

1 Tyler J. Woods, Bar No. 232464
2 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
16 VELATRACK, INC., an Oregon
17 Corporation; and DOES 1 through 10,
18 Inclusive,

19 Defendants.
20

Case No. 2:16-cv-911

**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 VelaTrack, Inc., a (“Defendant”) is a
8 limited liability corporation existing under the laws of Oregon.

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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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.velatrack.com/Features>:

VelaTrack
All your shipments. All the time.

Home Features Demos Tutorials Company Info Free Trial Signup Client Login

The Dashboard: shipment tracking **TRY IT NOW**

The workhorse of the system, this concise work screen provides you with a sortable list of all your shipments:

BOL#	Carrier	Ship Date	Origin	Current Location	Destination	Status	Notes
123456789	Carrier A	2015-12-15	New York	Los Angeles	Los Angeles	In Transit	Client ABC
987654321	Carrier B	2015-12-14	Los Angeles	New York	New York	Delivered	Client DEF

Each row of the table contains several columns, such as: BOL#, Carrier, Ship Date, Origin, Current Location, Destination, Status, and others.

Above the rows are column headings. When a column heading (such as "Container") is clicked, the list is sorted by that field. Clicking the same column heading again toggles the sort between ascending and descending order (as indicated by the up/down arrows).

Above the column headings are filter controls used to limit the found items in the list. For instance, you may want to view only shipments assigned to a particular client, from a specific carrier, only active shipments, or just those which have already been delivered.

You can choose how many items to display on a single page of the list. The list's footer contains the number of records currently found, and controls to navigate to other pages of results.

Instantly pinpoint any of your shipments with VelaTrack's powerful search tools. Quickly find BOLs, container numbers, client names, notes— pretty much anything.

Use the "Keywords" box (at the bottom) to find specific pieces of information— say, a purchase order number, a description of a container's contents, or a container number.

Comprehensive shipment details

From the Dashboard table, click on a container number to view details about that shipment, its container, and the entire shipment history—including ship, rail, and truck moves from all carriers associated with the shipment. You can email the shipment history to a client. Or download the history to your desktop as a CSV file, ready to import into an Excel spreadsheet.

Have it your way

Each shipment contains 5 reference fields where you can store client names, PO numbers, house BOLs— whatever you need. From the shipment details page you can edit their contents. From a preferences screen you can customize field labels, date and time formats, and more.

Take note

From the details page, attach an unlimited number of notes to a shipment. Notes are stamped with time, date, your name and initials. In a collaborative work environment, the notes will help keep everyone on the same page.

Notifications and alerts

On a global or per-shipment basis, you can set alerts to alert you to potential slow or non-moving containers. Choose to have alerts sent to your cellphone or email account. Each time you login to the system, you'll be presented with a list of alert notifications and details.

Options

Track this Shipment
 Email every event change to me

Alert me when there's been no change in:

Location for: 2 days
 Status for: 4 days

Share and share alike

Everyone within your company has access to all your shipments. From the dashboard, you and your colleagues can choose to view just "My Shipments" (the default) or "My Company's Shipments".

You can also grant access to VelaTrack clients from other companies— perfect for customs brokers, NVOs, importer/exporters, and freight companies who need to provide their clients with active tracking.

Data in

Tell VelaTrack about a shipment by providing a valid BOL and container number and up to 5 bits of optional reference data (ie: client name, house BOL). Use one of these methods to enter shipments into the system:

- Manual entry. Click an "Add Shipment" button then type or paste the data.
- CSV/import. Click an "Import CSV file" button, then choose a properly formatted comma-separated text file from your desktop.
- Automated import. Have your in-house system FTP CSV files to VelaTrack. As soon as they arrive, they're imported into our system.

Data out

VelaTrack can email shipment history, and can create CSV data files.

Additionally, you can choose to have VelaTrack automatically upload CSV files of tracking data to your FTP site. Your IT department can setup your proprietary systems to automatically import the data.

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.

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

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6 **PRAYER FOR RELIEF**

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

9 A. An adjudication that Defendant has infringed the ’970 patent;

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

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

17 D. To the extent Defendant’s conduct subsequent to the date of its notice of the
18 ’970 patent is found to be objectively reckless, enhanced damages pursuant to 35 U.S.C.
19 § 284 for its willful infringement of the ’970 patent; and

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

22
23 Respectfully submitted,

24 Dated: February 9, 2016

NEWPORT TRIAL GROUP

25
26 By: /s/Tyler J Woods

27 Tyler J. Woods
28 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: February 9, 2016

NEWPORT TRIAL GROUP

By: /s/Tyler J Woods

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