

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

NORTHEASTERN UNIVERSITY and
JARG CORPORATION

Plaintiffs,

v.

GOOGLE INC.

Defendant.

Case No. 2:07-CV-486

**NORTHEASTERN UNIVERSITY AND JARG CORPORATION'S
REPLY TO GOOGLE, INC.'S COUNTERCLAIM FOR DECLARATORY RELIEF**

On July 6, 2010, Defendant Google Inc. ("Google") filed an Answer [dkt. #91] to Northeastern University and Jarg Corp.'s (collectively "Plaintiffs") First Amended Complaint [dkt. #88]. With its Answer, Google presented again the same counterclaims for declaratory relief it originally asserted on January 11, 2008 in response to Plaintiffs' original Complaint. Plaintiffs' answered those counterclaims on January 31, 2008 [dkt. #22]. To avoid any confusion as to Plaintiffs' position on these matters, Plaintiffs are again filing the same reply to Google's Counterclaim for Declaratory Relief that was previously filed on January 31, 2008.

Nature of the Action

1. This counterclaim seeks a declaratory judgment of noninfringement and invalidity of the '593 patent asserted by Plaintiffs in this action. Google seeks judgment under the patent laws of the United States, 35 U.S.C. § 101, *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

ANSWER: Plaintiffs admit that Google's counterclaim purports to seek declaratory judgment under the patent laws, 35 U.S.C. § 101, *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, but specifically deny that Google is entitled to any such relief.

Parties

2. Google is a Delaware corporation with a principal place of business at 1600 Amphitheatre Parkway, Mountain View, California 94043.

ANSWER: Admitted.

3. On information and belief, Northeastern University is a university organized and existing under the laws of the State of Massachusetts and has its principal place of business at 716 Columbus Avenue, Boston, MA 02120.

ANSWER: Admitted.

4. On information and belief, Jarg Corporation is a corporation organized and existing under the laws of the State of Delaware and has its principal place of business at 330 Bear Hill Rd., Waltham, MA 02451.

ANSWER: Admitted.

Jurisdiction and Venue

5. This court has subject matter jurisdiction over this counterclaim pursuant to 28 U.S.C. §§ 1331 and 1338, the patent laws of the United States set forth at 35 U.S.C. §§ 101 *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

ANSWER: Admitted.

6. Plaintiffs Northeastern and Jarg have consented to the personal jurisdiction of this Court by commencing their action for patent infringement in this judicial district, as set forth in Plaintiffs' First Amended Complaint.

ANSWER: Admitted.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), (c) and 1400(b).

ANSWER: Admitted.

Count I

(Declaratory Relief Regarding Non-Infringement)

8. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, Google requests a declaration of the Court that Google has not infringed and does not currently infringe any claim of the '593 patent, either directly, contributorily, or by inducement.

ANSWER: Plaintiffs admit that Google has requested declaratory relief, but specifically deny that Google is entitled to such relief because, *inter alia*, Google has infringed and continues to infringe the '593 patent.

Count II

(Declaratory Relief Regarding Invalidity)

9. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, Google requests a declaration of the Court that the '593 patent is invalid because it fails to satisfy conditions for patentability specified in 35 U.S.C. § 101 *et seq.*, including, without limitation, sections 101, 102, 103, and/or 112.

ANSWER: Plaintiffs admit that Google has requested declaratory relief, but specifically deny that Google is entitled to such relief because, *inter alia*, the '593 patent is valid.

Dated: August 4, 2010

Respectfully submitted,

/s/ Stephen C. Stout

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). All other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email and/or fax, on this the 4th day of August, 2010.

/s/ Stephen C. Stout

Stephen C. Stout