

THE 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.

No. C-10-1385-MJP

**DEFENDANT OFFICEMAX INC'S
ANSWER TO FIRST AMENDED
COMPLAINT FOR PATENT
INFRINGEMENT**

Defendant OfficeMax North America, Inc., incorrectly named as OfficeMax Inc., ("OfficeMax") responds to the First Amended Complaint for Patent Infringement ("Complaint") of Plaintiff Interval Licensing LLC ("Plaintiff" or "Interval") as follows:

OfficeMax 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 OfficeMax, OfficeMax denies the allegations contained in the preamble. To the extent the allegations contained in the preamble are directed to any other defendant, OfficeMax is without knowledge or information sufficient to form a

1 belief as to the truth of the allegations contained in the preamble of the Complaint and on
2 that basis denies the allegations contained therein.

3 THE PARTIES

4 1. Interval Licensing LLC (“Interval”) is a limited liability company duly
5 organized under the laws of the state of Washington, with its principal place of business
6 at 505 Fifth Avenue South, Suite 900, Seattle, WA 98104.

7 ANSWER: OfficeMax is without knowledge or information sufficient to form
8 a belief as to the truth of the allegations contained in paragraph 1 of the Complaint and on
9 that basis denies the allegations contained therein.

10 2. Interval is informed and believes, and on that basis alleges, that Defendant
11 AOL, Inc. (“AOL”) is a corporation duly organized and existing under the laws of the
12 state of Delaware, with its principal place of business at 770 Broadway, New York, NY
13 10003.

14 ANSWER: OfficeMax is without knowledge or information sufficient to form
15 a belief as to the truth of the allegations contained in paragraph 2 of the Complaint and on
16 that basis denies the allegations contained therein.

17 3. Interval is informed and believes, and on that basis alleges, that Defendant
18 Apple, Inc. (“Apple”) is a corporation duly organized and existing under the laws of the
19 state of California, with its principal place of business at 1 Infinite Loop, Cupertino, CA
20 95014.

21 ANSWER: OfficeMax is without knowledge or information sufficient to form
22 a belief as to the truth of the allegations contained in paragraph 3 of the Complaint and on
23 that basis denies the allegations contained therein.

24 4. Interval is informed and believes, and on that basis alleges, that Defendant
eBay, Inc. (“eBay”) is a corporation duly organized and existing under the laws of the
state of Delaware, with its principal place of business at 2145 Hamilton Avenue, San
Jose, CA 95125.

1 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
2 a belief as to the truth of the allegations contained in paragraph 4 of the Complaint and on
3 that basis denies the allegations contained therein.

4 5. Interval is informed and believes, and on that basis alleges, that Defendant
5 Facebook, Inc. ("Facebook") is a corporation duly organized and existing under the laws
6 of the state of Delaware, with its principal place of business at 1601 S. California
7 Avenue, Palo Alto, CA 94304.

8 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
9 a belief as to the truth of the allegations contained in paragraph 5 of the Complaint and on
10 that basis denies the allegations contained therein.

11 6. Interval is informed and believes, and on that basis alleges, that Defendant
12 Google Inc. ("Google") is a corporation duly organized and existing under the laws of the
13 state of Delaware, with its principal place of business at 1600 Amphitheatre Parkway,
14 Mountain View, CA 94043.

15 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
16 a belief as to the truth of the allegations contained in paragraph 6 of the Complaint and on
17 that basis denies the allegations contained therein.

18 7. Interval is informed and believes, and on that basis alleges, that Defendant
19 Netflix, Inc. ("Netflix") is a corporation duly organized and existing under the laws of the
20 state of Delaware, with its principal place of business at 100 Winchester Circle, Los
21 Gatos, CA 95032.

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

 8. Interval is informed and believes, and on that basis alleges, that Defendant
Office Depot, Inc. ("Office Depot") is a corporation duly organized and existing under

1 the laws of the state of Delaware, with its principal place of business at 6600 North
2 Military Trail, Boca Raton, FL 33496.

3 ANSWER: OfficeMax is without knowledge or information sufficient to form
4 a belief as to the truth of the allegations contained in paragraph 8 of the Complaint and on
5 that basis denies the allegations contained therein.

6 9. Interval is informed and believes, and on that basis alleges, that Defendant
7 OfficeMax Inc. ("OfficeMax") is a corporation duly organized and existing under the
8 laws of the state of Delaware, with its principal place of business at 263 Shuman
9 Boulevard, Naperville, IL 60563.

10 ANSWER: OfficeMax admits that OfficeMax Inc. is a corporation organized
11 under the laws is a corporation duly organized and existing under the laws of the state of
12 Delaware, with its principal place of business at 263 Shuman Boulevard, Naperville, IL
13 60563. OfficeMax North America, Inc. is a corporation duly organized and existing
14 under the laws of the state of Ohio.

15 10. Interval is informed and believes, and on that basis alleges, that Defendant
16 Staples, Inc. ("Staples") is a corporation duly organized and existing under the laws of
17 the state of Delaware, with its principal place of business at 500 Staples Drive,
18 Framingham, MA 01702.

19 ANSWER: OfficeMax is without knowledge or information sufficient to form
20 a belief as to the truth of the allegations contained in paragraph 10 of the Complaint and
21 on that basis denies the allegations contained therein.

22 11. Interval is informed and believes, and on that basis alleges, that Defendant
23 Yahoo! Inc. ("Yahoo") is a corporation duly organized and existing under the laws of the
24 state of Delaware, with its principal place of business at 701 First Avenue, Sunnyvale,
CA 94089.

1 allegations contained in paragraph 13 of the Complaint are directed at any other
2 defendant, OfficeMax is without knowledge or information sufficient to form a belief as
3 to the truth of the allegations contained in paragraph 13 of the Complaint and on that
4 basis denies the allegations contained therein. OfficeMax specifically denies any
5 infringement literally or under the doctrine of equivalents.

6 INTERVAL RESEARCH CORPORATION WAS A PIONEER IN THE
7 TECHNOLOGY INDUSTRY

8 14. Interval Research Corporation (“Interval Research”) was founded in 1992
9 by Paul Allen and David Liddle to perform advanced research and development in the
10 areas of information systems, communications, and computer science. Mr. Allen, who
11 served as Interval Research’s chairman, was one of the earliest pioneers of personal
12 computer software. He co-founded Microsoft with Bill Gates in 1975 and later founded
13 Vulcan Ventures in 1986. Mr. Liddle served as Interval Research’s president and chief
14 executive officer. He was instrumental in developing fundamental technologies starting
15 in the early 1970s when he worked at Xerox at the Palo Alto Research Center.

16 ANSWER: OfficeMax is without knowledge or information sufficient to form
17 a belief as to the truth of the allegations contained in paragraph 14 of the Complaint and
18 on that basis denies the allegations contained therein.

19 15. Starting with Mr. Allen, Mr. Liddle, and a handful of scientists and
20 inventors, Interval Research evolved into one of the preeminent technology firms. It
21 employed over 110 of the world’s leading scientists, physicists, engineers, artists, and
22 journalists, and was at the forefront in designing next-generation science and technology.

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

16. In addition to the research that Interval Research conducted, it also
provided funding and assistance for other projects. For example, Interval Research
served as an outside collaborator to and provided research funding for Sergey Brin and

1 Lawrence Page's research that resulted in Google. Indeed, a Google screenshot dated
2 September 27, 1998 entitled "About Google!" identifies Interval Research in the
3 "Credits" section as one of two "Outside Collaborators" and one of four sources of
4 "Research Funding" for Google. See Sept. 27, 1998 Website "About Google!" attached
5 as Exhibit 1.

6 **ANSWER:** OfficeMax is without knowledge or information sufficient to form a
7 belief as to the truth of the allegations contained in paragraph 16 of the Complaint and on
8 that basis denies the allegations contained therein.

9 17. Mr. Brin and Mr. Page also recognized Interval Research's funding in the
10 "Acknowledgements" section of their 1998 research article entitled "Anatomy of a
11 Large-Scale Hypertextual Web Search Engine" in which they "present Google."

12 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
13 a belief as to the truth of the allegations contained in paragraph 17 of the Complaint and
14 on that basis denies the allegations contained therein.

15 18. As a testament to Interval Research's innovation, it was issued
16 approximately 300 patents in less than a decade. Four of those patents are the patents-in-
17 suit.

18 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
19 a belief as to the truth of the allegations contained in paragraph 18 of the Complaint and
20 on that basis denies the allegations contained therein.

21 19. Interval Licensing LLC owns the patents-in-suit. The company is owned
22 and controlled by Mr. Allen.

23 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
24 a belief as to the truth of the allegations contained in paragraph 19 of the Complaint and
on that basis denies the allegations contained therein.

INFRINGEMENT OF U.S. PATENT NO. 6,263,507

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20. On July 17, 2001, United States Patent No. 6,263,507 (“the ‘507 patent”) was duly and legally issued for an invention entitled “Browser for Use in Navigating a Body of Information, With Particular Application to Browsing Information Represented By Audiovisual Data.” The ‘507 patent describes an invention that enables a user to efficiently review a large body of information by categorizing and correlating segments of information within the body of information and generating displays of segments that are related to the primary information being viewed by the user. Interval was assigned the ‘507 patent and continues to hold all rights and interest in the ‘507 patent. A true and correct copy of the ‘507 patent is attached hereto as Exhibit 2.

ANSWER: OfficeMax admits that United States Patent No. 6,263,507 (“the ‘507 patent”) bears the issue date July 17, 2001 and the title “Browser for Use in Navigating a Body of Information, With Particular Application to Browsing Information Represented By Audiovisual Data.” OfficeMax denies that the ‘507 patent was duly and legally issued. OfficeMax specifically denies that the ‘507 patent describes an invention and refers to the patent for its description. OfficeMax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 20 of the Complaint and on that basis denies these allegations.

21. Defendant AOL has infringed and continues to infringe one or more claims of the ‘507 patent under 35 U.S.C. § 271. AOL operates many websites that provide articles, videos, advertisements, and other types of content to users. In order to help users find additional content items that may be of interest, the software and hardware that operate the websites compare the available content items to determine whether they are related. When a user views a particular content item, the AOL websites generate displays of related content items so as to inform the user that the related content items may be of interest. For example, as demonstrated by Exhibit 6, when a user views a particular news article on the AOL News website, the website displays both the article (identified by the red box) and links to other related news articles (identified by the green boxes). Similar functionality is used by many websites that are owned and operated by AOL, including AOL Answers, Asylum, Auto Blog, Aol Autos, Big Download, BlackVoices, The Boombox, The Boot, Cambia, Cinematical, City’s Best, Comics Alliance, DailyFinance, Engadget, Fanhouse, Flea Flicker, Gadling, GameDaily, Games.com, AOL Health,

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Holidash, Housing Watch, AOL Find a Job, Joystiq, JSYK, Aol Kids, Kitchen Daily, AOL Latino, Lemondrop, AOL Lifestream, AOL Mail, Marlo Thomas.com, Massively, MMA Fighting.com, Moviefone, AOL Music, My Daily, AOL News, NoiseCreep, Parent Dish, Patch, Paw Nation, Politics Daily, PopEater, AOL Radio, AOL Real Estate, Rented Spaces, AOL Seed, ShelterPop, AOL Shopping, Shortcut\$, SHOUTcast, Slashfood, AOL Small Business, Spinner, Stylelist, Switched, AOL Television, Tourtracker, AOL Travel, Truveo, Tu-Voz, Tuaw, TV Squad, URLesque, AOL Videos, WalletPop, Winamp, and WOW.com. Although the types of content (e.g., articles, videos, recipes, emails, product information, advertisements, etc.) may vary from website to website, each website performs the function described above—namely, comparing content items to determine whether they are related and displaying those related content items. The hardware and software associated with the AOL websites identified above and any other AOL websites that perform this function infringe at least claims 20, 21, 22, 23, 24, 27, 28, 31, 34, 37, 63, 64, 65, 66, 67, 70, 71, 74, 77, and SO of the '507 patent under 35 U.S.C. § 271.

ANSWER: OfficeMax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 21 of the Complaint and on that basis denies the allegations contained therein.

22. Defendant AOL operates the AOL Spam Filter as part of its AOL Mail website and service. When a new email is received by AOL Mail, the hardware and software associated with the AOL Spam Filter categorize the new email as either “spam” or “not spam.” The categorization is based at least in part on a comparison between the new email and other emails that have been received by AOL Mail. The hardware and software associated with the AOL Spam Filter have infringed and continue to infringe at least claims 39, 40, 43, 82, 83 and 86 of the '507 patent under 35 U.S.C. § 271.

ANSWER: OfficeMax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of the Complaint and on that basis denies the allegations contained therein.

23. Defendant Apple has infringed and continues to infringe one or more claims of the '507 patent under 35 U.S.C. § 271. Apple operates the Apple.com store, iTunes, App Stores, and Apple TV systems, each of which provides content such as multimedia content, applications, and/or product information to users. In order to help users find additional content that may be of interest, the software and hardware that operate these systems compare the available content items to determine whether they are

1 related. When a user views a particular content item, the Apple systems generate displays
2 of related content items so as to inform the user that the related items may be of interest.
3 For example, as demonstrated by Exhibit 7, when a user views a particular music album
4 on iTunes, the iTunes system displays both the selected music album (identified by the
5 red box) and links to other related music items (identified by the green boxes). The
6 hardware and software associated with the Apple websites and systems identified above
7 and any other Apple websites and systems that perform this function infringe at least
8 claims 20, 21, 22, 23, 24, 27, 28, 31, 34, 37, 63, 64, 65, 66, 67, 70, 71, 74, 77, and 80 of
9 the '507 patent under 35 U.S.C. § 271.

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

13 24. Defendant eBay has infringed and continues to infringe one or more
14 claims of the '507 patent under 35 U.S.C. § 271. eBay operates the eBay.com and
15 Halfcom websites, which provide content such as product listings and advertisements to
16 users. In order to help users find additional content that may be of interest, the software
17 and hardware that operate these websites compare the available content items to
18 determine whether they are related. When a user views a particular content item, the
19 eBay.com and Halfcom websites generate displays of related content items so as to
20 inform the user that the related items may be of interest. For example, as demonstrated by
21 Exhibit 8, when a user views a particular product listing on eBay.com, the eBay.com
22 website displays both the selected product information (identified by the orange box) and
23 links to other related products (identified by the green boxes). The hardware and
24 software associated with the eBay websites identified above and any other eBay websites
that perform this function infringe at least claims 20, 21, 22, 23, 24, 27, 28, 31, 34, 37,
63, 64, 65, 66, 67, 70, 71, 74, 77, and 80 of the '507 patent under 35 U.S.C. § 271.

18 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
19 a belief as to the truth of the allegations contained in paragraph 24 of the Complaint and
20 on that basis denies the allegations contained therein.

21 25. Defendant Facebook has infringed and continues to infringe one or more
22 claims of the '507 patent under 35 U.S.C. § 271. Facebook operates the Facebook.com
23 website, which provides content such as profile information, photos, event information,
24 and messages to users. In order to help users find additional content that may be of
interest, the software and hardware that operate this website compare the available

1 content items to determine whether they are related. When a user views a particular
2 content item, the Facebook.com website generates a display of related content items so as
3 to inform the user that the related items may be of interest. For example, as demonstrated
4 by Exhibit 9, when a user views a particular photo page on Facebook.com, the
5 Facebook.com website displays both the selected photo information (identified by the red
6 box) and links to other related photos (identified by the green boxes). Another example of
7 infringing functionality is demonstrated by user profile pages, which display photos and
8 profiles of other users that are related to the profile being viewed. The hardware and
9 software associated with the Facebook.com website that perform this function infringe at
10 least claims 20, 21, 22, 23, 24, 27, 28, 31, 34, 37, 63, 64, 65, 66, 67, 70, 71, 74, 77, and
11 80 of the '507 patent under 35 U.S.C. § 271.

12 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
13 a belief as to the truth of the allegations contained in paragraph 25 of the Complaint and
14 on that basis denies the allegations contained therein.

15 26. Defendant Google has infringed and continues to infringe one or more
16 claims of the '507 patent under 35 U.S.C. § 271. Google operates many websites that
17 provide articles, videos, advertisements, and other types of content to users. In order to
18 help users find additional content items that may be of interest, the software and
19 hardware that operate the websites compare the available content items to determine
20 whether they are related. When a user views a particular content item, the Google
21 websites generate displays of related content items so as to inform the user that the
22 related content items may be of interest. For example, as demonstrated by Exhibit 10,
23 when a user views a particular piece of financial information on the Google Finance
24 website, the website displays both the selected financial information (identified by the red
box) and links to other related financial information, articles, and advertisements
(identified by the green boxes). Similar functionality is used by many websites that are
owned and operated by Google, including Boutiques.com, Google Products, Gmail,
Google Books, Google Finance, Google Videos, Google Knot, Google Groups, Google
Desktop, Google Maps, Orkut, and Google Search. Although the types of content (e.g.,
articles, videos, financial information, emails, product information, advertisements, etc.)
may vary from website to website, each website performs the function described above---
namely, comparing content items to determine whether they are related and displaying
those related content items. The hardware and software associated with the Google
websites identified above and any other Google websites that perform this function
infringe at least claims 20, 21, 22, 23, 24, 27, 28, 31, 34, 37, 38, 63, 64, 65, 66, 67, 70,
71, 74, 77, 80 and 81 of the '507 patent under 35 US -C. § 271.

1 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
2 a belief as to the truth of the allegations contained in paragraph 26 of the Complaint and
3 on that basis denies the allegations contained therein.

4 27 Defendant Google operates the Google AdSense and Google Display
5 Network systems that provide contextual advertisements to third party publishers. In
6 order to help users find advertisements that may be of interest, Google's hardware and
7 software compare the content on the third party publishers' websites to advertisements to
8 determine whether they are related. When a user views a particular content item on a
9 third party publisher's website, related Google advertisements are also provided to the
10 user. For example, as demonstrated by Exhibit 11, when a user views an article on the
11 About.com website (identified by the red box), the user also receives related Google
12 advertisements (identified by the green boxes). The hardware and software associated
13 with the Google AdSense and Google Display Network systems have infringed and
14 continue to infringe at least claims 20, 21, 22, 24, 27, 28, 31, 34, 37, 63, 64, 65, 67, 70,
15 71, 74, 77, and 80 of the '507 patent under 35 U.S.C. § 271.

16 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
17 a belief as to the truth of the allegations contained in paragraph 27 of the Complaint and
18 on that basis denies the allegations contained therein.

19 28. Defendant Google operates the Gmail Spam Filter as part of its Gmail
20 website and service. When a new email is received by Gmail, the hardware and software
21 associated with the Gmail Spam Filter categorize the new email as either "spam" or "not
22 spam." The categorization is based at least in part on a comparison between the new
23 email and other emails that have been received by Gmail. The hardware and software
24 associated with the Gmail Spam Filter have infringed and continue to infringe at least
claims 39, 40, 43, 82, 83 and 86 of the '507 patent under 35 U.S.C. § 271.

ANSWER: OfficeMax is without knowledge or information sufficient to form
a belief as to the truth of the allegations contained in paragraph 28 of the Complaint and
on that basis denies the allegations contained therein.

 29. Defendant Google operates an automated book classification system as
part of its Google Books website and service. When new book information is received by
Google, the hardware and software associated with the Google Books classification

1 system indexes and categorizes the book. The categorization is based at least in part on a
2 comparison between the new book information and information related to other books
3 that have been indexed and categorized by Google Books. The hardware and software
4 associated with the book classification system have infringed and continue to infringe at
5 least claims 39, 40, 43, 82, 83 and 86 of the '507 patent under 35 U.S.C. § 271.

6 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
7 a belief as to the truth of the allegations contained in paragraph 29 of the Complaint and
8 on that basis denies the allegations contained therein.

9 30. Defendant Netflix has infringed and continues to infringe one or more
10 claims of the '507 patent under 35 U.S.C. § 271. Netflix operates the Netflix.com
11 website, which provides content such as movie and television show information to users.
12 In order to help users find additional content that may be of interest, the software and
13 hardware that operate this website compare the available content items to determine
14 whether they are related. When a user views a particular content item, the Netflix.com
15 website generates a display of related content items so as to inform the user that the
16 related items may be of interest. For example, as demonstrated by Exhibit 12, when a
17 user views a movie page on Netflix.com, the Netflix.com website displays both the
18 selected movie information (identified by the red box) and links to other related movies
19 (identified by the green boxes). The hardware and software associated with the
20 Netflix.com website that perform this function infringe at least claims 20, 21, 22, 23, 24,
21 27, 28, 31, 34, 37, 63, 64, 65, 66, 67, 70, 71, 74, 77, and 80 of the '507 patent under 35
22 U.S.C. § 271.

23 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
24 a belief as to the truth of the allegations contained in paragraph 30 of the Complaint and
25 on that basis denies the allegations contained therein.

26 31. Defendant Office Depot has infringed and continues to infringe one or
27 more claims of the '507 patent under 35 U.S.C. § 271. Office Depot operates websites
28 such as OfficeDepot.com and TechDepot.com that provide content such as product
29 information to users. In order to help users find additional content that may be of interest,
30 the software and hardware that operate these websites compare the available content
31 items to determine whether they are related. When a user views a particular content item,
32 the Office Depot websites generate displays of related content items so as to inform the
33 user that the related items may be of interest. For example, as demonstrated by Exhibit
34 13, when a user views a product page on OfficeDepot.com, the OfficeDepot.com website

1 displays both the selected product information (identified by the red box) and links to
2 other related products (identified by the green boxes). The hardware and software
3 associated with the Office Depot websites identified above and any other Office Depot
4 websites that perform this function infringe at least claims 20, 21, 22, 23, 24, 27, 28, 31,
5 34, 37, 63, 64, 65, 66, 67, 70, 71, 74, 77, and 80 of the '507 patent under 35 U.S.C. § 271.

6 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
7 a belief as to the truth of the allegations contained in paragraph 31 of the Complaint and
8 on that basis denies the allegations contained therein.

9 32. Defendant OfficeMax has infringed and continues to infringe one or more
10 claims of the '507 patent under 35 U.S.C. § 271. OfficeMax operates websites such as
11 OfficeMax.com¹ that provide content such as product information to users. In order to
12 help users find additional content that may be of interest, the software and hardware that
13 operate these websites compare the available content items to determine whether they are
14 related. When a user views a particular content item, the Office Depot websites generate
15 displays of related content items so as to inform the user that the related items may be of
16 interest. For example, as demonstrated by Exhibit 14, when a user views a product page
17 on OfficeMax.com, the OfficeMax.com website displays both the selected product
18 information (identified by the red box) and links to other related products (identified by
19 the green boxes). The hardware and software associated with the OfficeMax websites
20 identified above and any other OfficeMax websites that perform this function infringe at
21 least claims 20, 21, 22, 23, 24, 27, 28, 31, 34, 37, 63, 64, 65, 66, 67, 70, 71, 74, 77, and
22 80 of the '507 patent under 35 U.S.C. § 271.

23 **ANSWER:** OfficeMax specifically denies any infringement of any claim of the
24 '507 patent literally or under the doctrine of equivalents. To the extent that the
25 allegations in paragraph 32 purport to quote an Exhibit to the Complaint, OfficeMax
26 refers to the Exhibit for its content. OfficeMax admits that it operates multiple websites
27 and that some of its websites display product information. Except as expressly admitted
28 herein, OfficeMax denies the remaining allegations of paragraph 32.

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¹ OfficeMax operates a number of websites that are not open to the general public, including maxbuyer.officemax.com, government.officemax.com, and officemaxsolutions.com. To the extent other OfficeMax websites comprise the accused functionality, they infringe the '507 patent as well.

1 33. Defendant Staples has infringed and continues to infringe one or more
2 claims of the '507 patent under 35 U.S.C. § 271. Staples operates websites such as
3 Staples.com² that provide content such as product information to users. In order to help
4 users find additional content that may be of interest, the software and hardware that
5 operate these websites compare the available content items to determine whether they are
6 related. When a user views a particular content item, the Staples websites generate
7 displays of related content items so as to inform the user that the related items may be of
8 interest. For example, as demonstrated by Exhibit 15, when a user views a product page
9 on Staples.com, the Staples.com website displays both the selected product information
10 (identified by the red box) and links to other related products (identified by the green
11 boxes). The hardware and software associated with the Staples websites identified above
12 and any other Staples websites that perform this function infringe at least claims 20, 21,
13 22, 23, 24, 27, 28, 31, 34, 37, 63, 64, 65, 66, 67, 70, 71, 74, 77, and 80 of the '507 patent
14 under 35 U.S.C. § 271.

15 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
16 a belief as to the truth of the allegations contained in paragraph 33 of the Complaint and
17 on that basis denies the allegations contained therein.

18 34. Defendant Yahoo has infringed and continues to infringe one or more
19 claims of the '507 patent under 35 U.S.C. § 271. Yahoo operates many websites that
20 provide articles, videos, advertisements, and other types of content to users. In order to
21 help users find additional content items that may be of interest, the software and
22 hardware that operate the websites compare the available content items to determine
23 whether they are related. When a user views a particular content item, the Yahoo
24 websites generate displays of related content items so as to inform the user that the
related content items may be of interest. For example, as demonstrated by Exhibit 16,
when a user views a particular article on the Yahoo Finance website, the website displays
both the article (identified by the red box) and related stock information, advertisements,
articles, blog posts, and message boards (identified by the green boxes). Similar
functionality is used by many websites that are owned and operated by Yahoo, including
Flickr, Hotjobs, Rivals, Yahoo Advertising, Yahoo Alerts, Yahoo Auto, Yahoo Avatar,
Yahoo Biz, Yahoo Bookmarks, Yahoo Buzz, Yahoo Education, Yahoo Entertainment,
Yahoo Events, Yahoo Finance, Yahoo Games, Yahoo Green, Yahoo Groups, Yahoo
Health, Yahoo Kids, Yahoo Lifestyle, Yahoo Maps, Yahoo Mail, Yahoo Mobile, Yahoo
Movies, Yahoo Music, My Yahoo, Yahoo News, Yahoo OMG?, Yahoo People, Yahoo
Pulse, Yahoo Real Estate, Yahoo Shine, Yahoo Shopping, Yahoo Small Business, Yahoo

² Staples operates a number of websites that are not open to the general public, including
eway.com, stapleslink.com, and staples4government.com. To the extent other Staples websites comprise
the accused functionality, they infringe the '507 patent as well.

1 Sports, Yahoo Travel, Yahoo TV, Yahoo Video, Yahoo Video Games, Yahoo Weather,
2 Yahoo Widgets, Yahoo Answers, and Yahoo Local. Although the types of content (e.g.,
3 articles, videos, financial information, job postings, emails, product information,
4 advertisements, etc.) may vary from website to website, each website performs the
5 function described above-namely, comparing content items to determine whether they are
6 related and displaying those related content items. The hardware and software associated
7 with the Yahoo websites identified above and any other Yahoo websites that perform this
8 function infringe at least claims 20, 21, 22, 23, 24, 27, 28, 31, 34, 37, 63, 64, 65, 66, 67,
9 70, 71, 74, 77, and 80 of the '507 patent under 35 U.S.C. § 271.

6 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
7 a belief as to the truth of the allegations contained in paragraph 34 of the Complaint and
8 on that basis denies the allegations contained therein.

10 35. Defendant Yahoo operates the Content Klatch for Yahoo Search
11 Marketing and Yahoo Advertising Solutions systems that provide contextual
12 advertisements to third party publishers. In order to help users find advertisements that
13 may be of interest, Yahoo compares the content on the third party publishers' websites to
14 advertisements to determine whether they are related. When a user views a particular
15 content item on a third party publisher's website, related Yahoo advertisements are also
16 provided to the user. For example, as demonstrated by Exhibit 17, when a user views a
17 product on the Buy.com website (identified by the red box), the user also receives related
18 Yahoo advertisements (identified by the green box). The hardware and software
19 associated with the Yahoo Content Match and Yahoo Advertising Solutions systems have
20 infringed and continue to infringe at least claims 20, 21, 22, 24, 27, 28, 31, 34, 37, 63, 64,
21 65, 67, 70, 71, 74, 77, and 80 of the '507 patent under 35 U.S.C. § 271.

17 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
18 a belief as to the truth of the allegations contained in paragraph 35 of the Complaint and
19 on that basis denies the allegations contained therein.

21 36. Defendant Yahoo operates the Yahoo SpamGuard as part of its Yahoo
22 Mail website and service. When a new email is received by Yahoo Mail, the hardware
23 and software associated with the Yahoo SpamGuard categorize the new email as either
24 "Spam" or "not Spam.." The categorization is based at least in part on a comparison
between the new email and other emails that have been received by Yahoo Mail. The
hardware and software associated with the Yahoo SpamGuard have infringed and

1 continue to infringe at least claims 39, 40, 43, 82, 83 and 86 of the '507 patent under 35
2 U.S.C. § 271.

3 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
4 a belief as to the truth of the allegations contained in paragraph 36 of the Complaint and
5 on that basis denies the allegations contained therein.

6 37. Defendant YouTube has infringed and continues to infringe one or more
7 claims of the '507 patent under 35 U.S.C. § 271. YouTube operates the YouTube.com
8 website, which provides content such as videos and advertisements to users. In order to
9 help users find additional content that may be of interest, the software and hardware that
10 operate this website compare the available content items to determine whether they are
11 related. When a user views a particular content item, the YouTube.com website generates
12 a display of related content items so as to inform the user that the related items may be of
13 interest. For example, as demonstrated by Exhibit 18, when a user views a video page on
14 YouTube.com, the YouTube.com website displays both the selected video information
15 (identified by the red box) and links to other related videos and advertisements (identified
16 by the green boxes). The hardware and software associated with the YouTube.com
17 website that perform this function infringe at least claims 20, 21, 22, 23, 24, 27, 28, 31,
18 34, 37, 63, 64, 65, 66, 67, 70, 71, 74, 77, and 80 of the '507 patent under 35 U.S.C. § 271.

19 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
20 a belief as to the truth of the allegations contained in paragraph 37 of the Complaint and
21 on that basis denies the allegations contained therein.

22 38. Defendants AOL, Apple, eBay, Facebook, Google, Netflix, Office Depot,
23 OfficeMax, Staples, Yahoo, and YouTube's acts of infringement have caused damage to
24 Interval, and Interval is entitled to recover from Defendants the damages sustained by
Interval as a result of Defendants' wrongful acts in an amount subject to proof at trial.
Defendants' infringement of Interval's exclusive rights under the '507 patent will
continue to damage Interval, causing irreparable harm for which there is no adequate
remedy at law, unless enjoined by this Court. Interval reserves the right to allege, after
discovery, that Defendants' infringement is willful and deliberate, entitling Interval to
increased damages under 35 U.S.C. § 284 and to attorney's fees and costs incurred in
prosecuting this action under 35 U.S.C. § 285.

1 online content is of current interest, processes the indications, and alerts other users of the
2 interesting content. Interval was assigned the '682 patent and continues to hold all rights
3 and interest in the '682 patent. A true and correct copy of the '682 patent is attached
4 hereto as Exhibit 5.

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

11 60. Defendant AOL has infringed and continues to infringe one or more
12 claims of the '682 patent under 35 U.S.C. § 271. AOL operates the AOL Shopping
13 website, which provides product recommendations to users. The determination of which
14 products are to be recommended is based at least in part on other users' activities,
15 including, for example, viewing, rating, reviewing, sharing, or buying products. For
16 example, as demonstrated by Exhibit 28, the AOL Shopping website alerts users of
17 products that they might also like. Exhibit 28 also demonstrates how users may perform
18 activities (e.g., reviewing, rating or purchasing products) that can be used to generate
19 recommendations for other users. The hardware and software associated with the AOL
20 Shopping website that perform this function infringe at least claims 1, 2, 3, 4, 5, 6, 7, 8, 9,
21 11, 12, 13, 16, 17, and 20 of the '682 patent under 35 U.S.C. § 271.

22 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
23 a belief as to the truth of the allegations contained in paragraph 60 of the Complaint and
24 on that basis denies the allegations contained therein.

25 61. Defendant Apple has infringed and continues to infringe one or more
26 claims of the '682 patent under 35 U.S.C. § 271. Apple operates iTunes, the App Stores,
27 and Apple TV, each of which provides content recommendations to users. The
28 determination of which content is to be recommended is based at least in part on other
29 users' activities, including, for example, viewing, rating, reviewing, or purchasing
30 content items. For example, as demonstrated by Exhibit 29, iTunes alerts users of content
31 items that “Viewers Also Bought.” Exhibit 29 also demonstrates how users may perform

1 activities (e.g., reviewing, rating, buying, or renting content items) that can be used to
2 generate recommendations for other users. The hardware and software associated with
3 iTunes, the App Stores, and Apple TV that perform this function infringe at least claims
4 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 16, 17, and 20 of the '682 patent under 35 U.S.C. § 271.

5 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
6 a belief as to the truth of the allegations contained in paragraph 61 of the Complaint and
7 on that basis denies the allegations contained therein.

8 62. Apple operates iTunes Ping, which alerts users of content and activity
9 within iTunes and the Ping community. The determination of which content and activity
10 is to be provided to the user is based at least in part on the other users' activities,
11 including, for example, posting content or "liking" or commenting on content or activity.
12 For example, as demonstrated by Exhibit 30, Ping alerts users of some of the available
13 content or activity within the Ping community via the "Recent Activity" feed. Exhibit 30
14 also demonstrates how users may perform activities (e.g., posting, "liking," or
15 commenting) that can be used to determine which content and activity appears in the
16 "Recent Activity" feeds of other users. The hardware and software associated with Ping
17 that perform this function infringe at least claims 1, 2, 3, 4, 5, 7, 8, 9, 16, 17, and 20 of
18 the '682 patent under 35 U.S.C. § 271.

19 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
20 a belief as to the truth of the allegations contained in paragraph 62 of the Complaint and
21 on that basis denies the allegations contained therein.

22 63. Defendant eBay has infringed and continues to infringe one or more
23 claims of the '682 patent under 35 U.S.C. § 271. eBay operates the eBay.com and Half
24 com websites, which provides product recommendations to users. The determination of
which products are to be recommended is based at least in part on other users' activities,
including, for example, viewing, "watching," rating, or buying products, or reviewing
sellers. For example, as demonstrated by Exhibit 31, the eBay.com website alerts users of
products that they may also be interested by putting the products in the "Check out the
most watched" section. Exhibit 31 also demonstrates how users may perform activities
(e.g., buying or "watching" items) that can be used to generate recommendations for
other users. The hardware and software associated with the eBay websites identified
above and any other eBay websites that perform this function infringe at least claims 1, 2,
3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 16, 17, and 20 of the '682 patent under 35 U.S.C. § 271.

1 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
2 a belief as to the truth of the allegations contained in paragraph 63 of the Complaint and
3 on that basis denies the allegations contained therein.

4 64. Defendant Facebook has infringed and continues to infringe one or more
5 claims of the '682 patent under 35 U.S.C. § 271. Facebook operates the Facebook.com
6 website, which alerts users of content and activity of other Facebook users. The
7 determination of which content and activity is to be provided to the user is based at least
8 in part on the other users' activities including, for example, sharing content or "liking" or
9 commenting on content or activity. For example, as demonstrated by Exhibit 32,
10 Facebook alerts users of some of the available content via the "News Feed." Exhibit 32
11 also demonstrates how users may perform activities (e.g., sharing, "liking," or
12 commenting) that can be used to determine which content and activity appears in the
13 "News Feeds" of other users. The Facebook.com website also alerts users of other users
14 with whom they may wish to become friends. The determination of which users to
15 recommend is based at least in part on the other users' activities including, for example,
16 befriending users, joining networks, and providing profile information. The hardware and
17 software associated with the Facebook.com website that perform the above-described
18 functions infringe at least claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 16, 17, and 20
19 of the '682 patent under 35 U.S.C. § 271.

20 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
21 a belief as to the truth of the allegations contained in paragraph 64 of the Complaint and
22 on that basis denies the allegations contained therein.

23 65. Defendant Google has infringed and continues to infringe one or more
24 claims of the '682 patent under 35 U.S.C. § 271. Google operates multiple websites that
recommend content such as blogs, news stories, products, and articles, to users. The
determination of which content is to be recommended is based at least in part on other
users' activities, including, for example, viewing, "starring," sharing, or commenting on
the content. For example, as demonstrated by Exhibit 33, the Google Reader website
alerts users of online articles or blog postings that they may be interested in. Exhibit 33
also demonstrates how users may perform activities (e.g., "starring," "liking," or sharing)
that can be used to generate recommendations for other users. Similar functionality is
used by many websites that are owned and operated by Google, including Google Blog
Search, Google Knol, Google News, and Google Products. Although the types of content
(e.g., blogs, Knol articles, news articles, and products, etc.) and the types of user
activities that are used to generate alerts (e.g., viewing, "starring," "liking," etc.) may

1 vary from website to website, each website performs the function described above. The
2 hardware and software associated with the Google websites identified above and any
3 other Google websites that perform this function infringe at least claims 1, 2, 3, 4, 5, 6, 7,
4 8, 9, 10, 11, 12, 13, 16, 17, and 20 of the 1682 patent under 35 U.S.C. § 271.

5 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
6 a belief as to the truth of the allegations contained in paragraph 65 of the Complaint and
7 on that basis denies the allegations contained therein.

8 66. Google operates the Google Buzz system, which alerts users of content
9 and activity of other Google Buzz users. The determination of which content and activity
10 is to be provided to the user is based at least in part on the other users' activities
11 including, for example, sharing content or "liking" or commenting on content or activity.
12 For example, as demonstrated by Exhibit 34, Google alerts users of some of the available
13 content via the Buzz feed. Exhibit 34 also demonstrates how users may perform activities
14 (e.g., sharing, "liking," or commenting) that can be used to determine which content and
15 activity appears in the Buzz feeds of other users. The hardware and software associated
16 with the Google Buzz system that perform the above-described functions infringe at least
17 claims 1, 2, 3, 4, 5, 7, 8, 16, 17, and 20 of the '682 patent under 35 U.S.C. § 271.

18 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
19 a belief as to the truth of the allegations contained in paragraph 66 of the Complaint and
20 on that basis denies the allegations contained therein.

21 67. Google operates the Orkut.com website, which alerts users of other users
22 with whom they may wish to become friends. The determination of which users to
23 recommend is based at least in part on the other users' activities including, for example,
24 befriending users, joining communities, and updating profile information. The hardware
and software associated with the Orkut.com website that perform the above-described
functions infringe at least claims 1, 2, 3, 4, 5, 7, 8, 16, 17, and 20 of the '682 patent under
35 U.S.C. § 271.

ANSWER: OfficeMax is without knowledge or information sufficient to form
a belief as to the truth of the allegations contained in paragraph 67 of the Complaint and
on that basis denies the allegations contained therein.

1 68. Defendant Netflix has infringed and continues to infringe one or more
2 claims of the '682 patent under 35 U.S.C. § 271. Netflix operates the Netflix.com
3 website, which provides movie and television show recommendations to users. The
4 determination of which media items are to be recommended is based at least in part on
5 other users' activities, including, for example, viewing, "watching," or buying products,
6 or reviewing sellers. For example, as demonstrated by Exhibit 35, the Netflix.com
7 website alerts users of movies and television shows that they may also be interested by
8 putting the products in the "Movie's You'll ♥" section. Exhibit 35 also demonstrates how
9 users may perform activities (e.g., watching, rating, or selecting "not interested") that can
10 be used to generate recommendations for other users. The hardware and software
11 associated with the Netflix.com website that perform this function infringe at least claims
12 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 16, 17, and 20 of the '682 patent under 35 U.S.C. § 271.

8 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
9 a belief as to the truth of the allegations contained in paragraph 68 of the Complaint and
10 on that basis denies the allegations contained therein.

11 69. Defendant Office Depot has infringed and continues to infringe one or
12 more claims of the '682 patent under 35 U.S.C. § 271. Office Depot operates the
13 OfficeDepot.com and TechDepot.com websites, which provide product recommendations
14 to users. The determination of which products are to be recommended is based at least in
15 part on other users' activities, including, for example, viewing, rating, reviewing, or
16 buying products. For example, as demonstrated by Exhibit 36, the OfficeDepot.com
17 website alerts users of products that they may also be interested in. Exhibit 36 also
18 demonstrates how users may perform activities (e.g., reviewing or adding products to
19 their shopping carts or shopping lists) that can be used to generate recommendations for
20 other users. The hardware and software associated with the Office Depot websites
21 identified above and any other Office Depot websites that perform this function infringe
22 at least claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 16, 17, and 20 of the '682 patent under
23 35 U.S.C. § 271.

19 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
20 a belief as to the truth of the allegations contained in paragraph 69 of the Complaint and
21 on that basis denies the allegations contained therein.

23 70. Defendant OfficeMax has infringed and continues to infringe one or more
24 claims of the '682 patent under 35 U.S.C. § 271. OfficeMax operates websites such as

1 OfficeMax.com,³ which provides product recommendations to users. The determination
2 of which products are to be recommended is based at least in part on other users'
3 activities, including, for example, viewing, rating, reviewing, or buying products. For
4 example, as demonstrated by Exhibit 37, the OfficeMax.com website alerts users of
5 products that they may also be interested in. Exhibit 37 also demonstrates how users may
6 perform activities (e.g., reviewing or adding products to their shopping carts or
7 "Favorites") that can be used to generate recommendations for other users. The hardware
8 and software associated with the OfficeMax websites identified above and any other
9 OfficeMax websites that perform this function infringe at least claims 1, 2, 3, 4, 5, 6, 7, 8,
10 9, 11, 12, 13, 16, 17, and 20 of the '682 patent under 35 U.S.C. § 271.

11 **ANSWER:** OfficeMax specifically denies any infringement of any claim of the
12 '682 patent literally or under the doctrine of equivalents. OfficeMax admits that it
13 operates multiple web sites and that some of its websites display product information. To
14 the extent that the allegations in paragraph 70 purport to quote an Exhibit to the
15 Complaint, OfficeMax refers to the Exhibit for its content. Except as expressly admitted
16 herein, OfficeMax denies the remaining allegations of paragraph 70.

17 71. Defendant Staples has infringed and continues to infringe one or more
18 claims of the '682 patent under 35 U.S.C. § 271. Staples operates websites such as
19 Staples.com,⁴ which provides product recommendations to users. The determination of
20 which products are to be recommended is based at least in part on other users' activities,
21 including, for example, viewing, rating, reviewing, or buying products. For example, as
22 demonstrated by Exhibit 38, the Staples.com website alerts users of products that they
23 may also be interested in. Exhibit 38 also demonstrates how users may perform activities
24 (e.g., reviewing or adding products to their shopping carts or "Favorites") that can be
used to generate recommendations for other users. The hardware and software associated
with the Staples websites identified above and any other Staples websites that perform
this function infringe at least claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 16, 17, and 20 of
the '682 patent under 35 U.S.C. § 271.

³ OfficeMax operates a number of websites that are not open to the general public, including
maxbuyer.officemax.com, government.officemax.com, and officemaxsolutions.com. To the extent other
OfficeMax websites comprise the accused functionality, they infringe the '682 patent as well.

⁴ Staples operates a number of websites that are not open to the general public, including
eway.com, stapleslink.com, and staples4government.com. To the extent other Staples websites comprise
the accused functionality, they infringe the '682 patent as well.

1 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
2 a belief as to the truth of the allegations contained in paragraph 71 of the Complaint and
3 on that basis denies the allegations contained therein.

4 72. Defendant Yahoo has infringed and continues to infringe one or more
5 claims of the '682 patent under 35 U.S.C. § 271. Yahoo operates multiple websites that
6 recommend content such as products, articles, blog posts, photos, and music to users. The
7 determination of which content is to be recommended is based at least in part on other
8 users' activities, including, for example, viewing, sharing, rating, or commenting on the
9 content. For example, as demonstrated by Exhibit 39, the Yahoo Buzz website alerts
10 users of online articles or blog postings that they may be interested in by identifying them
11 as "Top Buzz" Exhibit 39 also demonstrates how users may perform activities (e.g.,
12 "Buzzing up" or "Buzzing down") that can be used to generate recommendations for
13 other users. Similar functionality is used by many websites that are owned and operated
14 by Yahoo, including Delicious, Flickr, Yahoo Shopping, Yahoo Music, and Yahoo
15 Answers. Although the types of content (e.g., articles, blog posts, photos, product
16 information, music, etc.) and the types of user activities that are used to generate alerts
17 (e.g., viewing, sharing, commenting, rating, etc.) may vary from website to website, each
18 website performs the function described above. The hardware and software associated
19 with the Yahoo websites identified above and any other Yahoo websites that perform this
20 function infringe at least claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, and 20 of
21 the '682 patent under 35 U.S.C. § 271.

22 **ANSWER:** OfficeMax is without knowledge or information sufficient to form
23 a belief as to the truth of the allegations contained in paragraph 72 of the Complaint and
24 on that basis denies the allegations contained therein.

25 73. Defendant YouTube has infringed and continues to infringe one or more
26 claims of the '682 patent under 35 U.S.C. § 271. YouTube operates the YouTube.com
27 website, which provides video recommendations to users. The determination of which
28 videos are to be recommended is based at least in part on other users' activities,
29 including, for example, viewing, "liking," sharing, or commenting on videos. For
30 example, as demonstrated by Exhibit 40, the YouTube.com website alerts users of videos
31 that they may also be interested by putting the products in the "Suggestions" section.
32 Exhibit 40 also demonstrates how users may perform activities (e.g., "liking," sharing,
33 commenting, or adding a video to their "favorites") that can be used to generate
34 recommendations for other users. The hardware and software associated with the

1 YouTube.com website that perform this function infringe at least claims 1, 2, 3, 4, 5, 6, 7,
2 8, 9, 11, 12, 13, 16, 17, and 20 of the '682 patent under 35 U.S.C. § 271.

3 ANSWER: OfficeMax is without knowledge or information sufficient to form
4 a belief as to the truth of the allegations contained in paragraph 73 of the Complaint and
5 on that basis denies the allegations contained therein.

6 74. Defendants AOL, Apple, eBay, Facebook, Google, Netflix, Office Depot,
7 OfficeMax, Staples, Yahoo, and YouTube's acts of infringement have caused damage to
8 Interval, and Interval is entitled to recover from Defendants the damages sustained by
9 Interval as a result of Defendants' wrongful acts in an amount subject to proof at trial.
10 Defendants' infringement of Interval's exclusive rights under the '682 patent will
11 continue to damage Interval, causing irreparable harm for which there is no adequate
12 remedy at law, unless enjoined by this Court. Interval reserves the right to allege, after
13 discovery, that Defendants' infringement is willful and deliberate, entitling Interval to
14 increased damages under 35 U.S.C. § 284 and to attorney's fees and costs incurred in
15 prosecuting this action under 35 U.S.C. § 285.

16 ANSWER: OfficeMax specifically denies any infringement of any claim of the
17 '682 patent literally or under the doctrine of equivalents. OfficeMax also specifically
18 denies any damage or harm of any kind to Interval. OfficeMax further specifically denies
19 that Interval has any basis for asserting willful or deliberate infringement against
20 OfficeMax and that Interval is entitled to attorney's fees or costs. Except as expressly
21 admitted herein, OfficeMax denies the remaining allegations of paragraph 74 that are
22 directed at OfficeMax.

23 JURY DEMAND

24 75. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Interval
respectfully requests a trial by jury on all issues properly triable by jury.

ANSWER: OfficeMax believes that no response to paragraph 75 is required,
but to the extent any response is required, and to the extent the allegations contained in

1 paragraph 75 are directed at OfficeMax, OfficeMax denies the allegations contained in
2 paragraph 75. To the extent the allegations contained in paragraph 75 are directed at any
3 other defendant, OfficeMax is without knowledge or information sufficient to form a
4 belief as to the truth of the allegations contained in paragraph 75 of the Complaint and on
5 that basis denies the allegations contained therein.

6 * * *

7 OfficeMax denies that Interval is entitled to the relief sought in items a) through
8 e) of Interval's "PRAYER FOR RELIEF", and in the preamble to such items, on pages
9 33 and 34 of the Complaint.

10
11 AFFIRMATIVE DEFENSES

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

16
17 FIRST AFFIRMATIVE DEFENSE

18 1. OfficeMax has not infringed and is not infringing any claim of any of the
19 '507 patent, the '314 patent, the '652 patent or the '682 patent (together, "the patents-in-
20 suit"), either directly or by inducing or contributing to infringement by others.

21
22 SECOND AFFIRMATIVE DEFENSE

23 2. Each of the claims of each of the patents-in-suit is invalid, unenforceable,
24 and/or void for failing to comply with one or more of the requirements for patentability

1 under the Patent Laws of the United States, including but not limited to, 35 U.S.C. §§
2 101, 102, 103, 112 et seq.

3 THIRD AFFIRMATIVE DEFENSE

4 3. Interval is estopped from construing any valid claim of any of the patents-
5 in-suit to cover or include, either literally or by application of the doctrine of equivalents,
6 any product or service manufactured, used, imported, sold, or offered by OfficeMax
7 because of admissions and statements to the United States Patent and Trademark Office
8 in the specifications of any of the patents-in-suit and during prosecution of the
9 applications leading to the issuance of any of the patents-in-suit.
10

11 FOURTH AFFIRMATIVE DEFENSE

12 4. Interval is not entitled to injunctive relief because any alleged injury to
13 Interval is not immediate or irreparable, and Interval has an adequate remedy at law.

14 FIFTH AFFIRMATIVE DEFENSE

15 5. With respect to each purported claim for relief alleged in the Complaint,
16 Interval fails to state a claim against OfficeMax upon which relief may be granted,
17 including but not limited to any claim for infringement, contributory infringement or
18 inducing infringement.
19

20 SIXTH AFFIRMATIVE DEFENSE

21 6. The claims alleged in the Complaint are barred, in whole or in part, by the
22 doctrine of laches and/or estoppel.
23
24

SEVENTH AFFIRMATIVE DEFENSE

1
2 7. Interval failed to provide adequate notice to OfficeMax of alleged
3 infringement and is thus barred under 35 U.S.C. § 287 from recovering damages prior to
4 the date of the filing of the Complaint.

5 8. Interval is barred by 35 U.S.C. § 288 from recovering costs associated
6 with its action.

7 9. By asserting this affirmative defense, OfficeMax does not assume any
8 burden of proof.

EIGHTH AFFIRMATIVE DEFENSE

10 10. Interval cannot prove that this is an exceptional case justifying award of
11 attorney fees against OfficeMax pursuant to 35 U.S.C. § 285.

NINTH AFFIRMATIVE DEFENSE

14 11. With respect to the purported claims for contributory infringement or
15 inducing infringement alleged in the Complaint, Interval fails to provide any facts
16 outlining or supporting such a claim.

TENTH AFFIRMATIVE DEFENSE

18 12. OfficeMax's investigation of its defenses is continuing, and OfficeMax
19 expressly reserves the right to allege and assert any additional affirmative defenses under
20 Rule 8 of the Federal Rules of Civil Procedure, the patent laws of the United States and
21 any other defense, at law or in equity, that may now exist or in the future be available
22 based upon discovery and further investigation in this case. OfficeMax also expressly
23
24

1 incorporates by reference herein all defenses pleaded by any other defendant in this
2 action in their respective answers to the Complaint.

3 DATED this 14th day of January, 2011.

4 CORR CRONIN MICHELSON
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24 Attorneys for Defendant OfficeMax
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CERTIFICATE OF SERVICE

1 I hereby certify that on January 14, 2011, I electronically filed the foregoing with
2 the Clerk of the Court using the CM/ECF system, which will send notification of such
3 filing to the following:
4

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1 I declare under penalty of perjury under the laws of the State of Washington
2 that the foregoing is true and correct.

3 DATED this 14th day of January, 2011, at Seattle, Washington.

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