HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

INTERVAL LICENSING LLC, Plaintiff, v. AOL, INC, et al., Defendants.	Case No.: 2:10-cv-01385-MJP DEFENDANT GOOGLE INC.'S ANSWER AND COUNTERCLAIMS TO PLAINTIFF INTERVAL LICENSING LLC'S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT Jury Trial Demanded

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

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

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

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

THE PARTIES

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

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

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

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

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

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

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

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

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

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

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

12. Google admits that YouTube, LLC ("YouTube") is a limited liability company duly organized and existing under the laws of the state of California, with its principal place of business at 901 Cherry Avenue, San Bruno, California 94066.

JURISDICTION AND VENUE

13. To the extent they are directed at Google, and except as expressly admitted herein, Google denies the allegations contained in paragraph 13 of the Complaint. Google admits that Interval's Complaint purports to state a claim arising under the Patent Laws of the United States, 35 U.S.C. § 1, et seq., and that, pursuant to 28 U.S.C. § 1338(a), this Court has subject matter jurisdiction over actions arising under the Patent Laws of the United States. For purposes of this action only, Google does not contest that venue is permissible as to Google and YouTube, but asserts that a transfer of venue may be proper pursuant to 35 U.S.C. § 1404. To the extent the allegations contained in paragraph 13 of the Complaint are directed at any other defendant, Google is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of the Complaint and on that basis denies the allegations contained therein. Google specifically denies any infringement literally or under the doctrine of equivalents.

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

15. Google is without knowledge or information sufficient to form 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. To the extent the allegations of paragraph 16 are directed to any other defendant, Google is without sufficient knowledge or information sufficient to form a belief as to the truth of those allegations and on that basis denies them. Google admits that funding relating to research conducted by certain of Google's early employees was provided by Interval Research Corporation. Google specifically denies that such funding "resulted in Google." To the extent that the allegations in paragraph 16 purport to quote a website, Google refers to the website for its content. Except as expressly admitted herein, Google denies the remaining allegations of paragraph 16 that are directed at Google.

17. To the extent that the allegations in paragraph 17 purport to quote a research article, Google refers to the research article for its content. Except as expressly admitted herein, Google denies the remaining allegations of paragraph 17 that are directed at Google.

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

19. Google is without knowledge or information sufficient to form 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

20. Google 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."

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Google denies that the '507 patent was duly and legally issued. Google specifically denies that the '507 patent describes an invention and refers to the patent for its description. Google 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. Google 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. Google 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. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the Complaint and on that basis denies the allegations contained therein.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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46. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 46 of the Complaint and on that basis denies the allegations contained therein.

47. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 47 of the Complaint and on that basis denies the allegations contained therein.

48. To the extent the allegations of paragraph 48 are directed at Google, Google denies the allegations of paragraph 48. Google specifically denies any infringement of any claim of the '652 patent literally or under the doctrine of equivalents. Google also specifically denies any damage or harm of any kind to Interval. Google further specifically denies that Interval has any basis for asserting willful or deliberate infringement against Google and that Interval is entitled to attorney's fees or costs. Google is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 48 of the Complaint and on that basis denies the allegations contained therein.

INFRINGEMENT OF U.S. PATENT NO. 6,788,314

49. Google admits that United States Patent No. 6,788,314 ("the '314 patent") bears the issue date September 7, 2004 and the title "Attention Manager for Occupying the Peripheral Attention of a Person in the Vicinity of a Display Device." Google denies that the '314 patent was duly and legally issued. Google specifically denies that the '314 patent describes an invention and refers to the patent for its description. Google is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 49 of the Complaint and on that basis denies these allegations.

50. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 50 of the Complaint and on that basis denies the allegations contained therein.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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73. As this allegation is not directed at Google, Google believes that no response is necessary. To the extent a response is necessary, Google specifically denies that YouTube infringes any claim of the '682 patent literally or under the doctrine of equivalents. Google admits that YouTube operates YouTube.com and that users of YouTube.com may access videos or see advertisements. To the extent that the allegations in paragraph 73 purport to quote an Exhibit to the Complaint, Google refers to the Exhibit for its content. Except as expressly admitted herein, Google denies the remaining allegations of paragraph 73 that are directed at Google.

74. To the extent the allegations of paragraph 74 are directed at Google and/or YouTube, Google denies the allegations of paragraph 74. Google specifically denies any infringement of any claim of the '682 patent literally or under the doctrine of equivalents. Google also specifically denies any damage or harm of any kind to Interval. Google further specifically denies that Interval has any basis for asserting willful or deliberate infringement against Google and that Interval is entitled to attorney's fees or costs. Except as expressly admitted herein, Google denies the remaining allegations of paragraph 74 that are directed at Google.

JURY DEMAND

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

* * *

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

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GENERAL DENIAL

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

AFFIRMATIVE DEFENSES

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

FIRST AFFIRMATIVE DEFENSE

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

SECOND AFFIRMATIVE DEFENSE

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

THIRD AFFIRMATIVE DEFENSE

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

FOURTH AFFIRMATIVE DEFENSE

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

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FIFTH AFFIRMATIVE DEFENSE

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

SIXTH AFFIRMATIVE DEFENSE

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

SEVENTH AFFIRMATIVE DEFENSE

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

EIGHTH AFFIRMATIVE DEFENSE

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

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

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

NINTH AFFIRMATIVE DEFENSE

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

TENTH AFFIRMATIVE DEFENSE

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

ELEVENTH AFFIRMATIVE DEFENSE

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

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

TWELFTH AFFIRMATIVE DEFENSE

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

COUNTERCLAIMS

Google brings these counterclaims against Interval, alleging as follows:

Jurisdiction and Venue

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

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

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

COUNT I
(Declaratory Judgment of Invalidity of the '507 Patent)

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

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

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

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

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

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

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

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

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

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

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

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

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

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104. The claims of the '314 patent are invalid for failure to meet the conditions of patentability set forth in the Patent Laws of the United States, including but not limited to 35 U.S.C. §§ 101, 102, 103, and 112.

105. Interval alleges that Google infringes one or more claims of the '314 patent. Google contends that the '314 patent is invalid. An actual controversy exists between Interval and Google regarding the invalidity of the '314 patent.

106. Google is entitled to a declaratory judgment that the claims of the '314 patent are invalid and/or void in law.

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

COUNT IV
(Declaratory Judgment of Invalidity of the '682 Patent)

108. Google repeats and incorporates by reference the allegations contained in paragraphs 90-107 above as if fully set forth herein.

109. The claims of the '682 patent are invalid for failure to meet the conditions of patentability set forth in the Patent Laws of the United States, including but not limited to 35 U.S.C. §§ 101, 102, 103, and 112.

110. Interval alleges that Google infringes one or more claims of the '682 patent. Google contends that the '682 patent is invalid. An actual controversy exists between Interval and Google regarding the invalidity of the '682 patent.

111. Google is entitled to a declaratory judgment that the claims of the '682 patent are invalid and/or void in law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

JURY DEMAND

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

PRAYER FOR RELIEF

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

1. Dismissing Interval's claims against Google with prejudice;

2. Denying all relief sought by Interval;

3. Declaring that Google has not infringed and is not directly or indirectly infringing any claim of any of the patents-in-suit;

4. Declaring that the patents-in-suit are invalid;

5. Declaring that this case is exceptional under 35 U.S.C. § 285;

6. Awarding to Google its costs, attorneys' fees, and expenses incurred in defending against Interval's Complaint; and

7. Awarding Google such other and further relief as the Court deems just and proper.

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

STOKES LAWRENCE, P.S.

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CERTIFICATE OF SERVICE

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

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

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