

Delivery or Pickup” (Exhibit A); United States Patent No. 7,876,239 (“the ‘239 patent”), entitled “Secure Notification Messaging Systems and Methods Using Authentication Indicia” (Exhibit B); United States Patent No. 7,319,414 (“the ‘414 patent”), entitled “Secure Notification Messaging Systems and Methods Using Authentication Indicia” (Exhibit C); United States Patent No. 7,482,952 (“the ‘952 patent”), entitled “Response Systems and Methods for Notification Systems for Modifying Future Notifications” (Exhibit D); and United States Patent No. 7,119,716 (“the ‘716 patent”), entitled “Response Systems and Methods for Notification Systems for Modifying Future Notifications” (Exhibit E) (collectively, “the Eclipse Patents”).

4. On information and belief, Callaway is a corporation incorporated in Delaware and having a principal place of business address at 2180 Rutherford Road, Carlsbad, California 92008.

5. On information and belief, Callaway does regular business in this judicial district and has committed acts of infringement in this judicial district.

JURISDICTION AND VENUE

6. On information and belief, this Court has personal jurisdiction over Callaway because it transacts regular business in this judicial district; is operating and/or supporting products or services that fall within one or more claims of Eclipse’s patents in this judicial district; and has committed the tort of patent infringement in this judicial district.

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

DEFENDANT’S ACTS OF PATENT INFRINGEMENT

8. Callaway has infringed one or more claims of the ‘899 patent through, among other activities, providing automated notifications to customers that inform them that their order

has been received and that provide a means by which the customer can select whether to communicate with Callaway.

9. Callaway has actively induced and/or contributed to the infringement by others of one or more claims of the '899 patent through, among other activities continuing to provide automated notifications to customers that inform them that their order has been received and that provide a means by which the customer can select whether to communicate with Callaway, after having received notice of its infringement of the '899 patent.

10. On information and belief, Callaway's 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.

11. Callaway has infringed one or more claims of the '239 patent through, among other activities, enabling customers to provide or select authentication information for use in connection with online orders, storing the authentication information, and providing the authentication information in notification communications to customers.

12. Callaway has actively induced and/or contributed to the infringement by others of one or more claims of the '239 patent through, among other activities, continuing to enable customers to provide or select authentication information for use in connection with online orders, storing the authentication information, and providing the authentication information in notification communications to customers, after having received notice of its infringement of the '239 patent.

13. On information and belief, Callaway's infringement of the '239 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.

14. Callaway has infringed one or more claims of the '414 patent through, among other activities, providing electronic notification communications to customers in connection with online orders, which contain links to Callaway's website(s).

15. Callaway has actively induced and/or contributed to the infringement by others of one or more claims of the '414 patent through, among other activities, continuing to provide electronic notification communications to customers in connection with online orders, which contain links to Callaway's website(s), after having received notice of its infringement of the '414 patent.

16. On information and belief, Callaway's 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.

17. Callaway has infringed one or more claims of the '952 patent through, among other activities, providing electronic notification communications to customers in connection with online orders, which inform them that their order has been processed, and allowing customers cancel or change their orders.

18. Callaway has actively induced and/or contributed to the infringement by others of one or more claims of the '952 patent through, among other activities, continuing to provide electronic notification communications to customers in connection with online orders, which inform them that their order has been processed, and allowing customers cancel or change their orders, after having received notice of its infringement of the '952 patent.

19. On information and belief Callaway's 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.

20. Callaway has infringed one or more claims of the '716 patent through, among other activities, storing customers' email addresses in memory and providing notification communications to the customers which enable them to change the contact data.

21. Callaway has actively induced and/or contributed to the infringement by others of one or more claims of the '716 patent through, among other activities, storing customers' email addresses in memory and providing notification communications to the customers which enable them to change the contact data, after having received notice of its infringement of the '716 patent.

22. On information and belief, Callaway's infringement of the '716 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.

CLAIMS FOR RELIEF

COUNT I

(Patent Infringement of U.S. Patent No. 7,479,899

Under 35 U.S.C. § 271, *et seq.*)

23. Eclipse incorporates by reference and realleges the allegations set forth in paragraphs 1 through 22 above and incorporates them by reference.

24. On January 20, 2009, United States Patent No. 7,479,899, entitled, “Notification Systems and Methods Enabling a Response to Cause Connection Between a Notified PCD and a Delivery or Pickup Representative” was duly and legally issued by the United States Patent and Trademark Office. Eclipse is the owner of the entire right, title and interest in and to the ‘899 patent. A true and correct copy of the ‘899 patent is attached as Exhibit A to this complaint.

25. On information and belief, Callaway: (1) has infringed and continues to infringe claims of the ‘899 patent, literally and/or under the doctrine of equivalents, and/or (2) has contributed and continues to contribute to the literal infringement and/or infringement under the doctrine of equivalents of claims of the ‘899 patent, and/or has actively induced and continues to actively induce others to infringe claims of the ‘899 patent, literally and/or under the doctrine of equivalents, in this district and elsewhere in the United States.

COUNT II

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

Under 35 U.S.C. § 271, *et seq.*)

26. Eclipse incorporates by reference and realleges the allegations set forth in paragraphs 1 through 25 above and incorporates them by reference.

27. On January 25, 2011, United States Patent No. 7,876,239, entitled, “Secure Notification Messaging System and Methods Using Authentication Indicia” was duly and legally issued by the United States Patent and Trademark Office. Eclipse is the owner of the entire right, title and interest in and to the ‘239 patent. A true and correct copy of the ‘239 patent is attached as Exhibit B to this complaint.

28. On information and belief, Callaway: (1) has infringed and continues to infringe claims of the ‘239 patent, literally and/or under the doctrine of equivalents, and/or (2) has

contributed and continues to contribute to the literal infringement and/or infringement under the doctrine of equivalents of claims of the '239 patent, and/or has actively induced and continues to actively induce others to infringe claims of the '239 patent, literally and/or under the doctrine of equivalents, in this district and elsewhere in the United States.

COUNT III

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

Under 35 U.S.C. § 271, *et seq.*)

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

30. On January 15, 2008, United States Patent No. 7,319,414, entitled, "Secure Notification Messaging System and Methods Using Authentication Indicia" was duly and legally issued by the United States Patent and Trademark Office. Eclipse is the owner of the entire right, title and interest in and to the '414 patent. A true and correct copy of the '414 patent is attached as Exhibit C to this complaint.

31. On information and belief, Callaway: (1) has infringed and continues to infringe claims of the '414 patent, literally and/or under the doctrine of equivalents, and/or (2) has contributed and continues to contribute to the literal infringement and/or infringement under the doctrine of equivalents of claims of the '414 patent, and/or has actively induced and continues to actively induce others to infringe claims of the '414 patent, literally and/or under the doctrine of equivalents, in this district and elsewhere in the United States.

COUNT IV

(Patent Infringement of U.S. Patent No. 7,482,952

Under 35 U.S.C. § 271, *et seq.*)

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

33. On January 27, 2009, United States Patent No. 7,482,952, entitled, “Response Systems and Methods for Notification Systems for Modifying Future Notifications” was duly and legally issued by the United States Patent and Trademark Office. Eclipse is the owner of the entire right, title and interest in and to the ‘952 patent. A true and correct copy of the ‘952 patent is attached as Exhibit D to this complaint.

34. On information and belief, Callaway: (1) has infringed and continues to infringe claims of the ‘952 patent, literally and/or under the doctrine of equivalents, and/or (2) has contributed and continues to contribute to the literal infringement and/or infringement under the doctrine of equivalents of claims of the ‘952 patent, and/or has actively induced and continues to actively induce others to infringe claims of the ‘952 patent, literally and/or under the doctrine of equivalents, in this district and elsewhere in the United States.

COUNT V

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

Under 35 U.S.C. § 271, *et seq.*)

35. Eclipse incorporates by reference and realleges the allegations set forth in paragraphs 1 through 34 above and incorporates them by reference.

36. On October 10, 2006, United States Patent No. 7,119,716, entitled, “Response Systems and Methods for Notification Systems for Modifying Future Notifications” was duly and legally issued by the United States Patent and Trademark Office. Eclipse is the owner of the entire right, title and interest in and to the ‘716 patent. A true and correct copy of the ‘716 patent is attached as Exhibit E to this complaint.

37. On information and belief, Callaway: (1) has infringed and continues to infringe claims of the '716 patent, literally and/or under the doctrine of equivalents, and/or (2) has contributed and continues to contribute to the literal infringement and/or infringement under the doctrine of equivalents of claims of the '716 patent, and/or has actively induced and continues to actively induce others to infringe claims of the '716 patent, literally and/or under the doctrine of equivalents, in this district and elsewhere in the United States.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Eclipse asks this Court to enter judgment against Callaway and against each of the its respective subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with it, granting the following relief:

(a) An award of damages adequate to compensate Eclipse for the infringement that has occurred, together with prejudgment interest from the date infringement of the Eclipse Patents began;

(b) An award to Eclipse of all remedies available under 35 U.S.C. §§ 284 and 285, including enhanced damages up to and including trebling of Eclipse's damages for Callaway's willful infringement, and reasonable attorneys' fees and costs; and

(c) Such other and further relief as this Court or a jury may deem proper and just.

JURY DEMAND

Eclipse demands a trial by jury on all issues so triable pursuant to Federal Rule of Civil Procedure 38.

Respectfully submitted this 26th day of October, 2012.

Respectfully submitted,

/s/ Robert A. Donald, III
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CERTIFICATE OF SERVICE

I hereby certify that on October 26, 2012, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system:

/s/ Robert A. Donald, III
ROBERT A. DONALD, III