

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.

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY DEMAND

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Interval Licensing LLC, files this complaint for patent infringement against Defendants AOL, Inc., Apple, Inc., eBay, Inc., Facebook, Inc., Google Inc., Netflix, Inc., Office Depot, Inc., OfficeMax Inc., Staples, Inc., Yahoo! Inc., and YouTube, LLC. Plaintiff Interval Licensing LLC alleges:

THE PARTIES

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

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

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10 3. Interval is informed and believes, and on that basis alleges, that Defendant
11 Apple, Inc. (“Apple”) is a corporation duly organized and existing under the laws of the
12 state of California, with its principal place of business at 1 Infinite Loop, Cupertino, CA
13 95014.

14
15 4. Interval is informed and believes, and on that basis alleges, that Defendant
16 eBay, Inc. (“eBay”) is a corporation duly organized and existing under the laws of the state
17 of Delaware, with its principal place of business at 2145 Hamilton Avenue, San Jose, CA
18 95125.

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

24
25 6. Interval is informed and believes, and on that basis alleges, that Defendant
26 Google Inc. (“Google”) is a corporation duly organized and existing under the laws of the
27 state of Delaware, with its principal place of business at 1600 Amphitheatre Parkway,
28 Mountain View, CA 94043.

1 7. Interval is informed and believes, and on that basis alleges, that Defendant
2 Netflix, Inc. (“Netflix”) is a corporation duly organized and existing under the laws of the
3 state of Delaware, with its principal place of business at 100 Winchester Circle, Los Gatos,
4 CA 95032.

5 8. Interval is informed and believes, and on that basis alleges, that Defendant
6 Office Depot, Inc. (“Office Depot”) is a corporation duly organized and existing under the
7 laws of the state of Delaware, with its principal place of business at 6600 North Military
8 Trail, Boca Raton, FL 33496.

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

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

17 11. Interval is informed and believes, and on that basis alleges, that Defendant
18 Yahoo! Inc. (“Yahoo”) is a corporation duly organized and existing under the laws of the
19 state of Delaware, with its principal place of business at 701 First Avenue, Sunnyvale, CA
20 94089.

21 12. Interval is informed and believes, and on that basis alleges, that Defendant
22 YouTube, LLC (“YouTube”) is a limited liability company duly organized and existing
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1 under the laws of the state of California, with its principal place of business at 901 Cherry
2 Avenue, San Bruno, CA 94066.

3 **JURISDICTION AND VENUE**

4 13. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1338(a)
5 because this action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*
6 Venue is proper in this Federal Circuit pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b) in
7 that a substantial part of the events giving rise to the claims occurred in this district and the
8 defendants have a regular and established practice of business in this district and have
9 committed acts of infringement in this district.
10

11 **INTERVAL RESEARCH CORPORATION WAS A PIONEER IN THE**
12 **TECHNOLOGY INDUSTRY**

13 14. Interval Research Corporation (“Interval Research”) was founded in 1992 by
14 Paul Allen and David Liddle to perform advanced research and development in the areas of
15 information systems, communications, and computer science. Mr. Allen, who served as
16 Interval Research’s chairman, was one of the earliest pioneers of personal computer
17 software. He co-founded Microsoft with Bill Gates in 1975 and later founded Vulcan
18 Ventures in 1986. Mr. Liddle served as Interval Research’s president and chief executive
19 officer. He was instrumental in developing fundamental technologies starting in the early
20 1970s when he worked at Xerox at the Palo Alto Research Center.
21

22 15. Starting with Mr. Allen, Mr. Liddle, and a handful of scientists and inventors,
23 Interval Research evolved into one of the preeminent technology firms. It employed over
24 110 of the world’s leading scientists, physicists, and engineers, and was at the forefront in
25 designing next-generation science and technology.
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1 16. In addition to the research that Interval Research conducted, it also provided
2 funding and assistance for other projects. For example, Interval Research served as an
3 outside collaborator to and provided research funding for Sergey Brin and Lawrence Page's
4 research that resulted in Google. Indeed, a Google screenshot dated September 27, 1998
5 entitled "About Google!" identifies Interval Research in the "Credits" section as one of two
6 "Outside Collaborators" and one of four sources of "Research Funding" for Google. See
7 Sept. 27, 1998 Website "About Google!" attached as Exhibit 1.

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 Large-
11 Scale Hypertextual Web Search Engine" in which they "present Google."

13 18. As a testament to Interval Research's innovation, it was issued approximately
14 300 patents in less than a decade. Four of those patents are the patents-in-suit.

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

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

19 20. On July 17, 2001, United States Patent No. 6,263,507 ("the '507 patent") was
20 duly and legally issued for an invention entitled "Browser for Use in Navigating a Body of
21 Information, With Particular Application to Browsing Information Represented By
22 Audiovisual Data." Interval was assigned the '507 patent and continues to hold all rights
23 and interest in the '507 patent. A true and correct copy of the '507 patent is attached hereto
24 as Exhibit 2.

26 21. Defendant AOL has infringed and continues to infringe one or more claims
27 of the '507 patent. AOL is liable for infringing the '507 patent under 35 U.S.C. § 271 by
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1 making and using websites, hardware, and software to categorize, compare, and display
2 segments of a body of information as claimed in the patent.

3 22. Defendant Apple has infringed and continues to infringe one or more claims
4 of the '507 patent. Apple is liable for infringing the '507 patent under 35 U.S.C. § 271 by
5 making and using websites, hardware, and software to categorize, compare, and display
6 segments of a body of information as claimed in the patent.
7

8 23. Defendant eBay has infringed and continues to infringe one or more claims
9 of the '507 patent. eBay is liable for infringing the '507 patent under 35 U.S.C. § 271 by
10 making and using websites, hardware, and software to categorize, compare, and display
11 segments of a body of information as claimed in the patent.
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13 24. Defendant Google has infringed and continues to infringe one or more claims
14 of the '507 patent. Google is liable for infringing the '507 patent under 35 U.S.C. § 271 by
15 making and using websites, hardware, and software to categorize, compare, and display
16 segments of a body of information as claimed in the patent.
17

18 25. Defendant Netflix has infringed and continues to infringe one or more claims
19 of the '507 patent. Netflix is liable for infringing the '507 patent under 35 U.S.C. § 271 by
20 making and using websites, hardware, and software to categorize, compare, and display
21 segments of a body of information as claimed in the patent.
22

23 26. Defendant Office Depot has infringed and continues to infringe one or more
24 claims of the '507 patent. Office Depot is liable for infringing the '507 patent under 35
25 U.S.C. § 271 by making and using websites, hardware, and software to categorize, compare,
26 and display segments of a body of information as claimed in the patent.
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1 27. Defendant OfficeMax has infringed and continues to infringe one or more
2 claims of the '507 patent. OfficeMax is liable for infringing the '507 patent under 35 U.S.C.
3 § 271 by making and using websites, hardware, and software to categorize, compare, and
4 display segments of a body of information as claimed in the patent.

5 28. Defendant Staples has infringed and continues to infringe one or more claims
6 of the '507 patent. Staples is liable for infringing the '507 patent under 35 U.S.C. § 271 by
7 making and using websites, hardware, and software to categorize, compare, and display
8 segments of a body of information as claimed in the patent.

9 29. Defendant Yahoo has infringed and continues to infringe one or more claims
10 of the '507 patent. Yahoo is liable for infringing the '507 patent under 35 U.S.C. § 271 by
11 making and using websites, hardware, and software to categorize, compare, and display
12 segments of a body of information as claimed in the patent.

13 30. Defendant YouTube has infringed and continues to infringe one or more
14 claims of the '507 patent. YouTube is liable for infringing the '507 patent under 35 U.S.C.
15 § 271 by making and using websites, hardware, and software to categorize, compare, and
16 display segments of a body of information as claimed in the patent.

17 31. Defendants AOL, Apple, eBay, Google, Netflix, Office Depot, OfficeMax,
18 Staples, Yahoo, and YouTube's acts of infringement have caused damage to Interval, and
19 Interval is entitled to recover from Defendants the damages sustained by Interval as a result
20 of Defendants' wrongful acts in an amount subject to proof at trial. Defendants'
21 infringement of Interval's exclusive rights under the '507 patent will continue to damage
22 Interval, causing irreparable harm for which there is no adequate remedy at law, unless
23 enjoined by this Court. Interval reserves the right to allege, after discovery, that Defendants'

1 infringement is willful and deliberate, entitling Interval to increased damages under 35
2 U.S.C. § 284 and to attorney's fees and costs incurred in prosecuting this action under 35
3 U.S.C. § 285.

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

5 32. On March 7, 2000, United States Patent No. 6,034,652 ("the '652 patent")
6 was duly and legally issued for an invention entitled "Attention Manager for Occupying the
7 Peripheral Attention of a Person in the Vicinity of a Display Device." Interval was assigned
8 the '652 patent and continues to hold all rights and interest in the '652 patent. A true and
9 correct copy of the '652 patent is attached hereto as Exhibit 3.
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11 33. Defendant AOL has infringed and continues to infringe one or more claims
12 of the '652 patent. AOL is liable for infringing the '652 patent under 35 U.S.C. § 271 by
13 making, using, offering, providing, and encouraging customers to use products that display
14 information in a way that occupies the peripheral attention of the user as claimed in the
15 patent.
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17 34. Defendant Apple has infringed and continues to infringe one or more claims
18 of the '652 patent. Apple is liable for infringing the '652 patent under 35 U.S.C. § 271 by
19 making, using, offering, providing, and encouraging customers to use products that display
20 information in a way that occupies the peripheral attention of the user as claimed in the
21 patents.
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23 35. Defendant Google has infringed and continues to infringe one or more claims
24 of the '652 patent. Google is liable for infringing the '652 patent under 35 U.S.C. § 271 by
25 making, using, offering, providing, and encouraging customers to use products that display
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1 information in a way that occupies the peripheral attention of the user as claimed in the
2 patent.

3 36. Defendant Yahoo has infringed and continues to infringe one or more claims
4 of the '652 patent. Yahoo is liable for infringing the '652 patent under 35 U.S.C. § 271 by
5 making, using, offering, providing, and encouraging customers to use products that display
6 information in a way that occupies the peripheral attention of the user as claimed in the
7 patent.
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9 37. Defendants AOL, Apple, Google, and Yahoo's acts of infringement have
10 caused damage to Interval, and Interval is entitled to recover from Defendants the damages
11 sustained by Interval as a result of Defendants' wrongful acts in an amount subject to proof
12 at trial. Defendants' infringement of Interval's exclusive rights under the '652 patent will
13 continue to damage Interval, causing irreparable harm for which there is no adequate
14 remedy at law, unless enjoined by this Court. Interval reserves the right to allege, after
15 discovery, that Defendants' infringement is willful and deliberate, entitling Interval to
16 increased damages under 35 U.S.C. § 284 and to attorney's fees and costs incurred in
17 prosecuting this action under 35 U.S.C. § 285.
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20 **INFRINGEMENT OF U.S. PATENT NO. 6,788,314**

21 38. On September 7, 2004, United States Patent No. 6,788,314 ("the '314
22 patent") was duly and legally issued for an invention entitled "Attention Manager for
23 Occupying the Peripheral Attention of a Person in the Vicinity of a Display Device."
24 Interval was assigned the '314 patent and continues to hold all rights and interest in the '314
25 patent. A true and correct copy of the '314 patent is attached hereto as Exhibit 4.
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1 39. Defendant AOL has infringed and continues to infringe one or more claims
2 of the '314 patent. AOL is liable for infringing the '314 patent under 35 U.S.C. § 271 by
3 making, using, offering, providing, and encouraging customers to use products that display
4 information in a way that occupies the peripheral attention of the user as claimed in the
5 patent.

6
7 40. Defendant Apple has infringed and continues to infringe one or more claims
8 of the '314 patent. Apple is liable for infringing the '314 patent under 35 U.S.C. § 271 by
9 making, using, offering, providing, and encouraging customers to use products that display
10 information in a way that occupies the peripheral attention of the user as claimed in the
11 patent.

12
13 41. Defendant Google has infringed and continues to infringe one or more claims
14 of the '314 patent. Google is liable for infringing the '314 patent under 35 U.S.C. § 271 by
15 making, using, offering, providing, and encouraging customers to use products that display
16 information in a way that occupies the peripheral attention of the user as claimed in the
17 patent.

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19 42. Defendant Yahoo has infringed and continues to infringe one or more claims
20 of the '314 patent. Yahoo is liable for infringing the '314 patent under 35 U.S.C. § 271 by
21 making, using, offering, providing, and encouraging customers to use products that display
22 information in a way that occupies the peripheral attention of the user as claimed in the
23 patent.

24
25 43. Defendants AOL, Apple, Google, and Yahoo's acts of infringement have
26 caused damage to Interval, and Interval is entitled to recover from Defendants the damages
27 sustained by Interval as a result of Defendants' wrongful acts in an amount subject to proof
28

1 at trial. Defendants' infringement of Interval's exclusive rights under the '314 patent will
2 continue to damage Interval, causing irreparable harm for which there is no adequate
3 remedy at law, unless enjoined by this Court. Interval reserves the right to allege, after
4 discovery, that Defendants' infringement is willful and deliberate, entitling Interval to
5 increased damages under 35 U.S.C. § 284 and to attorney's fees and costs incurred in
6 prosecuting this action under 35 U.S.C. § 285.
7

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

9 44. On June 29, 2004, United States Patent No. 6,757,682 ("the '682 patent")
10 was duly and legally issued for an invention entitled "Alerting Users to Items of Current
11 Interest." Interval was assigned the '682 patent and continues to hold all rights and interest
12 in the '682 patent. A true and correct copy of the '682 patent is attached hereto as Exhibit 5.
13

14 45. Defendant AOL has infringed and continues to infringe one or more claims
15 of the '682 patent. AOL is liable for infringing the '682 patent under 35 U.S.C. § 271 by
16 making and using websites and associated hardware and software to provide alerts that
17 information is of current interest to a user as claimed in the patent.
18

19 46. Defendant Apple has infringed and continues to infringe one or more claims
20 of the '682 patent. Apple is liable for infringing the '682 patent under 35 U.S.C. § 271 by
21 making and using websites and associated hardware and software to provide alerts that
22 information is of current interest to a user as claimed in the patent.
23

24 47. Defendant eBay has infringed and continues to infringe one or more claims
25 of the '682 patent. eBay is liable for infringing the '682 patent under 35 U.S.C. § 271 by
26 making and using websites and associated hardware and software to provide alerts that
27 information is of current interest to a user as claimed in the patent.
28

1 48. Defendant Facebook has infringed and continues to infringe one or more
2 claims of the '682 patent. Facebook is liable for infringing the '682 patent under 35 U.S.C.
3 § 271 by making and using websites and associated hardware and software to provide alerts
4 that information is of current interest to a user as claimed in the patent.

5 49. Defendant Google has infringed and continues to infringe one or more claims
6 of the '682 patent. Google is liable for infringing the '682 patent under 35 U.S.C. § 271 by
7 making and using websites and associated hardware and software to provide alerts that
8 information is of current interest to a user as claimed in the patent.
9

10 50. Defendant Netflix has infringed and continues to infringe one or more claims
11 of the '682 patent. Netflix is liable for infringing the '682 patent under 35 U.S.C. § 271 by
12 making and using websites and associated hardware and software to provide alerts that
13 information is of current interest to a user as claimed in the patent.
14

15 51. Defendant Office Depot has infringed and continues to infringe one or more
16 claims of the '682 patent. Office Depot is liable for infringing the '682 patent under 35
17 U.S.C. § 271 by making and using websites and associated hardware and software to
18 provide alerts that information is of current interest to a user as claimed in the patent.
19

20 52. Defendant OfficeMax has infringed and continues to infringe one or more
21 claims of the '682 patent. OfficeMax is liable for infringing the '682 patent under 35 U.S.C.
22 § 271 by making and using websites and associated hardware and software to provide alerts
23 that information is of current interest to a user as claimed in the patent.
24

25 53. Defendant Staples has infringed and continues to infringe one or more claims
26 of the '682 patent. Staples is liable for infringing the '682 patent under 35 U.S.C. § 271 by
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1 making and using websites and associated hardware and software to provide alerts that
2 information is of current interest to a user as claimed in the patent.

3 54. Defendant Yahoo has infringed and continues to infringe one or more claims
4 of the '682 patent. Yahoo is liable for infringing the '682 patent under 35 U.S.C. § 271 by
5 making and using websites and associated hardware and software to provide alerts that
6 information is of current interest to a user as claimed in the patent.
7

8 55. Defendant YouTube has infringed and continues to infringe one or more
9 claims of the '682 patent. YouTube is liable for infringing the '682 patent under 35 U.S.C.
10 § 271 by making and using websites and associated hardware and software to provide alerts
11 that information is of current interest to a user as claimed in the patent.
12

13 56. Defendants AOL, Apple, eBay, Facebook, Google, Netflix, Office Depot,
14 OfficeMax, Staples, Yahoo, and YouTube's acts of infringement have caused damage to
15 Interval, and Interval is entitled to recover from Defendants the damages sustained by
16 Interval as a result of Defendants' wrongful acts in an amount subject to proof at trial.
17 Defendants' infringement of Interval's exclusive rights under the '682 patent will continue
18 to damage Interval, causing irreparable harm for which there is no adequate remedy at law,
19 unless enjoined by this Court. Interval reserves the right to allege, after discovery, that
20 Defendants' infringement is willful and deliberate, entitling Interval to increased damages
21 under 35 U.S.C. § 284 and to attorney's fees and costs incurred in prosecuting this action
22 under 35 U.S.C. § 285.
23
24

25 **JURY DEMAND**

26 57. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Interval
27 respectfully requests a trial by jury on all issues properly triable by jury.
28

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Interval Licensing LLC requests entry of judgment in its favor and against Defendants as follows:

a) Declaration that (1) Defendants AOL, Apple, eBay, Google, Netflix, Office Depot, OfficeMax, Staples, Yahoo, and YouTube have infringed U.S. Patent No. 6,263,507; (2) Defendants AOL, Apple, eBay, Facebook, Google, Netflix, Office Depot, OfficeMax, Staples, Yahoo, and YouTube have infringed U.S. Patent No. 6,757,682; and (3) Defendants AOL, Apple, Google, and Yahoo have infringed U.S. Patent Nos. 6,034,652 and 6,788,314.

b) Awarding the damages arising out of (1) Defendants' AOL, Apple, eBay, Google, Netflix, Office Depot, OfficeMax, Staples, Yahoo, and YouTube's infringement of U.S. Patent No. 6,263,507; (2) Defendants' AOL, Apple, eBay, Facebook, Google, Netflix, Office Depot, OfficeMax, Staples, Yahoo, and YouTube's infringement of U.S. Patent No. 6,757,682; and (3) Defendants' AOL, Apple, Google, and Yahoo's infringement of U.S. Patent Nos. 6,034,652 and 6,788,314, to Interval, together with prejudgment and post-judgment interest, in an amount according to proof;

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

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

1 e) Awarding such other costs and further relief as the Court may deem just and
2 proper.

3
4 Dated: August 27, 2010

/s/ Justin A. Nelson

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