

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

API TECHNOLOGIES, LLC,	§	
	§	
Plaintiff,	§	Civil Action No. 2:09-CV-147
	§	
v.	§	
	§	JURY TRIAL DEMANDED
FACEBOOK, INC., et al.,	§	
	§	
Defendants.	§	
	§	

**API TECHNOLOGIES, LLC’S ANSWER TO THE COUNTERCLAIMS OF  
DEFENDANT YAHOO! INC.**

Plaintiff API Technologies, LLC answers the Counterclaims of Defendant Yahoo!  
Inc., filed on July 22, 2009, as follows:

**PARTIES, JURISDICTION, AND VENUE**

1. API admits that it is a Texas Limited Liability Company with its principal  
place of business in Marshall, Texas.

2. Admitted.

3. API admits that Yahoo purports to seek Declaratory Relief under 28  
U.S.C. §§1331, 1338, 2201 and 2202, but denies that Yahoo is entitled to such a  
judgment or any further relief. API admits that Yahoo’s Counterclaims give rise to actual  
and justiciable controversies between API and Yahoo regarding the infringement and  
validity of United States Patent No. 6,859,699 (“the ’699 Patent”). Except as so  
admitted, the remaining allegations in paragraph 3 are denied.

4. Admitted.

5. Admitted.

6. API admits that Yahoo's Counterclaims give rise to actual and justiciable controversies between API and Yahoo regarding the infringement and validity of the '699 Patent. Except as so admitted, the remaining allegations in paragraph 6 are denied.

**FIRST COUNTERCLAIM**  
**(Declaratory Judgment of Non-Infringement of the '699 Patent)**

7. API incorporates by reference paragraphs 1 through 6 of this Answer as if fully set forth herein in response to the allegations of paragraph 7 of Yahoo's Counterclaims.

8. Admitted.

9. Denied.

10. Denied.

11. Admitted.

12. Denied.

**SECOND COUNTERCLAIM**  
**(Declaratory Judgment of Invalidity of the '699 Patent)**

13. API incorporates by reference paragraphs 1 through 12 of this Answer as if fully set forth herein in response to the allegations of paragraph 13 of Yahoo's Counterclaims.

14. Denied.

15. Denied

**EXCEPTIONAL CASE**

API denies that Yahoo is entitled to a finding of that this is an exceptional case entitling Yahoo to an award of its attorneys' fees. API further denies that Yahoo does not infringe the '699 Patent and denies that the '699 Patent is invalid. Any remaining allegations regarding Yahoo's claim of an exceptional case are also denied.

**PRAYER FOR RELIEF**

Yahoo's prayer for relief is an averment to which no responsive pleading is required pursuant to Federal Rule of Civil Procedure 8(d) and is therefore denied.

Dated: August 14, 2009

Respectfully submitted,

BUSTAMANTE, P.C.

By: \s\ John M. Bustamante  
John M. Bustamante  
Texas Bar No. 24040618  
BUSTAMANTE, P.C.  
54 Rainey Street, No. 721  
Austin, Texas 78701  
Tel. 512.940.3753  
Fax. 512.551.3773  
jmb@BustamanteLegal.com

Andrew W. Spangler  
Spangler Law P.C.  
208 N. Green Street, Suite 300  
Longview, Texas 75601  
(903) 753-9300  
(903) 553-0403 (fax)  
[spangler@spanglerlawpc.com](mailto:spangler@spanglerlawpc.com)

Marc A Fenster  
mfenster@raklaw.com  
Andrew D Weiss  
aweiss@raklaw.com  
Russ August & Kabat  
12424 Wilshire Boulevard  
12th Floor  
Los Angeles , CA 90025  
310/826-7474  
Fax: 310/826-6991

Tyler Kendall Brochstein  
Brochstein Law Firm, PLLC  
2820 McKinnon St.  
Ste. 4063  
Dallas , TX 75201  
713-320-1456  
Fax: 208-460-0603  
tyler@brochlaw.com

Attorneys for Plaintiff  
API Technologies, LLC

### **CERTIFICATE OF SERVICE**

I certify that counsel of record who are deemed to have consented to electronic service are being served this 14th day of August, 2009, with a copy of this document via the Court's CM/ECF systems per Local Rule CV-5(a)(3). Any other counsel will be served electronic mail, facsimile, overnight delivery and/or First Class Mail on this date.

\s\ John M. Bustamante  
John M. Bustamante