

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

TYLER DIVISION

ALOFT MEDIA, LLC,

*Plaintiff,*

v.

ORACLE CORPORATION, *et al.*,

*Defendants.*

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Civil Action No. 6:09-CV-304-LED

JURY TRIAL DEMANDED

**PLAINTIFF ALOFT MEDIA, LLC’S ANSWER TO  
DEFENDANT SCOTTRADE, INC.’S COUNTERCLAIMS**

Plaintiff Aloft Media, LLC (“Aloft”) responds to each numbered paragraph of the Counterclaims of Defendant Scottrade, Inc. (“Scottrade”), as set forth in Defendant Scottrade, Inc.’s Answer to Third Amended Complaint (Dkt. No. 124), as follows:

36. In paragraph 36, Scottrade purports to incorporate by reference paragraphs 1-35 of its Answer. Aloft is without sufficient information to form an understanding as to the meaning of this paragraph, and therefore denies the same.

**Parties**

37. Aloft admits the allegations of paragraph 37.

38. Aloft admits that it is a Texas limited liability company having its principal place of business in Longview, Texas. Aloft denies the remaining allegations of paragraph 38.

**Jurisdiction and Venue**

39. Aloft admits that Scottrade purports to bring counterclaims for declaratory judgment of patent non-infringement. Aloft also admits that jurisdiction is proper under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and the Patent Laws of the

United States, 35 U.S.C. §§ 100, et seq., concerning actions related to patents and 28 U.S.C. § 1338. Aloft denies the remaining allegations of paragraph 39.

40. Aloft admits the allegations of paragraph 40.

41. Aloft admits the allegations of paragraph 41.

42. Aloft admits that, through this lawsuit, it has asserted and continues to assert that Scottrade has been and now is infringing the '898 patent by, among other things, offering for sale and/or selling within the United States computer program products, including without limitation Scottrade ELITE Trading Platform, that infringe one or more claims of the '898 and '910 patents. Aloft denies the remaining allegations of paragraph 42.

43. Aloft denies the allegations of paragraph 43.

44. Aloft denies the allegations of paragraph 44.

45. Aloft denies the allegations of paragraph 45.

46. Aloft denies the allegations of paragraph 46.

47. Aloft admits that, through this lawsuit, it has created a substantial controversy between itself and Scottrade. Aloft denies the remaining allegations of paragraph 47.

**Count One – Declaratory Relief Regarding Non-Infringement of '898 Patent**

48. Aloft restates and incorporates by reference each previous paragraph of this Answer to Scottrade's Counterclaims, but Aloft denies all allegations of Scottrade's Counterclaims that are not specifically admitted in this Answer.

49. Aloft denies the allegations of paragraph 49.

50. Aloft denies the allegations of paragraph 50.

51. Aloft denies the allegations of paragraph 51.

52. Aloft denies the allegations of paragraph 52.

53. Aloft admits that Scottrade purports to request, pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 et seq., a declaration from the Court that Scottrade does not infringe any claim of the '898 Patent either directly, contributorily, or by inducement. Aloft denies all remaining allegations of paragraph 53.

**Count Two – Declaratory Relief Regarding Non-Infringement of '910 Patent**

54. Aloft restates and incorporates by reference each previous paragraph of this Answer to Scottrade's Counterclaims, but Aloft denies all allegations of Scottrade's Counterclaims that are not specifically admitted in this Answer.

55. Aloft denies the allegations of paragraph 55.

56. Aloft denies the allegations of paragraph 56.

57. Aloft denies the allegations of paragraph 57.

58. Aloft admits that an actual substantial controversy has arisen and now exists between Aloft and Scottrade concerning the '910 Patent. Aloft denies the remaining allegations of paragraph 58.

59. Aloft admits that Scottrade purports to request, pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 et seq., a declaration from the Court that Scottrade does not infringe any claim of the '910 Patent either directly, contributorily, or by inducement. Aloft denies all remaining allegations of paragraph 59.

**Count Three – Declaratory Relief Regarding Invalidity of '898 Patent**

60. Aloft restates and incorporates by reference each previous paragraph of this Answer to Scottrade's Counterclaims, but Aloft denies all allegations of Scottrade's Counterclaims that are not specifically admitted in this Answer.

61. Aloft denies the allegations of paragraph 61.

62. Aloft denies the allegations of paragraph 62.

63. Aloft admits that an actual substantial controversy has arisen and now exists between Aloft and Scottrade concerning the '898 Patent. Aloft denies the remaining allegations of paragraph 63.

64. Aloft admits that Scottrade purports to request, pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 et seq., a declaration from the Court that each of the claims of the '898 Patent is invalid because it fails to comply with the provisions of the patent laws, 35 U.S.C. § 100 et seq., including but not limited to one or more of 35 U.S.C. §§ 101, 102, 103, and/or 112. Aloft denies the remaining allegations of paragraph 64.

**Count Four – Declaratory Relief Regarding Invalidity of '910 Patent**

65. Aloft restates and incorporates by reference each previous paragraph of this Answer to Scottrade's Counterclaims, but Aloft denies all allegations of Scottrade's Counterclaims that are not specifically admitted in this Answer.

66. Aloft denies the allegations of paragraph 66.

67. Aloft denies the allegations of paragraph 67.

68. Aloft admits that an actual substantial controversy has arisen and now exists between Aloft and Scottrade concerning the '910 Patent. Aloft denies the remaining allegations of paragraph 68.

69. Aloft admits that Scottrade purports to request, pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 et seq., a declaration from the Court that each of the claims of the '910 Patent is invalid because it fails to comply with the provisions of the patent laws, 35 U.S.C. § 100 et seq., including but not limited to one or more of 35 U.S.C. §§ 101, 102, 103, and/or 112. Aloft denies the remaining allegations of paragraph 69.

**SCOTTRADE'S PRAYER FOR RELIEF**

Aloft denies that Scottrade is entitled to any relief, and specifically denies all the allegations and prayers for relief contained in paragraphs A-M of Scottrade's Prayer for Relief.

**PRAYER FOR RELIEF**

WHEREFORE, Aloft respectfully requests that this Court enter judgment denying and dismissing Scottrade's counterclaims, and that the Court enter judgment in favor of Aloft as requested in Aloft's Third Amended Complaint for Patent Infringement (Dkt. No. 117), as amended or supplemented.

**DEMAND FOR JURY TRIAL**

Aloft, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Respectfully submitted,



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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). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), 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 30th day of August 2010.

A handwritten signature in black ink, appearing to read "Eric M. Albritton", written over a horizontal line.

Eric M. Albritton