

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

ECLIPSE IP, LLC,)	
)	
Plaintiff,)	
)	
v.)	Case No. _____
)	
)	COMPLAINT
WAYFAIR, INC.,)	
)	
Defendant.)	DEMAND FOR JURY TRIAL
)	
)	

COMPLAINT

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

NATURE OF LAWSUIT

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

2. 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. 7,319,414 ("the '414 patent"), entitled "Secure Notification Messaging Systems and Methods Using Authentication Indicia" (Exhibit A); United States Patent No. 7,482,952 ("the '952 patent"), entitled "Response Systems and Methods for

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

4. On information and belief, Wayfair is a corporation organized and existing under the laws of Delaware and having a principal place of business address at 177 Huntington Avenue, Suite 6000, Boston, Massachusetts 02115.

5. On information and belief, Wayfair 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 Wayfair 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. Wayfair 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 Wayfair’s website(s) that customers can select to verify the authenticity of the notification communication.

9. Wayfair 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 Wayfair's website(s) that customers can select to verify the authenticity of the notification communication, after having received notice of its infringement of the '414 patent.

10. On information and belief, Wayfair'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.

11. Wayfair 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 of a change in the order's status, and allow the customers to change, cancel, or confirm their order.

12. Wayfair 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 of a change in the order's status, and allow the customers to change, cancel, or confirm their order, after having received notice of its infringement of the '952 patent.

13. On information and belief Wayfair'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.

14. Wayfair 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 stored email address and sending subsequent notifications to the new email address.

15. Wayfair 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 stored email address and sending subsequent notifications to the new email address, after having received notice of its infringement of the '716 patent.

16. On information and belief, Wayfair'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.

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

18. Wayfair 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 authentication information for use in connection with online orders, store the authentication information, and provide the authentication information in notification communications to customers, after having received notice of its infringement of the '239 patent.

19. On information and belief, Wayfair'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.

CLAIMS FOR RELIEF

COUNT I

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

Under 35 U.S.C. § 271, *et seq.*)

20. Eclipse incorporates by reference and realleges the allegations set forth in paragraphs 1 through 19 above and incorporates them by reference.

21. 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 A to this complaint.

22. On information and belief, Wayfair: (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 II

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

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 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 B to this complaint.

25. On information and belief, Wayfair: (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 III

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

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 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 C to this complaint.

28. On information and belief, Wayfair: (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.

COUNT IV

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

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 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 D to this complaint.

31. On information and belief, Wayfair: (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.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Eclipse asks this Court to enter judgment against Wayfair 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 Wayfair'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 6th day of November, 2012.

By: /s/ Matthew M. Wawrzyn
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