

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

XEROX CORPORATION,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 10-136 (JJF) (MPT)
)	
GOOGLE INC., YAHOO! INC., RIGHT)	
MEDIA INC., RIGHT MEDIA LLC,)	
YOUTUBE, INC. and YOUTUBE, LLC,)	
)	
Defendants.)	

RIGHT MEDIA DEFENDANTS' ANSWER AND COUNTERCLAIMS

Defendant Right Media LLC (“Right Media”) files the following answer, affirmative defenses and counterclaims to the Amended Complaint for Patent Infringement (“Amended Complaint”) filed in this action by Xerox Corporation (“Xerox”) on March 29, 2010.¹

ANSWER

1. Right Media admits that Xerox purports to bring an action for patent infringement. To the extent that any allegation in paragraph 1 of the Amended Complaint is intended as a basis for liability as to Right Media, however, it is denied.

2. On information and belief, Right Media admits that Xerox is a provider of document-management products and services. Right Media lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 2 of the Amended Complaint and, on that basis, denies such allegations.

¹ Right Media files this pleading on its own behalf and as the successor in interest to Right Media Inc., which no longer exists.

3. On information and belief, Right Media admits that Google has a principal place of business at 1600 Amphitheatre Parkway in Mountain View, California, and that Google is a provider of internet search and advertising services. Right Media lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 3 of the Amended Complaint and, on that basis, denies such allegations.

4. Right Media admits the allegations of paragraph 4 of the Amended Complaint.

5. Right Media admits that Right Media LLC is a limited liability company organized and existing under the laws of Delaware, has a principal place of business at 45 West 18th Street, New York, NY 10011, and is a provider of internet advertising services. Right Media avers that Right Media LLC is the successor in interest to Right Media Inc. and that Right Media Inc. no longer exists as a corporation. Except as admitted or averred, Right Media denies the allegations of paragraph 5 of the Amended Complaint.

6. Right Media lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6 of the Amended Complaint and, on that basis, denies such allegations.

7. Right Media admits that Xerox purports to bring an action under the patent laws of the United States of America, 35 U.S.C. § 1 *et seq.*, and that this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a). To the extent that any allegation in paragraph 7 of the Amended Complaint is intended as a basis for liability as to Right Media, however, it is denied.

8. Right Media admits that Yahoo! and Right Media LLC are organized under the laws of Delaware and subject to personal jurisdiction in Delaware. To the extent the

remaining allegations of paragraph 8 of the Amended Complaint are not directed to Right Media, no answer is required. Right Media denies all other allegations of paragraph 8.

9. Right Media admits that venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and (c) and 28 U.S.C. § 1400(b).

10. Right Media incorporates by reference the answers contained in paragraphs 1 through 9.

11. Right Media admits that a document purporting to be United States Patent No. 6,778,979 (the “‘979 Patent”) is attached to the Amended Complaint as Exhibit A. Right Media admits that the ‘979 Patent, on its face, is titled “System for Automatically Generating Queries,” names as inventors Gregory T. Grefenstette and James G. Shanahan, names Xerox as assignee, and is dated August 17, 2004. Right Media lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 11 of the Amended Complaint and therefore denies them.

12. To the extent the allegations of paragraph 12 of the Amended Complaint purport to describe the ‘979 Patent, Right Media refers to the ‘979 Patent for its content. Otherwise, Right Media denies the allegations of paragraph 12.

13. The allegations in paragraph 13 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

14. The allegations in paragraph 14 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

15. The allegations in paragraph 15 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

16. The allegations in paragraph 16 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

17. The allegations in paragraph 17 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

18. Right Media incorporates by reference the answers contained in paragraphs 1 through 17.

19. Right Media admits that a document purporting to be United States Patent No. 6,236,994 (the “‘994 Patent”) is attached to the Amended Complaint as Exhibit B. Right Media admits that the ‘994 Patent, on its face, is titled “Method and Apparatus for the Integration of Information and Knowledge,” names as inventors Ronald M. Swartz, Jeffrey L. Winkler, Evelyn A. Janos, Igor Markidan and Qun Dou, names Xerox as assignee, and is dated May 22, 2001. Right Media lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 19 of the Amended Complaint and therefore denies them.

20. To the extent the allegations of paragraph 20 of the Amended Complaint purport to describe the ‘994 Patent, Right Media refers to the ‘994 Patent for its content. Otherwise, Right Media denies the allegations of paragraph 20.

21. The allegations in paragraph 21 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

22. The allegations in paragraph 22 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

23. The allegations in paragraph 23 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

24. The allegations in paragraph 24 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

25. The allegations in paragraph 25 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

26. The allegations in paragraph 26 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

27. Right Media incorporates by reference the answers contained in paragraphs 1 through 26.

28. The allegations in paragraph 28 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

29. The allegations in paragraph 29 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

30. The allegations in paragraph 30 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

31. The allegations in paragraph 31 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

32. The allegations in paragraph 32 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

33. Right Media incorporates by reference the answers contained in paragraphs 1 through 32.

34. The allegations in paragraph 34 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

35. The allegations in paragraph 35 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

36. The allegations in paragraph 36 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

37. The allegations in paragraph 37 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

38. The allegations in paragraph 38 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

39. The allegations in paragraph 39 of the Amended Complaint are not directed to Right Media, and therefore no answer is required.

40. Right Media incorporates by reference the answers contained in paragraphs 1 through 39.

41. Right Media admits that it offers Right Media Exchange. Right Media denies that it infringes any claim of the '979 patent. Right Media denies that it makes and uses services, facilities and/or software that "automatically generate queries based on the content of web pages to retrieve related advertisements and/or other content" to the extent that description in paragraph 41 of the Amended Complaint is intended to be a description of the claims of the '979 patent. Except as admitted, Right Media denies the allegations of paragraph 41. To the extent any allegation in paragraph 41 is intended as a basis for liability as to Right Media, it is denied.

42. Right Media denies the allegations of paragraph 42 of the Amended Complaint.

43. Right Media denies the allegations of paragraph 43 of the Amended Complaint.

44. Right Media admits that it has knowledge of the '979 patent as of the date of filing of the Amended Complaint in this case. Right Media denies the remaining allegations of paragraph 44 of the Amended Complaint.

45. Right Media denies the allegations of paragraph 45 of the Amended Complaint.

46. Right Media incorporates by reference the answers contained in paragraphs 1 through 45.

47. The allegations in paragraph 47 are not directed to Right Media, and therefore no answer is required.

48. The allegations in paragraph 48 are not directed to Right Media, and therefore no answer is required.

49. The allegations in paragraph 49 are not directed to Right Media, and therefore no answer is required.

50. The allegations in paragraph 50 are not directed to Right Media, and therefore no answer is required.

51. The allegations in paragraph 51 are not directed to Right Media, and therefore no answer is required.

52. Right Media avers that it seeks a finding that this is an exceptional case in support of an order requiring Xerox to pay Right Media's attorneys' fees pursuant to 35 U.S.C. § 285. Except as averred, Right Media denies the allegations in paragraph 52 of the Amended Complaint.

GENERAL DENIAL

Right Media denies each and every allegation of Xerox's Amended Complaint that herein has been neither admitted nor controverted.

DEFENSES

Right Media asserts the following defenses to Xerox's Amended Complaint:

First Defense

Right Media has not directly infringed, literally or under the doctrine of equivalents, contributed to the infringement of, or induced the infringement of any claim of the '979 Patent.

Second Defense

The '979 Patent is invalid for failure to comply with the requirements of the United States patent laws, Title 35 United States Code, including but not limited to Sections 101, 102, 103, 112, and/or 116 thereof.

Third Defense

To the extent that Xerox's alleged cause of action for infringement of the '979 Patent is based upon the doctrine of equivalents, it is barred under the doctrine of prosecution history estoppel and/or other limits to the doctrine of equivalents, and Xerox is estopped from claiming that the '979 Patent covers any accused Right Media method, system, apparatus, and/or product.

Fourth Defense

On information and belief, all or a portion of the relief sought by Xerox is barred by Title 35 United States Code Section 287 on account of Xerox's failure to comply with that section's marking requirement.

COUNTERCLAIMS

For its counterclaims against Xerox, Right Media alleges as follows:

1. Counterclaim plaintiff Right Media LLC (“Right Media”) is a corporation organized under the laws of the State of Delaware, with its principal place of business at 45 West 18th Street, New York, NY 10011.

2. Counterclaim defendant Xerox Corporation (“Xerox”) alleges that it is a corporation organized under the laws of the State of New York, with its principal place of business at 45 Glover Avenue, Norwalk, Connecticut 06850.

JURISDICTION AND VENUE

3. Right Media’s counterclaims arise under the patent laws of the of the United States, Title 35 of the United States Code, and the Declaratory Judgment provisions of §§ 2201 and 2202 of Title 28 of the United States Code. This Court’s jurisdiction over the subject matter of Right Media’s counterclaims is based on 28 U.S.C. §§ 1331, 1338(a) and the Declaratory Judgment Act.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because Xerox’s assertion of its patent infringement claim against Right Media in this District gave rise to Right Media’s counterclaims, and because Xerox has consented to personal jurisdiction in the State of Delaware and in this District by bringing the present action.

COUNT I – DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF U.S. PATENT NO. 6,778,979 (the ‘979 Patent)

5. Right Media restates and re-alleges the allegations set forth in paragraphs 1-4 above and incorporates them by reference.

6. Right Media has not directly infringed, contributed to the infringement, and/or induced the infringement of any claim of the '979 Patent and is entitled to a declaratory judgment to that effect pursuant to 28 U.S.C. §§ 2201-2202.

**COUNT II – DECLARATORY JUDGMENT OF INVALIDITY OF U.S.
PATENT NO. 6,778,979 (the '979 Patent)**

7. Right Media restates and re-alleges the allegations set forth in paragraphs 1-6 above and incorporates them by reference.

8. The '979 Patent is invalid by reason of its having been issued in violation of the U.S. patent laws, Title 35 of the United States Code, including but not limited to violations of Sections 101, 102, 103, 112 and/or 116 thereof.

DEMAND FOR JURY

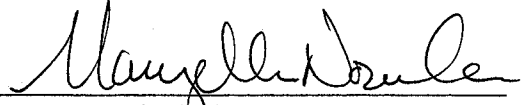
If this matter proceeds to trial, Right Media demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Right Media respectfully requests the following relief:

1. That Xerox's Complaint be dismissed with prejudice against Right Media in its entirety;
2. That judgment be entered for Right Media and that Xerox take nothing;
3. That each and every claim of United States Patent No. 6,778,979 be declared invalid and/or not infringed by Right Media;
4. That Xerox be ordered to pay Right Media's costs of suit in this action;
5. That this case be declared exceptional and Xerox be ordered to pay Right Media's attorneys' fees in this action pursuant to 35 U.S.C. § 285; and
6. That Right Media be awarded such other relief as this Court deems just and proper.

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April 19, 2010

CERTIFICATE OF SERVICE

I hereby certify that on April 19, 2010, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to:

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John G. Day, Esquire
Lauren E. Maguire, Esquire
ASHBY & GEDDES

Richard L. Horwitz, Esquire
David E. Moore, Esquire
POTTER ANDERSON & CORROON LLP

I further certify that I caused copies of the foregoing document to be served on April 19, 2010, upon the following in the manner indicated:

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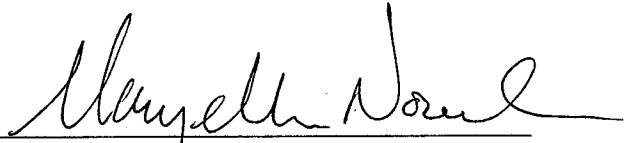
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A handwritten signature in black ink, appearing to read "Maryellen Noreika", written over a horizontal line.

Maryellen Noreika (#3208)