

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

BRIGHT RESPONSE, LLC  
F/K/A POLARIS IP, LLC,

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§

Civil Action No. 2:07-CV-371-TJW-CE

v.

GOOGLE, INC., et al

**PLAINTIFF'S REPLY TO THE COUNTERCLAIMS OF AOL LLC  
AND AMERICA ONLINE, INC.**

Plaintiff responds to the counterclaims of AOL LLC and America Online, Inc. filed on August 20, 2008, as follows:

**III. COUNTERCLAIMS**

**A. Nature of Counterclaim**

1. Plaintiff admits that Defendant purports to bring a counterclaim in the form of an action for declaratory judgment of non-infringement, invalidity and unenforceability of U.S. Patent No. 6,411,947. Plaintiff denies, however, that Defendant's counterclaim has any factual or legal basis.

**B. Parties**

2. The allegations in paragraph number 2 are admitted.
3. Upon information and belief, Plaintiff admits the allegations in paragraph number 3.
4. Upon information and belief, Plaintiff admits the allegations in paragraph number 4.

**C. Jurisdiction**

5. Plaintiff admits that Defendant purports to bring counterclaim in the form of an action for declaratory judgment, but denies that Defendant's counterclaim has any factual or legal basis. Plaintiff admits that jurisdiction is proper in this Court.

6. The allegations in paragraph number 6 are admitted.

7. The allegations in paragraph number 7 are admitted.

**D. Venue**

8. The allegations in paragraph number 8 are admitted.

**E. Controversy**

9. The allegations in paragraph number 9 are admitted.

10. The allegations in paragraph number 10 are admitted.

11. The allegations in paragraph number 11 are denied.

**F. First Counterclaim (Declaration of Non-infringement of the '947 Patent)**

12. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 11 above.

13. The allegations in paragraph number 13 are denied.

14. Plaintiff admits that Defendant purports to bring counterclaim in the form of an action for declaratory judgment of non-infringement. However, Plaintiff denies that Defendant's counterclaim has any factual or legal basis.

**G. Second Counterclaim (Declaration of Invalidity of the '947 Patent)**

15. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 14 above.

16. The allegations in paragraph number 16 are denied.

17. Plaintiff admits that Defendant purports to bring counterclaim in the form of an action for declaratory judgment of invalidity. However, Plaintiff denies that Defendant's counterclaim has any factual or legal basis.

**H. Third Counterclaim (Declaration of Unenforceability of the '947 Patent)**

18. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 17 above.

19. Plaintiff lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph number 19.

20. Plaintiff lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 20.

21. The allegations in paragraph number 21 are denied.

22. Plaintiff admits that Defendant purports to bring counterclaim in the form of an action for declaratory judgment of unenforceability. However, Plaintiff denies that Defendant's counterclaim has any factual or legal basis.

**I. Fourth Counterclaim (Declaration of Unenforceability of the '947 Patent)**

23. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 22 above.

24. The allegations in paragraph number 24 are admitted.

25. Plaintiff admits that a number of references were cited to the USPTO by the applicants and/or their attorneys during the prosecution of the '074 Application and in a November 25, 1997 Information Disclosure Statement. Plaintiff denies the remaining allegations of paragraph number 24.

26. The allegations in paragraph number 26 are denied.

27. The allegations in paragraph number 27 are denied.

28. Plaintiff admits that Defendant purports to bring counterclaim in the form of an action for declaratory judgment of unenforceability. However, Plaintiff denies that Defendant's counterclaim has any factual or legal basis

**REQUEST FOR RELIEF**

Although no answer is required to Defendant's prayer for relief, Plaintiff denies all allegations in subparagraphs (a) through (l) and further denies that any relief should be granted to Defendant whatsoever.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury on all matters raised by Defendant's counterclaims and by Plaintiff in its Original Complaint (and any supplements or amendments thereto), for which trial by jury is appropriate.

Respectfully submitted,

/s/ Michael T. Cooke  
Jonathan T. Suder  
Karolyne Hu Cheng  
FRIEDMAN SUDER & COOKE  
604 East 4<sup>th</sup> Street, Suite 200  
Fort Worth, Texas 76102  
Telephone: (817) 334-0400  
Fax: (817) 334-0401  
[jts@fsclaw.com](mailto:jts@fsclaw.com)  
[mtc@fsclaw.com](mailto:mtc@fsclaw.com)  
[cheng@fsclaw.com](mailto:cheng@fsclaw.com)

Patrick Rolf Anderson  
PATRICK R. ANDERSON PLLC  
4225 Miller Rd., Bldg. B-9, Suite 358  
Flint, MI 48507  
Ph. 517-303-4806  
Fax 248-928-9239  
[patrick@prapllc.com](mailto:patrick@prapllc.com)

John J. Edmonds  
Texas State Bar No. 00789758

THE EDMONDS LAW FIRM, PC  
709 Sabine St., Houston, TX 77007  
431 N. Center St., Longview, TX 75606  
Ph. 713-858.3320  
Fax: 832-415.2535  
[johnedmonds@edmondslegal.com](mailto:johnedmonds@edmondslegal.com)

Daniel Francisco Perez  
THE PEREZ LAW FIRM  
6131 Park Lane  
Dallas, TX 75225  
Ph. (214) 289-6659  
Fax: (214) 521-1128  
[dan@pereziplaw.com](mailto:dan@pereziplaw.com)

David Michael Pridham  
LAW OFFICE OF DAVID PRIDHAM  
25 Linden Road  
Barrington, RI 02806  
Ph. 401-633-7247  
Fax: 401-633-7247  
Cell (401) 368-4607  
[david@pridhamiplaw.com](mailto:david@pridhamiplaw.com)

Andrew Wesley Spangler  
SPANGLER LAW P.C.  
208 N. Green St, Suite 300  
Longview, Texas 75601  
Ph. 903-753-9300  
Fax: 903-553-0403  
Cell: 903-237-8388  
[spangler@spanglerlawpc.com](mailto:spangler@spanglerlawpc.com)

Kajeer Yar  
KAJEER YAR LAW FIRM  
2651 East 66th Street  
Tulsa, OK 74136  
Ph. (918) 292-8158  
Fax: (918) 292-8158  
[kyar@yarlawfirm.com](mailto:kyar@yarlawfirm.com)

ATTORNEYS FOR PLAINTIFF

## **CERTIFICATE OF SERVICE**

I hereby certify that on the 8th day of September, 2008, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Eastern District of Texas, Marshall Division, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ Michael T. Cooke

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