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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 HAWK APPLICATIONS CORP., a
16 Delaware Corporation; and DOES 1
17 through 10, Inclusive,

18 Defendants.
19
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Case No. 2:16-cv-03982

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

Complaint Filed: N/A

Trial Date: N/A

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COMPLAINT FOR PATENT INFRINGEMENT

For its Complaint, Plaintiff Shipping and Transit LLC (“Plaintiff”), by and through the undersigned counsel, alleges as follows:

THE PARTIES

1. Plaintiff is a company organized and existing under the laws of Florida and having an address at 711 SW 24th, Boynton Beach, Florida 33435.

2. On information and belief, defendant Hawk Applications Corp. (“Defendant”) is a corporation existing under the laws of Delaware.

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

JURISDICTION AND VENUE

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

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

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

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

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THE PATENTS-IN-SUIT

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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

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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:

	BASIC Parcel Shippers	PLUS Parcel and LTL	PRO Diverse Inventory	ENTERPRISE Configurable
MONTHLY <input checked="" type="checkbox"/> ANNUAL	SIGN UP	BUY NOW	CONTACT US	CONTACT US
	Free	\$99/mo	Contact Us	Contact Us
Platform Functionality				
Rating, Dispatch, and Tracking	✓	✓	✓	✓
Shipping types Enabled via ShipHawk				
Domestic Parcel	✓	✓	✓	✓
Domestic LTL		✓	✓	✓
International LTL			✓	✓
Blanket wrap			✓	✓
Other Specialty				✓
Home Delivery				✓

18 <https://shiphawk.com/pricing/>

	BASIC	PLUS	PRO	ENTERPRISE
Tracking				
Unified view of Shipment Status and History	✓	✓	✓	✓
Customer-facing Tracking	ShipHawk branded	ShipHawk branded	White Label	White Label
Email Notifications	via Parcel Provider	✓	✓	✓

24 <https://shiphawk.com/pricing/>

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Spend and Shipments

Track which shipments are serviced by which carriers and evaluate average costs by carrier.

<https://shiphawk.com/shipping-intelligence/>



Tracking

Never miss a beat. Track your items from point-of-sale to delivery, regardless of how they are shipped.



Standardized Statuses

All information is provided in a consistent format making it easy to understand.



Exception Management

The ShipHawk Platform tracks orders against commitments with exceptions flagged for action.

<https://shiphawk.com/logistics-automation/>

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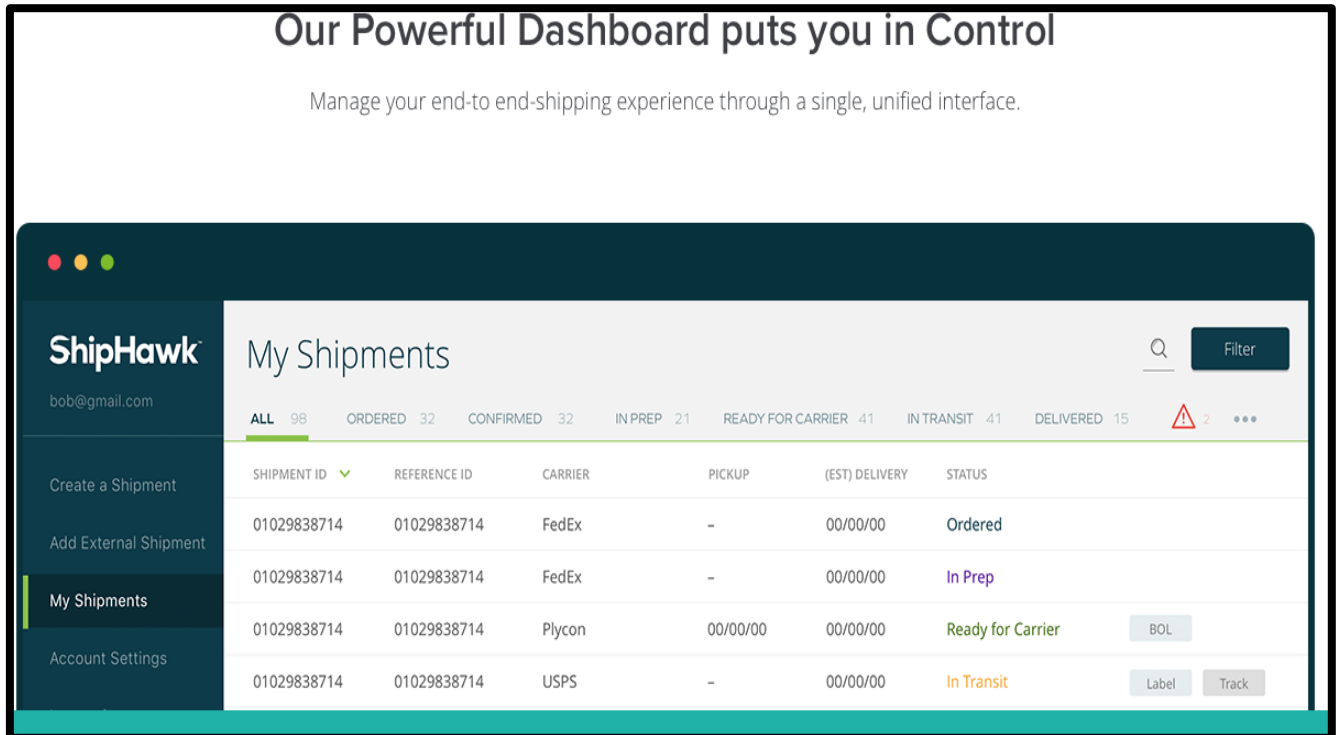
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<https://shiphawk.com/logistics-automation/>

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

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

15. Without license or authorization and in violation of 35 U.S.C. § 271(a), Defendant has infringed and continues to infringe the '060 Patent by making, using, offering for sale and/or selling within this district and elsewhere in the United States, computer-based notification systems and methods which at least provide shipment confirmation of impending deliveries at a user's home or business address via email.

16. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's infringement of the '060 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 31. Prior to the filing of this Complaint, Plaintiff, by letter dated March 22,
17 2016, informed Defendant of Defendant's infringement of the '299 Patent.

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

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

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

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff requests that this Court enter judgment against Defendant
27 as follows:

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

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

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

10 D. To the extent Defendant's conduct subsequent to the date of its notice of the
11 '060, '207, and '299 patents is found to be objectively reckless, enhanced damages
12 pursuant to 35 U.S.C. § 284 for its willful infringement of the '060, '207, and '299
13 patents; and

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

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17 Respectfully submitted,

18 Dated: June 6, 2016

NEWPORT TRIAL GROUP

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20 By: /s/Tyler J Woods

Tyler J. Woods

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: June 6, 2016

NEWPORT TRIAL GROUP

By: /s/Tyler J Woods

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