

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

PERFORMANCE PRICING, INC.,

Plaintiff,

v.

GOOGLE INC., AOL LLC, MICROSOFT
CORPORATION, YAHOO! INC.,
IAC SEARCH & MEDIA, INC., and
A9.COM, INC.,

Defendants.

Case No. 2:07-cv-432 (LED)

JURY TRIAL DEMANDED

PLAINTIFF AND COUNTERDEFENDANT PERFORMANCE PRICING, INC.'S

REPLY TO COUNTERCLAIMS OF DEFENDANT MICROSOFT CORPORATION

Plaintiff Performance Pricing, Inc. ("Performance Pricing") hereby answers the counterclaims of Defendant Microsoft Corporation ("Microsoft"). The paragraphs in this reply are numbered to correspond with the paragraph numbers in Microsoft's counterclaims. All of the allegations of the counterclaims not specifically admitted herein are specifically denied.

NATURE OF THIS ACTION

1. Performance Pricing denies the allegations contained in paragraph 1 of Microsoft's counterclaims, except to the extent that it admits that Microsoft bring a declaratory judgment action.

PARTIES

2. Performance Pricing admits the allegations contained in paragraph 2 of Microsoft's counterclaims.

3. Performance Pricing admits the allegations contained in paragraph 3 of Microsoft's counterclaims.

JURISDICTION AND VENUE

4. Performance Pricing denies the allegations contained in paragraph 4 of Microsoft's counterclaims, except to the extent that it admits that this Court has subject matter jurisdiction.

5. Performance Pricing admits the allegations contained in paragraph 5 of Microsoft's counterclaims.

6. Performance Pricing admits the allegations contained in paragraph 6 of Microsoft's counterclaims.

FACTUAL BACKGROUND

7. Performance Pricing admits the allegations contained in paragraph 7 of Microsoft's counterclaims.

8. Performance Pricing admits the allegations contained in paragraph 8 of Microsoft's counterclaims.

COUNT I

Declaratory Judgment of Noninfringement of US Patent No. 6,978,253

9. Performance Pricing incorporates by reference its responses to the facts and allegations in paragraphs 1 through 8 of its reply to Microsoft's counterclaims as if fully set forth herein.

10. Performance Pricing denies the allegations contained in paragraph 8 of Microsoft's counterclaims.

COUNT II

Declaratory Judgment of Invalidity of US Patent No. 6,978,253

11. Performance Pricing incorporates by reference its responses to the facts and allegations in paragraphs 1 through 8 of its reply to Microsoft's counterclaims as if fully set forth herein.

12. Performance Pricing denies the allegations contained in paragraph 12 of Microsoft's counterclaims.

DEMAND FOR JURY TRIAL

Performance Pricing demands trial by jury of all issues herein.

PRAYER FOR RELIEF

Plaintiff and Counterdefendant Performance Pricing denies that Microsoft is entitled to the relief it seeks or any relief for the allegations made in its Answer or Counterclaims. Plaintiff and Counterdefendant Performance Pricing requests that judgment be entered in its favor on all issues and it be awarded the appropriate damages, exceptional damages, costs, and attorneys' fees.

Dated: December 26, 2007

By: /s/ Christin Cho
Christin Cho
CA State Bar No. 238173
Email: christin@dovellaw.com
Gregory S. Dovel
CA State Bar No. 135387
Email: greg@dovellaw.com
Sean Luner
CA State Bar No. 165443
Email: sean@dovellaw.com
Dovel & Luner, LLP
201 Santa Monica Blvd., Suite 600
Santa Monica, CA 90401

Telephone: 310-656-7066
Facsimile: 310-657-7069

S. Calvin Capshaw
State Bar No. 03783900
Elizabeth L. DeRieux
State Bar No. 05770585
Brown McCarroll, L.L.P.
1127 Judson Road, Suite 220
Longview, TX 75601
Telephone: (903) 236-9800
Facsimile: (903) 236-8787
Email: capshaw@mailbmc.com
Email: ederieux@mailbmc.com

Robert M. Parker
State Bar No. 15498000
Email: rmparker@cox-internet.com
Robert Christopher Bunt
State Bar No. 00787165
Email: cbunt@cox-internet.com
Parker & Bunt, P.C.
100 East Ferguson, Ste. 1114
Tyler, TX 75702
Telephone: 903/531-3535
Facsimile: 903/533-9687

Franklin Jones, Jr.
State Bar No. 00000055
Email: maizieh@millerfirm.com
Jones & Jones, Inc., P.C.
201 W. Houston St.
P.O. Drawer 1249
Marshall, TX 75670

Otis W. Carroll, Jr.
State Bar No. 03895700
Email: fedserv@icklaw.com
6101 S. Broadway, Suite 500
Tyler, TX 75703

ATTORNEYS FOR PLAINTIFF
PERFORMANCE PRICING, INC.

CERTIFICATE OF SERVICE

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served this 2nd day of January, 2008, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ Christin K. Cho
Christin K. Cho