

HON. MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

INTERVAL LICENSING LLC,

Plaintiff,

v.

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

Defendants.

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

**DEFENDANTS EBAY INC., NETFLIX,
INC., OFFICE DEPOT, INC., AND
STAPLES, INC.'S NOTICE OF
JOINDER IN DEFENDANTS GOOGLE
INC. AND YOUTUBE, LLC'S MOTION
TO DISMISS FOR FAILURE TO
STATE A CLAIM UPON WHICH
RELIEF CAN BE GRANTED
PURSUANT TO
FED. R. CIV. P. 12(b)(6)**

Defendants eBay Inc., Netflix, Inc., Office Depot, Inc., and Staples, Inc. hereby join
Defendants Google Inc. and YouTube, LLC's Motion to Dismiss For Failure to State a Claim
Upon Which Relief Can Be Granted Pursuant to Fed. R. Civ. P. 12(b)(6) (Docket No. 64), and
the arguments and authorities found therein.¹

¹ eBay Inc., Netflix, Inc., Office Depot, Inc., and Staples, Inc. also are concurrently filing their Joinder to Google Inc. and YouTube, LLC's Motion to Dismiss or Sever for Misjoinder Pursuant to Fed. R. Civ. P. 20 and 21.

1 Interval Licensing LLC’s allegations of infringement of U.S. Patent No. 6,263,507 (“the
2 ’507 patent) against eBay Inc., Netflix, Inc., Office Depot, Inc., and Staples, Inc. are
3 substantively identical to the allegations it has asserted against Google Inc. and YouTube, LLC.
4 *Compare* Complaint for Patent Infringement (Docket No. 1) ¶ 24 (Google Inc.) and ¶ 30
5 (YouTube, LLC) *with id.*, ¶ 23 (eBay Inc.); ¶ 25 (Netflix, Inc.); ¶ 26 (Office Depot, Inc.); and ¶
6 28 (Staples, Inc.). Accordingly, the allegations are deficient for the same reasons set forth in
7 Google Inc. and YouTube, LLC’s Motion to Dismiss.

8 Interval Licensing LLC’s allegations of infringement of U.S. Patent No. 6,757,682 (“the
9 ’682 patent) against eBay Inc., Netflix, Inc., Office Depot, Inc., and Staples, Inc. are
10 substantively identical to the allegations it has asserted against Google Inc. and YouTube, LLC.
11 *Compare* Complaint for Patent Infringement (Docket No. 1) ¶ 49 (Google Inc.) and ¶ 55
12 (YouTube, LLC) *with id.*, ¶ 47 (eBay Inc.); ¶ 50 (Netflix, Inc.); ¶ 51 (Office Depot, Inc.); and ¶
13 53 (Staples, Inc.). Accordingly, the allegations are deficient for the same reasons as those set
14 forth in Google Inc. and YouTube, LLC’s Motion to Dismiss.

15 Because Interval Licensing LLC has not adequately pled the facts required to support an
16 allegation that eBay Inc., Netflix, Inc., Office Depot, Inc., and Staples, Inc. directly or indirectly
17 infringe the ’507 and ’682 patents, and for the reasons discussed in Google Inc. and YouTube,
18 LLC’s Motion to Dismiss, eBay Inc., Netflix, Inc., Office Depot, Inc., and Staples, Inc. join such
19 Motion to Dismiss (Docket No. 64) and respectfully request that all claims against eBay Inc.,
20 Netflix, Inc., Office Depot, Inc., and Staples, Inc. be dismissed.

1 DATED this 21st day of October, 2010.
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3 KLARQUIST SPARKMAN, LLP
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5 By: /s/ J. Christopher Carraway
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14 *Attorneys for Defendants eBay Inc., Netflix, Inc.,*
15 *Office Depot, Inc., and Staples, Inc.*
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CERTIFICATE OF SERVICE

I hereby certify that on October 21, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing on all counsel who are deemed to have consented to electronic service.

By: /s/ J. Christopher Carraway
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