

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

HONORABLE JAMES L. ROBART

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CORUS REALTY HOLDINGS, INC.,

Plaintiff

v.

ZILLOW GROUP, INC., ZILLOW, INC.,
and TRULIA, LLC,

Defendants.

No. 2:18-cv-00847-JLR

ANSWER TO COMPLAINT,
AFFIRMATIVE DEFENSES, AND
COUNTERCLAIMS OF DEFENDANTS
ZILLOW GROUP, INC., ZILLOW, INC.,
AND TRULIA, LLC

JURY TRIAL DEMANDED

ANSWER

Defendants Zillow Group, Inc. (“Zillow Group”), Zillow, Inc. (“Zillow”), and Trulia, LLC (“Trulia”) (collectively “Defendants”) hereby answer the Complaint of Plaintiff Corus Realty Holdings, Inc. (“Plaintiff” or “Corus”) as follows:

Nature of the Action

1. Defendants admit that the Complaint alleges infringement of U.S. Patent No. 6,636,803 (“the ’803 patent”). Defendants deny the alleged infringement. Except as expressly admitted, Defendants deny the allegations of Paragraph 1 of the Complaint.

The Parties

2. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 2 of the Complaint.

1 3. Defendants admit the allegations of Paragraph 3 of the Complaint.

2 4. Defendants admit the allegations of Paragraph 4 of the Complaint.

3 5. Defendants admit the allegations of Paragraph 5 of the Complaint.

4 **Jurisdiction and Venue**

5 6. Defendants admit that the Complaint alleges claims over which this Court has
6 subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a). Defendants deny that the
7 alleged claims have merit. Except as expressly admitted, Defendants deny the allegations of
8 Paragraph 6 of the Complaint.

9 7. Defendants admit that this Court has personal jurisdiction over Defendants for the
10 purposes of this action. Defendants deny having committed tortious acts in this district. Except
11 as expressly admitted, Defendants deny the allegations of Paragraph 7 of the Complaint.

12 8. Defendants admit that venue over Zillow Group, Inc., and Zillow, Inc., is proper
13 in this district and that both Zillow Group, Inc., and Zillow, Inc., are incorporated in the State of
14 Washington. Defendants deny that they have committed acts of infringement in this district or
15 elsewhere. Except as expressly admitted, Defendants deny the allegations of Paragraph 8 of the
16 Complaint.

17 9. Defendants admit the allegations of Paragraph 9 of the Complaint.

18 10. Defendants admit the allegations of Paragraph 10 of the Complaint.

19 11. Defendants admit the allegations of Paragraph 11 of the Complaint.

20 12. Defendants admit that they conduct business in the State of Washington and that
21 this Court has personal jurisdiction over Defendants for the purpose of this action. Defendants
22 deny committing any infringing acts, including deriving revenue from the sale of infringing
23 goods and services. Except as expressly admitted, Defendants deny the allegations of Paragraph
24 12 of the Complaint.

25 13. Defendants admit that Zillow, Inc., and Trulia, LLC, operate websites that provide
26 real estate information and services to users within the State of Washington. Defendants further

1 admit that Zillow, Inc., sells marketing services to real estate agents in the State of Washington.
2 Except as expressly admitted, Defendants deny the allegations of Paragraph 13 of the Complaint.

3 14. Defendants admit that Zillow, Inc., and Trulia, LLC, are subsidiaries of Zillow
4 Group, Inc. Defendants further admit that the “www.zillow.com” and “www.trulia.com”
5 websites reference Zillow Group, Inc., and identify “Zillow” and “Trulia” as Zillow Group
6 brands. Defendants further admit that the SEC filings for Zillow Group, Inc., include financial
7 disclosures for subsidiaries Zillow, Inc., and Trulia, LLC. Defendants further admit that Zillow
8 Group hires employees in its Seattle office. Except as expressly admitted, Defendants deny the
9 allegations of Paragraph 14 of the Complaint.

10 15. Defendants admit that the Trulia “Terms of Use”
11 (<https://www.trulia.com/info/terms/>) and Zillow “Terms of Use”
12 (<https://www.zillow.com/corp/Terms.htm>) reference Zillow Group, Inc., and services provided
13 by Zillow Group, Inc., and describe terms under which Zillow Group grants users licenses to use
14 certain services. Defendants further admit that the Trulia “Privacy Policy”
15 (<https://www.trulia.com/info/privacy/>) and Zillow “Privacy Policy”
16 (<https://www.zillow.com/corp/Privacy.htm>) describe information that may be collected by
17 Zillow Group and the circumstances under which such information may be shared. Defendants
18 deny providing any infringing product. Except as expressly admitted, Defendants deny the
19 allegations of Paragraph 15 of the Complaint.

20 **Corus and the '803 Patent**

21 16. Defendants admit that the '803 patent is entitled “Real-estate Information Search
22 and Retrieval System.” Defendants further admit that the filing date set forth on the face of that
23 patent is November 30, 2001. Except as expressly admitted, Defendants lack knowledge or
24 information sufficient to form a belief about the truth of the allegations of Paragraph 16 of the
25 Complaint.
26

1 17. Defendants lack knowledge or information sufficient to form a belief about the
2 truth of the allegations of Paragraph 17 of the Complaint.

3 18. Defendants lack knowledge or information sufficient to form a belief about the
4 truth of the allegations of Paragraph 18 of the Complaint.

5 19. Defendants lack knowledge or information sufficient to form a belief about the
6 truth of the allegations of Paragraph 19 of the Complaint.

7 20. Defendants lack knowledge or information sufficient to form a belief about the
8 truth of the allegations of Paragraph 20 of the Complaint.

9 21. Defendants admit that Corus contacted Zillow, Inc., in a letter from Michael
10 O'Shea. Defendants further admit that the letter referenced the '803 patent (prior to its
11 reexamination, which subsequently cancelled or substantially amended all then-existing claims).
12 Defendants further admit that counsel for Zillow, Inc., met with Michael O'Shea to discuss
13 Corus's allegations and that counsel for Zillow, Inc., identified a patent to Mr. O'Shea that was
14 relevant prior art to the '803 patent. Defendants deny that counsel for Zillow, Inc., met with Mr.
15 O'Shea to "discuss Zillow's infringement." Except as expressly admitted, Defendants deny the
16 allegations of Paragraph 21 of the Complaint.

17 22. Defendants admit that Exhibit A of the Complaint includes a reexamination
18 certificate for the '803 patent. Defendants further admit that the date of reexamination request
19 on the face of that document is August 27, 2013, and that the date of issuance on the face of that
20 document is January 21, 2015. Defendants further admit that the reexamination certificate
21 indicates that two claims were cancelled, five new claims were added, and the scope of every
22 other claim was amended. Except as expressly admitted, Defendants lack knowledge or
23 information sufficient to form a belief about the truth of the allegations of Paragraph 22 of the
24 Complaint.

25 23. Defendants admit that Exhibit A of the Complaint includes a reexamination
26 certificate with the independent claims set forth in Paragraph 23. Except as expressly admitted,

1 Defendants lack knowledge or information sufficient to form a belief about the truth of the
2 allegations of Paragraph 23 of the Complaint.

3 24. Defendants deny the allegations of Paragraph 24 of the Complaint.

4 25. Defendants deny the allegations of Paragraph 25 of the Complaint.

5 26. Defendants deny the allegations of Paragraph 26 of the Complaint.

6 27. Defendants deny the allegations of Paragraph 27 of the Complaint.

7 **General Allegations**

8 28. Defendants admit the allegations of Paragraph 28 of the Complaint.

9 29. Defendants admit that Zillow, Inc., and Trulia, LLC, provide mobile applications.
10 Defendants admit that certain mobile applications from Zillow, Inc., or Trulia, LLC, can be used
11 to display residential real estate information and digital maps. Except as expressly admitted,
12 Defendants deny the allegations of Paragraph 29 of the Complaint.

13 30. Defendants admit that Zillow, Inc., produces mobile applications. Defendants
14 deny that Zillow, Inc., distributes a single “Zillow Real Estate mobile application for various
15 mobile operating systems” with “respective server software and interfaces.” Defendants further
16 deny that Zillow, Inc., distributes a mobile application for installation specifically “on mobile
17 phones” or that “such mobile phones” necessarily “have a cellular-based data receiver and are
18 configured to receive cellular-based location data from that receiver.” Except as expressly
19 admitted, Defendants deny the allegations of Paragraph 30 of the Complaint.

20 31. Defendants admit that the mobile application from Zillow, Inc., displayed in
21 Paragraph 31 of the Complaint can, in certain circumstances, be used to request a user’s location,
22 but only if installed on a device with specific capabilities and granted specific permissions.
23 Defendants further admit that, in certain circumstances, this Zillow mobile application could be
24 used to display a digital map of a surrounding region. Defendants further admit that this Zillow
25 mobile application can, in certain circumstances, be used to obtain property information over an
26

1 Internet connection. Except as expressly admitted, Defendants deny the allegations of Paragraph
2 31 of the Complaint.

3 32. Defendants admit that the mobile application from Zillow, Inc., displayed in
4 Paragraph 32 of the Complaint can, in certain circumstances, be used to display visual indicators
5 corresponding to specific properties on a digital map. Defendants further admit that this Zillow
6 mobile application can, in certain circumstances, be used to display information related to a
7 specific property. Except as expressly admitted, Defendants deny the allegations of Paragraph
8 32 of the Complaint.

9 33. Defendants admit that Trulia, LLC, produces mobile applications. Defendants
10 deny that Trulia, LLC, distributes a single “Trulia Real Estate mobile application for various
11 mobile operating systems” with “respective server software and interfaces.” Defendants further
12 deny that Trulia, LLC, distributes a mobile application for installation specifically “on mobile
13 phones” or that “such mobile phones” necessarily “have a cellular-based data receiver and are
14 configured to receive cellular-based location data from that receiver.” Except as expressly
15 admitted, Defendants deny the allegations of Paragraph 33 of the Complaint.

16 34. Defendants admit that the mobile application from Trulia, LLC, displayed in
17 Paragraph 34 of the Complaint can, in certain circumstances, be used to request a user’s location,
18 but only if installed on a device with specific capabilities and granted specific permissions.
19 Defendants further admit that, in certain circumstances, this Trulia mobile application could be
20 used to display a digital map of a surrounding region. Defendants further admit that this Trulia
21 mobile application can, in certain circumstances, be used to obtain property information over an
22 Internet connection. Except as expressly admitted, Defendants deny the allegations of Paragraph
23 34 of the Complaint.

24 35. Defendants admit that the mobile application from Trulia, LLC, displayed in
25 Paragraph 35 of the Complaint can, in certain circumstances, be used to display visual indicators
26 corresponding to specific properties on a digital map. Defendants further admit that this Trulia

1 mobile application can, in certain circumstances, be used to display information related to a
2 specific property. Except as expressly admitted, Defendants deny the allegations of Paragraph
3 35 of the Complaint.

4 36. The asserted '803 patent claims did not issue from reexamination until January
5 21, 2015; accordingly, Defendants deny the allegations of Paragraph 36 of the Complaint.

6 37. The asserted '803 patent claims did not issue from reexamination until January
7 21, 2015; accordingly, Defendants deny the allegations of Paragraph 37 of the Complaint.

8 38. The asserted '803 patent claims did not issue from reexamination until January
9 21, 2015; accordingly, Defendants deny the allegations of Paragraph 38 of the Complaint.

10 39. Defendants admit that the '803 patent is identified in, and attached as an Exhibit
11 to, the Complaint that was filed and served.

12 40. Defendants lack knowledge or information sufficient to form a belief about the
13 truth of the allegations of Paragraph 40 of the Complaint, as Paragraph 40 fails to identify which
14 mobile application “features” Defendants are alleged to “encourage their customers . . . to
15 download and use.”

16 **Count I**

17 41. To the extent that Paragraph 41 requires a response, Defendants incorporate by
18 reference as if fully stated herein their responses to Paragraphs 1–40 above.

19 42. Defendants deny the allegations of Paragraph 42 of the Complaint.

20 43. Defendants deny the allegations of Paragraph 43 of the Complaint.

21 44. Defendants deny the allegations of Paragraph 44 of the Complaint.

22 45. Defendants deny the allegations of Paragraph 45 of the Complaint.

23 46. Defendants deny the allegations of Paragraph 46 of the Complaint.

24 47. Defendants deny the allegations of Paragraph 47 of the Complaint.

1 **Prayer for Relief**

2 Defendants deny all allegations in Corus’s prayer for relief and deny that Corus is entitled
3 to any relief.

4
5 **DEFENSES**

6 In further response to the Complaint, and without agreeing that it has the burden of proof
7 on such issues, Defendants allege as follows:

8 **First Defense — Non-Infringement**

9 1. Defendants do not infringe and have not infringed (whether directly,
10 contributorily, by inducement, jointly, or in any other way) literally or under the doctrine of
11 equivalents any claims of the ’803 patent.

12 **Second Defense — Invalidity**

13 2. The claims of the ’803 patent are invalid for failure to meet the conditions of
14 patentability or otherwise comply with the requirements set forth in 35 U.S.C. §§ 101, 102, 103
15 and/or 112.

16 3. The asserted claims of the ’803 patent are invalid under 35 U.S.C. § 305 for
17 incorporating impermissible amendments in reexamination — for example, amendments that
18 enlarged the scope of the claimed invention and/or were proposed neither to distinguish the cited
19 prior art nor in response to a decision adverse to patentability.

20 **Third Defense — Prosecution History Estoppel**

21 4. Corus’s claims of infringement of the ’803 patent are barred, in whole or in part,
22 by the doctrine of prosecution history estoppel based on amendments, statements, admissions,
23 omissions, representations, disclaimers and/or disavowals made during the original prosecution
24 and/or reexamination of the ’803 patent.

1 **Nature of the Action**

2 2. This is a counterclaim by Defendants pursuant to Rule 13 of the Federal Rules of
3 Civil Procedure for a declaratory judgment of non-infringement and invalidity of the '803 patent
4 arising under the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.* and the patent laws of the
5 United States of America, 35 U.S.C. § 1, *et seq.*

6 **Jurisdiction and Venue**

7 3. There is a justiciable controversy between Corus and Defendants relating to the
8 '803 patent based on Corus's allegations of infringement in its Complaint and Defendants' denial
9 of those allegations.

10 4. This Court has subject matter jurisdiction over Defendants' counterclaims
11 pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

12 5. By filing the Complaint, Corus has consented to the personal jurisdiction of this
13 Court and waived any objection to venue in this judicial district.

14 **First Counterclaim — Non-Infringement of U.S. Pat. No. 6,636,803**

15 6. Defendants re-allege and incorporate by reference as if fully set forth herein their
16 responses to the Complaint above and the allegations in Paragraphs 1 through 5 of these
17 Counterclaims.

18 7. Defendants do not infringe and have not infringed (whether directly,
19 contributorily, by inducement, jointly, or in any other way) literally or under the doctrine of
20 equivalents any claims of the '803 patent.

21 8. Defendants are entitled to a judicial determination and declaration that they have
22 not infringed any claims of the '803 patent.

23 **Second Counterclaim — Invalidity of U.S. Pat. No. 6,636,803**

24 9. Defendants re-allege and incorporate by reference as if fully set forth herein their
25 responses to the Complaint above and the allegations in Paragraphs 1 through 8 of these
26 Counterclaims.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

DATED: August 2, 2018.

By: s/ Ramsey M. Al-Salam
Ramsey M. Al-Salam, WSBA No. 18822
Antoine M. McNamara, WSBA No. 41701
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Telephone: 206.359.8000
Facsimile: 206.359.9000
Email: RAlsalam@perkinscoie.com
AMcNamara@perkinscoie.com

Counsel for Defendants Zillow Group, Inc.;
Zillow, Inc.; and Trulia, LLC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2018, I caused copies of the foregoing document to be served via CM/ECF to the counsel of record in this matter.

/s/ Ramsey M. Al-Salam
Ramsey M. Al-Salam