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FILED

SEP 11 2012

RICHARD W. WILKINS
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

E-filing

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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

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ECLIPSE IP LLC,
Plaintiff,
vs.
OMAHA STEAKS
INTERNATIONAL, INC.,
Defendant.

CASE NO. 12 4727

COMPLAINT FOR PATENT
INFRINGEMENT
DEMAND FOR JURY TRIAL

JCS

VOLUME I of II

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Eclipse IP LLC (“Eclipse”), by counsel, complains of
3 defendant Omaha Steaks International, Inc. (“Omaha Steaks”), as follows:

4 **NATURE OF THIS ACTION**

5 1. This is a suit for patent infringement arising under the patent
6 laws of the United States, Title 35 of the United States Code § 1 *et seq.* This Court
7 has exclusive jurisdiction over the subject matter of the Complaint under 28 U.S.C.
8 §§ 1331 and 1338(a).

9 **PARTIES AND PATENTS**

10 2. Eclipse is a company organized and existing under the laws of
11 Florida and having a principal place of business address at 115 NW 17th Street,
12 Delray Beach, Florida 33444.

13 3. Eclipse owns all right, title, and interest in and has standing to
14 sue for infringement of United States Patent No. 7,479,899 (“the ‘899 patent”),
15 entitled “Notification Systems and Methods Enabling a Response to Cause
16 Connection Between a Notified PCD and a Delivery or Pickup Representative”
17 (attached hereto as Exhibit A to this Complaint); United States Patent No.
18 7,876,239 (“the ‘239 patent”), entitled “Secure Notification Messaging Systems
19 and Methods Using Authentication Indicia” (attached hereto as Exhibit B to this
20 Complaint); United States Patent No. 7,319,414 (“the ‘414 patent”), entitled
21 “Secure Notification Messaging Systems and Methods Using Authentication
22 Indicia” (attached hereto as Exhibit C to this Complaint); United States Patent No.
23 7,482,952 (“the ‘952 patent”), entitled “Response Systems and Methods for
24 Notification Systems for Modifying Future Notifications” (attached hereto as
25 Exhibit D to this Complaint); and United States Patent No. 7,119,716 (“the ‘716
26 patent”), entitled “Response Systems and Methods for Notification Systems for
27 Modifying Future Notifications” (attached hereto as Exhibit E to this Complaint)
28 (collectively, “the Eclipse Patents”).

1 order, purchase, and product return status messaging and information systems that
2 include URL links, after having received notice of its infringement of the '899
3 patent; and by continuing to provide to customers electronic messages with
4 authentication, modifications to future electronic messages, and additional
5 information associated with the status of a purchase or return, after having received
6 notice of its infringement of the '899 patent.

7 11. Eclipse is informed and believes, and thereupon alleges, that
8 Omaha Steaks' infringement of the '899 patent as set forth herein has been and is
9 willful, deliberate and in disregard of Eclipse's patent rights, and Eclipse is
10 therefore entitled to increased damages up to three times the amount of actual
11 damages and attorneys' fees, pursuant to 35 U.S.C. §§ 284, 285.

12 12. Omaha Steaks has infringed one or more claims of the '239
13 patent through, among other activities: the use of its electronic order, purchase,
14 and product return status messaging and information systems that include URL
15 links; and providing the users or recipients of electronic messages with
16 authentication, modifications to future electronic messages, and additional
17 information associated with the status of a purchase or return.

18 13. Omaha Steaks has actively induced and/or contributed to the
19 infringement by others of one or more claims of the '239 patent through, among
20 other activities: by continuing to provide to customers the use of its electronic
21 order, purchase, and product return status messaging and information systems that
22 include URL links, after having received notice of its infringement of the '239
23 patent; and by continuing to provide to customers electronic messages with
24 authentication, modifications to future electronic messages, and additional
25 information associated with the status of a purchase or return, after having received
26 notice of its infringement of the '239 patent.

27 14. Eclipse is informed and believes, and thereupon alleges, that
28 Omaha Steaks' infringement of the '239 patent as set forth herein has been and is

1 willful, deliberate and in disregard of Eclipse's patent rights, and Eclipse is
2 therefore entitled to increased damages up to three times the amount of actual
3 damages and attorneys' fees, pursuant to 35 U.S.C. §§ 284, 285.

4 15. Omaha Steaks has infringed one or more claims of the '414
5 patent through, among other activities: the use of its electronic order, purchase,
6 and product return status messaging and information systems that include URL
7 links; and providing the users or recipients of electronic messages with
8 authentication, modifications to future electronic messages, and additional
9 information associated with the status of a purchase or return.

10 16. Omaha Steaks has actively induced and/or contributed to the
11 infringement by others of one or more claims of the '414 patent through, among
12 other activities: by continuing to provide to customers the use of its electronic
13 order, purchase, and product return status messaging and information systems that
14 include URL links, after having received notice of its infringement of the '414
15 patent; and by continuing to provide to customers electronic messages with
16 authentication, modifications to future electronic messages, and additional
17 information associated with the status of a purchase or return, after having received
18 notice of its infringement of the '414 patent.

19 17. Eclipse is informed and believes, and thereupon alleges, that
20 Omaha Steaks' infringement of the '414 patent as set forth herein has been and is
21 willful, deliberate and in disregard of Eclipse's patent rights, and Eclipse is
22 therefore entitled to increased damages up to three times the amount of actual
23 damages and attorneys' fees, pursuant to 35 U.S.C. §§ 284, 285.

24 18. Omaha Steaks has infringed one or more claims of the '952
25 patent through, among other activities: the use of its electronic order, purchase,
26 and product return status messaging and information systems that include URL
27 links; and providing the users or recipients of electronic messages with
28 authentication, modifications to future electronic messages, and additional

1 information associated with the status of a purchase or return.

2 19. Omaha Steaks has actively induced and/or contributed to the
3 infringement by others of one or more claims of the '952 patent through, among
4 other activities: by continuing to provide to customers the use of its electronic
5 order, purchase, and product return status messaging and information systems that
6 include URL links, after having received notice of its infringement of the '952
7 patent; and by continuing to provide to customers electronic messages with
8 authentication, modifications to future electronic messages, and additional
9 information associated with the status of a purchase or return, after having received
10 notice of its infringement of the '952 patent.

11 20. Eclipse is informed and believes, and thereupon alleges, that
12 Omaha Steaks' infringement of the '952 patent as set forth herein has been and is
13 willful, deliberate and in disregard of Eclipse's patent rights, and Eclipse is
14 therefore entitled to increased damages up to three times the amount of actual
15 damages and attorneys' fees, pursuant to 35 U.S.C. §§ 284, 285.

16 21. Omaha Steaks has infringed one or more claims of the '716
17 patent through, among other activities: the use of its electronic order, purchase,
18 and product return status messaging and information systems that include URL
19 links; and providing the users or recipients of electronic messages with
20 authentication, modifications to future electronic messages, and additional
21 information associated with the status of a purchase or return.

22 22. Omaha Steaks has actively induced and/or contributed to the
23 infringement by others of one or more claims of the '716 patent through, among
24 other activities: by continuing to provide to customers the use of its electronic
25 order, purchase, and product return status messaging and information systems that
26 include URL links, after having received notice of its infringement of the '716
27 patent; and by continuing to provide to customers electronic messages with
28 authentication, modifications to future electronic messages, and additional

1 and continues to actively induce others to infringe claims of the '899 patent,
2 literally and/or under the doctrine of equivalents, in this district and elsewhere in
3 the United States.

4 **COUNT II**

5 **(Patent Infringement of U.S. Patent No. 7,876,239**

6 **Under 35 U.S.C. § 271, *et seq.*)**

7 28. Eclipse incorporates by reference and realleges the allegations
8 set forth in paragraphs 1 through 27 above and incorporates them by reference.

9 29. On January 25, 2011, United States Patent No. 7,876,239,
10 entitled, "Secure Notification Messaging Systems and Methods Using
11 Authentication Indicia" was duly and legally issued by the United States Patent
12 and Trademark Office. Eclipse IP is the owner of the entire right, title and interest
13 in and to the '239 patent. A true and correct copy of the '239 patent is attached as
14 Exhibit B to this Complaint.

15 30. Eclipse is informed and believes, and thereupon alleges, that
16 Omaha Steaks: (1) has infringed and continues to infringe claims of the '239
17 patent, literally and/or under the doctrine of equivalents, and/or (2) has contributed
18 and continues to contribute the literal infringement and/or infringement under the
19 doctrine of equivalents of claims of the '239 patent, and/or has actively induced
20 and continues to actively induce others to infringe claims of the '239 patent,
21 literally and/or under the doctrine of equivalents, in this district and elsewhere in
22 the United States.

23 **COUNT III**

24 **(Patent Infringement of U.S. Patent No. 7,319,414**

25 **Under 35 U.S.C. § 271, *et seq.*)**

26 31. Eclipse incorporates by reference and realleges the allegations
27 set forth in paragraphs 1 through 30 above and incorporates them by reference.

28 32. On January 15, 2008, United States Patent No. 7,319,414,

1 doctrine of equivalents of claims of the '952 patent, and/or has actively induced
2 and continues to actively induce others to infringe claims of the '952 patent,
3 literally and/or under the doctrine of equivalents, in this district and elsewhere in
4 the United States.

5 **COUNT V**

6 **(Patent Infringement of U.S. Patent No. 7,119,716**

7 **Under 35 U.S.C. § 271, *et seq.*)**

8 37. Eclipse incorporates by reference and realleges the allegations
9 set forth in paragraphs 1 through 36 above and incorporates them by reference.

10 38. On October 10, 2006, United States Patent No. 7,119,716
11 entitled, "Response Systems and Methods for Notification Systems for Modifying
12 Future Notifications" was duly and legally issued by the United States Patent and
13 Trademark Office. Eclipse IP is the owner of the entire right, title and interest in
14 and to the '716 patent. A true and correct copy of the '716 patent is attached as
15 Exhibit E to this Complaint.

16 39. Eclipse is informed and believes, and thereupon alleges, that
17 Omaha Steaks: (1) has infringed and continues to infringe claims of the '716
18 patent, literally and/or under the doctrine of equivalents, and/or (2) has contributed
19 and continues to contribute the literal infringement and/or infringement under the
20 doctrine of equivalents of claims of the '716 patent, and/or has actively induced
21 and continues to actively induce others to infringe claims of the '716 patent,
22 literally and/or under the doctrine of equivalents, in this district and elsewhere in
23 the United States.

24 **PRAYER FOR RELIEF**

25 **WHEREFORE,** Eclipse asks this Court to enter judgment against
26 Omaha Steaks and against each of Omaha Steaks' respective subsidiaries,
27 affiliates, agents, servants, employees and all persons in active concert or
28 participation with it, granting the following relief:

