	Case3:12-cv-94727-JCS Documen	it1 Filed09/11/12 Page 7 (11)
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6		E-filing
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8	UNITED STATI	ES DISTRICT COURT
9	NORTHERN DIST	TRICT OF CALIFORNIA
10		ñ 18 1797
11	ECLIPSE IP LLC,	Q <sub>ASE</sub> 102 4727
12	Plaintiff,	COMPLAINT FOR PATENT INFRINGEMENT
13	vs.	DEMAND FOR JURY TRIAL
14	OMAHA STEAKS	DEMAND FOR GORT TRIAL
15	INTERNATIONAL, INC.,	VOLUME I of II
16	Defendant.	VOLUME I OF II
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COMPLAINT FOR PATENT INFRINGEMENT

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

## NATURE OF THIS ACTION

1. 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. This Court has exclusive jurisdiction over the subject matter of the Complaint under 28 U.S.C. §§ 1331 and 1338(a).

## PARTIES AND PATENTS

- Eclipse is a company organized and existing under the laws of Florida and having a principal place of business address at 115 NW 17th Street, Delray Beach, Florida 33444.
- 3. Eclipse owns all right, title, and interest in and has standing to sue for infringement of United States Patent No. 7,479,899 ("the '899 patent"), entitled "Notification Systems and Methods Enabling a Response to Cause Connection Between a Notified PCD and a Delivery or Pickup Representative" (attached hereto as Exhibit A to this Complaint); United States Patent No. 7,876,239 ("the '239 patent"), entitled "Secure Notification Messaging Systems and Methods Using Authentication Indicia" (attached hereto as Exhibit B to this Complaint); United States Patent No. 7,319,414 ("the '414 patent"), entitled "Secure Notification Messaging Systems and Methods Using Authentication Indicia" (attached hereto as Exhibit C to this Complaint); United States Patent No. 7.482,952 ("the '952 patent"), entitled "Response Systems and Methods for Notification Systems for Modifying Future Notifications" (attached hereto as Exhibit D to this Complaint); and United States Patent No. 7,119,716 ("the '716 patent"), entitled "Response Systems and Methods for Notification Systems for Modifying Future Notifications" (attached hereto as Exhibit E to this Complaint) (collectively, "the Eclipse Patents").

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1	4. On information and belief Omaha Steaks is a corporation
2	incorporated in Nebraska and has its principal place of business at 11030 O Street,
3	Omaha, Nebraska 68137.
4	5. On information and belief, Omaha Steaks does regular business
5	in this judicial district, and has committed acts of infringement in this judicial
6	district.
7	JURISDICTION AND VENUE
8	6. This Court has personal jurisdiction over Omaha Steaks under
9	Cal. Civ. Proc. Code § 410.10 because Omaha Steaks is transacting business
10	within the State of California and this judicial district; operating and/or supporting
11	products or services that fall within one or more claims of Eclipse's patents in this
12	judicial district; and has committed the tort of patent infringement in this judicial
13	district.
14	7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391
15	and 1400(b).
16	INTRADISTRICT ASSIGNMENT
17	8. This is an Intellectual Property Action to be assigned on a
18	district-wide basis pursuant to Civil Local Rule 3-2(c).
19	<b>DEFENDANT'S ACTS OF PATENT INFRINGEMENT</b>
20	9. Omaha Steaks has infringed one or more claims of the '899
21	patent through, among other activities: the use of its electronic order, purchase,
22	and product return status messaging and information systems that include URL
23	links; and providing the users or recipients of electronic messages with
24	authentication, modifications to future electronic messages, and additional
25	information associated with the status of a purchase or return.
26	10. Omaha Steaks has actively induced and/or contributed to the
27	infringement by others of one or more claims of the '899 patent through, among
28	other activities: by continuing to provide to customers the use of its electronic

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

- 11. Eclipse is informed and believes, and thereupon alleges, that Omaha Steaks' infringement of the '899 patent as set forth herein has been and is willful, deliberate and in disregard of Eclipse's patent rights, and Eclipse is therefore entitled to increased damages up to three times the amount of actual damages and attorneys' fees, pursuant to 35 U.S.C. §§ 284, 285.
- 12. Omaha Steaks has infringed one or more claims of the '239 patent through, among other activities: the use of its electronic order, purchase, and product return status messaging and information systems that include URL links; and providing the users or recipients of electronic messages with authentication, modifications to future electronic messages, and additional information associated with the status of a purchase or return.
- 13. Omaha Steaks has actively induced and/or contributed to the infringement by others of one or more claims of the '239 patent through, among other activities: by continuing to provide to customers the use of its electronic order, purchase, and product return status messaging and information systems that include URL links, after having received notice of its infringement of the '239 patent; and by continuing to provide to customers electronic messages with authentication, modifications to future electronic messages, and additional information associated with the status of a purchase or return, after having received notice of its infringement of the '239 patent.
- 14. Eclipse is informed and believes, and thereupon alleges, that Omaha Steaks' infringement of the '239 patent as set forth herein has been and is

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

- 15. Omaha Steaks has infringed one or more claims of the '414 patent through, among other activities: the use of its electronic order, purchase, and product return status messaging and information systems that include URL links; and providing the users or recipients of electronic messages with authentication, modifications to future electronic messages, and additional information associated with the status of a purchase or return.
- 16. Omaha Steaks has actively induced and/or contributed to the infringement by others of one or more claims of the '414 patent through, among other activities: by continuing to provide to customers the use of its electronic order, purchase, and product return status messaging and information systems that include URL links, after having received notice of its infringement of the '414 patent; and by continuing to provide to customers electronic messages with authentication, modifications to future electronic messages, and additional information associated with the status of a purchase or return, after having received notice of its infringement of the '414 patent.
- Eclipse is informed and believes, and thereupon alleges, that 17. Omaha Steaks' infringement of the '414 patent as set forth herein has been and is willful, deliberate and in disregard of Eclipse's patent rights, and Eclipse is therefore entitled to increased damages up to three times the amount of actual damages and attorneys' fees, pursuant to 35 U.S.C. §§ 284, 285.
- Omaha Steaks has infringed one or more claims of the '952 18. patent through, among other activities: the use of its electronic order, purchase, and product return status messaging and information systems that include URL links; and providing the users or recipients of electronic messages with authentication, modifications to future electronic messages, and additional

- 19. Omaha Steaks has actively induced and/or contributed to the infringement by others of one or more claims of the '952 patent through, among other activities: by continuing to provide to customers the use of its electronic order, purchase, and product return status messaging and information systems that include URL links, after having received notice of its infringement of the '952 patent; and by continuing to provide to customers electronic messages with authentication, modifications to future electronic messages, and additional information associated with the status of a purchase or return, after having received notice of its infringement of the '952 patent.
- 20. Eclipse is informed and believes, and thereupon alleges, that Omaha Steaks' infringement of the '952 patent as set forth herein has been and is willful, deliberate and in disregard of Eclipse's patent rights, and Eclipse is therefore entitled to increased damages up to three times the amount of actual damages and attorneys' fees, pursuant to 35 U.S.C. §§ 284, 285.
- 21. Omaha Steaks has infringed one or more claims of the '716 patent through, among other activities: the use of its electronic order, purchase, and product return status messaging and information systems that include URL links; and providing the users or recipients of electronic messages with authentication, modifications to future electronic messages, and additional information associated with the status of a purchase or return.
- 22. Omaha Steaks has actively induced and/or contributed to the infringement by others of one or more claims of the '716 patent through, among other activities: by continuing to provide to customers the use of its electronic order, purchase, and product return status messaging and information systems that include URL links, after having received notice of its infringement of the '716 patent; and by continuing to provide to customers electronic messages with authentication, modifications to future electronic messages, and additional

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1	information associated with the status of a purchase or return, after having received
2	notice of its infringement of the '716 patent.
3	23. Eclipse is informed and believes, and thereupon alleges, that
4	Omaha Steaks' infringement of the '716 patent as set forth herein has been and is
5	willful, deliberate and in disregard of Eclipse's patent rights, and Eclipse is
6	therefore entitled to increased damages up to three times the amount of actual
7	damages and attorneys' fees, pursuant to 35 U.S.C. §§ 284, 285.
8	24. Through direct, induced, and contributory infringement Omaha
9	Steaks has injured Eclipse, and Eclipse is entitled to recover damages adequate to
10	compensate it for such infringement, but in no event less than a reasonable royalty.
۱1	<u>CLAIMS FOR RELIEF</u>
12	COUNT I
13	(Patent Infringement of U.S. Patent No. 7,479,899
۱4	Under 35 U.S.C. § 271, et seq.)
15	25. Eclipse incorporates by reference and realleges the allegations
16	set forth in paragraphs 1 through 24 above and incorporates them by reference.
۱7	26. On January 20, 2009, United States Patent No. 7,479,899,
18	entitled, "Notification Systems and Methods Enabling a Response to Cause
19	Connection Between a Notified PCD and a Delivery or Pickup Representative"
20	was duly and legally issued by the United States Patent and Trademark Office.
21	Eclipse IP is the owner of the entire right, title and interest in and to the '899
22	patent. A true and correct copy of the '899 patent is attached as Exhibit A to this
23	Complaint.
24	27. Eclipse is informed and believes, and thereupon alleges, that
25	Omaha Steaks: (1) has infringed and continues to infringe claims of the '899
26	patent, literally and/or under the doctrine of equivalents, and/or (2) has contributed
27	and continues to contribute the literal infringement and/or infringement under the
28	doctrine of equivalents of claims of the '899 patent, and/or has actively induced

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	<u>COUNT II</u>
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	<u>COUNT III</u>
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	entitled, "Secure Notification Messaging Systems and Methods Using
2	Authentication Indicia" was duly and legally issued by the United States Patent
3	and Trademark Office. Eclipse IP is the owner of the entire right, title and interest
4	in and to the '414 patent. A true and correct copy of the '414 patent is attached as
5	Exhibit C to this Complaint.
6	33. Eclipse is informed and believes, and thereupon alleges, that
7	Omaha Steaks: (1) has infringed and continues to infringe claims of the '414
8	patent, literally and/or under the doctrine of equivalents, and/or (2) has contributed
9	and continues to contribute the literal infringement and/or infringement under the
10	doctrine of equivalents of claims of the '414 patent, and/or has actively induced
11	and continues to actively induce others to infringe claims of the '414 patent,
12	literally and/or under the doctrine of equivalents, in this district and elsewhere in
13	the United States.
14	<u>COUNT IV</u>
15	(Patent Infringement of U.S. Patent No. 7,482,952
16	Under 35 U.S.C. § 271, et seq.)
17	34. Eclipse incorporates by reference and realleges the allegations
18	set forth in paragraphs 1 through 33 above and incorporates them by reference.
19	35. On January 27, 2009, United States Patent No. 7,482,952
20	entitled, "Response Systems and Methods for Notification Systems for Modifying
21	Future Notifications" was duly and legally issued by the United States Patent and
22	Trademark Office. Eclipse IP is the owner of the entire right, title and interest in
23	and to the '952 patent. A true and correct copy of the '952 patent is attached as
24	Exhibit D to this Complaint.
25	36. Eclipse is informed and believes, and thereupon alleges, that
26	Omaha Steaks: (1) has infringed and continues to infringe claims of the '952
27	patent, literally and/or under the doctrine of equivalents, and/or (2) has contributed

28 and continues to contribute the literal infringement and/or infringement under the

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

participation with it, granting the following relief:

1	A. An award of damages adequate to compensate Eclipse for the
2	infringement that has occurred, together with prejudgment interest from the date
3	infringement of the Eclipse Patents began;
4	B. An award to Eclipse of all remedies available under 35 U.S.C.
5	§§ 284 and 285, including enhanced damages up to and including trebling of
6	Eclipse's damages for Omaha Steaks' willful infringement, and reasonable
7	attorneys' fees and costs; and
8	C. Such other and further relief as this Court or a jury may deem
9	proper and just.
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11	JURY DEMAND
12	Pursuant to Federal Rule of Civil Procedure 38 and Civil Local Rule
13	3-6, Eclipse hereby demands a jury trial on all issues so triable.
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15	Respectfully submitted,
16	Dated: September <u>//</u> , 2012 COMAR LAW
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10	By D. Inder Comar
19	D. Inder Comar Attorney for Plaintiff Eclipse IP LLC
19 20	Attorney for Plaintiff
19 20 21	Attorney for Plaintiff
19 20 21 22	Attorney for Plaintiff
19 20 21 22 23	Attorney for Plaintiff
19 20 21 22 23 24	Attorney for Plaintiff
19 20 21 22 23 24 25	Attorney for Plaintiff
19 20 21 22 23 24 25 26	Attorney for Plaintiff
19 20 21 22 23 24 25	Attorney for Plaintiff