1 2 3 4 5 6 7 8	Matt Olavi, Esq. (Bar No. 265945) molavi@olavidunne.com Brian J. Dunne, Esq. (Bar No. 275689) bdunne@olavidunne.com OLAVI DUNNE LLP 800 Wilshire Blvd., Suite 320 Los Angeles, California 90017 Telephone: (213) 516-7900 Facsimile: (213) 516-7910 <i>Attorneys for Plaintiff Eclipse IP LLC</i>		
9	UNITED STATES	DISTRICT COURT	
10	CENTRAL DISTRICT OF CALIFORNIA		
11	ECLIPSE IP LLC, a Florida Limited) Case No.	
12	Liability Company,)) COMPLAINT FOR PATENT	
13 14	Plaintiff,) INFRINGEMENT) TRIAL BY JURY DEMANDED	
15	v.)	
16	GOOGLE, INC., a Delaware)	
17	Corporation; WAZE, INC., a Delaware Corporation,)	
18	Defendants.)	
19)	
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	COMPLAINT FOR PATENT INFRINGEMENT Dockets.Justia.col		

1	Plaintiff Eclipse IP LLC ("Eclipse"), by and through counsel, complains	
2	against Google, Inc. ("Google") and Waze, Inc. ("Waze") (collectively	
3	"Defendants") as follows:	
4	NATURE OF LAWSUIT	
5	1. This is a suit for patent infringement arising under the patent laws of	
6	the United States, Title 35 of the United States Code § 1 et seq. This Court has	
7	exclusive jurisdiction over the subject matter of the Complaint under 28 U.S.C.	
8	§§ 1331 and 1338(a).	
9	PARTIES AND PATENT	
10	2. Eclipse is a company organized under the laws of Florida and having a	
11	principal place of business at 115 NW 17 th St, Delray Beach, Florida 33444.	
12	3. Eclipse owns all right, title, and interest in and has standing to sue for	
13	infringement of United States Patent No. 8,068,037 ("the '037 patent"), entitled	
14	"Advertisement systems and methods for notification systems" (Exhibit A) ("the	
15	Eclipse Patent").	
16	4. On information and belief, Google is a corporation existing under the	
17	laws of Delaware.	
18	5. On information and belief, Waze is a corporation existing under the	
19	laws of Delaware.	
20	6. On information and belief, Google does regular business in this Judicial	
21	District, maintains at least one office in this Judicial District, and conduct leading to	
22	Google's acts of infringement has occurred in this Judicial District.	
23	7. On information and belief, Waze does regular business in this Judicial	
24	District and conduct leading to Waze's acts of infringement has occurred in this	
25	Judicial District.	
26	JURISDICTION AND VENUE	
27	8. This Court has personal jurisdiction over Defendants because they have	
28	engaged in continuous and systematic business in California; upon information and	
	COMPLAINT FOR PATENT INFRINGEMENT	

belief, derive substantial revenues from commercial activities in California; and, 1 2 upon information and belief, are operating and/or supporting products or services that fall within one or more claims of Eclipse's patent in this District. 3 4 9. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) and 5 28 U.S.C. § 1400(a) at least because the claim arises in this Judicial District, Google 6 and Waze may be found and transact business in this Judicial District, and injuries 7 suffered by Plaintiff took place in this Judicial District. Google and Waze are 8 subject to the general and specific personal jurisdiction of this Court at least because 9 of their contacts with the State of California. 10 FACTUAL BACKGROUND Beginning in approximately 2007, with the advent of what is 11 10. 12 considered the modern smartphone, consumers and businesses have enjoyed 13 unprecedented benefits from these devices and the services that they support. 14 For example, consumers can now use their smartphones to search the 11. 15 Internet, purchase products online, video conference with one another, and even 16 navigate from one place to another with turn-by-turn directions. 17 12. The growth of the mobile consumer, armed with a smartphone or tablet, 18 has spawned a panoply of new industries. One such industry is the mobile and location-based advertising industry. 19 20 Location-Based Retail Advertising 21 Retail advertising is the process of calling the public's attention to a 13. business, usually for the purpose of selling products or services, through the use of 22 23 various forms of media. Advertising provides a direct line of communication to a 24 business' existing and prospective customers. In the past, advertisers have used traditional forms of media, such as 25 14. 26 print, radio, and television, to deliver these advertisements. 27 /// 28 ///

1 15. However, the advent of the smartphone and their now nearly 2 ubiquitous use among consumers in the United States have created an entirely new
 3 way to deliver advertisements based on the consumers' location.

- 4 16. Location-based advertising is a new form of advertising that integrates
 5 advertising with location-based services. Using the user's location or location
 6 history, location-based advertising allows businesses to target advertisements to
 7 users who are nearby. Advertisements sent to nearby users, such as someone
 8 driving past the retail establishment, are far more valuable to retailers than
 9 advertisements sent to someone else miles away.
- 10 17. For example, according to a recent study by Verve Mobile a niche
 11 mobile advertising network advertising campaigns that used location-based data
 12 performed twice as well as those that did not.
- 13 18. The effectiveness of mobile advertising has led to increased spending
 14 on mobile advertising in lieu of spending in other mediums. For example, according
 15 to Gartner, Inc. a leading information technology research and advisory company
 16 worldwide mobile advertising revenue in 2013 is expected to reach \$11.4 Billion
 17 and is expected to grow rapidly in the coming years. *See, e.g.*,

18 http://www.gartner.com/newsroom/id/2306215.

- 19 19. Google has itself recognized the importance and value of using
 20 location-based information to deliver advertisements to consumers and has at least
 21 one patent itself related to mobile, location based advertising. *See, e.g.*, U.S. Patent
 22 No. 7,668,832, entitled "Determining and/or using location information in an ad
 23 system."
- 24

DEFENDANTS' ACTS OF PATENT INFRINGEMENT

25 20. Eclipse reiterates and reincorporates the allegations set forth in
26 paragraphs 1 through 19 above as if fully set forth herein.

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21.	On information and belief, Google is a technology company that offers		
products and services ranging from cellular telephones and the famous Android			
smartphone platform to a search engine, email hosting, and mapping services.			
	Google's Waze Navigation Application		
22.	In 2013, on information and belief, Google acquired Waze, a company		
that developed a community-driven navigation application that notifies users of			
upcoming, location-specific alerts ("the Waze App").			
23.	On information and belief, Google purchased Waze for in excess of \$1		
Billion.			
24.	On information and belief and according to its website, the Waze App		
is "the world's largest community-based traffic and navigation app."			
25.	On information and belief, the Waze App is a turn-by-turn navigation		
application that directs a user to get from one location to another using audible and			
on-screen notifications.			
26.	On information and belief, the Waze App monitors the location of a		
user and notifies the user of police, accidents, road hazards, or traffic jams along the			
user's route using a visual and/or audio notification.			
27.	On information and belief, the Waze App also notifies the user of his		
progress in reaching the destination by identifying the user's present location on a			
map and in	dicating the amount of time until the user reaches his destination.		
28.	On information and belief, the Waze App also functions as an		
advertising system, allowing businesses to advertise services to nearby Waze App			
users.			
29.	On information and belief, businesses may place a branded pin ("a		
Pin") that represents the business on Waze maps.			
30.	On information and belief, this Pin can be customized to include the		
businesses logo, icon, or other image, and functions like an interactive billboard.			
	COMPLAINT FOR PATENT INFRINGEMENT		
	products an smartphone 22. that develop upcoming, 1 23. Billion. 24. is "the worl 25. application on-screen n 26. user and no user's route 27. progress in map and in 28. advertising users. 29. Pin") that re 30.		

31. On information and belief, users can select the Pin to find out more
 about the business, to hear about specials, or to navigate directly to the business
 location.

4 32. On information and belief, the Waze App also allows businesses to
5 provide "special promotions and red light pop-ups" to drivers who are stopped at red
6 lights. These notifications are provided for users who are stopped within 5
7 kilometers of the business' Pin and allow the business to notify the users of coupons
8 or special discounts that are available in store.

9 33. On information and belief, Defendants earn revenue from the Waze
10 App through at least advertising revenue. For example, one or both Defendants earn
11 a fee from advertisers each time the advertiser's Pin is displayed to a user on the
12 map.

13

Google's Google Maps Application

14 34. On information and belief, Google Maps is a mapping application,
15 available for both Apple Inc.'s iOS and Google's Android operating platforms,
16 offered by Google.

17 35. On information and belief, Google Maps monitors the user's location18 and provides turn-by-turn instructions to direct the user to a desired destination.

19 36. On information and belief, Google Maps notifies the user of his
20 progress in reaching the destination by identifying the user's present location on a
21 map and indicating the amount of time until the user reaches his destination.

37. On information and belief, Google Maps also functions as an
advertising system, allowing businesses to advertise services to nearby Google
Maps users.

25 38. On information and belief, when users search for a location within
26 Google Maps, Google delivers ads to the user that are based, at least in part, on the
27 user's location.

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1	39. On information and belief, Google earns revenue from Google Maps	
2	through at least advertising revenue. For example, Google earns a fee from	
3	advertisers each time an advertisement is displayed to the user and/or each time an	
4	advertisement is selected by the user.	
5	CLAIMS FOR RELIEF	
6	<u>COUNT 1</u>	
7	(Patent Infringement of U.S. Patent No. 8,068,037 Under 35 U.S.C. § 271 et seq.)	
8		
9	40. Eclipse reiterates and reincorporates the allegations set forth in	
10	paragraphs 1 through 39 above as if fully set forth herein.	
11	41. On November 29, 2011, the United States Patent and Trademark Office	
12	duly and legally issued United States Patent No. 8,068,037, entitled, "Advertisement	
13	systems and methods for notification systems." Eclipse is the owner of the entire	
14	right, title and interest in and to the '037 patent. A true and correct copy of the '037	
15	patent is attached as Exhibit A to this Complaint.	
16	42. The '037 patent is valid and enforceable.	
17	43. Eclipse is informed and believes, and thereupon alleges, that:	
18	(1) Defendants have infringed and continue to infringe one or more claims of the	
19	'037 patent, literally and/or under the doctrine of equivalents and additionally and/or	
20	in the alternative, (2) Defendants have actively induced and continue to actively	
21	induce and/or have contributed to and continue to contribute to the infringement of	
22	one or more claims of the '037 patent in this District and elsewhere in the United	
23	States.	
24	44. On information and belief, Defendants have directly infringed and	
25	continue to directly infringe one or more claims of the '037 patent, in violation of 35	
26	U.S.C. § 271(a), by, among other things, making, using, offering for sale, and/or	
27	selling a method for advertising in connection with a computer-based notification	
28	system to, for example: monitor travel data associated with a user during turn-by-	
	6	

turn navigation; determine that a notification should be made based upon the user's
 location; provide a notification when the user is near his destination; and provide
 advertisements as part of or accompanying the notification communication in
 exchange for a fee.

5 45. Additionally and/or in the alternative, on information and belief, 6 Defendants have actively induced and continue to actively induce and/or have 7 contributed to and continue to contribute to the infringement of one or more claims of the '037 patent, in violation of 35 U.S.C. § 271(b) and/or (c), by, among other 8 9 things, actively, knowingly, and intentionally encouraging, aiding, and/or abetting 10 others to make, use, offer for sale, and/or sell portions of a computer-based 11 notification system that infringes one or more claims of the '037 patent, with the 12 specific intent to encourage infringement and with the knowledge that the making, 13 using, offering to sell, and/or selling of such a system would constitute infringement. 14

15 46. On information and belief, Defendants have had knowledge of the '037 patent at least as early as December 27, 2013, the day that each received a courtesy 16 17 copy of the Complaint, which set forth factual allegations of both Google's and 18 Waze's infringement. Additionally, at least as early as December 27, 2013, 19 Defendants knew or should have known that their continued offering, use, 20 deployment, and/or operation of the at least one computer-based notification system 21 and their continued support of others, if those parties perform any limitations of one 22 or more of the claims of the '037 patent, would induce direct infringement of the 23 '037 patent, as they had actual knowledge of the patent and factual allegations of 24 their infringement thereof.

25 47. On information and belief, Defendants have not changed or modified
26 their infringing behavior since December 27, 2013.

27 48. Defendants' aforesaid infringing activity has directly and proximately
28 caused damage to Plaintiff Eclipse, including loss of profits from sales and/or

1	1.	
1	licensing revenues it would have made but for the infringements. Unless enjoined,	
2	the aforesaid infringing activity will continue and cause irreparable injury to Eclipse	
3	for which t	here is no adequate remedy at law.
4	PRAYER FOR RELIEF	
5	WHEREFORE, Plaintiff Eclipse asks this Court to enter judgment against	
6	Defendants and against each of Defendants' respective subsidiaries, affiliates,	
7	agents, servants, employees and all persons in active concert or participation with	
8	them, granting the following relief:	
9	1.	A judgment that Defendants have infringed the Eclipse Patent;
10	2.	A permanent injunction against Defendants, their respective officers,
11	agents, servants, employees, attorneys, parent and subsidiary corporations, assigns	
12	and successors in interest, and those persons in active concert or participation with	
13	them, enjoi	ning them from direct and indirect infringement of the Eclipse Patent;
14	3.	An award of damages adequate to compensate Eclipse for the
15	infringement that has occurred, together with prejudgment interest from the date	
16	infringement of the Eclipse Patent began;	
17	4.	A reasonable royalty for Defendants' use of Eclipse's patented
18	technology	, as alleged herein;
19	5.	An award to Eclipse of all remedies available under 35 U.S.C. §§ 284
20	and 285; ar	nd,
21	6.	Such other and further relief as this Court or a jury may deem proper
22	and just.	
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1	DATED: December 27, 2013	OLAVI DUNNE LLP	
2		By: <u>/s/ Matt Olavi</u>	
3		Matt Olavi	
4		Brian J. Dunne	
5		Attorneys for Plaintiff Eclipse IP LLC	
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7			
8	JURY DEMAND		
9	Eclipse demands a trial by jury on all issues so triable pursuant to Federal		
10	Rule of Civil Procedure 38.		
11			
12 13			
13 14	DATED: December 27, 2013	OLAVI DUNNE LLP	
14		By: <u>/s/ Matt Olavi</u>	
10		Matt Olavi	
17		Brian J. Dunne	
18		Attorneys for Plaintiff Eclipse IP LLC	
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