

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 FAIR ISAAC CORP.’S COUNTERCLAIMS**

Plaintiff Aloft Media, LLC (“Aloft”) responds to each numbered paragraph of the Counterclaims of Defendant Fair Isaac Corporation (“FICO”), as set forth in Defendant Fair Isaac Corp.’s Answer and Counterclaims to Plaintiff’s Third Amended Complaint (Dkt. No. 125), as follows:

**I. PARTIES**

- 49. Aloft admits the allegations of paragraph 49.
- 50. Aloft admits the allegations of paragraph 50.

**II. JURISDICTION AND VENUE**

- 51. Aloft admits the allegations of paragraph 51.
- 52. Aloft admits the allegations of paragraph 52.

### **III. COUNT ONE**

#### **Declaratory Judgment of Non-Infringement of the '898 Patent**

53. Aloft admits that an actual case or controversy exists between FICO and Aloft with respect to United States Patent No. 7,499,898 (“the ‘898 Patent”). Aloft denies the remaining allegations of paragraph 53.

54. Aloft admits that FICO purports to contend that a judicial declaration is necessary and appropriate so that FICO may ascertain its rights regarding the ‘898 Patent. Aloft denies the remaining allegations of paragraph 54.

55. Aloft denies the allegations of paragraph 55.

### **IV. COUNT TWO**

#### **Declaratory Judgment of Invalidity of the '898 Patent**

56. Aloft restates and incorporates by reference each answer to paragraphs 49-55 above, but Aloft denies the allegations in those paragraphs unless specifically admitted therein.

57. Aloft admits that an actual case or controversy exists between FICO and Aloft with respect to the ‘898 Patent. Aloft denies the remaining allegations of paragraph 57.

58. Aloft admits that FICO purports to contend that a judicial declaration is necessary and appropriate so that FICO may ascertain its rights as to whether the claims of the ‘898 Patent are valid. Aloft denies the remaining allegations of paragraph 58.

59. Aloft denies the allegations of paragraph 59.

### **V. COUNT THREE**

#### **Declaratory Judgment of Non-Infringement of the '910 Patent**

60. Aloft admits that an actual case or controversy exists between FICO and Aloft with respect to United States Patent No. 7,593,910 (“the ‘910 Patent”). Aloft denies the remaining allegations of paragraph 60.

61. Aloft admits that FICO purports to contend that a judicial declaration is necessary and appropriate so that FICO may ascertain its rights regarding the '910 Patent. Aloft denies the remaining allegations of paragraph 61.

62. Aloft denies the allegations of paragraph 62.

## **VI. COUNT FOUR**

### **Declaratory Judgment of Invalidity of the '910 Patent**

63. Aloft restates and incorporates by reference each answer to paragraphs 49-62 above, but Aloft denies the allegations in those paragraphs unless specifically admitted therein.

64. Aloft admits that an actual case or controversy exists between FICO and Aloft with respect to the '910 Patent. Aloft denies the remaining allegations of paragraph 64.

65. Aloft admits that FICO purports to contend that a judicial declaration is necessary and appropriate so that FICO may ascertain its rights as to whether the claims of the '910 Patent are valid. Aloft denies the remaining allegations of paragraph 65.

66. Aloft denies the allegations of paragraph 66.

## **VII. COUNT FIVE**

### **Declaratory Judgment of Unenforceability of the '898 and '910 Patents**

67. Aloft restates and incorporates by reference each answer to paragraphs 49-66 above, but Aloft denies the allegations in those paragraphs unless specifically admitted therein.

68. Aloft admits that an actual case or controversy exists between FICO and Aloft with respect to the '898 and '910 Patents. Aloft denies the remaining allegations of paragraph 68.

69. Aloft admits that FICO purports to contend that a judicial declaration is necessary and appropriate so that FICO may ascertain its rights as to whether the claims of the '898 and '910 Patents are enforceable. Aloft denies the remaining allegations of paragraph 69.

70. Aloft denies the allegations of paragraph 70.

71. Aloft admits that Michael W. Kusnic is a named inventor on the '898 Patent and the '910 Patent. Aloft lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 71, and therefore denies them.

72. Aloft lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 72, and therefore denies them.

73. Aloft admits that a book entitled "Meeting of the Minds," authored by Vincent P. Barabba, refers to a "Dialogue Decision Process." Aloft lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 73, and therefore denies them.

74. Aloft admits that page 84 of Vincent Barabba's book "Meeting of the Minds" contains the quote, "Dan Owen made significant contributions to the section on pages 84 through 88." Aloft also admits that Daniel L. Owen is a named inventor on the '898 and '910 Patents. Aloft lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 74, and therefore denies them.

75. Aloft lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 75, and therefore denies them.

76. Aloft lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 76, and therefore denies them.

77. Aloft lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 77, and therefore denies them.

78. Aloft admits that the file history for the '898 Patent purports to indicate that the Examiner performed a search using the phrase "tornado diagram." Aloft lacks knowledge or

information sufficient to form a belief about the truth of the remaining allegations in paragraph 78, and therefore denies them.

79. Aloft admits that a book entitled “Meeting of the Minds,” authored by Vincent P. Barabba, refers to a “Dialogue Decision Process.” Aloft lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 79, and therefore denies them.

80. Aloft lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 80, and therefore denies them.

81. Aloft lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 81, and therefore denies them.

82. Aloft admits that the file history for the ‘910 Patent purports to indicate that the Examiner performed a search that included, among other phrases, the phrases “tornado diagram” and “decision hierarchy display.” Aloft lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 82, and therefore denies them.

83. Aloft lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 83, and therefore denies them.

84. Aloft lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 84, and therefore denies them.

85. Aloft denies the allegations of paragraph 85.

86. Aloft denies the allegations of paragraph 86.

87. Aloft denies the allegations of paragraph 87.

#### **VIII. FICO’S PRAYER FOR RELIEF**

Aloft denies that FICO is entitled to any relief, and specifically denies all the allegations and prayers for relief contained in paragraphs a-i of FICO’s Prayer for Relief.

**IX. 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.

**PRAYER FOR RELIEF**

WHEREFORE, Aloft respectfully requests that this Court enter judgment denying and dismissing FICO'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.

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.



Eric M. Albritton