

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CARVANA, LLC,

Plaintiff,

v.

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Defendant.

Case No. 7:23-cv-08616-KMK-VR

JOINT STIPULATION OF DISMISSAL AS TO U.S. PATENT 7,072,849

Defendant International Business Machines Corporation ("Defendant") has decided to withdraw any liability claims related to U.S. Patent No. 7,072,849 ("the '849 Patent") against Declaratory Judgment Plaintiff Carvana, LLC ("Plaintiff") in this case. Accordingly, Defendant and Plaintiff jointly request and stipulate to, pursuant to Fed. R. Civ. P. 41(a)(1)(ii), dismissal with prejudice of all claims and counterclaims related to the '849 Patent (*i.e.*, Count 1 of Plaintiff's Declaratory Judgment Complaint for a finding of non-infringement of the '849 Patent, Count 1 of Defendant's Counterclaim for a finding of infringement of the '849 Patent, and Count 1 of Plaintiff's Reply Counterclaim for a finding of invalidity of the '849 Patent). For the sake of clarity, this Stipulation of Dismissal is limited to the claims applicable to the '849 Patent and does not apply to claims applicable to the other asserted patents in this case. The Parties further stipulate that the *res judicata* effect of Defendant's dismissal of its claims concerning the '849 Patent shall extend to all prior, current or future users of the accused Carvana technology/ecommerce platform. Plaintiff and Defendant shall bear their own costs, expenses, and attorney's fees with respect to the dismissed claims concerning the '849 Patent.

Date: March 21, 2024

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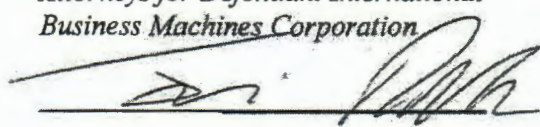
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Respectfully submitted,

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So Ordered
AK MAB
3/25/24

CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2024, the foregoing was electronically filed with the CM/ECF system, which will send a notification of such filing to all counsel of record.

/s/ Tamir Packin