

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

B.E. TECHNOLOGY, L.L.C.,)
)
Plaintiff,)
)
v.)
)
GROUPON, INC.,)
)
Defendant.)
)
)
)

Civil Action No. 2:12-cv-02781-JPM-tmp
Hon. Jon Phipps McCalla

DECLARATION OF AARON J. WEINZIERL

I, AARON J. WEINZIERL, declare as follows:

1. I am a member of the law firm Foley & Lardner LLP, counsel for Defendant Groupon, Inc. (“Groupon”) in this action. I submit this Declaration in connection with Groupon, Inc.’s Motion to Stay Proceedings Pending *Inter Partes* Review.

2. Attached hereto as Exhibit A is a true and correct copy of the Petition for *Inter Partes* Review of U.S. Patent No. 6,628,314, Case No. IPR2014-00038, filed with the United States Patent and Trademark Office on October 8, 2013 by Google Inc.

3. Attached hereto as Exhibit B is a true and correct copy of the Petition for *Inter Partes* Review of U.S. Patent No. 6,628,314, Case No. IPR2014-00039, filed with the United States Patent and Trademark Office on October 9, 2013 by Microsoft Corporation.

4. Attached hereto as Exhibit C is a true and correct copy of the Petition for *Inter Partes* Review of U.S. Patent No. 6,628,314, Case No. IPR2014-00052, filed with the United States Patent and Trademark Office on October 9, 2013 by Facebook Inc.

5. Attached hereto as Exhibit D is a true and correct copy of the Petition for *Inter Partes* Review of U.S. Patent No. 6,628,314, Case No. IPR2014-00053, filed with the United States Patent and Trademark Office on October 9, 2013 by Facebook Inc.

6. Attached hereto as Exhibit E are true and correct copies of the Notices of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response, filed by the Patent Trial and Appeal Board with respect to the four above-referenced petitions for *inter partes* review, Case Nos. IPR2014-00038, IPR2014-00039, IPR2014-00052, and IPR2014-00053.

7. Shortly after filing of the IPR petitions, B.E. and the defendants in the actions B.E. filed in this District (“the B.E. Actions”) engaged in discussions regarding a potential stay of the B.E. Actions. These discussions lasted several weeks. On November 26, 2013, counsel for B.E. and Groupon formally met-and-conferred regarding the Motion. During the meet-and-confer, the parties agreed to a stay of this case so long as all proceedings related to the ’290 and ’314 patents in the B.E. Actions are stayed.

8. Counsel for Groupon also discussed the stay issue with counsel for the defendants in the B.E. Actions. Based on those discussions, Groupon understands that most if not all of the defendants will either join in the request by moving to stay their respective cases, or will not oppose a stay (perhaps based on one or more conditions). For example, Apple has indicated that, at this time, it does not plan to request a stay of its case but also does not plan to actively oppose such a stay should the Court order a stay with respect to all the related B.E. Actions. Apple and the other defendants may file notices or other papers in their respective cases further explaining their positions on a potential stay.

9. Attached hereto as Exhibit F is a true and correct copy of a United States Patent and Trademark Office publication entitled “Patent Trial and Appeal Board, AIA Progress,

Statistics (as of 11/14/2013)", also available on-line at:
http://www.uspto.gov/ip/boards/bpai/stats/aia_statistics_11_14_2013.pdf.

10. Attached hereto as Exhibit G is a true and correct copy of Docket Entry No. 85 in the matter styled *One Stockduq Holdings, LLC v. Becton, Dickinson & Co.*, No. 2:12-cv-3037-JPM-tmp (W.D. Tenn. Nov. 12, 2013).

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 26, 2013
Chicago, Illinois

/s/ Aaron J. Weinzierl
Aaron J. Weinzierl