

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ONE NUMBER CORPORATION,)	
)	
Plaintiff/Counterdefendant)	
)	CASE NO: 1:10-CV-0312-RLY-TAB
)	
vs.)	
)	
GOOGLE, INC.)	
)	
Defendant/Counterplaintiff)	

**ONE NUMBER CORPORATION'S
ANSWER TO GOOGLE, INC.'S COUNTERCLAIMS**

One Number Corporation ("One Number"), by counsel, for its Answer to the Counterclaims of Google, Inc. ("Google"), states:

PARTIES

(1) Counterclaimant Google is a corporation organized and existing under the laws of the State of Delaware, and having a place of business at 1600 Amphitheatre Parkway, Mountain View, California 94043.

ANSWER: One Number admits that Google has represented to this Court that it is a Delaware Corporation with its principal place of business in Mountain View, California. One Number lacks sufficient information to form a belief as to the truth or falsity of the remaining allegations set forth in Paragraph 1 of the Counterclaims, and therefore denies them.

(2) Upon information and belief, counterclaim defendant One Number is a corporation organized and existing under the laws of the State of Indiana, with its principal place of business at 2701 Enterprise Drive, Suite 207, Anderson, Indiana 46013.

ANSWER: One Number admits that it is an Indiana Corporation having a mailing address of 2701 Enterprise Drive, Suite 207, Anderson, Indiana 46013. Except as expressly admitted, One Number denies the allegations contained in this paragraph.

JURISDICTION AND VENUE

(3) The counterclaims include claims for declaratory judgment of patent noninfringement and patent invalidity, and jurisdiction is proper under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq.*, concerning actions related to patents, and 28 U.S.C. §§ 1331, 1332 and 1338.

ANSWER: Admitted.

(4) Venue is proper in this Court for these Counterclaims under 28 U.S.C. §§ 1391 and 1400(b).

ANSWER: Admitted.

(5) This Court has personal jurisdiction over One Number because One Number's principal place of business is located in this District and by virtue of One Number's filing of the Complaint against Google in this Court.

ANSWER: Admitted.

GENERAL ALLEGATIONS

(6) On March 16, 2010, One Number filed a Complaint against Google for infringement of U.S. Patent No. 7,440,565 ("the '565 Patent") and U.S. Patent No. 7,680,256 ("the '256 Patent").

ANSWER: Admitted.

(7) An actual and justiciable controversy has arisen and presently exists between the parties to which Google desires a declaration of rights pursuant to 28 U.S.C. § 2201(a) and Rule 57 of the Federal Rules of Civil Procedure.

ANSWER: One Number admits that an actual and justiciable controversy has arisen and presently exists between the parties as it relates to Google's infringement of the '565 Patent and the '256 Patent. Except as expressly admitted, One Number denies the remaining allegations contained in this paragraph.

COUNT I:

REQUEST FOR DECLARATORY JUDGMENT OF NONINFRINGEMENT OF THE '565 PATENT

(8) Google realleges and incorporates by reference the allegations set forth in paragraphs 1-7 above.

ANSWER: In responding to Paragraph 8, One Number incorporates by reference its answers to Paragraphs 1-7 above.

(9) Google does not and has not infringed, contributed to the infringement of, or induced infringement of any valid claim of the '565 Patent, individually, jointly, under the Doctrine of Equivalents, or under any theory.

ANSWER: Denied.

(10) Google is entitled to a declaratory judgment that it is not infringing any valid claim of the '565 Patent literally, under the doctrine of Equivalents, directly, indirectly, or jointly, or that it has not contributed to or induced the infringement of any valid claim of the '565 Patent. Google further seeks judgment declaring, under the Patent Laws of the United States, that Google has not previously infringed the '565 Patent literally, under the Doctrine of Equivalents, directly, indirectly, or jointly, or contributed to or induced the infringement of any valid claim of the '565 Patent.

ANSWER: Denied.

COUNT II:

REQUEST FOR DECLARATORY JUDGMENT OF INVALIDITY OF THE '565 PATENT

(11) Google realleges and incorporates by referenced the allegations set forth in paragraphs 1-10 above.

ANSWER: In responding to Paragraph 11, One Number incorporates by reference its answers to Paragraphs 1-10 above.

(12) The claims of the '565 Patent are invalid for failure to comply with the provisions of the Patent Laws, 35 U.S.C. §§ 1, *et seq.*, including, but not limited to, one or more of 35 U.S.C. §§ 101, 102, 102 and/or 112.

ANSWER: Denied.

(13) Google is entitled to declaratory judgment that the claims of the '565 Patent are invalid.

ANSWER: Denied.

COUNT III:

**REQUEST FOR DECLARATORY JUDGMENT OF NONINFRINGEMENT OF
THE '256 PATENT**

(14) Google realleges and incorporates by reference the allegations set forth in paragraphs 1-13 above.

ANSWER: In responding to Paragraph 14, One Number incorporates by reference its answers to Paragraphs 1-13 above.

(15) Google does not and has not infringed, contributed to the infringement of, or induced infringement of any valid claim of the '256 Patent, individually, jointly, under the Doctrine of Equivalents, or under any theory.

ANSWER: Denied.

(16) Google is entitled to a declaratory judgment that it is not infringing any valid claim of the '256 Patent literally, under the Doctrine of Equivalents, directly, indirectly, or jointly, or that it has not contributed to or induced the infringement of any valid claim of the '256 Patent. Google further seeks judgment declaring, under the Patent Laws of the United States, that Google has not previously infringed the '256 Patent literally, under the Doctrine of Equivalents, directly, indirectly, or jointly, or contributed to or induced the infringement of any valid claim of the '256 Patent.

ANSWER: Denied.

COUNT IV:

**REQUEST FOR DECLARATORY JUDGMENT OF INVALIDITY OF THE '256
PATENT**

(17) Google realleges and incorporates by reference the allegations set forth in paragraphs 1-16 above.

ANSWER: In responding to Paragraph 17, One Number incorporates by reference its answers to Paragraphs 1-16 above.

(18) The claims of the '256 Patent are invalid for failure to comply with the provisions of the Patent laws, 35 U.S.C. §§ 1, *et seq.*, including, but not limited to, one or more of 35 U.S.C. §§ 101, 102, 103, and/or 112.

ANSWER: Denied.

(19) Google is entitled to a declaratory judgment that the claims of the '256 Patent are invalid.

ANSWER: Denied.

PRAYER FOR RELIEF

WHEREFORE, One Number respectfully prays that this Court:

(A) Enter judgment in favor of One Number and against Google as to all counts in its Counterclaim;

(B) Award One Number monetary damages for Google's infringement of the '565 Patent and '256 Patent;

(C) Adjudge and declare that Google has infringed, and is infringing the '565 Patent;

(D) Adjudge and declare that Google has infringed, and is infringing the

'256 Patent;

(E) Adjudge and declare that Google has willfully infringed, and is willfully infringing, the '565 Patent;

(F) Adjudge and declare that Google has willfully infringed, and is willfully infringing, the '256 Patent;

(G) Adjudge and declare that the claims of the '565 Patent are valid;

(H) Adjudge and declare that the claims of the '256 Patent are valid;

(I) Permanently enjoin Google, its successors and assigns, and anyone acting in concert therewith or on its behalf, from infringing the '565 Patent and/or the '256 Patent;

(J) Award One Number its costs and, if merited by the evidence, declare this case exceptional and award to One Number its attorneys' fees and all recoverable costs and expenses pursuant to 35 U.S.C. § 285; and

(K) Award to One Number any other relief to which One Number is entitled.

DEMAND FOR JURY TRIAL

One Number demands a trial by jury on all issues in this case that may be properly submitted to a jury.

Respectfully submitted,

/s/ Alastair J. Warr

Alastair J. Warr Attorney No. 15873-49
Dean E. McConnell Attorney No. 20254-49
Scott S. Morrisson Attorney No. 11633-49
Birk K. Billingsley Attorney No. 28365-49

KRIEG DeVAULT LLP
One Indiana Square, Suite 2800
Indianapolis, IN 46204-2079
Phone: (317) 636-4341
FAX: (317) 636-1507

Attorneys for One Number Corporation

Dated: August 11, 2010

CERTIFICATE OF SERVICE

Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system on August 11, 2010. Parties may access this filing through the Court's system.

Todd G. Vare
Jeff M. Barron
Jennifer Schuster
Barnes & Thornburg LLP
tvare@btlaw.com
jbarron@btlaw.com
jschuster@btlaw.com

/s/ Alastair J. Warr

Alastair J. Warr

KD_2915768_2.DOC