

# **EXHIBIT B**

The Hon. Richard A. Jones

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UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

IMPLICIT NETWORKS INC.,

Plaintiff,

v.

INTERNATIONAL BUSINESS MACHINES  
CORPORATION, ORACLE CORPORATION,  
SAP AMERICA, INCORPORATED and  
ADOBE SYSTEMS INCORPORATED,

Defendants.

CASE NO. C08-01080-RAJ

ORACLE CORPORATION'S ANSWER  
TO IMPLICIT NETWORK'S  
ORIGINAL COMPLAINT

Defendant Oracle Corporation ("Oracle"), through its counsel, respectfully responds to the Original Complaint filed by Plaintiff, Implicit Networks, Inc. ("Plaintiff") as follows:

**I. THE PARTIES**

1. Answering Paragraph 1, Oracle is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies them.

2. Answering Paragraph 2, Paragraph 2 does not contain any allegations that are directed at Oracle, and therefore requires no answer.

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3. Answering Paragraph 3, Oracle admits that it a Delaware corporation with its corporate headquarters and principal place of business at 500 Oracle Parkway, Redwood City, California 94065. Oracle admits that it is qualified to do business in the state of Washington and has appointed Corporation Service Company, 701 Brazos Street, Suite 1050, Austin, Texas, 78701 as its agent for service of process.

4. Answering Paragraph 4, Paragraph 4 does not contain any allegations that are directed at Oracle, and therefore requires no answer.

5. Answering Paragraph 5, Paragraph 5 does not contain any allegations that are directed at Oracle, and therefore requires no answer.

**JURISDICTION & VENUE**

6. Answering Paragraph 6, Oracle admits that the Original Complaint purports to allege patent infringement under 35 U.S.C. §§ 1 *et seq.* Oracle denies that the Original Complaint properly states such claims, and specifically denies any wrongdoing or infringement. Oracle admits that the Original Complaint purports to base federal jurisdiction under 35 U.S.C. § 271 and 28 U.S.C. §§1338(a). Otherwise, this paragraph contains conclusions of law to which no answer is required.

7. Answering Paragraph 7, Paragraph 7 does not contain any allegations that are directed at Oracle, and therefore requires no answer.

8. Answering Paragraph 8, Oracle denies any wrongdoing or infringement and Oracle specifically denies that it has committed acts of direct or indirect infringement within this judicial district or anywhere else.

9. Answering Paragraph 9, Paragraph 9 does not contain any allegations that are directed at Oracle, and therefore requires no answer.

10. Answering Paragraph 10, Paragraph 10 does not contain any allegations that are directed at Oracle, and therefore requires no answer.

1           11.     Answering Paragraph 11, Oracle admits that Plaintiff purports to base  
2 venue under 28 U.S.C. §§ 1391(b) and 1400(b). Oracle denies that this District is the most  
3 convenient forum for adjudication of Plaintiff's claims.

4 **II.    COUNT I**

5                   **PATENT INFRINGEMENT AGAINST ALL DEFENDANTS**

6           12.     Answering Paragraph 12, Oracle admits that U.S. Patent No. 6,324,685  
7 (“the ’685 patent”) is attached to Plaintiff’s Original Complaint as Exhibit A and that on its face  
8 it is titled, “Applet Server that Provides Applets in Various Forms.” Oracle further admits that  
9 the face of the ’685 patent states that it was issued on November 27, 2001. Oracle denies all  
10 other allegation in this paragraph including that the ’685 patent was properly issued.

11           13.     Answering Paragraph 13, Oracle admits that U.S. Patent No. 6,976,248  
12 (“the ’248 patent”) is attached to Plaintiff’s Original Complaint as Exhibit B and that on its face  
13 it is titled, “Application Server Facilitating with Client’s Computer for Applets Along with  
14 Various Formats.” Oracle further admits that the face of the ’248 patent states that it was issued  
15 on December 13, 2005. Oracle denies all other allegations in this paragraph including that the  
16 ’248 patent was properly issued.

17           14.     Answering Paragraph 14, Oracle states that Paragraph 14 contains  
18 conclusions of law to which no answer is required.

19           15.     Answering Paragraph 15, Oracle admits that the faces of the ’248 and ’685  
20 patents only list Edward Balassanian as an inventor. Oracle denies that the ’248 and ’685 patents  
21 have been properly assigned to Plaintiff. Oracle is without sufficient knowledge or information  
22 regarding the other allegations of Paragraph 15 and therefore denies them.

23           16.     Answering Paragraph 16, Paragraph 16 does not contain any allegations  
24 that are directed at Oracle, and therefore requires no answer.

1           17.     Answering Paragraph 17, Oracle admits that it sells an offering called  
2 Oracle Application Server. Oracle denies all other allegation in this paragraph and specifically  
3 denies any wrongdoing or infringement.

4           18.     Answering Paragraph 18, Paragraph 18 does not contain any allegations  
5 that are directed at Oracle, and therefore requires no answer.

6           19.     Answering Paragraph 19, Paragraph 19 does not contain any allegations  
7 that are directed at Oracle, and therefore requires no answer.

8           20.     Answering Paragraph 20, Oracle denies that it has infringed either the  
9 '685 patent or the '248 patent and further denies that Plaintiff has been injured and is entitled to  
10 recover damages from Oracle.

11                                 **DEMAND FOR JURY TRIAL**

12           21.     Paragraph 21 demands a jury trial, and therefore requires no answer.

13 **III.   AFFIRMATIVE DEFENSES**

14           22.     Without altering the burdens of proof, Oracle asserts the following  
15 affirmative and other defenses. Oracle reserves the right to amend its answer with additional  
16 defenses as further information is obtained.

17                                 **FIRST AFFIRMATIVE DEFENSE**

18   **[INVALIDITY]**

19           23.     The claims of the patents-in-suit are invalid, unenforceable and/or void for  
20 failure to satisfy one of more of the requirements for patentability set forth in Title 35 of the  
21 United States Code, including without limitation 35 U.S.C. §§ 101, 102, 103, 112, 116, 282.

22                                 **SECOND AFFIRMATIVE DEFENSE**

23   **[NON-INFRINGEMENT]**

24           24.     Oracle alleges that it does not infringe and has not infringed, directly or  
25 indirectly, literally or by the doctrine of equivalents, any valid and enforceable claim of the '685  
26 or '248 patents.

1 **THIRD AFFIRMATIVE DEFENSE**

2 **[FAILURE TO PROVIDE NOTICE]**

3 25. Pursuant to the requirements of 35 U.S.C. § 287, Plaintiff is not entitled to  
4 any damages prior to the time it provided notice.

5 **FOURTH AFFIRMATIVE DEFENSE**

6 **[PROSECUTION HISTORY ESTOPPEL]**

7 26. Plaintiff's claims of patent infringement are barred in whole or in part by  
8 the doctrine of prosecution history estoppel.

9 **FIFTH AFFIRMATIVE DEFENSE**

10 **[28 U.S.C. § 1498]**

11 27. Oracle alleges that Plaintiff's claims of infringement are barred, in whole  
12 or in part, by 28 U.S.C. § 1498.

13 **SIXTH AFFIRMATIVE DEFENSE**

14 **[LACHES]**

15 28. Plaintiff is barred by the doctrine of laches from seeking any relief prior to  
16 filing this action.

17 **SEVENTH AFFIRMATIVE DEFENSE**

18 **[FAILURE TO STATE A CLAIM]**

19 29. Upon information and belief, Plaintiff's purported claims are barred  
20 because they fail to state claim upon which relief can be granted

21 WHEREFORE, Oracle denies that any of its products, services, or processes  
22 infringes any valid claim of the '248 or '685 patents identified in the Original Complaint and  
23 further denies that Plaintiff is entitled to any judgment against Oracle whatsoever. Oracle asks  
24 that the Original Complaint be dismissed with prejudice, that judgment be entered for Oracle,  
25 and that Oracle be awarded attorneys' fees incurred in defending against the Original Complaint,  
26 together with such other relief the Court deems appropriate.

1 **IV. COUNTERCLAIMS**

2 **JURISDICTION AND THE PARTIES**

3 30. Pursuant to Rule 13 of the Federal Rules of Civil Procedure, Oracle  
4 alleges the following counterclaims against Plaintiff. Oracle repeats and re-alleges the foregoing  
5 paragraphs to the extent they are applicable, as if fully set forth herein.

6 31. The following counterclaims for declaratory relief arise under the  
7 Declaratory Judgment Act and the Patent Laws of the United States, more particularly Title 28  
8 U.S.C. §§ 2201, 2202 and Title 35 U.S.C. §§ 41 *et seq.*, respectively. This Court has jurisdiction  
9 over the subject matter of these counterclaims under, without limitation, Title 28 U.S.C. §§ 1331,  
10 1338, 1367, 2201 and 2202.

11 32. To the extent that this action remains in this district, venue is appropriate  
12 because Plaintiff has consented to the propriety of venue in this Court by filing the present action  
13 for patent infringement in this Court, in response to which these counterclaims are asserted.

14 33. Plaintiff has submitted to the personal jurisdiction of this Court by  
15 bringing the present action.

16 34. Plaintiff also has filed this action without a good faith basis, making this  
17 an exceptional case. Consequently, Plaintiff is liable for any and all attorneys' fees, expenses  
18 and costs incurred by Oracle in connection with this baseless action by Plaintiff.

19 **COUNT 1**

20 **[NON-INFRINGEMENT- U.S. PATENT NO. 6,324,685]**

21 35. An actual and justiciable controversy exists between Oracle and Plaintiff  
22 as to Oracle's non-infringement of the '685 patent, as evidenced by Plaintiff's Original  
23 Complaint and Oracle's Answer to Plaintiff's Original Complaint.

24 36. Oracle does not infringe any claim of the '685 patent and believes that  
25 Plaintiff's Complaint has been filed without good cause.

26 37. Oracle requests that this Court enter a judgment that Oracle does not

1 infringe, and has not infringed any claim of the '685 patent.

2 **COUNT 2**

3 **[NON-INFRINGEMENT - U.S. PATENT NO. 6,976,248]**

4 38. An actual and justiciable controversy exists between Oracle and Plaintiff  
5 as to Oracle's non-infringement of the '248 patent, as evidenced by Plaintiff's Original  
6 Complaint and Oracle's Answer to Plaintiff's Original Complaint.

7 39. Oracle does not infringe any claim of the '248 patent and believes that  
8 Plaintiff's Original Complaint has been filed without good cause.

9 40. Oracle requests that this Court enter a judgment that Oracle does not  
10 infringe, and has not infringed any claim of the '248 patent.

11 **COUNT 3**

12 **[INVALIDITY - U.S. PATENT NO. 6,324,685]**

13 41. An actual and justiciable controversy exists between Oracle and Plaintiff  
14 as to the validity of the '685 patent, as evidenced by Plaintiff's Original Complaint and Oracle's  
15 Answer to Plaintiff's Original Complaint.

16 42. The claims of the '685 patent are invalid for failure to comply with one or  
17 more of the conditions and requirements of patentability set forth in Title 35 of the United States  
18 Code, including without limitation 35 U.S.C. §§ 41, 101, 102, 103, 112, 116 and/or 282.

19 43. Oracle is entitled to judgment from this Court finding that the '685 patent  
20 is invalid pursuant to Title 35 of the United States Code, including without limitation pursuant to  
21 35 U.S.C. §§ 41, 101, 102, 103, 112, 116 and/or 282.

22 **COUNT 4**

23 **[INVALIDITY - U.S. PATENT NO. 6,976,248]**

24 44. This counterclaim for declaratory relief arises under the Declaratory  
25 Judgment Act and the Patent Laws of the United States, more particularly Title 28 U.S.C. §§  
26 2201, 2202 and Title 35 U.S.C. §§ 41 *et seq.*, respectively. This Court has jurisdiction under



1 Title 28 U.S.C. §§ 1331, 1338 and 2201.

2 45. An actual and justiciable controversy exists between Oracle and Plaintiff  
3 as to the validity of the '248 patent, as evidenced by Plaintiff's Original Complaint and Oracle's  
4 Answer to Plaintiff's Original Complaint.

5 46. The claims of the '248 patent are invalid for failure to comply with one or  
6 more of the conditions and requirements of patentability set forth in Title 35 of the United States  
7 Code, including without limitation 35 U.S.C. §§ 41, 101, 102, 103, 112, 116 and/or 282.

8 47. Oracle is entitled to judgment from this Court finding that the '248 patent  
9 is invalid pursuant to Title 35 of the United States Code, including without limitation pursuant to  
10 35 U.S.C. §§ 41, 101, 102, 103, 112, 116 and/or 282.

11 WHEREFORE, Oracle prays for relief as follows:

12 A. That the '685 and '248 patents, and every claim thereof, be declared not  
13 infringed and invalid.

14 B. That Plaintiff takes nothing by its Original Complaint and that the Original  
15 Complaint be dismissed with prejudice.

16 C. That, pursuant to 35 U.S.C. § 285, Fed. R. Civ. P. 11, and/or other  
17 applicable authority, the Court find that Plaintiff's conduct in commencing and pursuing this  
18 actions renders this an exceptional case and that Oracle be awarded its attorneys' fees incurred in  
19 connection with this action; and

20 D. That Oracle be awarded such other relief as the Court shall deem just and  
21 reasonable.

22 DATED this 10<sup>th</sup> day of November, 2008.

Respectfully submitted,

23 /s/ Rudy A. Englund WSBA #04123

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Attorneys for Oracle Corporation

**CERTIFICATE OF SERVICE**

1  
2 I hereby certify that on November 10, 2008, I electronically filed the foregoing with  
3 the Clerk of the Court using the CM/ECF system which will send notification of the filing to  
4 counsel of record.

5  
6 /s/ Rudy A. Englund WSBA #04123  
7 Rudy A. Englund  
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