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

ACTUS, LLC,	
Plaintiff,	**CIVIL ACTION NO. 2:09-cv-102-TJW**
v.	
BANK OF AMERICA CORP., et al.	**JURY TRIAL DEMANDED**
Defendants.	

**PLAINTIFF'S ANSWER TO DEFENDANT
ENABLE HOLDINGS, INC.'S COUNTERCLAIMS**

Plaintiff Actus, LLC ("Actus") hereby responds to each paragraph of Defendant Enable

Holdings, Inc.'s ("Enable") counterclaims as follows, wherein each and every paragraph is

hereby incorporated by reference into each and every answer to each and every Count:

COUNTERCLAIMS

1.   Admitted.

2.   Admitted.

FIRST COUNTERCLAIM

**DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF U.S. PATENT NO. 7,328,189**

3.   Actus restates and incorporates by reference each of its responses to the

allegations in paragraphs 1 – 2 of Enable's Counterclaims above, as if fully set forth herein.

4.   Actus admits that in its complaint, it alleges that Enable infringes the '189 patent.

Actus denies the remainder of the allegations in paragraph 4 of Enable's Counterclaims.

5.   Actus admits that an actual and justiciable controversy exists between Actus and

Enable. Actus denies all allegations not expressly admitted.

[1]

SECOND COUNTERCLAIM

DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF U.S. PATENT NO. 7,249,099

6.   Actus restates and incorporates by reference each of its responses to the allegations in paragraphs 1 – 5 of Enable's Counterclaims above, as if fully set forth herein.

7.   Actus admits that in its complaint, it alleges that Enable infringes the '099 patent. Actus denies the remainder of the allegations in paragraph 7 of Enable's Counterclaims.

8.   Actus admits that an actual and justiciable controversy exists between Actus and Enable. Actus denies all allegations not expressly admitted.

THIRD COUNTERCLAIM

DECLARATORY JUDGMENT OF INVALIDITY
OF U.S. PATENT NO. 7,328, 189

9.   Actus restates and incorporates by reference each of its responses to the allegations in paragraphs 1 – 8 of Enable's Counterclaims above, as if fully set forth herein.

10.   Actus admits that the claims of the '189 patent are valid.

11.   Denied.

12.   Actus admits that an actual and justiciable controversy exists between Actus and Enable. Actus denies all allegations not expressly admitted.

FOURTH COUNTERCLAIM

DECLARATORY JUDGMENT OF INVALIDITY
OF U.S. PATENT NO. 7,249,099

13.   Actus restates and incorporates by reference each of its responses to the allegations in paragraphs 1 – 12 of Enable's Counterclaims above, as if fully set forth herein.

14.   Actus admits that the claims of the '099 patent are valid.

15.   Denied.

16.   Actus admits that an actual and justiciable controversy exists between Actus and

Enable. Actus denies all allegations not expressly admitted.

RESPONSE TO PRAYER FOR RELIEF IN
ENABLE HOLDINGS, INC.'S COUNTERCLAIMS

Actus denies that Enable is entitled to any of the relief requested in its Prayer.

PRAYER FOR RELIEF

In addition to the relief requested in its Third Amended Complaint, Actus respectfully

requests a judgment against Enable as follows:

A.   That Enable take nothing by its Counterclaims;

B.   That the Court award Actus all costs and attorneys' fees incurred in defending

against Enable's Counterclaims; and

C.   Any and all further relief that the Court deems just and proper.

Dated: March 23, 2010   Respectfully submitted,

                                                          /s/ William E. Davis, III
                                                          William E. Davis, III
                                                          TX State Bar No. 24047416

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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, the foregoing was served on all counsel of record who have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d), all others not deemed to have consented to electronic service were served with a true and correct copy of the foregoing via email on this 23rd day of March, 2010.

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/s/ William E. Davis, III
William E. Davis, III

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