

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 NEPTUNE CIGARS, INC., a Florida  
16 Corporation; and DOES 1 through 10,  
17 Inclusive,

18 Defendants.  
19  
20

Case No. 2:16-cv-3836

**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 through  
3 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 Neptune Cigars, Inc., (“Defendant”) is  
8 a corporation existing under the laws of Florida.

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 PATENTS-IN-SUIT**

1  
2 8. On July 2, 2002, United States Patent No. 6,415,207 (“the ’207 Patent”),  
3 entitled, “System and method for automatically providing vehicle status information” was  
4 duly and legally issued by the United States Patent and Trademark Office. A true and  
5 correct copy of the ’207 Patent is attached as Exhibit A to this complaint.

6 9. On July 13, 2004, United States Patent No. 6,763,299 (“the ’299 Patent”),  
7 entitled, “Notification systems and methods with notifications based upon prior stop  
8 locations” was duly and legally issued by the United States Patent and Trademark Office.  
9 D true and correct copy of the ’299 Patent is attached as Exhibit B to this complaint.

10 10. Plaintiff is the assignee and owner of the right, title and interest in and to the  
11 ’207 Patent, and ’299 Patent including the right to assert all causes of action arising under  
12 said patents and the right to any remedies for infringement of them.

**DEFENDANT’S INFRINGEMENTS**

13  
14 11. Without license or authorization and in violation of 35 U.S.C. § 271(a),  
15 Defendant has infringed and continues to infringe the ’299 and ’207 Patents by making,  
16 using, offering for sale and/or selling within this district and elsewhere in the United States  
17 a computer based notification system that enables communication with a user that is  
18 designed to receive delivery of a package and provides a means for requesting entry by  
19 user of a package identification number.

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

1 starts its route (likely pick-up, placed on conveyer belt and/or scanned out to loading  
2 dock/out of warehouse, etc.) to its destination (delivery address). This process is evidenced  
3 on Defendant's web page:

## Shipping Information, Policy and Rates

### QUESTION

**What is your shipping policy?**

### ANSWER

**Customers outside the United States, please read our International Shipping Policy.**

We ship orders to every state in the United States, its territories, and to APO and FPO military addresses. We use U.S. Postal Service (USPS) and UPS as carriers. Orders placed before 3:00 PM EST will ship on the same day. On your shopping cart and during checkout, you will be able to choose from various shipping methods:

#### Free Shipping:

FREE shipping orders are sent via the most cost effective shipping method available. This may be U.S. Postal Service Priority Mail or UPS Ground depending on the product weight and destination. **Click here** to see our Limited Time Free Shipping Offer (Valid for USA Continental Address Only).

#### Standard:

<b>UPS Ground</b>	1-5 business days to most US destinations. Prompt, dependable, cost-effective shipping. Premium tracking service with guaranteed delivery, know in advance when your shipment will arrive. Orders shipped to the East Coast can be expected sooner than the estimated maximum delivery time.
<b>USPS Priority Mail</b>	Fast, two-day service to most locations. Saturday Delivery. Delivery Confirmation Number provided lets you know when a delivery or attempted delivery has been made. Orders shipped to the East Coast can be expected sooner than the estimated maximum delivery time.
<b>Expedited:</b>	
<b>UPS 2nd Day Air</b>	Guaranteed 2 business days service, premium tracking service. Cannot be used for APO, FPO, PO boxes. No Saturday deliveries.
<b>UPS Next Day Air</b>	Guaranteed next business day delivery by 4:30 p.m. for commercial destinations; next business day delivery by end of day for residential destinations. Tracking service provided.
<b>Express Mail</b>	Guaranteed overnight delivery to most locations, second day delivery to some locations. Delivery to most addresses in the United States - including PO Boxes - 365 days a year by noon or by 3:00 pm, including Sundays and holidays. Tracking information provided.

Exact shipping charges are shown on your shopping cart before checkout. You must select your address type on the scroll down menu to receive accurate shipping quote and estimated delivery dates. Shipping charges are calculated based on the weight of your order. Estimated delivery dates are based on information from the shippers and are not guaranteed except when guaranteed by the carrier.

You will receive an email notification when your item has shipped with the date of shipment and a tracking/delivery confirmation number. If you have any special handling requests, please leave us a comment during checkout.

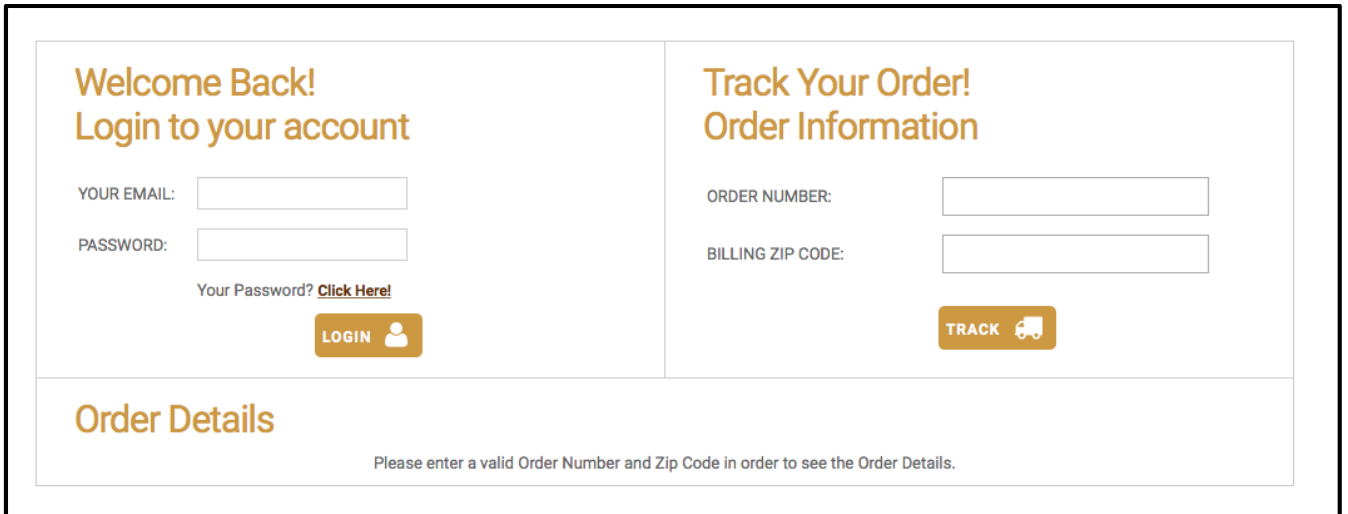
#### Taxes

Orders shipped to Florida addresses will be applied a 7% sales tax.



By **Luzzie Normand**  
Co-Founder & Editor, Neptune Cigars Inc.

[https://www.neptunecigar.com/co/faq-shipping\\_information\\_policy\\_and\\_rates.aspx](https://www.neptunecigar.com/co/faq-shipping_information_policy_and_rates.aspx)



<https://www.neptunecigar.com/trackorder.aspx>

**COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,415,207**

13. Plaintiff repeats and realleges the allegations of paragraphs 1 through 12 as if fully set forth herein.

14. Defendant has in the past and still is directly (and through inducement) infringing, or directly infringing under the doctrine of equivalents, one or more claims of the '207 Patent by making, using, offering for sale and/or selling within this district and elsewhere in the United States a computer based notification system that enables communication with a user that is designed to receive delivery of a package and provides a means for requesting entry by user of a package identification number.

15. The use of a computer based notification system whereby a customer requests and receives an email notification tracking her shipment is material to practicing the methods of the '207 Patent.

16. Defendant has knowledge of the fact that its products and services as administered infringe one or more claims of the '207 Patent, and as direct, firsthand knowledge of the '207 Patent as a result of Plaintiff informing Defendant of the '207 Patent and Defendant's infringement thereof by way of a letter dated January 14, 2016.

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1 17. Thus, Defendant has been on notice of the '207 Patent since at least the date  
2 it received Plaintiff's letter dated January 14, 2016.

3 18. Upon information and belief, Defendant has not altered its infringing conduct  
4 after receiving Plaintiff's letter dated January 14, 2016.

5 19. Upon information and belief, Defendant's continued infringement despite its  
6 knowledge of the '207 Patent and the accusations of infringement has been objectively  
7 reckless and willful.

8 20. Plaintiff is therefore entitled to recover from Defendant the damages sustained  
9 by Plaintiff as a result of Defendant's infringement of the '207 Patent in an amount subject  
10 to proof at trial, which, by law, cannot be less than a reasonable royalty, together with  
11 interest and costs as fixed by this Court under 35 U.S.C. § 284.

12 **COUNT II – INFRINGEMENT OF U.S. PATENT NO. 6,763,299**

13 21. Plaintiff repeats and realleges the allegations of paragraphs 1 through 20 as if  
14 fully set forth herein.

15 22. Defendant has in the past and still is directly (and through inducement)  
16 infringing, or directly infringing under the doctrine of equivalents, one or more claims of  
17 the '299 Patent by making, using, offering for sale and/or selling within this district and  
18 elsewhere in the United States a computer based notification system that enables  
19 communication with a user that is designed to receive delivery of a package and provides  
20 a means for requesting entry by user of a package identification number.

21 23. The use of a computer based notification system whereby a customer requests  
22 and receives an email notification tracking her shipment is material to practicing the  
23 methods of the '299 Patent.

24 24. Defendant has knowledge of the fact that its products and services as  
25 administered infringe one or more claims of the '299 Patent, and as direct, firsthand  
26 knowledge of the '299 Patent as a result of Plaintiff informing Defendant of the '299 Patent  
27 and Defendant's infringement thereof by way of a letter dated January 14, 2016.

1 25. Thus, Defendant has been on notice of the '299 Patent since at least the date  
2 it received Plaintiff's letter dated January 14, 2016.

3 26. Upon information and belief, Defendant has not altered its infringing conduct  
4 after receiving Plaintiff's letter dated January 14, 2016.

5 27. Upon information and belief, Defendant's continued infringement despite its  
6 knowledge of the '299 Patent and the accusations of infringement has been objectively  
7 reckless and willful.

8 28. Plaintiff is therefore entitled to recover from Defendant the damages sustained  
9 by Plaintiff as a result of Defendant's infringement of the '299 Patent in an amount subject  
10 to proof at trial, which, by law, cannot be less than a reasonable royalty, together with  
11 interest and costs as fixed by this Court under 35 U.S.C. § 284.

12 **PRAYER FOR RELIEF**

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

15 A. An adjudication that Defendant has infringed the '207 and '299 Patents;

16 B. An award of damages to be paid by Defendant adequate to compensate  
17 Plaintiff for Defendant's past infringement of the, '207 and '299 Patents and any  
18 continuing or future infringement through the date such judgment is entered, including  
19 interest, costs, expenses and an accounting of all infringing acts including, but not limited  
20 to, those acts not presented at trial;

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

23 D. To the extent Defendant's conduct subsequent to the date of its notice of the,  
24 '207 and '299 Patents are found to be objectively reckless, enhanced damages pursuant to  
25 35 U.S.C. § 284 for its willful infringement of the '207 and '299 Patents; and

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

3  
4 Respectfully submitted,

5 Dated: June 1, 2016

NEWPORT TRIAL GROUP

6  
7 By: /s/Tyler J Woods

Tyler J. Woods

8 Attorney for Plaintiff

9 Shipping and Transit, LLC

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**JURY DEMAND**

1  
2 Plaintiff demands a trial by jury on all issues so triable pursuant to Federal Rule of  
3 Civil Procedure 38.

4  
5 Respectfully submitted,

6 Dated: June 1, 2016

NEWPORT TRIAL GROUP

7  
8 By: /s/Tyler J Woods

Tyler J. Woods

9 Attorney for Plaintiff

10 Shipping and Transit, LLC