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HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

INTERVAL LICENSING LLC,

Plaintiff,

v.

AOL INC., et al.,

Defendants.

Case No.: 2:10-cv-01385-MJP

DEFENDANT AOL INC.'S JOINDER
IN GOOGLE'S AND YOUTUBE'S
REPLY IN SUPPORT OF THEIR
MOTION TO DISMISS

**Note on Motion Calendar:
Nov. 19, 2010
Oral Argument Requested**

I. INTRODUCTION

Defendant AOL Inc. ("AOL") respectfully joins in Defendants Google Inc. and YouTube, LLC's Reply in Support of their Motion to Dismiss for Failure to State a Claim Upon which Relief Can be Granted Pursuant to Fed. R. Civ. P. 12(b)(6) (Dkt. 130) ("Google's Reply"). If Plaintiff Interval Licensing LLC's ("Interval") Complaint had pled sufficient facts concerning AOL's alleged infringement, rather than generic and all-encompassing conclusions of infringement, AOL would have answered the Complaint and the case could have proceeded apace. Interval's decision to omit such facts in its pleadings necessitated this motion, which AOL joins so that it can adequately assess Interval's allegations and prepare its defenses.

DEFENDANT AOL INC.'S JOINDER IN GOOGLE'S AND YOUTUBE'S
REPLY IN SUPPORT OF THEIR MOTION TO DISMISS - 2:10-cv-01385-
MJP

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1 **II. ARGUMENT**

2 Rather than repeat the arguments and citations to authority set forth in Google’s Reply,
3 AOL hereby joins and incorporates by reference Google’s Reply. AOL, like Google, is accused
4 of infringing each of the four patents-in-suit. Interval’s Complaint fails to identify a single
5 accused product of any defendant, relying instead on catch-all terms such as “websites and
6 associated hardware and software” and “products that display information.” *See* Dkt. 1,
7 Complaint, ¶¶ 21, 33, 39, 45.

8 AOL’s business exemplifies the emptiness of these generic allegations. As described on
9 AOL’s “Products and Services” webpage (<http://corp.aol.com/products-services>), AOL’s
10 business encompasses content, local products and services, paid services, advertising, consumer
11 applications, and ventures. Together, these categories of products and services include more
12 than 100 different primary websites (e.g., <http://www.mapquest.com>, a mapping website;
13 <http://www.engadget.com>, a technology news website; <http://www.aolhealth.com>, a health-
14 related website; <http://www.moviefone.com>, a movie show times and information website).
15 Each primary website has numerous individual webpages within it (e.g.,
16 <http://www.aolhealth.com/health-experts>, a website providing health information from medical
17 experts; <http://www.aolhealth.com/news>, a website providing health-related news). The
18 references in Interval’s Complaint to “websites and associated hardware and software” and
19 “products that display information” provide no indication as to which of AOL’s myriad websites
20 are allegedly infringing. Because Interval’s complaint is devoid of any specific factual
21 allegations regarding infringement by AOL, the Complaint has failed to put AOL on notice of
22 infringement as required by Fed. R. Civ. P. 8.

23 AOL further observes that Interval’s Opposition to Defendants’ Motion to Dismiss for
24 Failure to State a Claim Upon Which Relief Can be Granted (Dkt. 123) entirely neglects to
25 address the deficiencies in the Complaint regarding alleged indirect infringement, which AOL
26 discussed in its Joinder in Google’s Motion to Dismiss. *See* Dkt. 90 at 3. The Complaint fails to
27 plead essential elements of indirect infringement, such as AOL’s inducement or contribution to

1 direct infringement by another, or AOL's knowledge of the patents-in-suit. *See id.* The
2 Complaint, therefore, fails to state a claim for indirect infringement under Fed. R. Civ. P. 8.

3 **III. CONCLUSION**

4 For the reasons stated above and in Google's Reply, the Court should dismiss Interval's
5 Complaint against AOL because Interval's Complaint fails to meet the pleading standards of
6 Rule 8 of the Federal Rules of Civil Procedure.

7 DATED this 19th day of November, 2010.

8 STOKES LAWRENCE, P.S.

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on November 19, 2010, I caused the foregoing DEFENDANT AOL INC.'s
3 JOINDER IN GOOGLE'S AND YOUTUBE'S REPLY IN SUPPORT OF THEIR MOTION TO
4 DISMISS to be:

5 electronically filed with the Clerk of the Court using the CM/ECF system which will send
6 notification of such filing to the following:

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