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Hon. Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

INTERVAL LICENSING LLC,

Plaintiff,

v.

AOL, INC.; APPLE, INC.; eBAY, INC.;
FACEBOOK, INC.; GOOGLE INC.;
NETFLIX, INC.; OFFICE DEPOT, INC.;
OFFICEMAX INC.; STAPLES, INC.;
YAHOO! INC.; AND YOUTUBE, LLC,

Defendants.

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

INTERVAL LICENSING LLC’S
ANSWER TO COUNTERCLAIMS

JURY DEMAND

**INTERVAL LICENSING LLC’S ANSWER TO
AOL INC.’S COUNTERCLAIMS**

Plaintiff Interval Licensing LLC (“Interval”), by and through its attorneys, files this Answer to the counterclaims of Defendant and Counterclaimant AOL Inc. (“AOL”) and respectfully answers as follows:

Interval denies each and every averment set forth in the Counterclaims, except for those averments expressly and specifically admitted below. To the extent that the headings and non-numbered statements in the Counterclaims contain any averments, Interval denies each and every such averment.

Paragraphs 1-75 do not contain any allegations that require an answer. To the extent necessary, Interval incorporates by reference and realleges the allegations in its First Amended Complaint.

1 **Affirmative Defenses**

2 **Noninfringement**

3 1. Interval denies the allegations in ¶ 1.

4 **Invalidity**

5 2. Interval denies the allegations in ¶ 2.

6 **Laches**

7 3. Interval denies the allegations in ¶ 3 that it had knowledge of one or more accused AOL
8 products at least six years before instituting this lawsuit. Interval admits that Vulcan Patents LLC
9 had knowledge of at least one AOL product identified in Interval's infringement contentions at
10 least six years before this lawsuit was filed, but Interval denies that it, or Vulcan Patents LLC,
11 knew or should have known of Interval's infringement claims against AOL six years before filing
12 this lawsuit.

13 4. Interval denies the allegations in ¶ 4.

14 5. Interval denies the allegations in ¶ 5.

15 6. Interval denies the allegations in ¶ 6.

16 7. Paragraph 7 contains legal conclusions that require no response. To the extent a response
17 is required, Interval denies the allegations in ¶ 7.

18 **Prosecution History Estoppel**

19 8. Paragraph 8 contains legal conclusions that require no response. To the extent a response
20 is required, Interval denies the allegations in ¶ 8.

21 **No Entitlement to Injunctive Relief**

22 9. Interval admits the allegations in ¶ 9.

23 10. Interval denies the allegations in ¶ 10.

24 **COUNTERCLAIMS**

25 **The Parties**

26 11. Interval is without sufficient information to admit or deny the allegations made in ¶ 1, and
27 therefore denies those allegations.

1 12. Interval admits the allegations in ¶ 2.

2 **Jurisdiction and Venue**

3 13. Interval admits the allegations in ¶ 3 that this court has jurisdiction.

4 14. Interval admits the allegations in ¶ 4 that there is an actual justiciable controversy between
5 AOL and Interval concerning whether AOL infringes any valid and enforceable claim of the ‘507,
6 ‘652, ‘314, and ‘682 patents.

7 15. Interval admits the allegations in ¶ 5.

8 16. Interval admits the allegations in ¶ 6 that venue in this judicial district is proper.

9 **First Counterclaim for Declaratory Judgment that AOL’s Accused Products Do Not**
10 **Infringe Any Claim of the ‘507 Patent**

11 17. Interval incorporates by reference its responses to paragraphs 1-6 as if fully set forth
12 herein.

13 18. Interval denies the allegations in ¶ 8.

14 19. Interval denies the allegations in ¶ 9.

15 **Second Counterclaim for Declaratory Judgment that AOL’s Accused Products Do Not**
16 **Infringe Any Claim of the ‘652 Patent**

17 20. Interval incorporates by reference its responses to paragraphs 1-9 as if fully set forth
18 herein.

19 21. Interval denies the allegations in ¶ 11.

20 22. Interval denies the allegations in ¶ 12.

21 **Third Counterclaim for Declaratory Judgment that AOL’s Accused Products Do Not**
22 **Infringe Any Claim of the ‘314 Patent**

23 23. Interval incorporates by reference its responses to paragraphs 1-12 as if fully set forth
24 herein.

25 24. Interval denies the allegations in ¶ 14.

26 25. Interval denies the allegations in ¶ 15.

1 **Fourth Counterclaim for Declaratory Judgment that AOL’s Accused Products Do Not**
2 **Infringe Any Claim of the ‘682 Patent**

3 26. Interval incorporates by reference its responses to paragraphs 1-15 as if fully set forth
4 herein.

5 27. Interval denies the allegations in ¶ 17.

6 28. Interval denies the allegations in ¶ 18.

7 **Fifth Counterclaim for Declaratory Judgment that the Claims of the**
8 **‘507 Patent Are Invalid**

9 29. Interval incorporates by reference its responses to paragraphs 1-18 as if fully set forth
10 herein.

11 30. Interval denies the allegations in ¶ 20.

12 31. Interval denies the allegations in ¶ 21.

13 **Sixth Counterclaim for Declaratory Judgment that the Claims of the**
14 **‘652 Patent Are Invalid**

15 32. Interval incorporates by reference its responses to paragraphs 1-21 as if fully set forth
16 herein.

17 33. Interval denies the allegations in ¶ 23.

18 34. Interval denies the allegations in ¶ 24.

19 **Seventh Counterclaim for Declaratory Judgment that the Claims of the**
20 **‘314 Patent Are Invalid**

21 35. Interval incorporates by reference its responses to paragraphs 1-24 as if fully set forth
22 herein.

23 36. Interval denies the allegations in ¶ 26.

24 37. Interval denies the allegations in ¶ 27.

1 **Eighth Counterclaim for Declaratory Judgment that the Claims of the**
2 **'682 Patent Are Invalid**

3 38. Interval incorporates by reference its responses to paragraphs 1-27 as if fully set forth
4 herein.

5 39. Interval denies the allegations in ¶ 29.

6 40. Interval denies the allegations in ¶ 30.

7 **PRAYER FOR RELIEF**

8 41. In response to AOL's Prayer for Relief, Interval denies that AOL is entitled to relief of
9 any kind.

10 **DEMAND FOR JURY TRIAL**

11 42. This paragraph sets forth AOL's request for a jury trial, to which no response is required.

12 **REQUEST FOR RELIEF**

13 43. WHEREFORE, Interval respectfully requests judgment of the Court against AOL as
14 follows:

15 (a) Dismissal of AOL's counterclaims with prejudice;

16 (b) Declaration that AOL has infringed, directly and/or indirectly, U.S. Patent Nos.
17 6,263,507; 6,757,682; 6,034,652; and 6,788,314;

18 (c) Awarding the damages arising out of AOL's infringement of U.S. Patent Nos.
19 6,263,507; 6,757,682; 6,034,652; and 6,788,314, to Interval, together with prejudgment and post-
20 judgment interest, in an amount according to proof;

21 (d) Permanently enjoining AOL and its respective officers, agents, employees, and
22 those acting in privity with them, from further infringement, including contributory infringement
23 and/or inducing infringement, of U.S. Patent Nos. 6,263,507, 6,034,652, 6,788,314, and
24 6,757,682, or in the alternative, awarding a royalty for post judgment infringement;

25 (e) Awarding attorney's fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by
26 law; and

1 (f) Awarding such other costs and further relief as the Court may deem just and
2 proper.

3
4 Dated: February 7, 2011

/s/ Matthew R. Berry

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2 **CERTIFICATE OF SERVICE**

3 I hereby certify that on February 7, 2011, I electronically filed the foregoing with the
4 Clerk of the Court using the CM/ECF system which will send notification of such filing to the
5 following counsel of record:

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