

Attorneys for Plaintiffs

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

FLOWBEE INTERNATIONAL, INC. and  
FLOWBEE HAIRCUTTER  
LIMITED PARTNERSHIP,

Plaintiffs,

V.

GOOGLE, INC.,

Defendant.

No. C 10-00668-WHA

## JURY TRIAL REQUESTED

**PLAINTIFFS/COUNTER-DEFENDANTS' ORIGINAL ANSWER  
TO COUNTER-PLAINTIFF'S COUNTERCLAIM**

Plaintiffs/Counter-Defendants Flowbee International, Inc. (“Flowbee Intl.”) and Flowbee Haircutter Limited Partnership (“Flowbee LP”) (collectively “Flowbee”) file this, their Original Answer to the Counterclaim brought by Defendant/Counter-Plaintiff Google, Inc. (“Google”). Unless specifically admitted, Flowbee denies each of the allegations of Google’s Counterclaim.

## NATURE OF THE CASE

1. Flowbee admits that Google purports to state claims based on breach of contract. Flowbee denies that Google's Counterclaim is meritorious.

2. Flowbee denies the allegations in the first sentence of paragraph 2, as the subject contract does not pertain to the claims brought by Flowbee in the underlying suit. Flowbee admits the remaining allegations in paragraph 2.

3. Flowbee denies that it breached the subject contract and therefore denies that Google was forced to expend money and resources to seek transfer of this suit. Flowbee admits that Google is seeking recovery of damages that it alleges to have suffered.

## PARTIES

4. Flowbee admits the allegations of paragraph 4.

5. Flowbee admits the allegations of paragraph 5.

6. Flowbee lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 6, and therefore denies the same.

## JURISDICTION AND VENUE

7. While Google purports to bring a claim against Flowbee under the laws of the State of California, Flowbee denies that the action is meritorious or that it is properly brought as a counterclaim in this action. Flowbee admits that the Court has jurisdiction over this matter.

8. Flowbee admits the allegations of paragraph 8.

9. Flowbee admits that venue of Google's unmeritorious counterclaim is proper in this district.

## FACTUAL BACKGROUND

10. Flowbee admits the allegations contained in the first sentence of paragraph 10. Flowbee lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of paragraph 10, and therefore denies the same.

11. Flowbee admits that an unrelated click-through contract drafted by Google and agreed to by Flowbee contains the subject language.

12. Flowbee admits that an unrelated click-through contract drafted by Google and agreed to by Flowbee contains the subject language.

13. Flowbee admits the allegations contained in paragraph 13.

14. Flowbee denies the allegations contained in paragraph 14.

15. Flowbee admits the allegations contained in paragraph 15.

16. Flowbee admits that the quoted language is contained within the Southern District of Texas Trial Court's Order.

17. Flowbee admits that the quoted language is contained within the Southern District of Texas Trial Court's Order.

## CAUSE OF ACTION

18. Flowbee re-alleges and incorporates by reference paragraphs 1 through 17 of its Answer to Google's Counterclaim.

19. Flowbee admits that the click-through contract contains such a provision. Flowbee denies that the contract pertains to the claims that Flowbee has brought against Google in this action.

20. Flowbee lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of paragraph 20, and therefore denies the same.

21. Flowbee denies the allegations of paragraph 21.

22. Flowbee denies that it breached the subject agreement. Flowbee lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of paragraph 22, and therefore denies the same.

1                                   **FURTHER ANSWER AND AFFIRMATIVE DEFENSES**

2           By way of further answer and as affirmative defense, Flowbee denies that it is  
3 liable to Google on any of the counterclaims alleged and denies that Google is entitled to  
4 damages, attorneys' fees, costs, pre-judgment interest or to any relief whatsoever.

5                                   **PRAYER**

6           WHEREFORE, Flowbee prays for Judgment on Google's Counterclaim as follows:

- 7           1.     That Google take nothing by way of its Counterclaim;  
8  
9           2.     That the Counterclaim, and each and every purported claim for relief  
              therein, be dismissed with prejudice;  
10          3.     That Flowbee be awarded its costs of suit incurred herein, including  
11               attorneys' fees and expenses; and  
12          4.     For such other and further relief as the Court deems just and proper.

13                                       Respectfully submitted,

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18                                       By: /s/ David T. Bright  
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21                                       and

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