

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

Case No. \_\_\_\_\_

ARRIVALSTAR S.A. and MELVINO  
TECHNOLOGIES LIMITED,

Plaintiffs,

vs.

**DEMAND FOR JURY TRIAL**

KUEHNE + NAGEL INC., NICOLE  
MILLER PALM BEACH, INC.,  
SEVEN FOR ALL MANKIND, LLC,  
and WILLIAM RAST RETAIL, LLC,

Defendants.

\_\_\_\_\_/

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiffs, ArrivalStar S.A. and Melvino Technologies Limited (collectively "Plaintiffs"),  
by and through their undersigned counsel, hereby sue the above-named defendants for patent  
infringement, and in support, allege as follows:

**NATURE OF THE LAWSUIT**

1. This is an action for patent infringement of United States Patent Numbers:  
6,714,859; 6,748,320; 6,952,645; 7,030,781; 7,400,970; 6,904,359; and, 6,486,801 arising under  
the patent laws of the United States, Title 35 of the United States Code.

**JURISDICTION, VENUE AND THE PARTIES**

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331; 28 U.S.C.  
§ 1338; and 35 U.S.C. § 271.

3. This Court has personal jurisdiction over each Defendant pursuant to, *inter alia*,  
Florida's long-arm statute, § 48.193, in that each Defendant: (a) operates, conducts, engages in,

and/or carries on a business or business adventure(s) in Florida and/or has an office or agency in Florida; (b) has committed one or more tortious acts within Florida; (c) was and/or is engaged in substantial and not isolated activity within Florida; and/or (d) has purposely availed itself of Florida's laws, services and/or other benefits and therefore should reasonably anticipate being haled into one or more of the courts within the State of Florida.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 1400.

#### **THE PLAINTIFFS**

5. ArrivalStar S.A. is a corporation organized under the laws of Luxembourg, having offices located at 67 Rue Michel, Welter L-2730, Luxembourg. ArrivalStar is the authorized licensee of the patents alleged as being infringed in this lawsuit, with the right to sub-license the patents at issue.

6. Melvino Technologies Limited is a corporation organized under the laws of the British Virgin Islands of Tortola, having offices located at P.O. Box 3174, Palm Chambers, 197 Main Street, Road Town, Tortola, British Virgin Islands. Melvino owns all rights, title and interests in the patents alleged as being infringed in this lawsuit.

#### **THE DEFENDANTS**

7. Defendant Kuehne + Nagel, Inc. ("K and N") is a New York Corporation with a principal place of business located at 10 Exchange Place, 19<sup>th</sup> Floor, Jersey City, New Jersey 07302. K and N is authorized to transact business in Florida, and it does. It has places of business located in Florida at 10205 NW 108<sup>th</sup> Avenue, Suite 1, Medley, Florida 33178; 2318 Waverly Barn Road, Davenport, Florida 33897; 7850 NW 25<sup>th</sup> Street, Doral, Florida 33122; and, 10805 NW 100<sup>th</sup> Street, Miami, Florida 33178. K and N also has a Registered Agent located in Plantation, Florida. Further, K and N transacts business and has, at a minimum, offered to

provide and/or has provided to customers within this Judicial District and throughout the State of Florida services and/or products that infringe claims of the '359, '801, '859, '320, '645, '781 and '970 patents.

8. Defendant Nicole Miller Palm Beach, Inc. ("Nicole Miller") is a Florida Corporation with a principal place of business located at 525 Seventh Avenue, 20<sup>th</sup> Floor, New York, New York 10018. Nicole Miller's Registered Agent is in Plantation, Florida. Nicole Miller is authorized to transact business in Florida and has offices and stores located throughout Florida including: 336 South County Road, Palm Beach, Florida 33480; 13100 SW 128<sup>th</sup> Street, Suite 100, Miami, Florida 33186; and, 2220 Glades Road, Suite 601, Boca Raton, Florida 33431. Further, Nicole Miller transacts business and has, at a minimum, offered to provide and/or has provided in this Judicial District and throughout the State of Florida services and/or products to customers that infringe claims of the '359, '320, '645, and '970 patents.

9. Defendant Seven For All Mankind, LLC ("Seven") is a Delaware Limited Liability Company with a principal place of business located at 4440 E. 26<sup>th</sup> Street, Los Angeles, California 90058. While Seven is not specifically authorized to transact business in the State of Florida anymore since it failed to file its Annual Report in 2007, it does. Its Registered Agent was located in Tallahassee, Florida, and no withdrawal of authority to act as a Registered Agent has been filed with the State of Florida. In 2009 it requested to be reinstated for authorization to transact business within Florida and in 2010 it filed a Notice of Address Change with the Florida Division of Corporations. Further, Seven maintains offices in Florida located at 4953 International Drive, Space 1A-07, Orlando, Florida 32819; 19501 Biscayne Boulevard, # 809, Aventura, Florida 33180; 6000 Glades Road, Space 1143, Boca Raton, Florida 33431; and, 1008 Lincoln Road, Miami, Florida 33139. Finally, Seven transacts business and has, at a minimum,

offer to provide and/or has provided in this Judicial District and throughout the State of Florida services and/or products to customers that infringe claims of the '320, '359, '645 and '970 patents.

10. Defendant William Rast Retail, LLC ("Rast") is a California Limited Liability Company with a principal place of business located at 1212 S. Flower Street, 5<sup>th</sup> Floor, Los Angeles, California 90015. Rast is authorized to transact business in Florida, and it does. It has a Registered Agent in Aventura, Florida. Rast has offices and stores throughout the State of Florida including within this Judicial District specifically located at 19575 Biscayne Boulevard, Miami, Florida 33180. Finally, Rast transacts business and has, at a minimum, offered to provide and/or has provided in this Judicial District and throughout the State of Florida services and/or products to customers that infringe claims of the '359, '320, and '970 patents.

#### **THE PLAINTIFFS' PATENTS**

11. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 6,714,859 ("the '859 patent"), entitled "System and Method for an Advance Notification System for Monitoring and Reporting Proximity of a Vehicle", issued March 30, 2004. A copy of the '859 patent is attached hereto as Exhibit 1.

12. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 6,748,320 ("the '320 patent"), entitled "Advance Notification Systems and Methods Utilizing a Computer Network", issued June 8, 2004. A copy of the '320 patent is attached hereto as Exhibit 2.

13. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 6,952,645 ("the '645 patent"), entitled "System and Method for Activation of an Advance Notification System for Monitoring and Reporting

Status of Vehicle Travel”, issued October 4, 2005. A copy of the ‘645 patent is attached hereto as Exhibit 3.

14. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 7,030,781 (“the ‘781 patent”), entitled “Notification System and Method that Informs a Party of Vehicle Delay”, issued April 18, 2006. A copy of the ‘781 patent is attached hereto as Exhibit 4.

15. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 7,400,970 (“the ‘970 patent”), entitled “System and Method for an Advance Notification System for Monitoring and Reporting Proximity of a Vehicle”, issued July 15, 2008. A copy of the ‘970 patent is attached hereto as Exhibit 5.

16. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 6,904,359 (“the ‘359 patent”), entitled “Notification System and Methods with User-Defineable Notifications Based Upon Occurrence of Events”, issued June 7, 2005. A copy of the ‘359 patent is attached hereto as Exhibit 6.

17. Plaintiffs own all right, title and interest in, and/or have standing to sue for infringement of United States Patent Number 6,486,801 (“the ‘801 patent”), entitled “Base Station Apparatus and Method for Monitoring Travel of a Mobile Vehicle”, issued November 26, 2002. A copy of the ‘801 patent is attached hereto as Exhibit 7.

**COUNT I – K and N**  
**DIRECT PATENT INFRINGEMENT**

18. Plaintiffs hereby incorporate Paragraphs 1 through 17 set forth above as if fully set forth herein.

19. Pursuant to 35 U.S.C. § 271, K and N has directly infringed claims of the ‘359, ‘801, ‘859, ‘320, ‘645, ‘781 and ‘970 patents through, among other activities, the commercial

sale, offer and/or use of its “Web-enabled Global Tracking & Tracing” and “Visibility, Monitoring & Reporting” programs/products/services/systems which utilize tracking and messaging technologies that are protected within the ‘359, ‘801, ‘859, ‘320, ‘645, ‘781 and ‘970 patents, as every claim limitation, or its equivalent, is found in these devices, methods, programs, products, systems and/or services.

20. K and N’s direct infringement has injured and will continue to injure Plaintiffs unless and until a monetary judgment is entered in favor of Plaintiffs and/or the Court enters an injunction prohibiting further infringement and, specifically, enjoining further use of methods and systems that come within the scope of the ‘359, ‘801, ‘859, ‘320, ‘645, ‘781 and ‘970 patents.

#### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs respectfully ask this Court to enter judgment against K and N and its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with K and N, granting the following relief:

A. An award of damages against K and N adequate to compensate Plaintiffs for the infringement that has occurred with respect to K and N, together with prejudgment interest from the date that K and N’s infringement of the patents at issue began;

B. Increased damages as permitted pursuant to 35 U.S.C. § 284;

C. A finding that this case is exceptional and award to Plaintiffs their attorneys’ fees and costs as provided by 35 U.S.C. § 285;

D. A permanent injunction against K and N prohibiting further infringement of the patents at issue; and,

E. All other relief as the Court or a jury may deem proper and just in this instance.

**COUNT II – K and N**  
**INDIRECT PATENT INFRINGEMENT**

21. Plaintiffs hereby incorporate Paragraphs 1 through 20 set forth above as if fully set forth herein.

22. Pursuant to 35 U.S.C. § 271, K and N has indirectly infringed claims of the ‘359, ‘801, ‘859, ‘320, ‘645, ‘781 and ‘970 patents through, among other activities, the commercial sale, offer and/or use of its “Web-enabled Global Tracking & Tracing” and “Visibility, Monitoring & Reporting” programs/products/services/systems which utilize tracking and messaging technologies that are protected within the ‘359, ‘801, ‘859, ‘320, ‘645, ‘781 and ‘970 patents as K and N actively induced infringement by one or more third parties, and/or contributed to infringement by one or more third parties as K and N had knowledge that its activity caused such infringement.

23. K and N’s contributory infringement and/or inducement to infringe has injured and will continue to injure Plaintiffs unless and until a monetary judgment is entered in favor of Plaintiffs and/or the Court enters an injunction prohibiting further infringement and, specifically, enjoining further use of methods and systems that come within the scope of the ‘359, ‘801, ‘859, ‘320, ‘645, ‘781 and ‘970 patents.

**REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs respectfully ask this Court to enter judgment against K and N and its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with K and N, granting the following relief:

A. An award of damages against K and N adequate to compensate Plaintiffs for the infringement that has occurred with respect to K and N, together with prejudgment interest from the date that K and N’s infringement of the patents at issue began;

- B. Increased damages as permitted pursuant to 35 U.S.C. § 284;
- C. A finding that this case is exceptional and award to Plaintiffs their attorneys' fees and costs as provided by 35 U.S.C. § 285;
- D. A permanent injunction against K and N prohibiting further infringement of the patents at issue; and,
- E. All other relief as the Court or a jury may deem proper and just in this instance.

**COUNT III – NICOLE MILLER**  
**DIRECT PATENT INFRINGEMENT**

24. Plaintiffs hereby incorporate Paragraphs 1 through 17 set forth above as if fully set forth herein.

25. Pursuant to 35 U.S.C. § 271, Nicole Miller has directly infringed claims of '320, '645, '359, and '970 patents through, among other activities, systems and methods, the use of tracking and messaging technologies within its "Advanced Shipment Notice" and "Email Shipment Confirmation" services that are protected by the '320, '645, '359, and '970 patents, as every claim limitation, or its equivalent, is found in these devices, methods, programs, products, systems and/or services.

26. Nicole Miller's direct infringement has injured and will continue to injure Plaintiffs unless and until a monetary judgment is entered in favor of Plaintiffs and/or the Court enters an injunction prohibiting further infringement and, specifically, enjoining further use of methods and systems that come within the scope of '320, '645, '359, and '970 patents.

**REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs respectfully ask this Court to enter judgment against Nicole Miller and its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with Nicole Miller, granting the following relief:

A. An award of damages against Nicole Miller adequate to compensate Plaintiffs for the infringement that has occurred with respect to Nicole Miller, together with prejudgment interest from the date that Nicole Miller's infringement of the patents at issue began;

B. Increased damages as permitted pursuant to 35 U.S.C. § 284;

C. A finding that this case is exceptional and award to Plaintiffs their attorneys' fees and costs as provided by 35 U.S.C. § 285;

D. A permanent injunction against Nicole Miller prohibiting further infringement of the patents at issue; and,

E. All other relief as the Court or a jury may deem proper and just in this instance.

**COUNT IV – NICOLE MILLER**  
**INDIRECT PATENT INFRINGEMENT**

27. Plaintiffs hereby incorporate Paragraphs 1 through 17 and Paragraphs 24 through 26 set forth above as if fully set forth herein.

28. Pursuant to 35 U.S.C. § 271, Nicole Miller has indirectly infringed claims of '320, '645, '359, and '970 patents through, among other activities, systems and methods, the use of tracking and messaging technologies within its "Advanced Shipment Notice" and "Email Shipment Confirmation" services that are protected by the '320, '645, '359, and '970 patents, as Nicole Miller actively induced infringement by one or more third parties, and/or contributed to infringement by one or more third parties as Nicole Miller had knowledge that its activity caused such infringement.

29. Nicole Miller's contributory infringement and/or inducement to infringe has injured and will continue to injure Plaintiffs unless and until a monetary judgment is entered in favor of Plaintiffs and/or the Court enters an injunction prohibiting further infringement and,

specifically, enjoining further use of methods and systems that come within the scope of ‘320, ‘645, ‘359, and ‘970 patents.

**REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs respectfully ask this Court to enter judgment against Nicole Miller and its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with Nicole Miller granting the following relief:

A. An award of damages against Nicole Miller adequate to compensate Plaintiffs for the infringement that has occurred with respect to Nicole Miller, together with prejudgment interest from the date that Nicole Miller’s infringement of the patents at issue began;

B. Increased damages as permitted pursuant to 35 U.S.C. § 284;

C. A finding that this case is exceptional and award to Plaintiffs their attorneys’ fees and costs as provided by 35 U.S.C. § 285;

D. A permanent injunction against Nicole Miller prohibiting further infringement of the patents at issue; and,

E. All other relief as the Court or a jury may deem proper and just in this instance.

**COUNT V – SEVEN**  
**DIRECT PATENT INFRINGEMENT**

30. Plaintiffs hereby incorporate Paragraphs 1 through 17 set forth above as if fully set forth herein.

31. Pursuant to 35 U.S.C. § 271, Seven has directly infringed claims of the ‘320, ‘645, ‘359, and ‘970 patents through, among other activities, systems and methods, the use of tracking and messaging technologies within its “Advanced Shipment Notice” and “Email Shipment Confirmation” services that are protected by the ‘320, ‘645, ‘359, and ‘970 patents, as

every claim limitation, or its equivalent, is found in these devices, methods, programs, products, systems and/or services.

32. Seven's direct infringement has injured and will continue to injure Plaintiffs unless and until a monetary judgment is entered in favor of Plaintiffs and/or the Court enters an injunction prohibiting further infringement and, specifically, enjoining further use of methods and systems that come within the scope of '320, '645, '359, and '970 patents.

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs respectfully ask this Court to enter judgment against Seven and its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with Seven, granting the following relief:

A. An award of damages against Seven adequate to compensate Plaintiffs for the infringement that has occurred with respect to Seven, together with prejudgment interest from the date that Seven's infringement of the patents at issue began;

B. Increased damages as permitted pursuant to 35 U.S.C. § 284;

C. A finding that this case is exceptional and award to Plaintiffs their attorneys' fees and costs as provided by 35 U.S.C. § 285;

D. A permanent injunction against Seven prohibiting further infringement of the patents at issue; and,

E. All other relief as the Court or a jury may deem proper and just in this instance.

### **COUNT VI – SEVEN** **INDIRECT PATENT INFRINGEMENT**

33. Plaintiffs hereby incorporate Paragraphs 1 through 17 and Paragraphs 30 through 32 set forth above as if fully set forth herein.

34. Pursuant to 35 U.S.C. § 271, Seven has indirectly infringed claims of the ‘320, ‘645, ‘359, and ‘970 patents through, among other activities, systems and methods, the use of tracking and messaging technologies within its “Advanced Shipment Notice” and “Email Shipment Confirmation” services that are protected by the ‘320, ‘645, ‘359, and ‘970 patents, as Seven actively induced infringement by one or more third parties, and/or contributed to infringement by one or more third parties as Seven had knowledge that its activity caused such infringement.

35. Seven’s contributory infringement and/or inducement to infringe has injured and will continue to injure Plaintiffs unless and until a monetary judgment is entered in favor of Plaintiffs and/or the Court enters an injunction prohibiting further infringement and, specifically, enjoining further use of methods and systems that come within the scope of ‘320, ‘645, ‘359, and ‘970 patents.

#### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs respectfully ask this Court to enter judgment against Seven and its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with Seven, granting the following relief:

- A. An award of damages against Seven adequate to compensate Plaintiffs for the infringement that has occurred with respect to Seven, together with prejudgment interest from the date that Seven’s infringement of the patents at issue began;
- B. Increased damages as permitted pursuant to 35 U.S.C. § 284;
- C. A finding that this case is exceptional and award to Plaintiffs their attorneys’ fees and costs as provided by 35 U.S.C. § 285;

D. A permanent injunction against Seven prohibiting further infringement of the patents at issue; and,

E. All other relief as the Court or a jury may deem proper and just in this instance.

**COUNT VII – RAST**  
**DIRECT PATENT INFRINGEMENT**

36. Plaintiffs hereby incorporate Paragraphs 1 through 17 above as if fully set forth herein.

37. Pursuant to 35 U.S.C. § 271, Rast has directly infringed claims of the ‘359, ‘320, and ‘970 patents through, among other activities, systems and methods, the use of tracking and messaging technologies within its “Advanced Shipment Notice” and “Email Shipment Confirmation” services that are protected by the ‘359, ‘320, and ‘970 patents, as every claim limitation, or its equivalent, is found in these devices, methods, programs, products, systems and/or services.

38. Rast’s direct infringement has injured and will continue to injure Plaintiffs until a monetary judgment is rendered in Plaintiffs’ favor and/or unless and until the Court enters an injunction prohibiting further infringement and, specifically, enjoining further use of methods and systems that come within the scope of the ‘359, ‘320, and ‘970 patents

**REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs respectfully ask this Court to enter judgment against Rast and its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with Rast granting the following relief:

A. An award of damages against Rast adequate to compensate Plaintiffs for the infringement that has occurred with respect to Rast, together with prejudgment interest from the date that Rast’s infringement of the patents at issue began;

- B. Increased damages as permitted pursuant to 35 U.S.C. § 284;
- C. A finding that this case is exceptional and award to Plaintiffs their attorneys' fees and costs as provided by 35 U.S.C. § 285;
- D. A permanent injunction against Rast prohibiting further infringement of the patents at issue; and,
- E. All other relief as the Court or a jury may deem proper and just in this instance.

**COUNT VIII – RAST**  
**INDIRECT PATENT INFRINGEMENT**

39. Plaintiffs hereby incorporate Paragraphs 1 through 17 and Paragraphs 36 through 38 set forth above as if fully set forth herein.

40. Pursuant to 35 U.S.C. § 271, Rast has indirectly infringed claims of the '359, '320, and '970 patents through, among other activities, systems and methods, the use of tracking and messaging technologies within its "Advanced Shipment Notice" and "Email Shipment Confirmation" services that are protected by the '359, '320, and '970 patents, as Rast actively induced infringement by one or more third parties, and/or contributed to infringement by one or more third parties as Rast had knowledge that its activity caused such infringement.

41. Rast's contributory infringement and/or inducement to infringe has injured and will continue to injure Plaintiffs until a monetary judgment is rendered in Plaintiffs' favor and/or unless and until the Court enters an injunction prohibiting further infringement and, specifically, enjoining further use of methods and systems that come within the scope of the '359, '320, and '970 patents.

**REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs respectfully ask this Court to enter judgment against Rast and its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with Rast granting the following relief:

- A. An award of damages against Rast adequate to compensate Plaintiffs for the infringement that has occurred with respect to Rast, together with prejudgment interest from the date that Rast's infringement of the patents at issue began;
- B. Increased damages as permitted pursuant to 35 U.S.C. § 284;
- C. A finding that this case is exceptional and award to Plaintiffs their attorneys' fees and costs as provided by 35 U.S.C. § 285;
- D. A permanent injunction against Rast prohibiting further infringement of the patents at issue; and,
- E. All other relief as the Court or a jury may deem proper and just in this instance.

**JURY DEMAND**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs hereby demand a trial by jury on all issues so triable.

Dated: June 9, 2011.

Respectfully submitted,

/s/ William R. McMahon  
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