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 8 LegalZoom.com, Inc.

9 UNITED STATES DISTRICT COURT
 10 CENTRAL DISTRICT OF CALIFORNIA
 11 WESTERN DIVISION

12 LEGALZOOM.COM, INC., a Delaware
 corporation,

13 Plaintiff,

14 v.

15 ROCKET LAWYER INCORPORATED,
 16 a Delaware corporation,

17 Defendants.

CASE NO.: CV 12-9942-GAF (AGR_x)

Hon. Gary A. Feess
 Courtroom: 740

**PLAINTIFF LEGALZOOM.COM,
 INC.'S RESPONSE TO ROCKET
 LAWYER'S SEPARATE
 STATEMENT OF UNDISPUTED
 MATERIAL FACTS IN SUPPORT
 OF ITS OPPOSITION TO
 LEGALZOOM.COM'S MOTION
 FOR SUMMARY JUDGMENT**

Date: October 21, 2013
 Time: 9:30 a.m.
 Courtroom: 740
 255 East Temple Street
 Los Angeles, CA 90012

Glaser Weil Fink Jacobs
 Howard Avchen & Shapiro LLP

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1 Plaintiff LegalZoom.com, Inc. (“LegalZoom”) hereby submits its Response to
2 Defendant Rocket Lawyer Incorporated’s (“Rocket Lawyer”) alleged “Separate
3 Statement of Undisputed Material Facts”:
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ROCKET LAWYER’S ALLEGED STATEMENT	ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE
5 6 7 8 28. In 2000, LegalZoom developed a 9 business model whereby it would sell 10 legal products to consumers on the 11 Internet, but only deliver final documents 12 in hard copy by mail. 13 14 15 16 17 18 19 20 21	Vu Decl., ¶2, Ex. 1, ¶ 7, Ex. 20; ¶ 7, Ex. 21. Undisputed that LegalZoom developed a business model whereby it would sell legal products to consumers on the Internet. However, disputed that LegalZoom only delivers final documents in hard copy by mail. Supplemental Declaration of Mary Ann T. Nguyen in Support of LegalZoom’s Motion for Summary Judgment, ¶ 6, Ex. D. Objection: Irrelevant and Immaterial (Fed. R. Evid. 401, 402).
22 29. LegalZoom has provided services 23 to approximately two million customers. 24 25 26 27 28	Vu Decl., ¶ 2, Ex.1. Undisputed that LegalZoom has approximately two million <i>paying</i> customers. Objection: Irrelevant and Immaterial (Fed. R. Evid. 401, 402).

	ROCKET LAWYER’S ALLEGED STATEMENT	ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE
1 2 3 4 5 6 7 8 9 10 11 12 13	<p>30. Beginning in 2007, Rocket Lawyer has offered users various online legal services, many for free or included in a subscription plan.</p>	<p>Vu Decl., ¶ 3, Exs. 2, 3, 4; Hollerbach Decl., ¶ 3.</p> <p>Disputed that “many” or <i>any</i> “legal services” have been provided by Rocket Lawyer for “free” at all times since 2007.</p> <p>Vu Decl., Exs. 2, 3, 4.Objection: Irrelevant and Immaterial (Fed. R. Evid. 401, 402); Misleading (Fed. R. Evid. 403).</p>
14 15 16 17 18 19 20 21 22 23 24 25	<p>31. Free to all Rocket Lawyer users are a number of legal forms, letter templates, and informative articles about many areas of law.</p>	<p>Hollerbach Decl., ¶ 4.</p> <p>Disputed on the ground that LegalZoom has insufficient facts to confirm or deny that Rocket Lawyer offers for “free” to all Rocket Lawyer users “a number of legal forms, letter templates, and informative articles about many areas of law.”</p> <p>Objection: Irrelevant and Immaterial (Fed. R. Evid. 401, 402); Misleading (Fed. R. Evid. 403).</p>
26 27 28	<p>32. Rocket Lawyer’s subscription plans provide access to all of Rocket Lawyer’s legal software, enabling users to create,</p>	<p>Hollerbach Decl., ¶ 5.</p> <p>Disputed on the ground the LegalZoom</p>

<p>1 ROCKET LAWYER’S ALLEGED 2 STATEMENT</p>	<p>ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ 3 LEGALZOOM’S RESPONSE</p>
<p>4 edit, store, e-sign, download, print, or 5 share with an attorney for review all legal 6 documents created on Rocketlawyer.com.</p>	<p>has insufficient facts to confirm or deny that Rocket Lawyer’s subscription plans provide access to “<i>all</i> of Rocket 7 Lawyer’s legal software, enabling users 8 to create, edit, store, e-sign, download, 9 print, or share with an attorney for review 10 <i>all</i> documents created on 11 Rocketlawyer.com” (emphasis added). Objection: Irrelevant and Immaterial 12 (Fed. R. Evid. 401, 402); Misleading 13 (Fed. R. Evid. 403).</p>
<p>15 33. The Rocket Lawyer service has 16 always been built on a cloud-computing 17 platform that helps consumers to satisfy 18 their legal needs without waiting for 19 delivery of a physical document by mail.</p>	<p>Hollerbach Decl., ¶ 6.</p> <p>Disputed on the ground that LegalZoom has insufficient facts to confirm or deny that Rocket Lawyer’s service “has always 20 been built on cloud-computing platform” 21 or that such platform “helps consumers to 22 satisfy their legal needs without waiting 23 for delivery of a physical document by 24 mail.. Objection: Irrelevant and Immaterial 25 (Fed. R. Evid. 401, 402).</p>
<p>27 34. Rocket Lawyer has served 28 <u>approximately nine million customers,</u></p>	<p>Hollerbach Decl., ¶¶ 7, 8.</p>

	ROCKET LAWYER’S ALLEGED STATEMENT	ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE
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4 5 6 7 8 9 10 11	<p>over 90% of whom have never paid anything to Rocket Lawyer for use of its services.</p>	<p>Disputed on the ground that LegalZoom has insufficient facts to confirm or deny that over 90% of customers who have provided an email address to Rocket Lawyer have never paid anything to Rocket Lawyer for use of its “services.”</p> <p>Objection: Lacks Foundation (Fed. R. Evid. 602).</p>
12 13 14 15 16 17 18 19 20 21	<p>35. Rocket Lawyer’s service is constantly progressing in support of its mission to make legal help affordable to everyone.</p>	<p>Hollerbach Decl., ¶ 9, Ex. A.</p> <p>Disputed on the ground that LegalZoom has insufficient facts to confirm or deny that Rocket Lawyer’s service is “constantly progressing” or that its “mission” is “to make legal help affordable to everyone.”</p> <p>Objection: Irrelevant and Immaterial (Fed. R. Evid. 401, 402)</p>
22 23 24 25 26 27 28	<p>36. At the time LegalZoom’s complaint was filed, Rocket Lawyer offered two types of subscription plans—a Pro Legal Plan with premium access to all Rocket Lawyer functionality, and a Basic Legal Plan, which excluded only the functionality related to forming or</p>	<p>Hollerbach Decl., ¶ 10.</p> <p>Undisputed that at the time LegalZoom’s complaint was filed, Rocket Lawyer offered a Pro Legal Plan and a Basic Legal Plan; however, disputed on the ground that LegalZoom has insufficient</p>

	ROCKET LAWYER’S ALLEGED STATEMENT	ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE
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4	running a business.	facts to confirm or deny that the Basic
5		Legal Plan excludes only the
6		“functionality related to forming or
7		running a business.”
8		Objection: Irrelevant and Immaterial
9		(Fed. R. Evid. 401, 402).
10	37. Similar to free trials offered by	Vu Decl., ¶ 3, Exs. 5, 6, 7; Hollerbach
11	many consumer businesses, any consumer	Decl., ¶ 11, Ex. B.
12	could try a Basic or Pro Legal Plan and all	
13	services available under the selected plan,	Undisputed that consumers can enroll in
14	for seven days at no cost, provided that	Rocket Lawyer’s trial of its Basic or Pro
15	the consumer canceled the plan by the end	Legal Plan for up to seven days;
16	of the seventh day.	however, disputed that Rocket Lawyer’s
17		trials are “similar” to free trials offered
18		by many consumer businesses or that <i>any</i>
19		consumer can try all services available
20		under the selected plan for “free.”
21		Vu Decl., ¶ 7, Exs. 21, 22, 23;
22		Declaration of Mary Ann T. Nguyen in
23		Support of LegalZoom’s Motion for
24		Summary Judgment (“Nguyen Decl.”),
25		Ex. D.
26		Objection: Improper Legal Conclusion
27		(Fed. R. Civ. Proc. 56(c)(4); L.R. 7-7);
28		Lacks Foundation (Fed. R. Evid. 602);

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ROCKET LAWYER’S ALLEGED STATEMENT	ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE
	Speculative (Fed. R. Evid. 602); Irrelevant and Immaterial (Fed. R. Evid. 401, 402).
38. If a consumer chose not to cancel their trial plan by the end of the seventh day of the plan, the trial converted to a paid version of the plan on the eighth day.	Vu Decl., ¶ 3, Exs. 5, 6, 7, 8. Disputed that consumers whose trial plans converted to a paid version of the plan are consumers who “chose” not to cancel their trial plan by the end of the seventh day of the plan. Nguyen Decl., ¶ 13, Ex. I. Objection: Misleading (Fed. R. Evid. 403).
39. Even if a consumer canceled the free trial, he would continue to have full access to Rocketlawyer.com for the remainder of the trial period, and have post-trial access to any documents created during the trial.	Vu Decl., ¶ 3, Ex. 7; Hollerbach Decl., ¶ 12. Disputed that the trial is “free” and disputed on the ground that LegalZoom has insufficient facts to confirm or deny that even if a consumer cancelled the trial, he would continue to have full access to Rocketlawyer.com for the remainder of the trial period, and have post-trial access to any documents created during the trial. Nguyen Decl., ¶

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ROCKET LAWYER’S ALLEGED STATEMENT		ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE	
	40. A typical user would enroll in a free trial by clicking on a search engine ad, such as an ad for a legal document; the link would direct the user to an interactive interview for the document.	13, Ex. I. Objection: Irrelevant and Immaterial (Fed. R. Evid. 401, 402).	Hollerbach Decl., ¶¶ 13, 14. Undisputed that a user can currently enroll in a trial by clicking on a search engine ad, which currently directs the user to the Rocket Lawyer website and an interactive interview for the document.
41. At the end of the interview, the user had the option to enroll in a free trial or a paying plan; if the user elected to enroll in a free trial, the user would be taken to a web page explaining the Pro or Basic Legal Plan.	Vu Decl., ¶ 3, Ex. 8; Hollerbach Decl., ¶ 14; ¶ 15, Ex. C; ¶ 16. Undisputed users can currently enroll in a trial or a paying plan and the Rocket Lawyer website currently has web pages that provide information on the Pro or Basic Legal Plan; however, disputed that the trial is “free.” Nguyen Decl., ¶13, Ex. I. Objection: Misleading (Fed. R. Evid. 403); Improper Legal Conclusion (Fed. R. Civ. Proc. 56(c)(4), L.R. 7-7).		Hollerbach Decl., ¶ 17.
42. The explanatory web pages were also available through Rocket Lawyer’s			

<p>1 ROCKET LAWYER’S ALLEGED 2 STATEMENT 3</p>	<p>ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE</p>
<p>4 homepage and other channels.</p>	<p>Undisputed that the Rocket Lawyer homepage currently provides links to web pages relating to its subscription plans; however, disputed on the ground that LegalZoom has insufficient facts to ascertain what “other channels” Rocket Lawyer refers.</p> <p>Objection: Misleading (Fed. R. Evid. 403); Improper Legal Conclusion (Fed. R. Civ. Proc. 56(c)(4), L.R. 7-7).</p>
<p>14 43. By toggling between the Pro and 15 Basic plan options, a consumer could 16 choose which type of plan he or she 17 would like to try.</p>	<p>Vu Decl., ¶ 3, Exs. 5, 6; Hollerbach Decl., ¶ 16.</p> <p>Undisputed that customers can currently view information about Rocket Lawyer’s Pro and Basic plan options on the Rocket Lawyer website and can choose which type of plan he or she would like to try.</p>
<p>22 44. The explanatory pages for both 23 plans contained information regarding the 24 free trial and conversion to subscription 25 plans, and included a toll free phone 26 number the user could call to cancel the 27 free trial plan; the toll free number was, 28 and still is, at the top of the registration</p>	<p>Vu Decl., ¶ 3, Exs. 5, 6.</p> <p>Undisputed that the Rocket Lawyer website currently contains information regarding Rocket Lawyer’s subscription plans and currently has a toll free phone number at the top of its web pages;</p>

ROCKET LAWYER’S ALLEGED STATEMENT	ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE
<p>pages.</p>	<p>however, disputed that the trial is “free.” Nguyen Decl., ¶ 13, Ex. I. Objection: Misleading (Fed. R. Evid. 403); Improper Legal Conclusion (Fed. R. Civ. Proc. 56(c)(4), L.R. 7-7); Best Evidence (Fed. R. 1001, 1002).</p>
<p>45. In addition, to ensure that customers have answers to questions about the free trial, Rocket Lawyer has an FAQ section devoted to them, which also details the different ways a customer can cancel any plan—through the customer’s account page, via chat, email, or telephone.</p>	<p>Vu Decl., ¶ 3, Ex. 7. Undisputed as to the FAQ shown in the exhibit; however, disputed that the trial is “free.” Nguyen Decl., ¶ 13, Ex. I. Objection: Misleading (Fed. R. Evid. 403); Improper Legal Conclusion (Fed. R. Civ. Proc. 56(c)(4), L.R. 7-7).</p>
<p>46. Customers can access the terms and conditions for the website in general on each page of Rocketlawyer.com, and must acknowledge the same terms and conditions before acting to enroll in any Rocket Lawyer subscription plan.</p>	<p>Vu Decl., ¶ 3, Exs. 5, 6; Hollerbach Decl., ¶ 17. Undisputed that a link to Rocket Lawyer’s terms and conditions are available on the Rocket Lawyer web pages contained in the Exhibits. Objection: Misleading (Fed. R. Evid. 403); Improper Legal Conclusion (Fed. R. Civ. Proc. 56(c)(4), L.R. 7-7).</p>
<p>47. All members enrolled in a free or</p>	<p>Vu Decl., ¶ 3, Exs. 9, 10, 11; Hollerbach</p>

	ROCKET LAWYER’S ALLEGED STATEMENT	ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE
1 2 3 4 5 6 7 8 9 10 11	<p> paying Pro Legal Plan receive free incorporation services; Rocket Lawyer charges no fee for its services in assisting in the filing and processing of incorporation or entity formation papers submitted by free trial or paying Pro Legal Plan members. </p>	<p> Decl., ¶ 19. </p> <p> Disputed that members receive “free” incorporation or that the enrollment in a Pro Legal Plan is “free.” Nguyen Decl., ¶¶ 5, 13, Exs. C and I. </p> <p> Objection: Misleading (Fed. R. Evid. 403). </p>
12 13 14 15 16 17 18 19 20 21 22 23	<p> 48. Members enrolled in a free or paying Pro Legal Plan who require incorporation services only pay the state-mandated filing fees, which Rocket Lawyer discloses at various stages of the incorporation interview prior to requiring any payment information. </p>	<p> Vu Decl., ¶ 3, Exs. 9, 10, 11. </p> <p> Undisputed that members enrolled in a Rocket Lawyer plan who require incorporation services pay the state-mandated filing fees; however, disputed that the enrollment in a Pro Legal Plan is “free” Nguyen Decl., ¶¶ 5, 6, 13, Exs. C, D and I. </p> <p> Objection: Misleading (Fed. R. Evid. 403); Improper Legal Conclusion (Fed. R. Civ. Proc. 56(c)(4), L.R. 7-7). </p>
24 25 26 27 28	<p> 49. Members enrolled in a free or paying Pro Legal Plan who require incorporation services may also add services not required, though commonly preferred, related to incorporation or </p>	<p> Vu Decl., ¶ 3, Exs. 9,11. </p> <p> Undisputed that members enrolled in a Rocket Lawyer plan who require incorporation services may currently add </p>

<p>1 ROCKET LAWYER’S ALLEGED 2 STATEMENT 3</p>	<p>ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE</p>
<p>4 entity formation—such as a federal tax 5 ID, a registered agent, etc.—which 6 Rocket Lawyer provides at a discount 7 over its competitors. 8 9</p>	<p>services not required; however, disputed that the enrollment in a Pro Legal Plan is “free.” Nguyen Decl., ¶¶ 5, 6, 13, Exs. C, D and I. Objection: Irrelevant and Immaterial (Fed. R. Evid. 401, 402).</p>
<p>10 50. Rocket Lawyer’s subscription plans 11 include access to Rocket Lawyer’s On 12 Call attorneys who can provide legal 13 advice or live consultations, answer 14 written questions, and/or review legal 15 documents. 16 17 18 19 20 21 22 23 24 25</p>	<p>Vu Decl., ¶ 3, Exs. 12, 13; Hollerbach Decl., ¶ 22. Undisputed that Rocket Lawyer’s <i>current</i> subscription plans include access to Rocket Lawyer’s On Call attorneys; however, disputed that Rocket Lawyer’s “free” subscription plans prior to the filing of the Complaint included access to Rocket Lawyer’s On Call attorneys. Nguyen Decl., ¶ 8-10, Exs. F and G. Objection: Misleading (Fed. R. Evid. 403); Improper Legal Conclusion (Fed. R. Civ. Proc. 56(c)(4), L.R. 7-7); Irrelevant and Immaterial (Fed. R. Evid. 401, 402).</p>
<p>26 27 28</p>	

1 2 3 ROCKET LAWYER’S ALLEGED STATEMENT	ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE
4 51. Outside of the On Call program, 5 Rocket Lawyer registered users, whether 6 on a free trial or a legal plan, can contact 7 an attorney for a free consultation at any 8 time. 9 10 11 12 13 14 15 16 17	Hollerbach Decl., ¶ 23. Disputed that the trial is “free.” Nguyen Decl., ¶ 13, Ex. I. Disputed further on the ground that LegalZoom has insufficient facts to confirm or deny that users can currently contact an attorney for a “free” consultation outside of the “On Call” program. Objection: Misleading (Fed. R. Evid. 403); Improper Legal Conclusion (Fed. R. Civ. Proc. 56(c)(4), L.R. 7-7); Irrelevant and Immaterial (Fed. R. Evid. 401, 402).
18 52. A search on Google.com for “legal 19 documents” generates information for 20 over a dozen companies on the first page 21 of the search alone; many of these 22 companies offer services similar to 23 Rocket Lawyer’s and advertise such 24 services in a similar fashion. 25 26 27 28	Vu Decl., ¶ 4, Ex. 14; ¶ 5, Ex.15; ¶ 6, Ex. 16. Undisputed that a search on Google.com for “legal documents” generates information for over a dozen companies on the first page of the search; however, disputed that “many” of these companies offer services “similar” to Rocket Lawyer’s and advertise such services in a “similar” fashion.

ROCKET LAWYER’S ALLEGED STATEMENT	ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE
	<p>Objection: Irrelevant and Immaterial (Fed. R. Evid. 401, 402).</p>
<p>53. LegalZoom now offers packaged documents, such as real estate leases, and allows customers to edit and download these forms electronically; however, LegalZoom charges \$29 for the forms about one area of law and only allows customers to edit the forms for one week, unless they pay an <i>additional</i> \$20 for unlimited revisions.</p>	<p>Vu Decl., ¶ 7, Ex. 17.</p> <p>Disputed. Supp. Nguyen Decl., ¶ 6, Ex. D.</p> <p>Objection: Irrelevant and Immaterial (Fed. R. Evid. 401, 402).</p>
<p>54. LegalZoom also began to offer incorporation services; however, unlike Rocket Lawyer or other competitors such as Law Depot, Incforfree, and Mycorporation, LegalZoom continues to charge a fee for its assistance with the filing process.</p>	<p>Vu Decl., ¶ 7, Exs. 21, 22, 23. Hollerbach Decl., ¶ 21.</p> <p>Undisputed that LegalZoom currently charges a fee for incorporation services; however, disputed on the ground that LegalZoom has insufficient facts to confirm or deny that it is unlike its competitors.</p> <p>Objection: Irrelevant and Immaterial (Fed. R. Evid. 401, 402).</p>
<p>55. LegalZoom also began offering subscription plans with attorney consultation time in 2011; however,</p>	<p>Vu Decl., ¶ 7, Exs. 18, 19; ¶ 12, Ex. 30.</p> <p>Undisputed that LegalZoom offers</p>

<p>1 ROCKET LAWYER’S ALLEGED 2 STATEMENT</p>	<p>ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ 3 LEGALZOOM’S RESPONSE</p>
<p>4 LegalZoom still adheres to the postal mail 5 business model and does not appear to 6 offer any single plan comparable to 7 Rocket Lawyer’s Pro Plan (i.e. a plan that 8 combines business and personal support).</p>	<p>subscription plans with attorney consultation. However disputed that LegalZoom began offering such subscription plans in 2011 and disputed that LegalZoom does not offer a plan that combines business and personal support. Supp. Nguyen Decl., ¶ 7, Ex. E. Objection: Irrelevant and Immaterial (Fed. R. Evid. 401, 402).</p>
<p>13 56. Legal Zoom only discounts 14 attorney services outside of the 15 subscription plans by 25%.</p>	<p>Vu Decl., ¶ 7, Ex. 19. Undisputed that LegalZoom currently discounts other attorney services provided by plan attorneys by 25%. Objection: Irrelevant and Immaterial (Fed. R. Evid. 401, 402).</p>
<p>20 57. Rocket Lawyer’s On Call attorneys 21 agree to discount services by 40% or 22 charge \$125 an hour.</p>	<p>Vu Decl., ¶ 3, Exs. 12, 13. Disputed on the ground that Rocket Lawyer has insufficient facts to confirm or deny that Rocket lawyer’s On Call attorneys have agreed to discount services by 50% or charge \$125 an hour. Objection: Irrelevant and Immaterial (Fed. R. Evid. 401, 402).</p>

1 2 3 ROCKET LAWYER’S ALLEGED STATEMENT	ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE
4 58. LegalZoom has advertised its 5 incorporation services without disclosing 6 the additional state-imposed fees in the 7 same way Rocket Lawyer has. 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Vu Decl., ¶ 7, Exs. 21, 22. Undisputed that LegalZoom has used advertisements for incorporation that do not state the additional state-imposed fees on the advertisements themselves. However, disputed that LegalZoom has advertised its incorporation services in the “same” way Rocket Lawyer has or that LegalZoom does not disclose the additional state-imposed fees. Vu Decl., ¶ 7, Exs. 21, 22; Nguyen Decl. Ex. D. Objection: Incomplete (Fed. R. Evid. 106); Misleading (Fed. R. Evid. 403); Improper Legal Conclusion (Fed. R. Civ. Proc. 56(c)(4), L.R. 7-7); Irrelevant and Immaterial (Fed. R. Evid. 401, 402).
22 59. LegalZoom and Rocket Lawyer 23 each have published advertisements in 24 which state fees are not referenced; 25 whereas the Rocket Lawyer ad provides a 26 link with more information regarding 27 pricing, where state fees are disclosed, 28 when a consumer clicks on the referenced	Vu Decl., ¶ 7, Exs. 21, 22, 23. Undisputed that LegalZoom has used advertisements for incorporation that do not state the additional state-imposed fees on the advertisements themselves. However, disputed that the link to the

1 2 3 ROCKET LAWYER’S ALLEGED STATEMENT	ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE
4 LegalZoom ad, they are brought to a 5 LegalZoom webpage that displays 6 incorporation pricing <i>with no reference to</i> 7 <i>state fees.</i>	8 LegalZoom webpage does not disclose 9 the additional state-imposed fees since 10 Exhibit 23 to the Vu Declaration 11 specifically shows LegalZoom’s 12 disclosure “+ state fee. ” Vu Decl., ¶ 7, 13 Ex. 23. 14 Objection: Incomplete (Fed. R. Evid. 106); Misleading (Fed. R. Evid. 403); Improper Legal Conclusion (Fed. R. Civ. Proc. 56(c)(4), L.R. 7-7); Irrelevant and Immaterial (Fed. R. Evid. 401, 402).
15 60. In a direct comparison, 16 LegalZoom’s prices are higher than 17 Rocket Lawyer’s even if state fees were 18 listed, because LegalZoom always 19 charges for the incorporation service it 20 provides.	21 Vu Decl., ¶ 7, Ex. 23. 22 Undisputed that LegalZoom currently 23 charges for the incorporation service it 24 provides to consumers. However, 25 disputed that LegalZoom’s prices are 26 “higher” than Rocket Lawyer’s prices. 27 Objection: Irrelevant and Immaterial 28 (Fed. R. Evid. 401, 402); Lacks Foundation (Fed. R. Evid. 602).

	ROCKET LAWYER’S ALLEGED STATEMENT	ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE
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4	61. Rocket Lawyer’s disclosure of state	<i>See</i> Vu Decl., ¶ 14, 32; ¶ 15, Ex. 33.
5	incorporation fees has been described as	
6	clearer than LegalZoom’s disclosure.	Undisputed as to the review shown in
7		the exhibit. However, disputed that
8		Rocket Lawyer’s disclosure of state
9		incorporation fees has been described as
10		“clearer” than LegalZoom’s disclosure.
11		Supp. Nguyen Decl., ¶ 4, Ex. C.
12		Objection: Irrelevant and Immaterial
13		(Fed. R. Evid. 401, 402); Hearsay (Fed.
14		R. Evid. 801, 802); Incompetent Lay
15		Opinion (Fed. R. Evid.701); Misleading
16		(Fed. R. Evid. 403).
17	62. LegalZoom does not disclose in its	Vu Decl., ¶ 7, Ex. 24.
18	own advertisements the third party costs	
19	associated with using LegalZoom.com	Undisputed that LegalZoom does not
20	identified in its Supplemental Terms of	state in its advertisements the standard
21	Use.	internet access rates as set forth in its
22		Supplemental Terms of Use (Exhibit 24
23		to the Vu Declaration), which internet
24		users must generally pay to their online
25		service providers for general internet
26		access; however, disputed that there are
27		other third party costs associated with
28		using LegalZoom.com identified in

ROCKET LAWYER’S ALLEGED STATEMENT	ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE
	LegalZoom’s Supplemental Terms of Use. Objection: Incomplete (Fed. R. Evid. 106); Misleading (Fed. R. Evid. 403); Irrelevant and Immaterial (Fed. R. Evid. 401, 402).
63. LegalZoom has published and continues to publish advertisements claiming that it has an ‘A’ rating with the Better Business Bureau (“BBB”).	Vu Decl., ¶ 7, Ex. 25; ¶ 8, Ex. 26. Undisputed.
64. LegalZoom has not had an ‘A’ rating with the BBB since March of 2013.	Vu Decl., ¶ 9, Ex. 27; ¶ 10, Ex. 28; ¶ 11, Ex. 29. Disputed. Vu Decl., Ex. 27; Declaration of Patty Chikamagalur, ¶ 2. Objections: Misleading (Fed. R. Evid. 403).
65. Rocket Lawyer charges no fee for its assistance in processing and filing incorporation papers for trial and paid Pro Legal Plan Members.	Hollerbach Decl., ¶ 19. Disputed that Rocket Lawyer charges no fee for incorporation. Nguyen Decl., ¶5, Ex. C.

	ROCKET LAWYER’S ALLEGED STATEMENT	ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE
1 2 3 4 5 6 7 8 9 10 11	<p>66. Rocket Lawyer does not retain any portion of the state fees charged in connection with incorporation; all such charges are assessed by the state, and thus are entirely passed on to the state through a third party.</p>	<p>Vu Decl., ¶ 3, Ex. 11; Hollerbach Decl., ¶ 20.</p> <p>Disputed on the ground that LegalZoom has insufficient facts to confirm or deny that Rocket Lawyer does not retain any portion of the state fees charged in connection with incorporation.</p>
12 13 14 15 16 17 18 19 20 21 22	<p>67. “Free legal help” has always been available to registered users in the form of free consultations with On Call attorneys.</p>	<p>Nguyen Decl., ¶ 7, Ex. E; Hollerbach Decl., ¶ 23.</p> <p>Disputed that legal help as advertised (“Free help from local attorneys” and “Free legal review”) has “always” been available to users for “free.” Nguyen Decl. ¶¶ 7, 8, 9, Exs. E, F.</p> <p>Objections: Irrelevant and Immaterial (Fed. R. Evid. 401, 402); Misleading (Fed. R. Evid. 403).</p>
23 24 25 26 27 28	<p>68. Each Rocket Lawyer advertisement at issue contains a link to Rocketlawyer.com or is published on Rocketlawyer.com.</p>	<p>Nguyen Decl., ¶ 4, Ex. B</p> <p>Undisputed that the Rocket Lawyer advertisements at issue in the complaint contained links to Rocket Lawyer.com or were published on Rocketlawyer.com.</p>

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ROCKET LAWYER’S ALLEGED STATEMENT	ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE
	Objection: Misleading (Fed. R. Evid. 403); Improper Legal Conclusion (Fed. R. Civ. Proc. 56(c)(4), L.R. 7-7).
69. Rocket Lawyer discloses the state fees on the incorporation and entity formation page of its website, and at other points prior to the customer inserting any credit card information.	Vu Decl., ¶ 3, Exs. 9, 10, 11. Undisputed that Rocket Lawyer currently provides information regarding state fees on its website. Nguyen Decl., ¶ 6, Ex. D. Objection: Misleading (Fed. R. Evid. 403); Improper Legal Conclusion (Fed. R. Civ. Proc. 56(c)(4), L.R. 7-7).
70. Rocket Lawyer does in fact provide the “free legal help” advertised by making attorney consultation available to all registered users.	Hollerbach Decl., ¶ 23. Disputed that legal help was “free” since registration as a user was required. Nguyen Decl. ¶¶ 7, 8, 9, Exs. E, F. Disputed further on the ground that LegalZoom has insufficient facts to confirm or deny that Rocket Lawyer currently provides legal help in the form of attorney consultation to its registered users. Objections: Irrelevant and Immaterial (Fed. R. Evid. 401, 402); Misleading

ROCKET LAWYER’S ALLEGED STATEMENT	ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE
	(Fed. R. Evid. 403).
<p>71. All of the details of Rocket Lawyer’s free trial plan are disclosed on Rocketlawyer.com.</p>	<p>Vu Decl., ¶ 3, Exs. 5, 6, 7.</p> <p>Undisputed that the Rocket Lawyer website has information relating to Rocket Lawyer’s “free trial plan”; however, disputed that the trial plan is “free.” Nguyen Decl., ¶ 13, Ex. I.</p> <p>Objection: Misleading (Fed. R. Evid. 403); Improper Legal Conclusion (Fed. R. Civ. Proc. 56(c)(4), L.R. 7-7).</p>
<p>72. Regarding the Rocket Lawyer advertisement which states that “Zoom Charges \$99, We’re Free,” LegalZoom’s incorporation services start at \$99; the advertisement therefore fairly references the lowest price offered by LegalZoom.</p>	<p>Vu Decl., ¶ 7, Exs. 22, 23.</p> <p>Undisputed that LegalZoom’s incorporation services start at \$99; however, disputed that Rocket Lawyer’s advertisement “fairly” references the lowest price offered by LegalZoom.</p> <p>Objection: Misleading (Fed. R. Evid. 403); Improper Legal Conclusion (Fed. R. Civ. Proc. 56(c)(4), L.R. 7-7).</p>
<p>73. All competitors offer low-cost services, neutralizing the materiality of price, and customers differentiate among them based on speed, quality, ease of use,</p>	<p>Vu Decl., ¶ 4, Ex. 14; ¶ 5, Ex.15; ¶ 6, Ex. 16; 13, Ex. 31.</p> <p>Disputed that competitors neutralize the</p>

ROCKET LAWYER’S ALLEGED STATEMENT	ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE
<p>and breadth of services.</p>	<p>materiality of price and disputed on the ground that LegalZoom has insufficient facts to confirm or deny that “all” competitors offer low-cost services. Objection: Irrelevant and Immaterial (Fed. R. Evid. 401, 402).</p>
<p>74. After March 2013, when Rocket Lawyer began to mention state fees in all of its incorporation advertisements, the average number of incorporations performed using Rocket Lawyer services each month remained basically unchanged.</p>	<p>Hollerbach Decl., ¶¶ 24, 25. Disputed on the ground that LegalZoom has insufficient facts to confirm or deny that Rocket Lawyer’s average number of incorporations performed remained unchanged. Objection: Lacks Foundation (Fed. R. Evid. 602).</p>
<p>75. Rocket Lawyer’s free trial is not contingent upon the purchase of any item.</p>	<p>Vu Decl., ¶ 3, Exs. 5, 6, 7. Disputed that Rocket Lawyer’s trial is “free” or have contingencies. Objection: Misleading (Fed. R. Evid. 403); Improper Legal Conclusion (Fed. R. Civ. Proc. 56(c)(4), L.R. 7-7).</p>
<p>76. The incorporation services webpage conspicuously discloses that the service is available for free trial and</p>	<p>Vu Decl., ¶ 3, Ex. 8. Undisputed that Rocket Lawyer’s</p>

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ROCKET LAWYER’S ALLEGED STATEMENT	ROCKET LAWYER’S ALLEGED EVIDENTIARY SUPPORT/ LEGALZOOM’S RESPONSE
paying Pro Legal Plan members and the price of these plans – free and \$39.95 per month.	website states that the incorporation service is available for trial and paying Pro Legal Plan members. However, disputed that the disclosure is “conspicuous.” Nguyen Decl., ¶¶12, 13; Exs. H, I. Objection: Misleading (Fed. R. Evid. 403); Improper Legal Conclusion (Fed. R. Civ. Proc. 56(c)(4), L.R. 7-7).
77. The FTC has never initiated an action nor contacted Rocket Lawyer about any of its advertisements.	Hollerbach Decl., ¶ 26. Undisputed.

DATED: October 7, 2013

Respectfully submitted,
GLASER WEIL FINK JACOBS
HOWARD AVCHEN & SHAPIRO LLP

By: _____/s/ Fred Heather
PATRICIA L. GLASER
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LegalZoom.com, Inc.

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California; I am over the age of 18 and not a party to the within action; my business address is 10250 Constellation Boulevard, 19th Floor, Los Angeles, California 90067.

On October 7, 2013, I electronically filed the following document(s) using the CM/ECF system.

**PLAINTIFF LEGALZOOM.COM, INC.’S RESPONSE TO ROCKET
LAWYER’S SEPARATE STATEMENT OF UNDISPUTED MATERIAL
FACTS IN SUPPORT IN SUPPORT OF ITS OPPOSITION TO
LEGALZOOM.COM’S MOTION FOR SUMMARY JUDGMENT**

Participants in the case are registered CM/ECF users and will be served by the CM/ECF system.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare under penalty of perjury that the above is true and correct.

Executed on October 7, 2013 at Los Angeles, California.

/s/ Fred Heather
Fred Heather