

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

FIRST AMERICAN CORELOGIC, INC.,

Plaintiff,

v.

FISERV, INC.,
INTELLIREAL, LLC,
INTERTHINX, INC,
LENDER PROCESSING SERVICES, INC.,
PRECISION APPRAISAL SERVICES, INC.,
REAL DATA, INC.,
REALEC TECHNOLOGIES, INC.,
ZILLOW, INC.,
AMERICAN FLOOD RESEARCH, INC.,
ELECTRONIC APPRAISER, INC.
ESPIEL, INC.,

Defendants.

CIVIL ACTION NO. 2:10-cv-132

JURY TRIAL DEMANDED

DEFENDANT ZILLOW, INC'S ANSWER TO FIRST AMENDED COMPLAINT,
AFFIRMATIVE DEFENSES AND COUNTERCLAIMS

Comes now Defendant Zillow, Inc. ("Zillow") and for its Answer and Affirmative Defenses to Plaintiff First American Corelogic, Inc.'s ("Plaintiff") First Amended Complaint (the "Amended Complaint"), states and alleges as follows:

PARTIES

1. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the Amended Complaint, and therefore denies the same.
2. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2 of the Amended Complaint, and therefore denies the same.
3. Zillow lacks knowledge or information sufficient to form a belief as to the truth of

the allegations in paragraph 3 of the Amended Complaint, and therefore denies the same.

4. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4 of the Amended Complaint, and therefore denies the same.

5. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5 of the Amended Complaint, and therefore denies the same.

6. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 6 of the Amended Complaint, and therefore denies the same.

7. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7 of the Amended Complaint, and therefore denies the same.

8. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8 of the Amended Complaint, and therefore denies the same.

9. Zillow admits that it is a Washington corporation with its principal place of business at 999 Third Avenue, Suite 4600, Seattle, WA 98104. Zillow admits that has an interactive website that is available to users in the United States and the State of Texas. Zillow further admits that it offers services to web users in the United States and in the State of Texas. Zillow denies the remaining allegations in paragraph 9 of the Amended Complaint.

10. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10 of the Amended Complaint, and therefore denies the same.

11. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 11 of the Amended Complaint, and therefore denies the same.

12. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12 of the Amended Complaint, and therefore denies the same.

JURISDICTION AND VENUE

13. Zillow admits that the Amended Complaint asserts claims for patent infringement. Zillow further admits that the Court has subject matter jurisdiction pursuant to Title 28 of the United States Code, Sections 1331 and 1338(a) and does not contest subject matter jurisdiction. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 13, and therefore denies the same.

14. Zillow admits that it is subject to personal jurisdiction in the United States District Court for the Eastern District of Texas and does not contest personal jurisdiction. Zillow denies the remaining allegations in paragraph 14.

15. Zillow admits that it is subject to personal jurisdiction in the United States District Court for the Eastern District of Texas and does not contest personal jurisdiction. Zillow further admits that venue is proper. Zillow denies the remaining allegations in paragraph 15.

16. Zillow admits that venue is proper. Zillow denies the remaining allegations in paragraph 16.

GENERAL ALLEGATIONS

17. Zillow incorporates its above responses to paragraphs 1-16 of the Amended Complaint.

18. Zillow admits that what appears to be a copy of the '201 Patent is attached to the original Complaint as Exhibit A. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 18 of the Amended Complaint, and therefore denies the same.

COUNT ONE

(FISERV'S INFRINGEMENT OF THE '201 PATENT)

19. Zillow incorporates its above responses to paragraphs 1-18 of the Complaint.

20. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 20 of the Amended Complaint, and therefore denies the same.

21. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 21 of the Amended Complaint, and therefore denies the same.

22. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 22 of the Amended Complaint, and therefore denies the same.

COUNT TWO

(INTELLIREAL'S INFRINGEMENT OF THE '201 PATENT)

23. Zillow incorporates its above responses to paragraphs 1-22 of the Amended Complaint.

24. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 24 of the Amended Complaint, and therefore denies the same.

25. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 25 of the Amended Complaint, and therefore denies the same.

26. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 26 of the Amended Complaint, and therefore denies the same.

COUNT THREE

(INTERTHINK' INFRINGEMENT OF THE '201 PATENT)

27. Zillow incorporates its above responses to paragraphs 1-26 of the Amended Complaint.

28. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 28 of the Amended Complaint, and therefore denies the same.

29. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 29 of the Amended Complaint, and therefore denies the same.

30. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 30 of the Amended Complaint, and therefore denies the same.

COUNT FOUR

(LPS' INFRINGEMENT OF THE '201 PATENT)

31. Zillow incorporates its above responses to paragraphs 1-30 of the Amended Complaint.

32. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 32 of the Amended Complaint, and therefore denies the same.

33. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 33 of the Amended Complaint, and therefore denies the same.

34. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 34 of the Amended Complaint, and therefore denies the same.

COUNT FIVE

(PRECISION APPRAISAL'S INFRINGEMENT OF THE '201 PATENT)

35. Zillow incorporates its above responses to paragraphs 1-34 of the Amended Complaint.

36. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 36 of the Amended Complaint, and therefore denies the same.

37. Zillow lacks knowledge or information sufficient to form a belief as to the truth of

the allegations in paragraph 37 of the Amended Complaint, and therefore denies the same.

38. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 38 of the Amended Complaint, and therefore denies the same.

COUNT SIX

(RDI'S INFRINGEMENT OF THE '201 PATENT)

39. Zillow incorporates its above responses to paragraphs 1-38 of the Amended Complaint.

40. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 40 of the Amended Complaint, and therefore denies the same.

41. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 41 of the Amended Complaint, and therefore denies the same.

42. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 42 of the Amended Complaint, and therefore denies the same.

COUNT SEVEN

(REALEC'S INFRINGEMENT OF THE '201 PATENT)

43. Zillow incorporates its above responses to paragraphs 1-42 of the Amended Complaint.

44. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 44 of the Amended Complaint, and therefore denies the same.

45. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 45 of the Amended Complaint, and therefore denies the same.

46. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 46 of the Amended Complaint, and therefore denies the same.

COUNT EIGHT

(ZILLOW'S INFRINGEMENT OF THE '201 PATENT)

47. Zillow incorporates its above responses to paragraphs 1-46 of the Amended Complaint.

48. Zillow denies the allegations in paragraph 48 of the Amended Complaint.

49. Zillow denies the allegations in paragraph 49 of the Amended Complaint.

50. Zillow denies the allegations in paragraph 50 of the Amended Complaint.

COUNT NINE

(AFR'S INFRINGEMENT OF THE '201 PATENT)

51. Zillow incorporates its above responses to paragraphs 1-50 of the Amended Complaint.

52. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 52 of the Amended Complaint, and therefore denies the same.

53. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 53 of the Amended Complaint, and therefore denies the same.

54. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 54 of the Amended Complaint, and therefore denies the same.

COUNT TEN

(ELECTRONIC APPRAISER'S INFRINGEMENT OF THE '201 PATENT)

55. Zillow incorporates its above responses to paragraphs 1-54 of the Amended Complaint.

56. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 56 of the Amended Complaint, and therefore denies the same.

57. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 57 of the Amended Complaint, and therefore denies the same.

58. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 58 of the Amended Complaint, and therefore denies the same.

COUNT ELEVEN

(ESPIEL'S INFRINGEMENT OF THE '201 PATENT)

59. Zillow incorporates its above responses to paragraphs 1-58 of the Amended Complaint.

60. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 60 of the Amended Complaint, and therefore denies the same.

61. Zillow lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 61 of the Amended Complaint, and therefore denies the same.

AFFIRMATIVE DEFENSES

By way of Zillow's Affirmative Defenses, Zillow states and alleges as follows:

1. The '201 Patent is invalid for failure to comply with one or more of the conditions for patentability specified in Title 35 of the United States Code, in particular Sections 101, 102, 103, and 112.

2. Plaintiff is estopped from construing any claim of the '201 Patent to cover or include, either literally or by application of the doctrine of equivalents, any system or method manufactured, used, imported, sold, or offered for sale by Zillow because of admissions and statements to the United States Patent and Trademark Office in the specification of the '201 Patent and during prosecution of the application leading to the issuance of the '201 Patent.

3. Plaintiff's claims are barred, in whole or in part, by the doctrine of laches.

4. Plaintiff's claims are barred or limited by 35 U.S.C. § 286.
5. Plaintiff's claims are barred or limited by 35 U.S.C. § 287.

COUNTERCLAIMS

Counterclaim-Plaintiff Zillow, Inc. ("Zillow") asserts the following counterclaims against Counterclaim-Defendant First American Corelogic, Inc. ("Corelogic"). Zillow claims and avers as follows:

NATURE OF THE ACTION

1. This is a counterclaim based on the Patent Laws of the United States, Title 35 of the United States Code, Section 1 et seq., seeking a declaratory judgment of non-infringement and invalidity of United States Patent No. 5,361, 201 ("the '201 Patent"). Upon information and belief and according to the records of the U.S. Patent and Trademark Office, the '201 Patent was issued on April 29, 2008. Corelogic purports to be the assignee of the '201 Patent.

PARTIES

2. Zillow is a Washington corporation with its principal place of business at 999 Third Avenue, Suite 4600, Seattle, Washington 98104.

3. Upon information and belief, Corelogic is a Delaware corporation with its principal place of business at 4 First American Way, Santa Ana, California 92707.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over the controversy concerning declaratory judgment that the claims of the '201 Patent is invalid or not infringed by virtue of Title 28 of the United States Code, §§ 1331, 1338(a), 2201 and 2202.

5. As demonstrated by, inter alia, the Complaint for Patent Infringement (the "Complaint") filed by Corelogic, an actual and justiciable controversy exists concerning: (1) the

non-infringement of the '201 Patent, and (2) the invalidity of the '201 Patent.

6. This Court has personal jurisdiction over Corelogic pursuant to the provisions of the Texas Long Arm Statute, Tex. Civ. Prac. & Rem. Code § 17.042, the laws of the United States, and because Corelogic has voluntarily subjected itself to the jurisdiction of this Court.

7. Venue is proper in this Court because Corelogic has availed itself of this Court to sue Zillow.

COUNT 1 (NON-INFRINGEMENT)

8. Zillow incorporates Paragraphs 1 through 7 of its Counterclaims as if fully set forth herein.

9. There is an actual controversy as to the alleged infringement by Zillow of at least one claim of the '201 Patent. Corelogic has filed suit against Zillow, alleging that Corelogic has rights to the '201 Patent and accusing Zillow of infringing at least one claim of the '201 Patent.

10. Zillow's activities do not infringe, do not induce infringement, and do not contributorily infringe any valid, enforceable claims, if any, of the '201 Patent.

11. Pursuant to the Federal Declaratory Judgment Act, Title 28 of the United States Code, § 2201 et seq., to resolve the legal and factual questions raised by Corelogic, to afford relief from the uncertainty and controversy that Corelogic's accusations have caused, and so that Zillow can ascertain its rights and duties with respect to designing, developing, marketing, and selling its products, Zillow requests a declaration by the Court that it does not infringe any valid claim of the '201 Patent that is enforceable, either directly, jointly, contributorily, or by inducement.

COUNT II (INVALIDITY)

12. Zillow incorporates Paragraphs 1 through 11 of its Counterclaims as if fully set forth herein.

13. Each claim of the '201 Patent is invalid for failure to comply with one of more of the conditions for patentability specified in Title 35 of the United States Code, in particular Sections 101, 102, 103, and 112.

14. There is an actual controversy as to the invalidity of the '201 Patent. Accordingly, Zillow requests a judicial determination of its rights, duties, and obligations regarding the '201 Patent.

15. Pursuant to the Federal Declaratory Judgment Act, Title 28 of the United States Code, § 2201 et seq., to resolve the legal and factual questions raised by Corelogic, and to afford relief from the uncertainty and controversy that Corelogic's accusations have caused, Zillow requests a declaration by the Court that the claims of the '201 Patent are invalid for failing to meet one or more of the requirements for patentability set forth in Title 35 of the United States Code, in particular Sections 101, 102, 103, and 112.

PRAYER FOR RELIEF

WHEREFORE, Defendant and Counterclaim-Plaintiff Zillow, Inc. requests that the Court enter a judgment in their favor and against Plaintiff and Counterclaim-Defendant First American Corelogic, Inc. and provide Defendant and Counterclaim-Plaintiff Zillow, Inc. the following relief:

- A. That Corelogic takes nothing as the result of the Amended Complaint;
- B. That Corelogic's claims be dismissed in their entirety with prejudice;
- C. That judgment be rendered that Corelogic is not entitled to the relief prayed for in

the Amended Complaint, or any relief whatsoever;

D. Order, adjudge, and decree that Zillow is not infringing, directly or indirectly, the '201 Patent;

E. Order, adjudge, and decree that the '201 Patent is invalid;

F. Order, adjudge, and decree that this is an exceptional case under Title 35 of the United States Code, § 285 and award Zillow its reasonable attorneys' fees and costs; and

G. Award such other and further relief as the Court may deem just.

DATED this 23rd day of June, 2010.

s/Karl J. Quackenbush
Karl J. Quackenbush (appearing pro hac vice)
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Attorneys for Defendant ZILLOW, INC.

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing has been served upon counsel of record through the Court's CM/ECF system on this 23rd day of June, 2010.

s/Karl J. Quackenbush

Karl J. Quackenbush (appearing pro hac vice)

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