

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

**ACTUS, LLC,**

**Plaintiff,**

**v.**

- (1) BANK OF AMERICA CORP.;**
- (2) BLAZE MOBILE, INC.;**
- (3) CAPITAL ONE FINANCIAL CORP.;**
- (4) ENABLE HOLDINGS, INC.;**
- (5) GOOGLE, INC.;**
- (6) GREEN DOT CORP.;**
- (7) JAVIEN DIGITAL PAYMENT SOLUTIONS, INC.;**
- (8) JPMORGAN CHASE & CO.;**
- (9) MASTERCARD INTERNATIONAL, INC.;**
- (10) META FINANCIAL GROUP, INC.;**
- (11) M&T BANK CORP.;**
- (12) OBOPAY, INC.;**
- (13) SONIC SOLUTIONS;**
- (14) VISA, INC.;**
- (15) VIVENDI UNIVERSAL U.S. HOLDING CO.;**
- (16) VIVENDI UNIVERSAL, SA;**
- (17) WAL-MART STORES, INC.;**
- (18) THE WALT DISNEY CO.;**
- (19) THE WESTERN UNION CO.;**
- (20) WILDTANGENT, INC.;**
- (21) AGILECO,**

**Defendants.**

**CASE NO. 2:09-cv-102-TJW(CE)**

**JURY TRIAL DEMANDED**

**PLAINTIFF'S ANSWER TO DEFENDANT META FINANCIAL GROUP, INC.'S  
COUNTERCLAIMS**

Plaintiff Actus, LLC (“Actus”) hereby responds to each paragraph of Defendant Meta Financial Group, Inc.’s (“Meta”) counterclaims as follows, wherein each and every paragraph is hereby incorporated by reference into each and every answer to each and every Count:

**COUNTERCLAIMS**

**I. Declaration of Patent Non-Infringement, Invalidity and Unenforceability**

1. Actus admits that Meta purports to assert a counterclaim under 28 U.S.C. §§ 2201 and 2202. Actus admits that this Court has jurisdiction under the laws of the United States concerning actions relating to patents, 28 U.S.C. § 1338(a). Actus admits that there is an actual justiciable controversy between Meta and Actus concerning the infringement of United States Patent No. 7,328,189. Actus admits that Meta’s counterclaim relates to the same transaction that is the subject matter of the Complaint. Actus denies all allegations not expressly admitted in paragraph 1.

2. Admitted.

3. Admitted.

4. Admitted.

5. Denied.

6. Denied.

7. Denied.

8. Denied.

9. Actus admits there is an actual controversy between the parties as to infringement of the ’189 patent and that Meta requests a declaratory judgment in its favor that the ’189 patent is not infringed, invalid and unenforceable. Actus denies that the ’189 patent is not infringed, invalid or unenforceable.

10. Denied.

11. Denied.

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

**PRAYER FOR RELIEF**

In addition to the relief requested in its First Amended Complaint, Actus respectfully requests a judgment against Meta as follows:

- A. That Meta take nothing by its Counterclaims;
- B. That the Court award Actus all costs and attorneys' fees incurred in defending against Meta's Counterclaims;
- C. Any and all further relief that the Court deems just and proper.

Dated: May 27, 2009

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 27th day of May, 2009.

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