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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 NONIN MEDICAL, INC., a Minnesota
16 Corporation; and DOES 1 through 10,
17 Inclusive,

18 Defendants.
19
20

Case No. 2:16-cv-3839

**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 24th, Boynton Beach, Florida 33435.

7 2. On information and belief, defendant Nonin Medical, Inc., (“Defendant”) is
8 a corporation existing under the laws of Minnesota.

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.

27 ///

28 ///

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”
4 was duly and legally issued by the United States Patent and Trademark Office. A true
5 and 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
12 under 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
17 States a computer based notification system that enables communication with a user that
18 is 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
3 evidenced on Defendant’s web page:

4
5 **Shipping & Delivery**

6
7 **How can I check my Nonin order status online?**

- 8 1. Click the "my account / order status" link located at the top right of the Nonin webpage.
- 9 2. Click Review orders / track packages under "My Orders" to review any purchases
- 10 3. Click "View or change an order"
- 11 4. Order status will be shown in colored field.
- 12 5. Click Track your order to view delivery details.

13
14 **How can I track my order’s progress?**

15 Nonin will keep you informed about your order via email notifications. Your US Postal Service Confirmation number will
16 be emailed to you once the item has left our warehouse. You may also log into your Nonin account to check your order
17 status for updates.

18 <http://www.nonin.com/Shipping-Delivery-Information>

19
20 **How do I get my USPS tracking number?**

21 A Delivery Confirmation number is assigned to all outgoing orders. Each customer will automatically receive an email
22 notification once their package has left our building. You may access this information by visiting the "my account /
23 order status" link located on our storefront homepage.

24
25 **My order arrived damaged. What should I do?**

26 Please contact Nonin Customer Service department at 1-877-577-2635 within 3 business days to file a claim.

27
28 **My USPS Confirmation number is not working. What should I do?**

It takes USPS.com up to 24 hrs to process your shipment confirmation and relay the information to their website.
Transit times depend on road conditions, volume, and other circumstances. Please check back frequently for status
updates.

<http://www.nonin.com/Shipping-Delivery-Information>

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

1 communication with a user that is designed to receive delivery of a package and provides
2 a means for requesting entry by user of a package identification number.

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

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

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

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

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

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

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

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

24 22. Defendant has in the past and still is directly (and through inducement)
25 infringing, or directly infringing under the doctrine of equivalents, one or more claims of
26 the '299 Patent by making, using, offering for sale and/or selling within this district and
27 elsewhere in the United States a computer based notification system that enables

1 communication with a user that is designed to receive delivery of a package and provides
2 a means for requesting entry by user of a package identification number.

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

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

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

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

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

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

21 **PRAYER FOR RELIEF**

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

- 24 A. An adjudication that Defendant has infringed the '207 and '299 Patents;
25 B. An award of damages to be paid by Defendant adequate to compensate
26 Plaintiff for Defendant's past infringement of the, '207 and '299 Patents and any
27 continuing or future infringement through the date such judgment is entered, including

1 interest, costs, expenses and an accounting of all infringing acts including, but not limited
2 to, those acts not presented at trial;

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

5 D. To the extent Defendant's conduct subsequent to the date of its notice of the,
6 '207 and '299 Patents are found to be objectively reckless, enhanced damages pursuant
7 to 35 U.S.C. § 284 for its willful infringement of the '207 and '299 Patents; and

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

10
11 Respectfully submitted,

12 Dated: June 1, 2016

NEWPORT TRIAL GROUP

13
14 By: /s/Tyler J Woods

Tyler J. Woods

Attorney for Plaintiff

Shipping and Transit, LLC

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