

1 Tyler J. Woods, Bar No. 232464
twoods@trialnewport.com
2 Scott J. Ferrell, Bar No. 202091
sferrel@trialnewport.com
3 NEWPORT TRIAL GROUP
895 Dove Street, Suite 425
4 Newport Beach, CA 92660
Tel: (949) 706-6464
5 Fax: (949) 706-6469

6 *Attorneys for Plaintiff ECLIPSE IP LLC*

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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

FILED

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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10
11 ECLIPSE IP LLC,
12 Plaintiff,
13 vs.

14 ASTON MARTIN LAGONDA OF
15 NORTH AMERICA, INC.,
16 Defendant.

Case No. SACV12-02059 DOC(RNBx)

**FIRST AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

JURY TRIAL DEMANDED

Complaint Filed: November 28, 2012
Trial Date: N/A

17 **FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

18 Plaintiff Eclipse IP LLC ("Eclipse"), by counsel, complains of defendant Aston
19 Martin Lagonda of North America, Inc. ("Aston Martin"), as follows:

20 **NATURE OF LAWSUIT**

21 1. This is a suit for patent infringement arising under the patent laws of the
22 United States, Title 35 of the United States Code § 1 *et seq.* This Court has exclusive
23 jurisdiction over the subject matter of the Complaint under 28 U.S.C. §§ 1331 and
24 1338(a).

25 **PARTIES AND PATENTS**

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

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BY FAX ORIGINAL

1 3. Eclipse owns all right, title, and interest in and has standing to sue for
2 infringement of United States Patent No. 7,482,952 (“the ‘952 patent”), entitled
3 “Response Systems and Methods for Notification Systems for Modifying Future
4 Notifications” (Exhibit A); and United States Patent No. 7,479,900 (“the ‘900 patent”),
5 entitled “Notification Systems and Methods that Consider Traffic Flow Predicament
6 Data” (Exhibit B) (collectively, “the Eclipse Patents”).

7 4. On information and belief, Aston Martin is a corporation existing under
8 the laws of Connecticut with its principle place of business at 9920 Irvine Center Drive,
9 Irvine, California 92618.

10 5. On information and belief, Aston Martin does regular business in this
11 judicial district and has committed acts of infringement in this judicial district.

12 **JURISDICTION AND VENUE**

13 6. This Court has personal jurisdiction over Aston Martin because it does
14 regular business in this District; is operating and/or supporting products or services that
15 fall within one or more claims of Eclipse’s patents in this District; and has committed
16 the tort of patent infringement in this District.

17 7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(d) and
18 1400(b).

19 **DEFENDANT’S ACTS OF PATENT INFRINGEMENT**

20 8. Aston Martin imports, markets, distributes, and/or sells vehicles with
21 navigation systems that infringe one or more claims of the ‘952 patent through, among
22 other activities, the use of the navigation systems to: determine changes in schedule
23 relating to an intended destination; notify the driver of the change in schedule; and
24 allow the driver to make a confirmation, change, or cancellation with respect to the
25 notification.

26 9. Aston Martin imports, markets, distributes, and/or sells vehicles with
27 navigation systems that infringe one or more claims of the ‘900 patent through, among
28 other activities, the use of the navigation systems: schedule notifications relating to

1 arrival or departure of the vehicle; monitor traffic flow predicament data relating to a
2 vehicle's intended route; and determine whether or not to reschedule notifications based
3 upon such data.

4 10. Aston Martin's vehicle navigation systems cannot be used without these
5 core functionalities and are not intended to be. Accordingly, they are not capable of
6 substantial noninfringing uses.

7 11. On October 11, 2012, Aston Martin received a letter from Eclipse in which
8 Eclipse informed Aston Martin of the existence of the '900 and '952 patents, alleged
9 that Aston Martin's navigation systems infringe these patents, and offered to engage in
10 licensing negotiations.

11 12. Prompted by Eclipse's letter, counsel for Aston Martin contacted counsel
12 for Eclipse. The parties engaged in preliminary discussion but never made substantive
13 progress toward a suitable licensing arrangement.

14 13. Instead, with knowledge of the '900 and '952 patents and its infringement
15 and in disregard of Eclipse's patent rights, Aston Martin chose to continue to import,
16 advertise, market, distribute, and/or sell the infringing products.

17 14. Accordingly, Aston Martin has acted willfully, with knowledge that the
18 infringing components had been and would be especially made or adapted for use in an
19 infringing manner, and with the intent to induce others to infringe Eclipse's patents.

20 15. Aston Martin has knowingly infringed one or more claims of the '952
21 patent through, among other activities, the use of navigation systems in its vehicles to:
22 determine changes in schedule relating to an intended destination; notify the driver of
23 the change in schedule; and allow the driver to make a confirmation, change, or
24 cancellation with respect to the notification.

25 16. Aston Martin has actively induced and/or contributed to the infringement
26 by others of one or more claims of the '952 patent through, among other activities,
27 continuing to manufacture, distribute, and sell vehicles equipped with the infringing
28

1 navigation systems to its customers after having received notice of its infringement of
2 the '952 patent.

3 17. Aston Martin has knowingly infringed one or more claims of the '900
4 patent through, among other activities, the use of navigation systems in its vehicles to:
5 schedule notifications relating to arrival or departure of the vehicle; monitor traffic flow
6 predicament data relating to a vehicle's intended route; and determine whether or not to
7 reschedule notifications based upon such data.

8 18. Aston Martin has actively induced and/or contributed to the infringement
9 by others of one or more claims of the '900 patent through, among other activities,
10 continuing to manufacture, distribute, and sell vehicles equipped with the infringing
11 navigation systems to its customers after having received notice of its infringement of
12 the '900 patent.

13 19. Through direct, induced, and contributory infringement Aston Martin has
14 injured Eclipse, and Eclipse is entitled to recover damages adequate to compensate it
15 for such infringement, but in no event less than a reasonable royalty.

16 **CLAIMS FOR RELIEF**

17 **COUNT I**

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

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

20 20. Eclipse incorporates by reference and realleges the allegations set forth in
21 paragraphs 1 through 12 above and incorporates them by reference.

22 21. On January 27, 2009, United States Patent No. 7,482,952, entitled
23 "Response Systems and Methods for Notification Systems for Modifying Future
24 Notifications" was duly and legally issued by the United States Patent and Trademark
25 Office. Eclipse IP is the owner of the entire right, title and interest in and to the '952
26 patent. A true and correct copy of the '952 patent is attached as Exhibit A to this
27 complaint.

1 22. Eclipse is informed and believes, and thereupon alleges, that Aston Martin:
2 (1) has infringed and continues to infringe claims of the '952 patent, literally and/or
3 under the doctrine of equivalents, and/or (2) has contributed and continues to contribute
4 to the literal infringement and/or infringement under the doctrine of equivalents of
5 claims of the '952 patent, and/or has actively induced and continues to actively induce
6 others to infringe claims of the '952 patent, literally and/or under the doctrine of
7 equivalents, in this district and elsewhere in the United States.

8 **COUNT II**

9 **(Patent Infringement of U.S. Patent No. 7,479,900**

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

11 23. Eclipse incorporates by reference and realleges the allegations set forth in
12 paragraphs 1 through 15 above and incorporates them by reference.

13 24. On January 20, 2009, United States Patent No. 7,479,900, entitled
14 "Notification Systems and Methods that Consider Traffic Flow Predicament Data" was
15 duly and legally issued by the United States Patent and Trademark Office. Eclipse IP is
16 the owner of the entire right, title and interest in and to the '900 patent. A true and
17 correct copy of the '900 patent is attached as Exhibit B to this complaint.

18 25. Eclipse is informed and believes, and thereupon alleges, that Aston Martin:
19 (1) has infringed and continues to infringe claims of the '900 patent, literally and/or
20 under the doctrine of equivalents, and/or (2) has contributed and continues to contribute
21 to the literal infringement and/or infringement under the doctrine of equivalents of
22 claims of the '900 patent, and/or has actively induced and continues to actively induce
23 others to infringe claims of the '900 patent, literally and/or under the doctrine of
24 equivalents, in this district and elsewhere in the United States.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff Eclipse asks this Court to enter judgment against the
27 defendant and against each of the defendant's respective subsidiaries, affiliates, agents,

1 servants, employees and all persons in active concert or participation with it, granting
2 the following relief:

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

6 (b) An award to Eclipse of all remedies available under 35 U.S.C. §§ 284 and
7 285, including enhanced damages up to and including trebling of Eclipse's damages for
8 Aston Martin's willful infringement, and reasonable attorneys' fees and costs; and,

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

11 **JURY DEMAND**

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

14
15 Respectfully submitted this 7th day of January, 2013.

16 NEWPORT TRIAL GROUP



17
18 By: /s/Tyler J Woods

19 Tyler J. Woods
20 Attorney for Plaintiff
21 ECLIPSE IP LLC
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CERTIFICATE OF SERVICE

(United States District Court)

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 895 Dove Street, Suite 425, Newport Beach, CA 92660.

On October 4, 2012, I have served the foregoing document described as **FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT** on the following person(s) in the manner(s) indicated below:

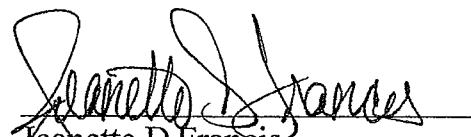
<p>Michelle Lyons Marriott Shareholder ERISE IP 6201 College Boulevard, Suite 300 Overland Park, KS 66211 (main) 913-777-5600 (direct) 913-777-5612 (fax) 913-777-5601 (email) michelle.marriott@eriseIP.com www.eriseip.com</p>	<p>Attorney for Defendant, ASTON MARTIN LAGONDA OF NORTH AMERICA, INC.</p>
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(BY ELECTRONIC SERVICE) I am causing the document(s) to be served on the Filing User(s) through the Court's Electronic Filing System.

(BY MAIL) I am familiar with the practice of Newport Trial Group for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On this date, a copy of said document was placed in a sealed envelope, with postage fully prepaid, addressed as set forth herein, and such envelope was placed for collection and mailing at Newport Trial Group, Newport Beach, California, following ordinary business practices.

(FEDERAL) I declare that I am employed in the offices of a member of this Court at whose direction the service was made.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this Certificate is executed on October 4, 2012, at Newport Beach, California.


 Jeanette D Francis