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8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10 SAN FRANCISCO DIVISION

12 craigslist, Inc., a Delaware corporation,

13 Plaintiff,

14 v.

15 GraphOn Corporation, a Delaware  
 16 corporation,

17 Defendant.

**Case No. CV-10-1156 CRB**

**CRAIGSLIST, INC.'S ANSWER TO  
 COUNTERCLAIM OF GRAPHON  
 CORPORATION**

18 GraphOn Corporation, a Delaware  
 19 corporation,

20 Counter-Plaintiff,

21 v.

22 craigslist, Inc., a Delaware corporation,

23 Counter-Defendant.

1 Plaintiff craigslist, Inc. (“craigslist”), for its Answer to the Counterclaim of GraphOn  
2 Corporation (“GraphOn”), states as follows:

3 **JURISDICTION AND VENUE**

4 1. craigslist admits that GraphOn’s Counterclaim arises under the United States  
5 Patent Act, 35 U.S.C. § 1 *et seq.* craigslist further admits that GraphOn purports to request  
6 damages for infringement of the patents-in-suit, but denies that GraphOn is entitled to any  
7 damages. Except as expressly admitted herein, craigslist denies each and every allegation of  
8 Paragraph 1 of the Counterclaim.

9 2. craigslist admits that this Court has jurisdiction over the subject matter of the  
10 Counterclaim under 28 U.S.C. §§ 1331 and 1338(a). Except as expressly admitted herein,  
11 craigslist denies each and every allegation of Paragraph 2 of the Counterclaim.

12 3. craigslist admits that the Court has personal jurisdiction over craigslist because  
13 craigslist has submitted to this Court’s jurisdiction by bringing the present action. Except as  
14 expressly admitted herein, craigslist denies each and every allegation of Paragraph 3 of the  
15 Counterclaim.

16 **PARTIES**

17 4. craigslist admits that GraphOn is a corporation organized under the laws of the  
18 State of Delaware, with its principal place of business in Santa Cruz, California. Except as  
19 expressly admitted herein, craigslist denies each and every allegation of Paragraph 4 of  
20 GraphOn’s Counterclaim.

21 5. craigslist admits that it is a Delaware corporation, with its principal place of  
22 business in San Francisco, California. Except as expressly admitted herein, craigslist denies each  
23 and every allegation of Paragraph 5 of GraphOn’s Counterclaim.

24 **FIRST COUNTERCLAIM**

25 **[Alleged] Infringement of the ’538, ’940, ’034, and ’591 Patents**

26 6. craigslist incorporates by reference its responses to Paragraphs 1-5 of the  
27 Counterclaim as if fully set forth herein.  
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1           7.       craigslist admits that United States Patent Number 6,324,538 (“the ’538 patent”)  
2 purports to be titled “Automated On-Line Information Service and Directory, Particularly for the  
3 World Wide Web,” that Ralph E. Wesinger, Jr. and Christopher D. Coley are listed on the ’538  
4 patent as inventors, and that the ’538 Patent issued on November 27, 2001. craigslist denies that  
5 the ’538 patent was “duly and legally issued,” as it is invalid and unenforceable. craigslist does  
6 not have knowledge or information sufficient to form a belief as to the truth of the remaining  
7 allegations of this paragraph and, therefore, denies the same. Except as expressly admitted  
8 herein, craigslist denies each and every allegation of Paragraph 7 of GraphOn’s Counterclaim.

9           8.       craigslist admits that United States Patent Number 6,850,940 (“the ’940 patent”)  
10 purports to be titled “Automated On-Line Information Service and Directory, Particularly for the  
11 World Wide Web,” that Ralph E. Wesinger, Jr. and Christopher D. Coley are listed on the ’940  
12 patent as inventors, and that the ’940 patent issued on February 1, 2005. craigslist denies that the  
13 ’940 patent was “duly and legally issued,” as it is invalid and unenforceable. craigslist does not  
14 have knowledge or information sufficient to form a belief as to the truth of the remaining  
15 allegations of this paragraph and, therefore, denies the same. Except as expressly admitted  
16 herein, craigslist denies each and every allegation of Paragraph 8 of GraphOn’s Counterclaim.

17           9.       craigslist admits that United States Patent Number 7,028,034 (“the ’034 patent”)  
18 purports to be titled “Method and Apparatus for Providing a Dynamically-Updating Pay-For-  
19 Service Web Site,” that Ralph E. Wesinger, Jr. and Christopher D. Coley are listed on the ’034  
20 patent as inventors, and that the ’034 patent issued on April 11, 2006. craigslist denies that the  
21 ’034 patent was “duly and legally issued,” as it is invalid and unenforceable. craigslist does not  
22 have knowledge or information sufficient to form a belief as to the truth of the remaining  
23 allegations of this paragraph and, therefore, denies the same. Except as expressly admitted  
24 herein, craigslist denies each and every allegation of Paragraph 9 of GraphOn’s Counterclaim.

25           10.       craigslist admits that United States Patent Number 7,269,591 (“the ’591 patent”)  
26 purports to be titled “Method and Apparatus for Providing a Pay-For-Service Web Site,” that  
27 Ralph E. Wesinger, Jr. and Christopher D. Coley are listed on the ’034 patent as inventors, and  
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1 that the '591 patent issued on September 11, 2007. craigslist denies that the '591 patent was  
2 "duly and legally issued," as it is invalid and unenforceable. craigslist does not have knowledge  
3 or information sufficient to form a belief as to the truth of the remaining allegations of this  
4 paragraph and, therefore, denies the same. Except as expressly admitted herein, craigslist denies  
5 each and every allegation of Paragraph 10 of GraphOn's Counterclaim.

6 11. craigslist admits that it operates the website, www.craigslist.org, which provides  
7 online localized classified ad placement and related online services. Except as expressly admitted  
8 herein, craigslist denies each and every allegation of Paragraph 11 of GraphOn's Counterclaim.

9 12. craigslist denies each and every allegation of Paragraph 12 of GraphOn's  
10 Counterclaim.

11 13. craigslist denies each and every allegation of Paragraph 13 of GraphOn's  
12 Counterclaim.

13 14. craigslist denies each and every allegation of Paragraph 14 of GraphOn's  
14 Counterclaim.

### 15 **AFFIRMATIVE DEFENSES**

16 As and for its affirmative defenses to all claims purported to be set forth against it in  
17 GraphOn's Counterclaim, including the Prayer for Relief therein, craigslist alleges as follows:

#### 18 **FIRST AFFIRMATIVE DEFENSE**

19 (Failure to State a Claim)

- 20 1. GraphOn's Counterclaim fails to state a claim upon which relief can be granted.

#### 21 **SECOND AFFIRMATIVE DEFENSE**

22 (Laches)

- 23 2. GraphOn's Counterclaim or any purported cause of action alleged therein is barred  
24 by the doctrine of laches.

### 25 **PRAYER FOR RELIEF**

26 craigslist denies that GraphOn is entitled to any relief whatsoever on its Counterclaim,  
27 including the specific relief requested in paragraphs (a) – (f).

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WHEREFORE, craigslist prays for judgment against GraphOn on its Counterclaim as follows:

- (a) Dismissing GraphOn’s Counterclaim with prejudice;
- (b) Determining that this is an exceptional case under 35 U.S.C. § 285 and awarding craigslist its attorneys’ fees, costs and expenses in this action;
- (c) Granting such other and further relief as the Court deems just and proper.

DATED: April 29, 2010

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