

HONORABLE MARSHA J. PECHMAN

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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 GOOGLE INC.'S
ANSWER AND COUNTERCLAIMS
TO PLAINTIFF INTERVAL
LICENSING LLC'S FIRST
AMENDED COMPLAINT FOR
PATENT INFRINGEMENT

Jury Trial Demanded

**DEFENDANT GOOGLE INC.'S ANSWER AND COUNTERCLAIMS TO PLAINTIFF
INTERVAL LICENSING LLC'S FIRST AMENDED COMPLAINT FOR PATENT
INFRINGEMENT**

Defendants Google Inc. ("Google") responds to the First Amended Complaint for Patent Infringement ("Complaint") of Plaintiff Interval Licensing LLC ("Plaintiff" or "Interval") as follows:

Google believes that no response to the preamble of the Complaint is required, but to the extent any response is required, and to the extent the allegations contained in the preamble are directed at Google, Google denies the allegations contained in the preamble. To the extent the allegations contained in the preamble are directed at any other defendant, Google is without

1 knowledge or information sufficient to form a belief as to the truth of the allegations contained in
2 the preamble of the Complaint and on that basis denies the allegations contained therein.

3 **THE PARTIES**

4 1. Google is without knowledge or information sufficient to form a belief as to the
5 truth of the allegations contained in paragraph 1 of the Complaint and on that basis denies the
6 allegations contained therein.

7 2. Google is without knowledge or information sufficient to form a belief as to the
8 truth of the allegations contained in paragraph 2 of the Complaint and on that basis denies the
9 allegations contained therein.

10 3. Google is without knowledge or information sufficient to form a belief as to the
11 truth of the allegations contained in paragraph 3 of the Complaint and on that basis denies the
12 allegations contained therein.

13 4. Google is without knowledge or information sufficient to form a belief as to the
14 truth of the allegations contained in paragraph 4 of the Complaint and on that basis denies the
15 allegations contained therein.

16 5. Google is without knowledge or information sufficient to form a belief as to the
17 truth of the allegations contained in paragraph 5 of the Complaint and on that basis denies the
18 allegations contained therein.

19 6. Google admits that it is a corporation duly organized and existing under the laws
20 of the state of Delaware, with its principal place of business at 1600 Amphitheatre Parkway,
21 Mountain View, California 94043.

22 7. Google is without knowledge or information sufficient to form a belief as to the
23 truth of the allegations contained in paragraph 7 of the Complaint and on that basis denies the
24 allegations contained therein.

25 8. Google is without knowledge or information sufficient to form a belief as to the
26 truth of the allegations contained in paragraph 8 of the Complaint and on that basis denies the
27 allegations contained therein.

1 Google denies that the '507 patent was duly and legally issued. Google specifically denies that
2 the '507 patent describes an invention and refers to the patent for its description. Google is
3 without knowledge or information sufficient to form a belief as to the truth of the remaining
4 allegations contained in paragraph 20 of the Complaint and on that basis denies these allegations.

5 21. Google is without knowledge or information sufficient to form a belief as to the
6 truth of the allegations contained in paragraph 21 of the Complaint and on that basis denies the
7 allegations contained therein.

8 22. Google is without knowledge or information sufficient to form a belief as to the
9 truth of the allegations contained in paragraph 22 of the Complaint and on that basis denies the
10 allegations contained therein.

11 23. Google is without knowledge or information sufficient to form a belief as to the
12 truth of the allegations contained in paragraph 23 of the Complaint and on that basis denies the
13 allegations contained therein.

14 24. Google is without knowledge or information sufficient to form a belief as to the
15 truth of the allegations contained in paragraph 24 of the Complaint and on that basis denies the
16 allegations contained therein.

17 25. Google is without knowledge or information sufficient to form a belief as to the
18 truth of the allegations contained in paragraph 25 of the Complaint and on that basis denies the
19 allegations contained therein.

20 26. Google specifically denies any infringement of any claim of the '507 patent
21 literally or under the doctrine of equivalents. To the extent that the allegations in paragraph 26
22 purport to quote an Exhibit to the Complaint, Google refers to the Exhibit for its content. Google
23 admits that it operates many websites and that some of its websites allow visitors to view
24 content, such as videos. Except as expressly admitted herein, Google denies the remaining
25 allegations of paragraph 26.

26 27. Google specifically denies any infringement of any claim of the '507 patent
27 literally or under the doctrine of equivalents. Google admits that it offers various advertising

1 products including Google AdSense and Google Display Networks. To the extent that the
2 allegations in paragraph 27 purport to quote an Exhibit to the Complaint, Google refers to the
3 Exhibit for its content. Except as expressly admitted herein, Google denies the remaining
4 allegations of paragraph 27.

5 28. Google specifically denies any infringement of any claim of the '507 patent
6 literally or under the doctrine of equivalents. Google admits that Gmail employs what is
7 colloquially known as a "spam filter" and that Google uses many techniques to attempt
8 determine whether a received email is "spam." Except as expressly admitted herein, Google
9 denies the remaining allegations of paragraph 28.

10 29. Google specifically denies any infringement of any claim of the '507 patent
11 literally or under the doctrine of equivalents. Google admits that it operates a Google Books
12 Website. Except as expressly admitted herein, Google denies the remaining allegations of
13 paragraph 29.

14 30. Google is without knowledge or information sufficient to form a belief as to the
15 truth of the allegations contained in paragraph 30 of the Complaint and on that basis denies the
16 allegations contained therein.

17 31. Google is without knowledge or information sufficient to form a belief as to the
18 truth of the allegations contained in paragraph 31 of the Complaint and on that basis denies the
19 allegations contained therein.

20 32. Google is without knowledge or information sufficient to form a belief as to the
21 truth of the allegations contained in paragraph 32 of the Complaint and on that basis denies the
22 allegations contained therein.

23 33. Google is without knowledge or information sufficient to form a belief as to the
24 truth of the allegations contained in paragraph 33 of the Complaint and on that basis denies the
25 allegations contained therein.

1 34. Google is without knowledge or information sufficient to form a belief as to the
2 truth of the allegations contained in paragraph 34 of the Complaint and on that basis denies the
3 allegations contained therein.

4 35. Google is without knowledge or information sufficient to form a belief as to the
5 truth of the allegations contained in paragraph 35 of the Complaint and on that basis denies the
6 allegations contained therein.

7 36. Google is without knowledge or information sufficient to form a belief as to the
8 truth of the allegations contained in paragraph 36 of the Complaint and on that basis denies the
9 allegations contained therein.

10 37. As this allegation is not directed at Google, Google believes that no response is
11 necessary. To the extent a response is necessary, Google specifically denies that YouTube
12 infringes any claim of the '507 patent literally or under the doctrine of equivalents. Google
13 admits that YouTube operates YouTube.com and that users of YouTube.com may access videos
14 or see advertisements. Google admits that, in viewing content on YouTube.com, users are
15 sometimes presented with additional content that may be similar to content recently viewed by
16 that user. To the extent that the allegations in paragraph 37 purport to quote an Exhibit to the
17 Complaint, Google refers to the Exhibit for its content. Except as expressly admitted herein,
18 Google denies the remaining allegations of paragraph 37 that are directed at Google.

19 38. To the extent the allegations of paragraph 38 are directed at Google and/or
20 YouTube, Google denies the allegations of paragraph 38. Google specifically denies any
21 infringement of any claim of the '507 patent literally or under the doctrine of equivalents.
22 Google also specifically denies any damage or harm of any kind to Interval. Google further
23 specifically denies that Interval has any basis for asserting willful or deliberate infringement
24 against Google and that Interval is entitled to attorney's fees or costs. Google is without
25 knowledge or information sufficient to form a belief as to the truth of the remaining allegations
26 contained in paragraph 38 of the Complaint and on that basis denies the allegations contained
27 therein.

INFRINGEMENT OF U.S. PATENT NO. 6,034,652

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2 39. Google admits that United States Patent No. 6,034,652 (“the ’652 patent”) bears
3 the issue date March 7, 2000 and the title “Attention Manager for Occupying the Peripheral
4 Attention of a Person in the Vicinity of a Display Device.” Google denies that the ’652 patent
5 was duly and legally issued. Google specifically denies that the ’652 patent describes an
6 invention and refers to the patent for its description. Google is without knowledge or
7 information sufficient to form a belief as to the truth of the remaining allegations contained in
8 paragraph 39 of the Complaint and on that basis denies these allegations.

9 40. Google is without knowledge or information sufficient to form a belief as to the
10 truth of the allegations contained in paragraph 40 of the Complaint and on that basis denies the
11 allegations contained therein.

12 41. Google is without knowledge or information sufficient to form a belief as to the
13 truth of the allegations contained in paragraph 41 of the Complaint and on that basis denies the
14 allegations contained therein.

15 42. Google specifically denies any infringement of any claim of the ’652 patent
16 literally or under the doctrine of equivalents. Except as expressly admitted herein, Google denies
17 the remaining allegations of paragraph 42.

18 43. Google specifically denies any infringement of any claim of the ’652 patent
19 literally or under the doctrine of equivalents. Except as expressly admitted herein, Google denies
20 the remaining allegations of paragraph 43

21 44. Google specifically denies any infringement of any claim of the ’652 patent
22 literally or under the doctrine of equivalents. Except as expressly admitted herein, Google denies
23 the remaining allegations of paragraph 44.

24 45. Google is without knowledge or information sufficient to form a belief as to the
25 truth of the allegations contained in paragraph 45 of the Complaint and on that basis denies the
26 allegations contained therein.

1 51. Google is without knowledge or information sufficient to form a belief as to the
2 truth of the allegations contained in paragraph 51 of the Complaint and on that basis denies the
3 allegations contained therein.

4 52. Google specifically denies any infringement of any claim of the '314 patent
5 literally or under the doctrine of equivalents. Except as expressly admitted herein, Google denies
6 the remaining allegations of paragraph 52.

7 53. Google specifically denies any infringement of any claim of the '314 patent
8 literally or under the doctrine of equivalents. Except as expressly admitted herein, Google denies
9 the remaining allegations of paragraph 53.

10 54. Google specifically denies any infringement of any claim of the '314 patent
11 literally or under the doctrine of equivalents. Except as expressly admitted herein, Google denies
12 the remaining allegations of paragraph 54.

13 55. Google is without knowledge or information sufficient to form a belief as to the
14 truth of the allegations contained in paragraph 55 of the Complaint and on that basis denies the
15 allegations contained therein.

16 56. Google is without knowledge or information sufficient to form a belief as to the
17 truth of the allegations contained in paragraph 56 of the Complaint and on that basis denies the
18 allegations contained therein.

19 57. Google is without knowledge or information sufficient to form a belief as to the
20 truth of the allegations contained in paragraph 57 of the Complaint and on that basis denies the
21 allegations contained therein.

22 58. To the extent the allegations of paragraph 58 are directed at Google, Google
23 denies the allegations of paragraph 58. Google specifically denies any infringement of any claim
24 of the '314 patent literally or under the doctrine of equivalents. Google also specifically denies
25 any damage or harm of any kind to Interval. Google further specifically denies that Interval has
26 any basis for asserting willful or deliberate infringement against Google and that Interval is
27 entitled to attorney's fees or costs. Google is without knowledge or information sufficient to

1 form a belief as to the truth of the remaining allegations contained in paragraph 58 of the
2 Complaint and on that basis denies the allegations contained therein.

3 **INFRINGEMENT OF U.S. PATENT NO. 6,757,682**

4 59. Google admits that United States Patent No. 6,757,682 (“the ’682 patent”) bears
5 the issue date June 29, 2004 and the title “Alerting Users to Items of Current Interest.” Google
6 denies that the ’682 patent was duly and legally issued. Google refers to the patent for its
7 description. Google is without knowledge or information sufficient to form a belief as to the
8 truth of the remaining allegations contained in paragraph 59 of the Complaint and on that basis
9 denies these allegations.

10 60. Google is without knowledge or information sufficient to form a belief as to the
11 truth of the allegations contained in paragraph 60 of the Complaint and on that basis denies the
12 allegations contained therein.

13 61. Google is without knowledge or information sufficient to form a belief as to the
14 truth of the allegations contained in paragraph 61 of the Complaint and on that basis denies the
15 allegations contained therein.

16 62. Google is without knowledge or information sufficient to form a belief as to the
17 truth of the allegations contained in paragraph 62 of the Complaint and on that basis denies the
18 allegations contained therein.

19 63. Google is without knowledge or information sufficient to form a belief as to the
20 truth of the allegations contained in paragraph 63 of the Complaint and on that basis denies the
21 allegations contained therein.

22 64. Google is without knowledge or information sufficient to form a belief as to the
23 truth of the allegations contained in paragraph 64 of the Complaint and on that basis denies the
24 allegations contained therein.

25 65. Google specifically denies any infringement of any claim of the ’682 patent
26 literally or under the doctrine of equivalents. Google admits that it operates multiple web sites
27 and that some of its websites allow visitors to access content, such as blogs, news stories,

1 products and articles. To the extent that the allegations in paragraph 65 purport to quote an
2 Exhibit to the Complaint, Google refers to the Exhibit for its content. Except as expressly
3 admitted herein, Google denies the remaining allegations of paragraph 65.

4 66. Google specifically denies any infringement of any claim of the '682 patent
5 literally or under the doctrine of equivalents. Google admits that it offers Google Buzz as a
6 feature of its Gmail offering. To the extent that the allegations in paragraph 66 purport to quote
7 an Exhibit to the Complaint, Google refers to the Exhibit for its content. Except as expressly
8 admitted herein, Google denies the remaining allegations of paragraph 66.

9 67. Google specifically denies any infringement of any claim of the '682 patent
10 literally or under the doctrine of equivalents. Google admits that it operates the Orkut website.
11 Except as expressly admitted herein, Google denies the remaining allegations of paragraph 67
12 that are directed at Google.

13 68. Google is without knowledge or information sufficient to form a belief as to the
14 truth of the allegations contained in paragraph 68 of the Complaint and on that basis denies the
15 allegations contained therein.

16 69. Google is without knowledge or information sufficient to form a belief as to the
17 truth of the allegations contained in paragraph 69 of the Complaint and on that basis denies the
18 allegations contained therein.

19 70. Google is without knowledge or information sufficient to form a belief as to the
20 truth of the allegations contained in paragraph 70 of the Complaint and on that basis denies the
21 allegations contained therein.

22 71. Google is without knowledge or information sufficient to form a belief as to the
23 truth of the allegations contained in paragraph 71 of the Complaint and on that basis denies the
24 allegations contained therein.

25 72. Google is without knowledge or information sufficient to form a belief as to the
26 truth of the allegations contained in paragraph 72 of the Complaint and on that basis denies the
27 allegations contained therein.

1 **GENERAL DENIAL**

2 To the extent that any allegations of the Complaint are not specifically admitted, Google
3 hereby denies them.

4 **AFFIRMATIVE DEFENSES**

5 In addition to the defenses described below, Google reserves all affirmative defenses
6 under Rule 8(c) of the Federal Rules of Civil Procedure, the Patent Laws of the United States and
7 any other defenses, at law or in equity, which may now exist or in the future may be available
8 based on discovery and further factual investigation in this case.

9 **FIRST AFFIRMATIVE DEFENSE**

10 76. Google has not infringed and is not infringing any claim of any of the '507 patent, the
11 '314 patent, the '652 patent or the '682 patent (together, "the patents-in-suit"), either directly or
12 by inducing or contributing to infringement by others.

13 **SECOND AFFIRMATIVE DEFENSE**

14 77. Each of the claims of each of the patents-in-suit is invalid and/or void for failing to
15 comply with one or more of the requirements for patentability under the Patent Laws of the
16 United States, including but not limited to, 35 U.S.C. §§ 101, 102, 103, 112 *et seq.*

17 **THIRD AFFIRMATIVE DEFENSE**

18 78. Interval is estopped from construing any valid claim of any of the patents-in-suit to
19 cover or include, either literally or by application of the doctrine of equivalents, any product or
20 service manufactured, used, imported, sold, or offered by Google because of admissions and
21 statements to the United States Patent and Trademark Office in the specifications of any of the
22 patents-in-suit and during prosecution of the applications leading to the issuance of any of the
23 patents-in-suit.

24 **FOURTH AFFIRMATIVE DEFENSE**

25 79. The claims alleged in the Complaint are barred, in whole or in part, by the doctrine of
26 unclean hands.

1 **FIFTH AFFIRMATIVE DEFENSE**

2 80. Interval is not entitled to injunctive relief because any alleged injury to
3 Interval is not immediate or irreparable, and Interval has an adequate remedy at law.

4 **SIXTH AFFIRMATIVE DEFENSE**

5 81. With respect to each purported claim for relief alleged in the Complaint, Interval fails
6 to state a claim against Google upon which relief may be granted, including but not limited to
7 any claim for infringement, contributory infringement or inducing infringement.

8 **SEVENTH AFFIRMATIVE DEFENSE**

9 82. The claims alleged in the Complaint are barred, in whole or in part, by the doctrine of
10 laches and/or estoppel.

11 **EIGHTH AFFIRMATIVE DEFENSE**

12 83. Interval failed to provide adequate notice to Google of alleged infringement and is
13 thus barred under 35 U.S.C. § 287 from recovering damages prior to the date of the filing of the
14 Complaint.

15 84. Interval is barred by 35 U.S.C. § 288 from recovering costs associated with its action.

16 85. By asserting this affirmative defense, Google does not assume any burden of proof.

17 **NINTH AFFIRMATIVE DEFENSE**

18 86. Interval cannot prove that this is an exceptional case justifying award of attorney fees
19 against Google pursuant to 35 U.S.C. § 285.

20 **TENTH AFFIRMATIVE DEFENSE**

21 87. To the extent Interval purports to identify any Google products, Interval's claims for
22 contributory infringement are barred in whole or in part under 35 U.S.C. § 271(c) in view of the
23 substantial non-infringing uses of such allegedly infringing products.

24 **ELEVENTH AFFIRMATIVE DEFENSE**

25 88. Google's investigation of its defenses is continuing, and Google expressly reserves
26 the right to allege and assert any additional affirmative defenses under Rule 8 of the Federal
27 Rules of Civil Procedure, the patent laws of the United States and any other defense, at law or in

1 equity, that may now exist or in the future be available based upon discovery and further
2 investigation in this case. Google also expressly incorporates by reference herein all defenses
3 pleaded by any other defendant in this action in their respective answers to the Complaint.

4 **TWELFTH AFFIRMATIVE DEFENSE**

5 89. On information and belief, some or all of the defendants have been improperly joined
6 in a single action, and Google asserts its right to a separate trial.

7 **COUNTERCLAIMS**

8 Google brings these counterclaims against Interval, alleging as follows:

9 **Jurisdiction and Venue**

10 90. This Court has subject matter jurisdiction over this Counterclaim pursuant to 28
11 U.S.C. §§ 1331, 1332, 1338(a), and 1367 and the Declaratory Judgment Act 28 U.S.C. §§ 2201
12 and 2202.

13 91. This Court has personal jurisdiction over Interval because, inter alia, Interval has
14 submitted to the jurisdiction of this Court by filing suit in this District and purposefully availing
15 itself of the benefits and protections of the laws of the District.

16 92. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391(c) and by
17 virtue of Interval asserting, pursuant to 28 U.S.C. § 1400, a claim for patent infringement in this
18 District in response to which this Counterclaim is asserted.

19 **COUNT I**

20 **(Declaratory Judgment of Invalidity of the '507 Patent)**

21 93. Google repeats and incorporates by reference the allegations contained in
22 paragraphs 90-92 above as if fully set forth herein.

23 94. The claims of the '507 patent are invalid for failure to meet the conditions of
24 patentability set forth in the Patent Laws of the United States, including but not limited to 35
25 U.S.C. §§ 101, 102, 103, and 112.

1 95. Interval alleges that Google infringes one or more claims of the '507 patent.
2 Google contends that the '507 patent is invalid. An actual controversy exists between Interval
3 and Google regarding the invalidity of the '507 patent.

4 96. Google is entitled to a declaratory judgment that the claims of the '507 patent are
5 invalid and/or void in law.

6 97. This is an exceptional case entitling Google to an award of its attorneys' fees
7 incurred in connection with this action under 35 U.S.C. § 285.

8 **COUNT II**
9 **(Declaratory Judgment of Invalidity of the '652 Patent)**

10
11 98. Google repeats and incorporates by reference the allegations contained in
12 paragraphs 90-97 above as if fully set forth herein.

13 99. The claims of the '652 patent are invalid for failure to meet the conditions of
14 patentability set forth in the Patent Laws of the United States, including but not limited to 35
15 U.S.C. §§ 101, 102, 103, and 112.

16 100. Interval alleges that Google infringes one or more claims of the '652 patent.
17 Google contends that the '652 patent is invalid. An actual controversy exists between Interval
18 and Google regarding the invalidity of the '652 patent.

19 101. Google is entitled to a declaratory judgment that the claims of the '652 patent are
20 invalid and/or void in law.

21 102. This is an exceptional case entitling Google to an award of its attorneys' fees
22 incurred in connection with this action under 35 U.S.C. § 285.

23 **COUNT III**
24 **(Declaratory Judgment of Invalidity of the '314 Patent)**

25 103. Google repeats and incorporates by reference the allegations contained in
26 paragraphs 90-102 above as if fully set forth herein.

1 **COUNT V**
2 **(Declaratory Judgment of Non-Infringement of the '507 patent)**

3 113. Google realleges and incorporates by reference the allegations set forth in
4 paragraphs 90-112 above.

5 114. Interval alleges that Google infringes one or more claims of the '507 patent and/or
6 actively induces or contributes to others' infringement of the '507 patent. Google contends that
7 it has not and does not directly or indirectly infringe, contribute to, or induce infringement of any
8 claim of the '507 patent, either literally or under the doctrine of equivalents.

9 115. An actual controversy exists between Interval and Google over the alleged
10 infringement of the '507 patent.

11 116. Google is entitled to judgment from this Court that it has not and does not directly
12 or indirectly infringe, contribute to, or induce infringement of any valid claim of the '507 patent
13 either literally or under the doctrine of equivalents.

14 117. This is an exceptional case entitling Google to an award of its attorneys' fees
15 incurred in connection with this action under 35 U.S.C. § 285.

16 **COUNT VI**
17 **(Declaratory Judgment of Non-Infringement of the '652 patent)**

18 118. Google realleges and incorporates by reference the allegations set forth in
19 paragraphs 90-117 above.

20 119. Interval alleges that Google infringes one or more claims of the '652 patent and/or
21 actively induces or contributes to others' infringement of the '652 patent. Google contends that
22 it has not and does not directly or indirectly infringe, contribute to, or induce infringement of any
23 claim of the '652 patent, either literally or under the doctrine of equivalents.

24 120. An actual controversy exists between Interval and Google over the alleged
25 infringement of the '652 patent.

1 121. Google is entitled to judgment from this Court that it has not and does not directly
2 or indirectly infringe, contribute to, or induce infringement of any valid claim of the '652 patent
3 either literally or under the doctrine of equivalents.

4 122. This is an exceptional case entitling Google to an award of its attorneys' fees
5 incurred in connection with this action under 35 U.S.C. § 285.

6 **COUNT VII**
7 **(Declaratory Judgment of Non-Infringement of the '314 patent)**

8 123. Google realleges and incorporates by reference the allegations set forth in
9 paragraphs 90-122 above.

10 124. Interval alleges that Google infringes one or more claims of the '314 patent and/or
11 actively induces or contributes to others' infringement of the '314 patent. Google contends that
12 it has not and does not directly or indirectly infringe, contribute to, or induce infringement of any
13 claim of the '314 patent, either literally or under the doctrine of equivalents.

14 125. An actual controversy exists between Interval and Google over the alleged
15 infringement of the '314 patent.

16 126. Google is entitled to judgment from this Court that it has not and does not directly
17 or indirectly infringe, contribute to, or induce infringement of any valid claim of the '314 patent
18 either literally or under the doctrine of equivalents.

19 127. This is an exceptional case entitling Google to an award of its attorneys' fees
20 incurred in connection with this action under 35 U.S.C. § 285.

21 **COUNT VIII**
22 **(Declaratory Judgment of Non-Infringement of the '682 patent)**

23 128. Google realleges and incorporates by reference the allegations set forth in
24 paragraphs 90-127 above.

25 129. Interval alleges that Google infringes one or more claims of the '682 patent and/or
26 actively induces or contributes to others' infringement of the '682 patent. Google contends that
27

1 it has not and does not directly or indirectly infringe, contribute to, or induce infringement of any
2 claim of the '682 patent, either literally or under the doctrine of equivalents.

3 130. An actual controversy exists between Interval and Google over the alleged
4 infringement of the '682 patent.

5 131. Google is entitled to judgment from this Court that it has not and does not directly
6 or indirectly infringe, contribute to, or induce infringement of any valid claim of the '682 patent
7 either literally or under the doctrine of equivalents.

8 132. This is an exceptional case entitling Google to an award of its attorneys' fees
9 incurred in connection with this action under 35 U.S.C. § 285.

10 **JURY DEMAND**

11 Google requests a trial by jury as to all issues so triable.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Defendant Google respectfully requests that the Court enter an Order and
14 Judgment:

- 15 1. Dismissing Interval's claims against Google with prejudice;
- 16 2. Denying all relief sought by Interval;
- 17 3. Declaring that Google has not infringed and is not directly or indirectly
18 infringing any claim of any of the patents-in-suit;
- 19 4. Declaring that the patents-in-suit are invalid;
- 20 5. Declaring that this case is exceptional under 35 U.S.C. § 285;
- 21 6. Awarding to Google its costs, attorneys' fees, and expenses incurred in
22 defending against Interval's Complaint; and
- 23 7. Awarding Google such other and further relief as the Court deems just and
24 proper.

1 Dated: this 14th day of January, 2011 in Seattle, Washington.

2 STOKES LAWRENCE, P.S.

3
4 By: s/ Shannon M. Jost
5 Shannon M. Jost (WSBA #32511)
6 Scott A.W. Johnson (WSBA #15543)
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8 and

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22 Attorneys for Defendants Google Inc. and
23 YouTube, LLC
24
25
26
27

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on January 14, 2011, I caused the foregoing DEFENDANTS GOOGLE,
3 INC. AND YOUTUBE, LLC'S ANSWER AND COUNTERCLAIMS TO PLAINTIFF
4 INTERVAL LICENSING LLC'S FIRST AMENDED COMPLAINT FOR PATENT
5 INFRINGEMENT to be:

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

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