida 33435.

7 2. On information and belief, defendant eBuys, Inc., a California Corporation  
8 doing business as Shoe Metro (“Defendant”) is a corporation existing under the laws of  
9 California.

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

16 **JURISDICTION AND VENUE**

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

19 5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and  
20 1338(a).

21 6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and  
22 1400(b).

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

28 ///

**THE PATENT-IN-SUIT**

1  
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.

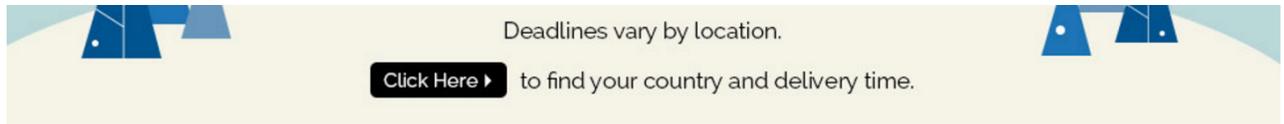
10 **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,400,970**

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

dock/out of warehouse, etc.) to its destination (delivery address). This process is evidenced on Defendant's web page <http://www.shoemetro.com/t-faq.aspx#ordertracking>:



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**How can I track my order?**

Most orders ship the next business day after payment is received. After we ship your order, we will send you a shipping confirmation email, which includes your tracking number.

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**How much is shipping?**

Please refer to the Shipping Rates chart below for all applicable shipping rates.

**Shipping Rates**

**Domestic US Shipping**

		First Item	Additional	Delivery Time
United States	Saver	\$8.99	\$4.99	3-8 Business Days
	Standard	\$10.99	\$4.99	1-6 Business Days
	2 Day	\$17.99	\$9.99	2 Business Days
	1 Day	\$25.99	\$16.99	1 Business Day
	HI AK PR APO FPO	\$14.99	\$7.99	2-4 Business Days

13. Plaintiff is entitled to recover from Defendant the damages sustained by 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.

14. Prior to the filing of this Complaint, Plaintiff, by letter dated December 17, 2015, informed Defendant of Defendant's infringement of the '970 Patent.

15. Thus, Defendant has been on notice of the '970 Patent since at least the date it received Plaintiff's letter dated December 17, 2015.

16. Upon information and belief, Defendant has not altered its infringing conduct after receiving Plaintiff's letter dated December 17, 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.

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**PRAYER FOR RELIEF**

3  
4 WHEREFORE, Plaintiff requests that this Court enter judgment against Defendant  
5 as follows:

6 A. An adjudication that Defendant has infringed the '970 patent;

7 B. An award of damages to be paid by Defendant adequate to compensate  
8 Plaintiff for Defendant's past infringement of the '970 patents and any continuing or  
9 future infringement through the date such judgment is entered, including interest, costs,  
10 expenses and an accounting of all infringing acts including, but not limited to, those acts  
11 not presented at trial;

12 C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an  
13 award of Plaintiff's reasonable attorneys' fees;

14 D. To the extent Defendant's conduct subsequent to the date of its notice of the  
15 '970 patent is found to be objectively reckless, enhanced damages pursuant to 35 U.S.C.  
16 § 284 for its willful infringement of the '970 patent; and

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

19  
20 Respectfully submitted,

21 Dated: February 2, 2016

NEWPORT TRIAL GROUP

22 By: /s/Tyler J Woods

23 Tyler J. Woods  
24 Attorney for Plaintiff  
25 Shipping and Transit, LLC  
26  
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