

AO 120 (Rev. 2/99)

TO: Mail Stop 8 Director of the U.S. Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Northern District of California on the following Patents or Trademarks:

DOCKET NO. CV 12-04438 MEJ	DATE FILED 8/23/12	U.S. DISTRICT COURT Northern District of California, San Francisco
PLAINTIFF ECLIPSE IP LLC		DEFENDANT ZULILY INC
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 7,479,899		
2 7,876,239		
3 7,319,414		
4 7,482,952		
5 7,119,716		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Richard W. Wieking	(BY) DEPUTY CLERK Gloria Acevedo	DATE August 27, 2012
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Copy 1—Upon initiation of action, mail this copy to Commissioner Copy 3—Upon termination of action, mail this copy to Commissioner
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner Copy 4—Case file copy

1 literally and/or under the doctrine of equivalents, in this district and elsewhere in
2 the United States.

3 **COUNT V**

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

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

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

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

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

22 **PRAYER FOR RELIEF**

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

27 A. An award of damages adequate to compensate Eclipse for the
28 infringement that has occurred, together with prejudgment interest from the date

1 infringement of the Eclipse Patents began;

2 B. An award to Eclipse of all remedies available under 35 U.S.C.
3 §§ 284 and 285, including enhanced damages up to and including trebling of
4 Eclipse's damages for Zulily's willful infringement, and reasonable attorneys' fees
5 and costs; and

6 C. Such other and further relief as this Court or a jury may deem
7 proper and just.

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JURY DEMAND

10 Pursuant to Federal Rule of Civil Procedure 38 and Civil Local Rule
11 3-6, Eclipse hereby demands a jury trial on all issues so triable.

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Respectfully submitted,

14 Dated: August 23 2012

COMAR LAW

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By
D. Inder Comar
Attorney for Plaintiff
Eclipse IP LLC

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ECLIPSE IP LLC

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FILED
AUG 21 2012
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ECLIPSE IP LLC,

Plaintiff,

vs.

ZULILY, INC.,

Defendant.

CASE NO. **CV 12 4438**
**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL **MEJ**

VOLUME I of II

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COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Eclipse IP LLC (“Eclipse”), by counsel, complains of defendant Zulily, Inc. (“Zulily”), 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

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. 7,479,899 (“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”).

1 patent; and by continuing to provide to customers electronic messages with
2 authentication, modifications to future electronic messages, and additional
3 information associated with the status of a purchase or return, after having received
4 notice of its infringement of the '899 patent.

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

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

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

25 14. Eclipse is informed and believes, and thereupon alleges, that
26 Zulily's infringement of the '239 patent as set forth herein has been and is willful,
27 deliberate and in disregard of Eclipse's patent rights, and Eclipse is therefore
28 entitled to increased damages up to three times the amount of actual damages and

1 attorneys' fees, pursuant to 35 U.S.C. §§ 284, 285.

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

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

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

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

28 19. Zulily has actively induced and/or contributed to the

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

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

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

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

1 the United States.

2 **COUNT II**

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

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

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

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

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

21 **COUNT III**

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

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

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

26 32. On January 15, 2008, United States Patent No. 7,319,414,
27 entitled, "Secure Notification Messaging Systems and Methods Using
28 Authentication Indicia" was duly and legally issued by the United States Patent