

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GROUPON INC.,)	
)	Civil Action No. 10-CV-07456
PLAINTIFF,)	
)	Hon. William J. Hibbler
v.)	
MOBGOB LLC.,)	
)	
DEFENDANT.)	
)	
)	
)	

**GROUPON, INC'S ANSWER TO MOBGOB, LLC'S COUNTERCLAIMS SEEKING
A DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY**

Pursuant to Rule 12(a)(1)(B) of the Federal Rules of Civil Procedure, Plaintiff Groupon, Inc. ("Groupon") hereby answers Defendant MobGob LLC's ("MobGob") counterclaims as follows:

22. MobGob brings these Counterclaims against Groupon pursuant to Rule 13 of the Federal Rules of Civil Procedure, and alleges as follows. All preceding paragraphs of this Answer are incorporated in full.

ANSWER: Groupon admits that MobGob brings its Counterclaims against Groupon pursuant to Rule 13 of the Federal Rules of Civil Procedure. Groupon incorporates all paragraphs of its Complaint, and denies any allegations of this paragraph to the contrary.

23. MobGob is a limited liability corporation organized under the laws of the State of California and having a place of business at 12100 Wilshire Blvd., Los Angeles, CA 90025.

ANSWER: Groupon lacks knowledge or information sufficient to form a belief as to whether MobGob is a limited liability corporation organized under the laws of the State of California and having a place of business at 12100 Wilshire Blvd., Los Angeles, CA 90025.

24. Upon information and belief, Groupon is a corporation organized under the laws of the State of Delaware and having a place of business at 600 West Chicago Ave., Chicago, IL 60654.

ANSWER: Admitted.

25. These are claims for a declaratory judgment of non-infringement and invalidity with respect to the '343 Patent.

ANSWER: Groupon admits that MobGob's Counterclaims seek a declaration that MobGob has not infringed, either directly or indirectly, any of the claims of the '343 Patent, either literally or under the doctrine of equivalents in part (b) of the prayer for relief. Groupon further admits that MobGob's Counterclaims seek a declaration that the '343 Patent is invalid in part (c) of the prayer for relief. Groupon denies any and all remaining allegations in this paragraph.

26. The Court has subject matter jurisdiction over these counterclaims pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202 because an actual, justiciable controversy exists between MobGob and Groupon. In particular, Groupon has filed a Complaint alleging that MobGob is infringing the '343 Patent, and MobGob denies Groupon's material allegations.

ANSWER: Admitted.

27. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)(2) and 1391(c) because, among other things, Groupon has filed a Complaint against MobGob in this judicial district.

ANSWER: Admitted.

28. This Court has personal jurisdiction over Groupon.

ANSWER: Admitted.

29. MobGob incorporates by reference all preceding paragraphs of its Answer and Counterclaims as if set forth fully herein.

ANSWER: Groupon incorporates by reference its response to each preceding paragraph of this Answer and each paragraph of its Complaint as if set for fully herein.

30. Groupon alleges that it is the owner of the '343 Patent.

ANSWER: Groupon admits that it is the owner of the '343 Patent.

31. MobGob has not infringed, either directly or indirectly, any of the claims of the '343 Patent, either literally or under the doctrine of equivalents.

ANSWER: Denied.

32. MobGob incorporates by reference all preceding paragraphs of its Answer and Counterclaims as if set forth fully herein.

ANSWER: Groupon incorporates by reference its response to each preceding paragraph of this Answer and each paragraph of its Complaint as if set for fully herein.

33. The '343 Patent is invalid for failing to comply with one or more provisions of Title 35 of the United States Code, including without limitation, 35 U.S.C. §§ 101-103 and 112. The claims of the patent-in-suit are invalid pursuant to 35 U.S.C. § 101 because Plaintiff's claims relate to the implementation of abstract ideas, attempting to cover the mental process of aggregating demand for the purchase of a product using

the specific method disclosed in the patent-in-suit. The claims of the patent-in-suit are invalid pursuant to 35 U.S.C. § 102 because the following prior art references anticipate each asserted claim of the patent-in-suit:

- U.S. Patent No. 5,063,507
- U.S. Patent No. 5,710,886
- U.S. Patent No. 5,793,207
- U.S. Patent No. 5,826,244
- U.S. Patent No. 5,835,896
- U.S. Patent No. 5,845,266
- U.S. Patent No. 6,000,826
- U.S. Patent No. 6,078,897
- U.S. Patent No. 6,085,169
- U.S. Patent No. 6,119,100
- U.S. Patent No. 6,356,878
- U.S. Patent No. 6,381,587
- U.S. Patent No. 6,484,153
- U.S. Patent No. 6,553,346
- U.S. Patent No. 6,704,713
- U.S. Patent No. 7,133,835
- U.S. Patent No. 7,472,074
- U.S. Patent No. 7,664,672
- U.S. Patent No. 7,693,748
- U.S. Patent Application Publication No. 11/426,809

To the extent that these references do not anticipate an asserted claim of the patent-in-suit, pursuant to 35 U.S.C. § 103, a combination of two or more of the references renders each asserted claim obvious. The claims of the patent-in-suit are also invalid pursuant to

35 U.S.C. § 112 ¶1 as lacking written description and/or enablement support. They are also invalid pursuant to 35 U.S.C. § 112 ¶2 because, for example, they recite one or more mental steps.

ANSWER: Denied.

PRAYER FOR RELIEF

Wherefore, Groupon prays for judgment on MobGob's Counterclaims as follows:

- A. For dismissal of MobGob's Counterclaims with prejudice;
- B. For judgment in favor of Groupon in all respects;
- C. For a determination that this is an exceptional case under 35 U.S.C. § 285, and an award of attorneys' fees and costs to Groupon in this action; and
- D. For such other relief as the Court deems just.

Dated: June 21, 2011

Respectfully submitted,

Groupon, Inc.

s/ Kyle Davis
One of its Attorneys

Steven McMahon Zeller
SZeller@dykema.com
Kyle A. Davis
KDavis@dykema.com
Dykema Gossett PLLC
10 South Wacker Drive, Suite 2300
Chicago, Illinois 60606
Telephone: (312) 876-1700
Fax: (866) 562-8083