

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 HEALTHWAREHOUSE.COM, INC., a
16 Delaware Corporation; and DOES 1
17 through 10, Inclusive,

18 Defendants.
19
20

Case No. 2:16-cv-03977

**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 Healthwarehouse.com, Inc.
8 (“Defendant”) is a corporation existing under the laws of Delaware.

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 November 13, 2001, United States Patent No. 6,317,060 (“the ’060
3 Patent”), entitled “Base station system and method for monitoring travel of mobile
4 vehicles and communicating notification messages,” was duly and lawfully issued by the
5 U.S. Patent and Trademark Office. A true and correct copy of the ’060 Patent is attached
6 as Exhibit A.

7 9. On July 2, 2002, United States Patent No 6,415,207 (“the ’207 Patent”),
8 entitled, “System and Method for Automatically Providing Vehicle Status Information”
9 was duly and legally issued by the United States Patent and Trademark Office. A true
10 and correct copy of the ’207 Patent is attached as Exhibit B to this complaint.

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

15 11. Plaintiff is the assignee and owner of the right, title and interest in and to the
16 ’060 Patent, ’207 Patent, and ’299 Patent including the right to assert all causes of action
17 arising under said patents and the right to any remedies for infringement of them.

DEFENDANT’S INFRINGEMENTS

18
19 12. Without license or authorization and in violation of 35 U.S.C. § 271(a),
20 Defendant has infringed and continues to infringe the ’060 Patent, ’207 Patent, and ’299
21 Patents by making, using, offering for sale and/or selling within this district and
22 elsewhere in the United States a computer based notification system that enables
23 communication with a user that is designed to receive delivery of a package and provides
24 a means for requesting entry by user of a package identification number.

25 13. By way of example, Defendant’s ship notice/manifest, sometimes referred to
26 as the Advanced Shipment Notice (ASN), or the 856 EDI document, is generated when a
27 user at a computer system elects to purchase an item via Defendant’s website and enters
28 an email address as part of the purchase process. Defendant explains by purchasing they

1 will be provided “order confirmation” and more importantly “shipment confirmation” by
2 selecting to purchase from their website. When a user selects a method of shipping when
3 purchasing an item from Defendant’s website, a user necessarily is required to elect a
4 shipping method that allows tracking. Once this election is made, and as the order is
5 processed, shipment confirmations are sent based on a tracking input when the package
6 starts its route (likely pick-up, placed on conveyer belt and/or scanned out to loading
7 dock/out of warehouse, etc.) to its destination (delivery address). This process is
8 evidenced on Defendant’s web page:

9

10 **Shipping Policy**

11 [Click here](#) for instructions on how to track a package.

12 All orders ship from Florence, KY. We offer **100% FREE shipping on all orders details** (including Alaska, Hawaii, Guam and US Territories). Please note that 100% FREE shipping orders do not come with a tracking number. For customers who require a tracking number, we ship via UPS for a flat fee of \$11.95. We ship orders Monday through Friday. We only ship to valid addresses within the United States and US Territories.

13 Customers may also select from one of four other shipping options:

- 14 • **Signature Confirmation (USPS/UPS)** is for \$3.95 per order.
- **UPS Tracking** is for \$11.95 (no shipping or delivery on Saturdays or Sundays and unavailable for P.O. Boxes).
- **USPS Priority** is \$10.00 (Includes P.O. Boxes and Weekend Delivery)
- 15 • **2-Day UPS** is \$17.95 (no shipping or delivery on Saturdays and Sundays and unavailable for P.O. Boxes).
- **Next Day Air UPS** is \$29.95 up to 20 pounds and \$2.99 for each additional pound (no shipping or delivery on Saturdays and Sundays and unavailable for P.O. Boxes).

16 <https://www.healthwarehouse.com/shipping>

17 **Package Tracking & Order Status**

18 **HealthWarehouse Checkout**

19 You may check the status of your order by clicking on the [Login](#) button at the top of the page. Once logged in, under your Account Manager select "Order History". Next select the order you wish to track from the list of previous orders by clicking "View Order". From there you will see a list of items ordered below your shipment and payment details. Click the "Track your order" link and a UPS or USPS tracking number will be provided.

20

21

22 <https://www.healthwarehouse.com/Package-Tracking>

23 **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,317,060**

24 14. Plaintiff repeats and realleges the allegations of paragraphs 1 through 14 as
25 if fully set forth herein.

26 15. Without license or authorization and in violation of 35 U.S.C. § 271(a),
27 Defendant has infringed and continues to infringe the '060 Patent by making, using,
28 offering for sale and/or selling within this district and elsewhere in the United States,

1 computer-based notification systems and methods which at least provide shipment
2 confirmation of impending deliveries at a user's home or business address via email.

3 16. Plaintiff is entitled to recover from Defendant the damages sustained by
4 Plaintiff as a result of Defendant's infringement of the '060 Patent in an amount subject
5 to proof at trial, which, by law, cannot be less than a reasonable royalty, together with
6 interest and costs as fixed by this Court under 35 U.S.C. § 284.

7 17. Prior to the filing of this Complaint, Plaintiff, by letter dated March 22,
8 2016, informed Defendant of Defendant's infringement of the '060 Patent.

9 18. Thus, Defendant has been on notice of the '060 Patent since at least the date
10 it received Plaintiff's letter dated March 22, 2016.

11 19. Upon information and belief, Defendant has not altered its infringing
12 conduct after receiving Plaintiff's letter dated March 22, 2016.

13 20. Upon information and belief, Defendant's continued infringement despite its
14 knowledge of the '060 Patent and the accusations of infringement has been objectively
15 reckless and willful.

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

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

19 22. Without license or authorization and in violation of 35 U.S.C. § 271(a),
20 Defendant has infringed and continues to infringe the '207 Patent by making, using,
21 offering for sale and/or selling within this district and elsewhere in the United States, by
22 Defendant's users selecting an Advance Ship Notice that tells the buyer or recipient the
23 contents of a shipment, timing of the shipment, delivery location of the shipment, the
24 mode of transportation and/or other shipment information.

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

1 24. Prior to the filing of this Complaint, Plaintiff, by letter dated March 22,
2 2016, informed Defendant of Defendant's infringement of the '207 Patent.

3 25. Thus, Defendant has been on notice of the '207 Patent since at least the date
4 it received Plaintiff's letter dated March 22, 2016.

5 26. Upon information and belief, Defendant has not altered its infringing
6 conduct after receiving Plaintiff's letter dated March 22, 2016.

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

10 **COUNT III – INFRINGEMENT OF U.S. PATENT NO. 6,763,299**

11 28. Plaintiff repeats and realleges the allegations of paragraphs 1 through 27 as
12 if fully set forth herein.

13 29. Without license or authorization and in violation of 35 U.S.C. § 271(a),
14 Defendant has infringed and continues to infringe the '299 Patent by making, using,
15 offering for sale and/or selling within this district and elsewhere in the United States, by
16 providing a system for automatically reporting the travel status of vehicles in response to
17 requests by users at remote locations.

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

22 31. Prior to the filing of this Complaint, Plaintiff, by letter dated March 22,
23 2016, informed Defendant of Defendant's infringement of the '299 Patent.

24 32. Thus, Defendant has been on notice of the '299 Patent since at least the date
25 it received Plaintiff's letter dated March 22, 2016.

26 33. Upon information and belief, Defendant has not altered its infringing
27 conduct after receiving Plaintiff's letter dated March 22, 2016.

28 ///

1 34. Upon information and belief, Defendant's continued infringement despite its
2 knowledge of the '299 Patent and the accusations of infringement has been objectively
3 reckless and willful.

4 **PRAYER FOR RELIEF**

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

7 A. An adjudication that Defendant has infringed the '060, '207, and '299
8 patents;

9 B. An award of damages to be paid by Defendant adequate to compensate
10 Plaintiff for Defendant's past infringement of the '060, '207, and '299 patents and any
11 continuing or future infringement through the date such judgment is entered, including
12 interest, costs, expenses and an accounting of all infringing acts including, but not limited
13 to, those acts not presented at trial;

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

16 D. To the extent Defendant's conduct subsequent to the date of its notice of the
17 '060, '207, and '299 patents is found to be objectively reckless, enhanced damages
18 pursuant to 35 U.S.C. § 284 for its willful infringement of the '060, '207, and '299
19 patents; 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: June 6, 2016

NEWPORT TRIAL GROUP

25
26 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 6, 2016

NEWPORT TRIAL GROUP

7
8 By: /s/Tyler J Woods

Tyler J. Woods

9 Attorney for Plaintiff

10 Shipping and Transit, LLC