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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  
FACEBOOK INC’S COUNTERCLAIMS**

Plaintiff Interval Licensing LLC (“Interval”), by and through its attorneys, files this Answer to the counterclaims of Defendant and Counterclaimant Facebook Inc.’s (“Facebook”) 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 ¶ 1.

4 3. Interval denies the allegations in ¶ 2.

5 **Second Affirmative Defense: Invalidity**

6 4. Interval denies the allegations in ¶ 3.

7 5. Interval denies the allegations in ¶ 4.

8 **Third Affirmative Defense: Failure to State a Claim**

9 6. Interval denies the allegations in ¶ 5.

10 **Fourth Affirmative Defense: No Injunctive Relief**

11 7. Interval denies the allegations in ¶ 6.

12 **Fifth Affirmative Defense: Failure to Mark**

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

15 **Sixth Affirmative Defense: Prosecution History Estoppel**

16 9. Interval denies the allegations in ¶ 8.

17 10. Interval denies the allegations in ¶ 9.

18 **Seventh Affirmative Defense: Improper Joinder**

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

21 **Eighth Affirmative Defense: Preclusion of Costs**

22 12. Paragraph 11 contains legal conclusions that require no response. To the extent a  
23 response is required, Interval denies the allegations in ¶ 11.

24 **Other Affirmative Defenses**

25 13. Paragraph 12 does not call for a response. If a response is warranted, Interval denies the  
26 allegations in ¶ 12.

1 **COUNTERCLAIMS**

2 **The Parties**

3 14. Interval is without sufficient information to admit or deny the allegations made in ¶ 13,  
4 and therefore denies those allegations.

5 15. Interval admits the allegations in ¶ 14.

6 **Jurisdiction and Venue**

7 16. Interval admits that ¶ 15 contains Facebook’s characterization of its counterclaims.  
8 Interval admits the allegations in ¶ 15 that this Court has subject matter jurisdiction.

9 17. Interval admits the allegations in ¶ 16 that the Court has personal jurisdiction over Interval  
10 and that venue is also proper in this district. Interval denies all other allegations in ¶ 16.

11 **Actual Controversy**

12 18. Interval admits the allegations in ¶ 17.

13 19. Interval admits the allegations in ¶ 18.

14 20. Interval admits the allegations in ¶ 19 that an actual controversy exists between Facebook  
15 and Interval. It also admits that Facebook seeks a declaration that it does not infringe the ‘507  
16 and ‘682 patents, that certain claims of the ‘507 and ‘682 patents are invalid, and that Interval’s  
17 claims under the ‘507 and ‘682 patents are unenforceable.

18 **COUNT I**

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

20 21. Interval incorporates by reference its responses to all preceding paragraphs of this Answer  
21 as if fully set forth herein.

22 22. Interval admits that ¶ 21 describes what Facebook is seeking by way of its counterclaims.  
23 Interval denies all other allegations in ¶ 21.

1 **COUNT II**

2 **(Declaratory Judgment of Invalidity and/or Unenforceability of Claims 20-24, 27-28, 31, 34,**  
3 **37, 63-67, 70-71, 74, 77, and 80 of the ‘507 Patent)**

4 23. Interval incorporates by reference its responses to all preceding paragraphs of this Answer  
5 as if fully set forth herein.

6 24. Interval denies the allegations in ¶ 23.

7 **COUNT III**

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

9 25. Interval incorporates by reference its responses to all preceding paragraphs of this Answer  
10 as if fully set forth herein.

11 26. Interval admits that ¶ 25 describes what Facebook is seeking by way of its counterclaims.  
12 Interval denies all other allegations in ¶ 25.

13 **COUNT IV**

14 **(Declaratory Judgment of Invalidity and/or Unenforceability of Claims 1-9, 11-13, 16-17,**  
15 **and 20 of the ‘682 Patent)**

16 27. Interval incorporates by reference its responses to all preceding paragraphs of this Answer  
17 as if fully set forth herein.

18 28. Interval denies the allegations in ¶ 27.

19 **Jury Demand**

20 29. This paragraph sets forth Facebook’s request for a jury trial, to which no response is  
21 required.

22 **Relief Requested by Facebook**

23 30. In response to Facebook’s Relief Requested, Interval denies that Facebook is entitled to  
24 relief of any kind.

25 **REQUEST FOR RELIEF**

26 31. WHEREFORE, Interval respectfully requests judgment of the Court against Facebook as  
27 follows:

- 1 (a) Dismissal of Facebook's counterclaims with prejudice;
- 2 (b) Declaration that Facebook has infringed, directly and/or indirectly, U.S. Patent  
3 Nos. 6,263,507 and 6,757,682;
- 4 (c) Awarding the damages arising out of Facebook's infringement of U.S. Patent Nos.  
5 6,263,507 and 6,757,682, to Interval, together with prejudgment and post-judgment interest, in an  
6 amount according to proof;
- 7 (d) Permanently enjoining Facebook and its respective officers, agents, employees,  
8 and those acting in privity with them, from further infringement, including contributory  
9 infringement and/or inducing infringement, of U.S. Patent Nos. 6,263,507 and 6,757,682, or in  
10 the alternative, awarding a royalty for post judgment infringement;
- 11 (e) Awarding attorney's fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by  
12 law; and
- 13 (f) Awarding such other costs and further relief as the Court may deem just and  
14 proper.

15  
16 Dated: February 7, 2011

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1  
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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