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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  
APPLE INC.’S COUNTERCLAIMS**

Plaintiff Interval Licensing LLC (“Interval”), by and through its attorneys, files this Answer to the counterclaims of Defendant and Counterclaimant Apple Inc. (“Apple”) 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.

1. 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 **First Affirmative Defense: Non-Infringement**

3 2. Interval denies the allegations in ¶ 76.

4 **Second Affirmative Defense: Invalidity**

5 3. Interval denies the allegations in ¶ 77.

6 **Third Affirmative Defense: Estoppel and Laches**

7 4. Paragraph 78 contains legal conclusions that require no response. To the extent a  
8 response is required, Interval denies the allegations in ¶ 78.

9 **Fourth Affirmative Defense: No Injunction**

10 5. Paragraph 79 contains legal conclusions that require no response. To the extent a  
11 response is required, Interval denies the allegations in ¶ 79.

12 **Fifth Affirmative Defense: Improper Joinder**

13 6. Paragraph 80 contains legal conclusions that require no response. To the extent a  
14 response is required, Interval denies the allegations in ¶ 80.

15 **Sixth Affirmative Defense: Preclusion of Cost**

16 7. Paragraph 81 contains legal conclusions that require no response. To the extent a  
17 response is required, Interval denies the allegations in ¶ 81.

18 **Seventh Affirmative Defense: Notice**

19 8. Paragraph 82 contains legal conclusions that require no response. To the extent a  
20 response is required, Interval denies the allegations in ¶ 82.

21 **COUNTERCLAIMS**

22 **The Parties**

23 9. Interval is without sufficient information to admit or deny the allegations made in ¶ 83,  
24 and therefore denies those allegations.

25 10. Interval admits the allegations in ¶ 84.

26 **Jurisdiction and Venue**

27 11. Interval admits the allegations in ¶ 85.

1 12. Interval admits the allegations in ¶ 86.

2 13. Interval admits the allegations in ¶ 87.

3 **FIRST COUNTERCLAIM**

4 **(Declaratory Judgment of Non-Infringement of the ‘507 Patent)**

5 14. Interval incorporates by reference its responses to paragraphs 76 to 87 as if fully set forth  
6 herein.

7 15. Interval admits the allegations in ¶ 89 that an actual controversy exists between Apple and  
8 Interval as to whether Apple infringes the ‘507 patent.

9 16. Interval admits the allegations in ¶ 90 that by asserting its Counterclaims, Apple seeks a  
10 declaration that it has not infringed the ‘507 patent.

11 **SECOND COUNTERCLAIM**

12 **(Declaratory Judgment of Non-Infringement of the ‘652 Patent)**

13 17. Interval incorporates by reference its responses to paragraphs 76 to 90 as if fully set forth  
14 herein.

15 18. Interval admits the allegations in ¶ 92 that an actual controversy exists between Apple and  
16 Interval as to whether Apple infringes the ‘652 patent.

17 19. Interval admits the allegations in ¶ 93 that by asserting its Counterclaims, Apple seeks a  
18 declaration that it has not infringed the ‘652 patent.

19 **THIRD COUNTERCLAIM**

20 **(Declaratory Judgment of Non-Infringement of the ‘314 Patent)**

21 20. Interval incorporates by reference its responses to paragraphs 76 to 93 as if fully set forth  
22 herein.

23 21. Interval admits the allegations in ¶ 95 that an actual controversy exists between Apple and  
24 Interval as to whether Apple infringes the ‘314 patent.

25 22. Interval admits the allegations in ¶ 96 that by asserting its Counterclaims, Apple seeks a  
26 declaration that it has not infringed the ‘314 patent.

1 **FOURTH COUNTERCLAIM**

2 **(Declaratory Judgment of Non-Infringement of the ‘682 Patent)**

3 23. Interval incorporates by reference its responses to paragraphs 76 to 96 as if fully set forth  
4 herein.

5 24. Interval admits the allegations in ¶ 98 that an actual controversy exists between Apple and  
6 Interval as to whether Apple infringes the ‘682 patent.

7 25. Interval admits the allegations in ¶ 99 that by asserting its Counterclaims, Apple seeks a  
8 declaration that it has not infringed the ‘682 patent.

9 **FIFTH COUNTERCLAIM**

10 **(Declaratory Judgment of Invalidity of the ‘507 Patent)**

11 26. Interval incorporates by reference its responses to paragraphs 76 to 99 as if fully set forth  
12 herein.

13 27. Interval admits the allegations in ¶ 101 that an actual controversy exists between Apple  
14 and Interval as to whether the ‘507 patent is valid.

15 28. Interval admits the allegations in ¶ 102 that by asserting its Counterclaims, Apple seeks a  
16 declaration that the ‘507 patent is invalid.

17 **SIXTH COUNTERCLAIM**

18 **(Declaratory Judgment of Invalidity of the ‘652 Patent)**

19 29. Interval incorporates by reference its responses to paragraphs 76 to 102 as if fully set forth  
20 herein.

21 30. Interval admits the allegations in ¶ 104 that an actual controversy exists between Apple  
22 and Interval as to whether the ‘652 patent is valid.

23 31. Interval admits the allegations in ¶ 105 that by asserting its Counterclaims, Apple seeks a  
24 declaration that the ‘652 patent is invalid.

1 **SEVENTH COUNTERCLAIM**

2 **(Declaratory Judgment of Invalidity of the '314 Patent)**

3 32. Interval incorporates by reference its responses to paragraphs 76 to 105 as if fully set forth  
4 herein.

5 33. Interval admits the allegations in ¶ 107 that an actual controversy exists between Apple  
6 and Interval as to whether the '314 patent is valid.

7 34. Interval admits the allegations in ¶ 108 that by asserting its Counterclaims, Apple seeks a  
8 declaration that the '314 patent is invalid.

9 **EIGHTH COUNTERCLAIM**

10 **(Declaratory Judgment of Invalidity of the '682 Patent)**

11 35. Interval incorporates by reference its responses to paragraphs 76 to 108 as if fully set forth  
12 herein.

13 36. Interval admits the allegations in ¶ 110 that an actual controversy exists between Apple  
14 and Interval as to whether the '682 patent is valid.

15 37. Interval admits the allegations in ¶ 111 that by asserting its Counterclaims, Apple seeks a  
16 declaration that the '682 patent is invalid.

17 **DEMAND FOR JURY TRIAL**

18 38. This paragraph sets forth Apple's request for a jury trial, to which no response is required.

19 **PRAYER FOR RELIEF**

20 39. In response to Apple's Prayer for Relief, Interval denies that Apple is entitled to relief of  
21 any kind.

22 **REQUEST FOR RELIEF**

23 40. WHEREFORE, Interval respectfully requests judgment of the Court against Apple as  
24 follows:

- 25 (a) Dismissal of Apple's counterclaims with prejudice;
- 26 (b) Declaration that Apple has infringed, directly and/or indirectly, U.S. Patent Nos.  
27 6,263,507; 6,757,682; 6,034,652; and 6,788,314;

1 (c) Awarding the damages arising out of Apple's infringement of U.S. Patent Nos.  
2 6,263,507; 6,757,682; 6,034,652; and 6,788,314, to Interval, together with prejudgment and post-  
3 judgment interest, in an amount according to proof;

4 (d) Permanently enjoining Apple and its respective officers, agents, employees, and  
5 those acting in privity with them, from further infringement, including contributory infringement  
6 and/or inducing infringement, of U.S. Patent Nos. 6,263,507, 6,034,652, 6,788,314, and  
7 6,757,682, or in the alternative, awarding a royalty for post judgment infringement;

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

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

12  
13 Dated: February 7, 2011

/s/ Matthew R. Berry

14 Justin A. Nelson  
15 WA Bar No. 31864  
16 E-Mail: jnelson@susmangodfrey.com  
17 Edgar G. Sargent  
18 WA Bar No. 28283  
19 E-Mail: esargent@susmangodfrey.com  
20 Matthew R. Berry  
21 WA Bar No. 37364  
22 E-Mail: mberry@susmangodfrey.com  
23 SUSMAN GODFREY L.L.P.  
24 1201 Third Ave, Suite 3800  
25 Seattle, WA 98101  
26 Telephone: (206) 516-3880  
27 Facsimile: (206) 516-3883

28 Max L. Tribble, Jr.  
E-Mail: mtribble@susmangodfrey.com  
SUSMAN GODFREY L.L.P.  
1000 Louisiana Street, Suite 5100  
Houston, Texas 77002  
Telephone: (713) 651-9366  
Facsimile: (713) 654-6666

Michael F. Heim  
E-mail: mheim@hpcllp.com

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Eric J. Enger  
E-mail: eenger@hpcllp.com  
Nathan J. Davis  
E-mail: ndavis@hpcllp.com  
HEIM, PAYNE & CHORUSH, L.L.P.  
600 Travis, Suite 6710  
Houston, Texas 77002  
Telephone: (713) 221-2000  
Facsimile: (713) 221-2021

Attorneys for INTERVAL LICENSING LLC

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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:

6 **Attorneys for AOL, Inc.**

6 Aneelah Afzali aneelah.afzali@stokeslaw.com  
7 Cortney Alexander cortney.alexander@finnegan.com  
7 Robert Burns robert.burns@finnegan.com  
8 Elliot Cook elliot.cook@finnegan.com  
8 Gerald Ivey gerald.ivey@finnegan.com  
9 Scott Johnson scott.johnson@stokeslaw.com  
9 Shannon Jost shannon.jost@stokeslaw.com

10  
11 **Attorneys for Apple, Inc.**

11 David Almeling dalmeling@omm.com  
12 Brian Berliner bberliner@omm.com  
12 George Riley griley@omm.com  
13 Jeremy Roller jroller@yarmuth.com  
13 Scott Wilsdon wilsdon@yarmuth.com  
14 Neil Yang nyang@omm.com

15 **Attorneys for eBay, Inc., Netflix, Inc., and Staples, Inc.**

16 Chris Carraway chris.carraway@klarquist.com  
16 Kristin Cleveland kristin.cleveland@klarquist.com  
17 Klaus Hamm klaus.hamm@klarquist.com  
17 Arthur Harrigan, Jr. arthurh@dhl.com  
18 John Vandenberg john.vandenberg@klarquist.com  
19 Christopher Wion chrisw@dhl.com

20 **Attorneys for Facebook, Inc.**

20 Christen Dubois cdubois@cooley.com  
21 Heidi Keefe hkeefe@cooley.com  
21 Michael Rhodes mrhodes@cooley.com  
22 Elizabeth Stameshkin lstameshkin@cooley.com  
23 Mark Weinstein mweinstein@cooley.com

24 **Attorneys for Google, Inc. and YouTube, LLC**

24 Aneelah Afzali aneelah.afzali@stokeslaw.com  
25 Aaron Chase achase@whitecase.com  
25 Dimitrios Drivas ddrivas@whitecase.com  
26 John Handy jhandy@whitecase.com  
26 Warren Heit wheat@whitecase.com  
27 Scott Johnson scott.johnson@stokeslaw.com  
28 Shannon Jost shannon.jost@stokeslaw.com



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Kevin McGann kmcgann@whitecase.com  
Wendi Schepler wschepler@whitecase.com

**Attorneys for Office Depot, Inc.**

Chris Carraway chris.carraway@klarquist.com  
Kristin Cleveland kristin.cleveland@klarquist.com  
Klaus Hamm klaus.hamm@klarquist.com  
Arthur Harrigan, Jr. arthurh@dhl.com  
John Vandenberg john.vandenberg@klarquist.com  
Christopher Wion chrisw@dhl.com

**Attorneys for OfficeMax, Inc.**

Kevin Baumgardner kbaumgardner@correronin.com  
Steven Fogg sfogg@correronin.com  
John Letchinger letchinger@wildman.com  
Douglas Rupert rupert@wildman.com

**Attorneys for Yahoo! Inc.**

Francis Ho fho@mof.com  
Richard S.J. Hung rhung@mof.com  
Michael Jacobs mjacobs@mof.com  
Matthew Kreeger mkreeger@mof.com  
Dario Machleidt dmachleidt@flhlaw.com  
Eric Ow eow@mof.com  
Mark Walters mwalters@flhlaw.com

By: /s/ Bianca Nealious  
Bianca Nealious