

APPEAL, COLE, REOPEN, TERMED

United States District Court
Northern District of Illinois – CM/ECF LIVE, Ver 3.2.3 (Chicago)
CIVIL DOCKET FOR CASE #: 1:07-cv-00385
Internal Use Only

Google Inc v. Central Mfg. Inc. et al
Assigned to: Honorable Virginia M. Kendall
Case in other court: 07-01612
07-01651
09-03569
Cause: 18:1961 Racketeering (RICO) Act

Date Filed: 01/19/2007
Date Terminated: 10/16/2009
Jury Demand: None
Nature of Suit: 470 Racketeer/Corrupt
Organization
Jurisdiction: Federal Question

Date Filed	#	Page	Docket Text
02/16/2007	<u>30</u>	5	OBJECTION by Leo Stoller to Joint Moiton for Entry of Stipulated Permanent Inj8unction and Final Judgment; Notice of filing (Exhibits) (eav,) (Entered: 02/21/2007)
02/20/2007	<u>29</u>	4	MINUTE entry before Judge Virginia M. Kendall :Motion hearing held. All pending motions are taken under advisement, with a ruling by mail. Status hearing set for 3/13/2007 at 09:00 AM.Mailed notice (gmr,) (Entered: 02/20/2007)
02/22/2007	<u>31</u>	54	REPLY by Defendant Leo Stolla to Trustee's Ominibus response in opposition to motions of debtor Leo Stoller to: (1) Intevene; (II) Interplead; (III) Suspend proceeding for sixty days to retain counsel, for defendants; (IV) Suspend pending appeal to lift automatic stay for Google to sue the debtor; and (V) Suspend pending trademark trial and appeal Board's decision for defendants' motion for summary judgment and joinder of responses by Google, Inc.; Notice of filing (eav,) (Entered: 02/26/2007)
03/02/2007	<u>32</u>	76	MOTION by Defendant Leo Stolla to dismiss for failure to join a party under Rule F.R.C.P. 19 (eav,) (Entered: 03/05/2007)
03/02/2007	<u>35</u>	80	REPLY by Defendant Leo Stolla to Google Inc.'s combined opposition to debtor Leo Stoller's motions (1) to intervene, (2) to interplead, (3) to suspend for sixty days to retain counsel for defendants and (4) to suspend pending appeal to lift automatic stay for Google to sue the debtor ; Notice of filing (eav,) (Entered: 03/06/2007)
03/02/2007	<u>36</u>	162	REPLY by Movant Leo Stoller to Google Inc.'s opposition to debtor Leo Stoller's motion to suspend pending the trademark trial and appeal board's decision on defendant's motion for summary judgment <u>21</u> (Exhibits); Notice. (smm) (Entered: 03/08/2007)
03/05/2007	<u>34</u>	79	MINUTE entry before Judge Virginia M. Kendall :On March 2, 2007, Leo Stoller ("Stoller") filed a Motion to Dismiss for failure to join a party -- himself -- pursuant to Fed. R. Civ. P. 19. Stoller

			previously filed a motion to intervene in this action on February 6, 2007. The Court has not yet ruled upon that motion. As such, Stoller remains a non-party and lacks standing to file a motion pursuant to Rule 19. See Arrow v. Gambler's Supply, Inc., 55 F.3d 407, 409 (8th Cir. 1995) ("only a party may make a Rule 19 motion") (citing Thompson v. Boggs, 33 F.3d 847, 858 n. 10 (7th Cir. 1994) (noting lack of any precedent for granting a non-party's motion for joinder)). Accordingly, Stoller's Motion to Dismiss <u>32</u> is stricken and the parties need not appear on March 7, 2007. Mailed notice (gmr,) (Entered: 03/05/2007)
03/12/2007	<u>37</u>	168	MINUTE entry before Judge Virginia M. Kendall :For the reasons set out in the Memorandum Opinion and Order, Motion to intervene <u>16</u> is denied; Motion to interplead <u>8</u> is denied; and Motions to suspend <u>9</u> , <u>10</u> , <u>11</u> are denied. Mailed notice (eav,) (Entered: 03/13/2007)
03/12/2007	<u>38</u>	169	MEMORANDUM Opinion and Order Signed by Judge Virginia M. Kendall on 3/12/2007: Mailed notice (eav,) (Entered: 03/13/2007)
03/13/2007	<u>39</u>	176	NOTICE of appeal by Leo Stoller regarding orders <u>37</u> , <u>38</u> ; Notice of Filing (Fee Due) (dj,) (Entered: 03/15/2007)
03/15/2007	<u>41</u>	180	MOTION by Movant Leo Stoller for leave to appeal in forma pauperis (eav,) Modified on 5/4/2007 (tg,). (Entered: 03/16/2007)
03/15/2007	<u>43</u>	186	MOTION by Movant Leo Stoller under FRCP 59 and/or 60 (Exhibits) (eav,) (Entered: 03/16/2007)
03/15/2007	<u>45</u>	255	NOTICE by Leo Stoller of filing motion for leave to appeal in forma pauperis <u>41</u> (eav,) (Entered: 03/16/2007)
03/15/2007	<u>57</u>	360	MINUTE entry before Judge Virginia M. Kendall :Joint motion for entry of stipulated permanent injunction and final judgment <u>23</u> is granted. Enter permanent injunction and final judgment as to defendants Central Mfg., Inc. and Stealth Industries, Inc. Mailed notice Civil case terminated (eav,) (Entered: 03/20/2007)
03/15/2007	<u>58</u>	361	PERMANENT INJUNCTION and Final Judgment as to defendants Central Mfg., Inc. and Stealth Industries, Inc. Signed by Judge Virginia M. Kendall on 3/15/2007: Mailed notice (eav,) (Entered: 03/20/2007)
03/16/2007	<u>46</u>	256	MINUTE entry before Judge Virginia M. Kendall :For the reasons stated below, Movant Stoller's motion to reconsider <u>43</u> is denied. The presentment date of 3/19/2007 for said motion is hereby stricken. Mailed notice (gmr,) Additional attachment(s) added on 3/16/2007 (gmr,). (Entered: 03/16/2007)
03/16/2007	<u>47</u>	259	RESPONSE by Google Inc in Opposition to MOTION by Movant Leo Stoller for leave to appeal in forma pauperis <u>41</u> (Barrett, William) (Entered: 03/16/2007)
03/16/2007	<u>49</u>	263	DECLARATION of Michael T. Zeller regarding response in

			opposition to motion <u>47</u> by Google Inc (Attachments: # <u>1</u> Exhibit A-G# <u>2</u> Exhibit H-J)(Barrett, William) (Entered: 03/16/2007)
03/16/2007	<u>50</u>	357	NOTICE by Google Inc re declaration <u>49</u> <i>Notice of Filing</i> (Barrett, William) (Entered: 03/16/2007)

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 3.0
Eastern Division**

Google Inc

Plaintiff,

v.

Case No.: 1:07-cv-00385
Honorable Virginia M. Kendall

Central Mfg. Inc., et al.

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Tuesday, February 20, 2007:

MINUTE entry before Judge Virginia M. Kendall :Motion hearing held. All pending motions are taken under advisement, with a ruling by mail. Status hearing set for 3/13/2007 at 09:00 AM.Mailed notice(gmr,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

AE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED
J.N
FEB 16 2007
FEB 16 2007
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

GOOGLE, INC.)
)
Plaintiff,)
)
vs.)
)
CENTRAL MFG. INC. a/k/a)
CENTRAL MFG. CO., a/k/a)
CENTRAL MFG. CO.(INC).,)
a/k/a CENTRAL MANUFACTURING)
COMPANY, INC. and a/k/a)
CENTRAL MFG. CO. OF ILLINOIS;)
and STEALTH INDUSTRIES, INC.)
a/k/a RENTAMARK and a/k/a)
RENTAMARK.COM,)
)
Defendants.)

Case No: 07-CV-385
Judge Kendall
Magistrate Judge Cole

NOTICE OF FILING

TO: Michael T. Zeller
Quinn, Emanuel, Urquhart,
Oliver & Hedges, LLP.
865 S. Figueroa Street, 10th Floor
Los Angeles, California 90017

William J. Barrett
Barack, Ferrazzano, Kirschbaum,
Perlman & Nagelberg, LLP.
333 W. Wacker Drive, Suite 2700
Chicago, Illinois 60606

Richard M. Fogel, Trustee
Janice A. Alwin
Shaw, Gussis, Fishman, Glantz,
Wolfson & Towbin LLC.
321 N. Clark Street, Suite 800
Chicago, Illinois 60610

PLEASE TAKE NOTICE that on the **16th day of February, 2007**, there was filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, **Objection To Joint Motion For Entry Of Stipulated Permanent Injunction And Final Judgment**, a copy of which is attached hereto.

I certify that I served this Notice mailing a copy to each person to whom it is directed at the address above indicated by depositing it in the U.S. Mail on this 16th day of February, 2007, with proper postage prepaid.



Leo Stoller, *pro se*
7115 W. North Avenue
Oak Park, Illinois 60302
(773) 551-4827
Email: ldms4@hotmail.com

AE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

FEB 16 2007
FEB 16 2007
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

GOOGLE, INC.)
)
Plaintiff,)
)
vs.)
)
CENTRAL MFG. INC. a/k/a)
CENTRAL MFG. CO., a/k/a)
CENTRAL MFG. CO.(INC).,)
a/k/a CENTRAL MANUFACTURING)
COMPANY, INC. and a/k/a)
CENTRAL MFG. CO. OF ILLINOIS;)
and STEALTH INDUSTRIES, INC.)
a/k/a RENTAMARK and a/k/a)
RENTAMARK.COM,)
)
Defendants.)

Case No: 07-CV-385
Hon. Virginia M. Kendall
Magistrate Judge Cole

**OBJECTION TO JOINT MOTION FOR ENTRY
OF STIPULATED PERMANENT INJUNCTION AND FINAL JUDGMENT**

NOW COMES Leo Stoller, a necessary party, who has filed a Motion to Intervene, and states as follows:

Stoller objects to the Stipulated Permanent Injunction and Final Judgment being entered into by this Court which was agreed to by the Chapter 7 Trustee, Richard Fogel and Google, Inc.

Background

Leo Stoller has been engaged in the business of acquiring trademarks and trademark licensing for 30 years. Leo Stoller has operated his business through several corporate entities, Central Mfg. Inc. and Stealth Industries, Inc., both Delaware corporations.

In December of 2005, Leo Stoller and his corporate entities, as a result of their policing efforts of their federally registered trademarks, were facing a half a dozen District Court cases which Leo Stoller and his corporations were unable to properly defend all at the same time. As a result, Leo Stoller filed a Chapter 13 bankruptcy in December of 2005. Shortly thereafter, Stoller had claims in his Chapter 13 bankruptcy of \$65,000. See a true and correct copy of the Chapter 13 final report and account.

Stoller's Chapter 13 was converted to a Chapter 7 on August 31, 2006. Richard Fogel was appointed the Chapter 7 Trustee on September 5, 2006. Since Richard Fogel's appointment as Chapter 7 Trustee, he has refused as of this date, to investigate any of the bankruptcy claims filed against Leo Stoller's Estate. The Chapter 7 Trustee has moved to quash the discovery requests that Leo Stoller as Debtor made to the Claimants in order to establish the validity of said bankruptcy claims. As a direct result of Richard Fogel's negligence and abuse of his Chapter 7 Trustee status, he has refused to defend the corporations and the corporate assets and trademarks of the Estate of Leo Stoller.

For example, the Trustee has entered into an irresponsible agreement with Pure Fishing, Inc. consenting to a \$950,000 judgment against Leo Stoller's corporations rather than defending them. \$750,000 of the \$950,000 was attributed to an attorney fee award leveled against Central Mfg. Inc. and Stealth Industries, Inc. The Trustee did not bother to contest one fee entry submitted despite the fact that Pure Fishing, Inc. had employed two separate law firms, Banner & Witcoff, an Illinois firm, and Roylance, Abrams, Berdo & Goodman, LLP., a Washington DC firm. Both firms billed their client, Pure Fishing, for the same motions and were present before Judge Lindberg in Court. Lance Johnson, an attorney for Pure Fishing from the law firm of Roylance, Abrams, et. al., flew into Chicago and billed Pure Fishing over \$400,000 for the identical work that was performed by the local law firm of Banner & Witcoff. All of those attorneys' fees are lawfully objectionable pursuant to the *Continental* case, the controlling attorney fee case written by Judge Grady. Judge Grady strictly provided that law firms cannot hire multiple firms, legions of lawyers to bill for the identical work when there is a local law firm capable of handling the work. Notwithstanding these fundamental principals for objecting to fee awards, the Trustee Richard Fogel failed to perform his ordinary due diligence and breached his responsibility as a trustee by entering into a \$950,000 consent judgment with Pure Fishing. See Claim No. 12 in the amount of \$969,751.81. In addition, Richard Fogel has acknowledged that Pure Fishing's Claim No. 8 for \$740,315.36 is a duplicative claim on Stoller's claim registry. Richard Fogel refuses as of this date to remove a duplicate and/or fraudulent bankruptcy claim of \$740,315.36. Richard Fogel has acted in

violation of his duties to protect the assets of the Estate of Leo Stoller for the beneficial interest of the creditors. Upon information and belief, Richard Fogel, does not like Leo Stoller's business of engaging in trademark litigation and wants to make sure, in collaboration with certain of Leo Stoller's creditors, Pure Fishing, Inc. and Google, Inc., that Leo Stoller will never be able to be in the business of policing his trademarks, in violation of Stoller's due process and equal rights protection under the 5th and 14th Amendments of the U.S. Constitution.

Stipulated Permanent Injunction and Agreed Final Judgment Is A Sham

Leo Stoller respectfully asserts that the stipulated permanent injunction and agreed final judgment is a sham on this Court, as well known to the Trustee Richard Fogel and to Michael Zeller, attorney for Google, Inc. The Civil RICO action filed by Google, Inc. is frivolous on its face and will not stand the light of day once the Defendants are able to make their case before this Court. The civil RICO action by Google was filed in retaliation for Stoller filing a petition for cancellation proceeding.

§32:52 - Threat Or Filing of PTO Inter Partes Challenge

The threat or actual filing of an opposition or cancellation proceeding against plaintiff's trademark registration in the Patent and Trademark Office is not, per se, regarded as sufficient to create an "actual controversy". *Merrick v. Sharp & Dohme, Inc.*, 185 F.2d 713, 88 USPQ 145 (7th Cir. 1950), cert. denied., 340 F.S. 954, 95 L. Ed. 687, 71 S. Ct. 573, 88 USPQ 569 (1951) (opposition proceeding filed against plaintiff); *Topp-Cola Co. v. Coca-Cola Co.*, 314 F.2d 124, 136 USPQ 610 (2d Cir. 1963) (opposition filed against plaintiff in Puerto Rico). For example, in a case where the declaratory judgment plaintiff had received a letter from non-competitor defendant who claimed a likelihood of confusion between the marks and threatened the filing of an opposition before the TTAB, the court dismissed for lack of jurisdiction, saying: "It is the Court's opinion that these facts, at most, gave the plaintiffs a real and reasonable apprehension of drawn-out warfare in the trenches of the PTO. That, of course, is an insufficient basis for a declaratory judgment. *Circuit City Stores v. Speedy Car-X*. 35 USPQ2d 1703, 1995 WL 568818 (E.D. Va. 1995) ("If there is a polestar to this inquiry, it is that a party cannot claim to have acquired a reasonable apprehension of litigation merely

because the defendant commenced an opposition proceeding in the Patent and Trademark Office. *Progressive Apparel Group v. Anheuser-Busch, Inc.*, 38 USPQ2d1057, 1996 WL 50227 (S.D.N.Y. 1996).

Current RICO Action Is A Sham

The Plaintiff and counsel for the Plaintiff, Michael Zeller, and the Trustee Richard Fogel, are well aware that a District Court action such as the one filed by Google, Inc. cannot be used to short-circuit the Patent and Trademark Office administrative proceedings when one party seeks to bring a District Court case in order to avoid a Trademark Trial & Appeal Board decision on a pending motion for summary judgment. Stoller has filed a pending motion for summary judgment and a petition to cancel Google, Inc.'s federal trademark registration. Judge Schmetterer has issued an order permitting Google to file their response to Stoller's motion for summary judgment at the Patent and Trademark Office. Google, Inc. filed their frivolous RICO action in a direct attempt to short-circuit the Trademark Trial & Appeal Board from granting summary judgment against them and cancelling Google's federal trademark registration which has become generic and/or descriptive of its services listed under its registration. Google's federal trademark registration, the term Google, has been included in the dictionary for several years now, and as such, the dictionary definition of the term google provides irrefutable evidence of the fact that Google's federal registration is now generic and the TTAB will cancel it.

Stoller Has Objected To The Trustee Entering Into Any Settlement Agreement With Google In This Case

Stoller currently has pending Appeals to disqualify Richard Fogel, the Chapter 7 Trustee; appeals to object to Google's settlement agreement. Stoller asserts that this Court does not have jurisdiction over whether it can entertain Google's joint motion for entry of stipulated permanent injunction and final judgment. Stoller has filed a motion before Judge Schmetterer which was heard on February 15, 2007. See attached true and correct copy. Stoller was seeking to receive permission to have outside counsel to represent his corporations in this civil RICO action filed by Google. Judge Schmetterer denied Stoller's motion. Stoller has appealed Judge Schmetterer's decision directly to the 7th Circuit Court of Appeals. See

attached true and correct copy of said appeal.

Plaintiff's Memorandum In Support Of Joint Motion For Entry Of Stipulated Permanent Injunction And Final Judgment Is Without Merit

Google's memorandum in support of their joint motion for entry of stipulated permanent injunction and final judgment is without merit. Leo Stoller and his corporations have been engaged in the lawful enterprise and trademark business for 30 years. In order to protect a trademark licensing company's trademarks, it involves the process of litigation, without which a party would not have any trademarks to license. The essence of the Plaintiff's argument is that Leo Stoller and his companies are somehow unworthy for this Court to protect Stoller's due process and equal protection rights under the 5th and 14th amendments of the United States Constitution. Under the Plaintiff's theory of depriving a party of its due process and equal protection rights, this Court would not be able to exercise any jurisdiction over terrorists, drug dealers, and murders. The Defendants are not charged with any criminal violations. Under the Plaintiff's theory of the case, in arguendo, an alleged criminal or drug dealer would not be entitled to any defense under the law. The Defendants have not engaged in any unlawful or criminal activity nonetheless.

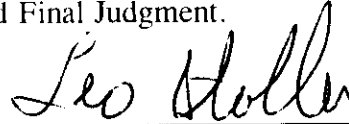
Furthermore, the Judicial Executive Committee of the Northern District of Illinois has recently reviewed the entire filing history of litigant, Leo Stoller, "who has filed at least 49 lawsuits in this Court, individually or through one of his many wholly-owned corporations." Chief Judge Charles Kocoras issued a rule to show cause and a citation against Leo Stoller. See attached true and correct copy. The Executive Committee's rule to show to cause to Stoller was issued in order for Leo Stoller to justify his entire history of trademark litigation before this Court before the Court would "impose reasonable and necessary restraints upon Mr. Stoller's ability to file civil cases in this District." After the Executive Committee for the Northern District of Illinois reviewed Stoller's entire filing history, they issued a decision permitting Mr. Stoller to continue to policy and protect his trademarks. See attached true and correct copy.

As a result, any allegations and/or assertions and/or references to any cases that the Plaintiff would like to cite before this Court in order to justify their theory that Leo Stoller is a vexatious litigant or somehow unworthy to be before this Court, is totally without merit. In

particular, the *George Brett* case, is up on appeal, and the *Pure Fishing* case is up on appeal.

Stoller also and attaches hereto and incorporates herein his brief in response to the Executive Committee's rule to show cause and realleges and incorporates the arguments contained therein.

WHEREFORE, Leo Stoller prays that this Court deny Plaintiff's Joint Motion For Entry Of Stipulated Permanent Injunction And Final Judgment.



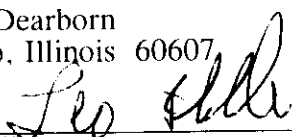
Leo Stoller, *pro se*
7115 W. North Avenue #272
Oak Park, Illinois 60302
312/ 545-4554
Email: ldms4@hotmail.com

Date: February 16, 2007

Certificate of Mailing

I hereby certify that this motion is being hand-delivered in an envelope addressed to:

Clerk of the Court
United States District Court
219 S. Dearborn
Chicago, Illinois 60607



Leo Stoller
Date: February 16, 2007

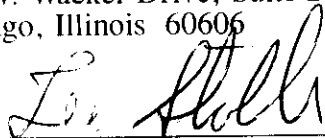
Certificate of Service

I hereby certify that the foregoing is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to:

Richard M. Fogel, Trustee
Janice A. Alwin, Esq.
Counsel for Trustee
*Shaw, Gussis, Fishman, Glantz,
Wolfson & Towbin LLC.*
321 N. Clark Street, Suite 800
Chicago, Illinois 60610

Michael T. Zeller
Quinn, Emanuel, Urquhart,
Oliver & Hedges, LLP.
865 S. Figueroa Street, 10th Floor
Los Angeles, California 90017

William J. Barrett
Barack, Ferrazzano, Kirschbaum,
Perlman & Nagelberg, LLP.
333 W. Wacker Drive, Suite 2700
Chicago, Illinois 60606



Leo Stoller
Date: 2-16-07

Northern District of Illinois Claims Register

05-64075 Leo Stoller CASE CONVERTED on 09/01/2006

Honorable Judge: Jack B. Schmetterer **Chapter:** 7
Office: Chicago **Last Date to file claims:** 12/20/2006
Trustee: Richard M Fogel **Last Date to file (Govt):** 12/20/2006

<i>Creditor:</i> # 10561302	Claim No: 1	<i>Status:</i>
Portfolio Recovery Associates, LLC	<i>Filed:</i> 01/13/2006	<i>Filed by:</i> CR
PO Box 41067	<i>Entered:</i> 01/13/2006	<i>Entered by:</i> Garcia, Dolores
Norfolk, Va 23541		<i>Modified:</i>

Unsecured claimed: \$400.00

Total claimed: \$400.00

History:

1-1 01/13/2006 Claim #1 filed by Portfolio Recovery Associates, LLC , total amount claimed: \$400 (Garcia, Dolores)

Description:

Remarks:

<i>Creditor:</i> # 10543184	Claim No: 2	<i>Status:</i>
Counsel Press	<i>Filed:</i> 01/19/2006	<i>Filed by:</i> AT
C/O Teller, Levit, et al	<i>Entered:</i> 01/19/2006	<i>Entered by:</i> Posen, Kevin
11 E. Adams, 8th Floor		<i>Modified:</i>
Chicago, IL 60603		

Unsecured claimed: \$11439.57

Total claimed: \$11439.57

History:

2-1 01/19/2006 Claim #2 filed by Counsel Press , total amount claimed: \$11439.57 (Posen, Kevin)

Description:

Remarks:

<i>Creditor:</i> # 10601427	Claim No: 3	<i>Status:</i>
Benjamin, Berneman and Brom, LLC	<i>Filed:</i> 02/16/2006	<i>Filed by:</i> CR
175 W. Jackson, Ste. 1600	<i>Entered:</i> 02/16/2006	<i>Entered by:</i> Berneman, Beverly
Chicago, IL 60604		<i>Modified:</i>

Unsecured claimed: \$20826.40

Total claimed: \$20826.40*History:*

3-1 02/16/2006 Claim #3 filed by Benjamin, Berneman and Brom, LLC , total amount claimed: \$20826.4 (Berneman, Beverly)

*Description:**Remarks:*

Creditor: # 10601452
 Querrey & Harrow, Ltd.
 175 W. Jackson, Ste. 1600
 Chicago, IL 60604

Claim No: 4
Filed: 02/16/2006
Entered: 02/16/2006

Status:
Filed by: CR
Entered by: Benjamin, Robert
Modified:

Unsecured claimed: \$25382.40

Total claimed: \$25382.40*History:*

4-1 02/16/2006 Claim #4 filed by Querrey & Harrow, Ltd. , total amount claimed: \$25382.4 (Benjamin, Robert)

*Description:**Remarks:*

Creditor: # 10610239
 ASSET ACCEPTANCE LLC
 PROVIDIAN
 PO BOX 2036
 WARREN MI 48090

Claim No: 5
Filed: 02/23/2006
Entered: 02/23/2006

Status:
Filed by: CR
Entered by: Elliott, Christina
Modified:

Unsecured claimed: \$1296.04

Total claimed: \$1296.04*History:*

5-1 02/23/2006 Claim #5 filed by ASSET ACCEPTANCE LLC , total amount claimed: \$1296.04 (Elliott, Christina)

*Description:**Remarks:*

Creditor: # 10647980
 Illinois Department of Revenue
 Bankruptcy Section
 100 W Randolph St., Level 7-400

Claim No: 6
Filed: 03/17/2006
Entered: 03/17/2006

Status:
Filed by: CR
Entered by: Horton, Patience
Modified:

Chicago IL 60601

Priority claimed: \$317.91

Total claimed: \$317.91*History:*6-1 03/17/2006 Claim #6 filed by Illinois Department of Revenue , total amount claimed: \$317.91 (Horton, Patience)*Description:**Remarks:*

Creditor: # 10659981
 LVNV Funding LLC its successors and assigns
 as assignee of Citibank NA
 c/o Resurgent Capital Services
 PO Box 10587
 Greenville, SC 29603-0587

Claim No: 7
Filed: 03/24/2006
Entered: 03/24/2006

Status:
Filed by: CR
Entered by: Gaines, Susan
Modified:

Unsecured claimed: \$2070.02

Total claimed: \$2070.02*History:*7-1 03/24/2006 Claim #7 filed by LVNV Funding LLC its successors and assigns , total amount claimed: \$2070.02 (Gaines, Susan)*Description:**Remarks:*

Creditor: # 10669986
 Pure Fishing, Inc.
 c/o Lance Johnson
 Roylance, Abrams, Berdo & Goodman,
 LLP
 1300 19th Street, N.W. Suite 600
 Washington, D.C. 20036

Claim No: 8
Filed: 03/30/2006
Entered: 03/30/2006

Status:
Filed by: CR
Entered by: Lauter, Richard
Modified:

Unsecured claimed: \$740315.36

Total claimed: \$740315.36*History:*8-1 03/30/2006 Claim #8 filed by Pure Fishing, Inc. , total amount claimed: \$740315.36 (Lauter, Richard)*Description:**Remarks:*

Creditor: # 10605699
 Lance Construction Co., Inc.
 Lance Johnson
 323 Hillcrest Drive

Claim No: 9
Filed: 03/30/2006
Entered: 03/31/2006

Status:
Filed by: CR
Entered by: Henley, Mary
Modified:

Algonquin, IL 60102

Unsecured claimed: \$3275.00

Total claimed: \$3275.00*History:*

9-1 03/30/2006 Claim #9 filed by Lance Construction Co., Inc. , total amount claimed: \$3275 (Henley, Mary)

*Description:**Remarks:**Creditor:* # 10688087

B-Real, LLC/Chase Bank USA, N.A.

Mail Stop 550

2101 Fourth Ave., Suite 1030

Seattle, WA, 98121

Claim No: 10*Filed:* 04/10/2006*Entered:* 04/10/2006*Status:**Filed by:* CR*Entered by:* Kane, Steven*Modified:*

Unsecured claimed: \$215.48

Total claimed: \$215.48*History:*

10-1 04/10/2006 Claim #10 filed by B-Real, LLC/Chase Bank USA, N.A. , total amount claimed: \$215.48 (Kane, Steven)

*Description:**Remarks:**Creditor:* # 11050675

Google Inc.

c/o Michael Zeller

Quinn Emanuel et al

865 South Figueroa St, 10th Fl

Los Angeles, CA 90017

Claim No: 11*Filed:* 12/07/2006*Entered:* 12/07/2006*Amended By Claim No:* 11*Status:**Filed by:* CR*Entered by:* Barrett, William*Modified:*

Priority claimed: \$250000.00

Total claimed: \$250000.00*History:*

- 11-1 12/07/2006 Claim #11 filed by Google Inc. , total amount claimed: \$250000 (Barrett, William)
- 11-2 12/20/2006 Amended Claim #11 filed by Google Inc. , total amount claimed: \$250000 (Barrett, William)

*Description:**Remarks:*

Creditor: # 10669986

Pure Fishing, Inc.
 c/o Lance Johnson
 Roylance, Abrams, Berdo & Goodman,
 LLP
 1300 19th Street, N.W. Suite 600
 Washington, D.C. 20036

Claim No: 12

Filed: 12/19/2006
Entered: 12/19/2006

Status:

Filed by: CR
Entered by: Factor, William
Modified:

Unsecured claimed: \$969751.81

Total claimed: \$969751.81**History:**

- 12-1 12/19/2006 Claim #12 filed by Pure Fishing, Inc. , total amount claimed: \$969751.81 (Factor, William)

Description:**Remarks:****Creditor: # 11071324**

Wendy Morgan
 Law Offices of Wendy R. Morgan
 1845 East Rand Rd
 Arlington Heights, Il. 60004-4356

Claim No: 13

Filed: 12/19/2006
Entered: 12/19/2006

Status:

Filed by: AT
Entered by: Mosberg, Clay
Modified:

Unsecured claimed: \$150000.00

Total claimed: \$150000.00**History:**

- 13-1 12/19/2006 Claim #13 filed by Wendy Morgan , total amount claimed: \$150000 (Mosberg, Clay)

Description:**Remarks:****Creditor: # 11071324**

Wendy Morgan
 Law Offices of Wendy R. Morgan
 1845 East Rand Rd
 Arlington Heights, Il. 60004-4356

Claim No: 14

Filed: 12/19/2006
Entered: 12/19/2006

Status:

Filed by: AT
Entered by: Mosberg, Clay
Modified:

Unsecured claimed: \$30000.00

Total claimed: \$30000.00**History:**

- 14-1 12/19/2006 Claim #14 filed by Wendy Morgan , total amount claimed: \$30000 (Mosberg, Clay)

Description:**Remarks:****Creditor: # 11071324**

Wendy Morgan
 Law Offices of Wendy R. Morgan
 1845 East Rand Rd

Claim No: 15

Filed: 12/19/2006
Entered: 12/19/2006

Status:

Filed by: CR
Entered by: Mosberg, Clay
Modified:

Arlington Heights, Il. 60004-4356

Unknown claimed: \$50000.00

Total claimed: \$50000.00*History:*

- 15-1 12/19/2006 Claim #15 filed by Wendy Morgan , total amount claimed: \$50000 (Mosberg, Clay)

*Description:**Remarks:**Creditor:* # 11074648Lancope, Inc. [History](#)

Bryan G Harrison, ESQ

1600 Atlanta Financial Center

3343 Peachtree Road NE

Atlanta, GA 30326-1044

Claim No: 16*Filed:* 12/20/2006*Entered:* 12/20/2006*Status:**Filed by:* CR*Entered by:* Nylen, Sven*Modified:***Total claimed:***History:*

- 16-1 12/20/2006 Claim #16 filed by Lancope, Inc. , total amount claimed: \$0 (Nylen, Sven)

*Description:**Remarks:* (16-1) SEE EXHIBIT A*Creditor:* # 11073980

Pure Fishing, Inc. (ADMINISTRATIVE)

c/o Lance Johnson

Roylance, Abrams, Berdo & Goodman

1300 19th St., NW Suite 600

Washington, D.C. 20036

Claim No: 17*Filed:* 12/20/2006*Entered:* 12/20/2006*Status:**Filed by:* AT*Entered by:* Lorber, Sara*Modified:*

Admin claimed: \$131760.00

Total claimed: \$131760.00*History:*

- 17-1 12/20/2006 Claim #17 filed by Pure Fishing, Inc. , total amount claimed: \$131760 (Lorber, Sara)

*Description:**Remarks:**Creditor:* # 11076084

GoDaddy Software, Inc

Gallagher & Kennedy, P.A.

Attn: Joseph E Cotterman

Claim No: 18*Filed:* 12/21/2006*Entered:* 12/22/2006*Status:**Filed by:* CR*Entered by:* Henley, Mary*Modified:*

2575 East Camelback Road,
Phoenix, AZ 85016

Total claimed:

History:

- 18-1 12/21/2006 Claim #18 filed by GoDaddy Software, Inc , total amount claimed: \$0 (Henley, Mary)

Description: (18-1) Unliquidated

Remarks:

Creditor: # 11082709
C. William Michaels
1579 Dellsway Road
Baltimore, MD 21286

Claim No: 19
Filed: 12/27/2006
Entered: 12/28/2006

Status:
Filed by: CR
Entered by: Henley, Mary
Modified:

Unsecured claimed: \$2065.00

Total claimed: \$2065.00

History:

- 19-1 12/27/2006 Claim #19 filed by C. William Michaels , total amount claimed: \$2065 (Henley, Mary)

Description:

Remarks:

Claims Register Summary

Case Name: Leo Stoller
Case Number: 05-64075
Chapter: 7
Date Filed: 12/20/2005
Total Number Of Claims: 19

	Total Amount Claimed	Total Amount Allowed
Unsecured	\$1957037.08	
Secured		
Priority	\$250317.91	
Unknown	\$50000.00	
Administrative	\$131760.00	
Total	\$2389114.99	\$0.00

PACER Service Center

Transaction Receipt

01/05/2007 11:47:23

PACER Login:	it0085	Client Code:	
Description:	Claims Register	Search Criteria:	05-64075 Filed or Entered From: 9/7/2005 Filed or Entered To: 1/5/2007
Billable Pages:	2	Cost:	0.16

UNITED STATES BANKRUPTCY COURT, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

IN RE:
LEO STOLLER

CASE NO. 05 B 64075

CHAPTER 13

JUDGE: JACK B SCHMETTERER

Debtor
SSN XXX-XX-7972

TRUSTEE'S FINAL REPORT AND ACCOUNT

The case was filed on 12/20/2005 and was not confirmed.

The case was converted to chapter 7 without confirmation 09/01/2006.

CREDITOR NAME	CLASS	CLAIM AMOUNT	INTEREST PAID	PRINCIPAL PAID
BRETT BROTHERS INC	NOTICE ONLY	NOT FILED	.00	.00
COUNSEL PRESS	UNSECURED	11439.57	.00	.00
HI TEC SPORTS USA	NOTICE ONLY	NOT FILED	.00	.00
QUERREY & HARROW	UNSECURED	25382.40	.00	.00
NEWDEA INC	NOTICE ONLY	NOT FILED	.00	.00
PURE FISHING	UNSECURED	.00	.00	.00
PORTFOLIO RECOVERY ASSOC	UNSECURED	400.00	.00	.00
BENJAMIN BERNEMAN & BROM	UNSECURED	20826.40	.00	.00
LANCE JOHNSON	UNSECURED	3275.00	.00	.00
ASSET ACCEPTANCE LLC	UNSECURED	1296.04	.00	.00
ILLINOIS DEPT OF REVENUE	PRIORITY	317.91	.00	.00
RESURGENT CAPITAL SERVIC	UNSECURED	2070.02	.00	.00
WEINBERG RICHMOND LLP	ATTORNEY	.00	.00	.00
B-LINE	UNSECURED	215.48	.00	.00
RICHARD M FOGEL	ADMINISTRATIV	NOT FILED	.00	.00
MELVIN J KAPLAN	DEBTOR ATTY	.00	.00	.00
TOM VAUGHN	TRUSTEE			.00
DEBTOR REFUND	REFUND			.00

Summary of Receipts and Disbursements:

	RECEIPTS	DISBURSEMENTS
TRUSTEE	.00	
PRIORITY		.00
SECURED		.00
UNSECURED		.00
ADMINISTRATIVE		.00
TRUSTEE COMPENSATION		.00
DEBTOR REFUND		.00
TOTALS	.00	.00

Based on the above information, the Trustee requests the court enter an order discharging the Trustee, releasing the Trustee's surety from any further liability related to the above proceedings.

Dated: 02/08/07

/s/ Tom Vaughn

TOM VAUGHN
CHAPTER 13 TRUSTEE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILE

In the Matter of
LEO STOLLER

)
)
)

(Before the Executive Committee)

CITATION

IT APPEARING THAT at its December 8, 2005 meeting, the Executive Committee for the Northern District of Illinois reviewed the filing history of litigant Leo Stoller, who has filed at least 49 lawsuits in this Court, individually or through one of his many wholly-owned corporations, and

IT FURTHER APPEARING THAT The docket for 04 C 3049, *Stealth Ind Inc v. George Brett & Brett, et al*, assigned to Judge David H Coar, lists Leo Stoller as counter defendant, an individual doing business as:

Central Mfg. Co.
Stealth
Stealth Sports and Marine
Stealth Industries, Inc.
Sentra Industries Inc.

S. Industries, Inc.
Rentamark
Association Network Mgt.
Central Mfg Inc.

Terminator
Rentamark.Com
USA Sports Co. Inc.
S. Industries

IT FURTHER APPEARING THAT in his Memorandum Opinion and Order in 04 C 3049, Judge Coar wrote:

Indeed, as several judges (including this one) have previously noted, Stoller appears to be running an industry that produces often spurious, vexatious, and harassing federal litigation. . . . Plaintiff and one or more of his corporate entities have been involved in at least 49 cases in this district alone. Of these, at least 47 purport to involve trademark infringement. . . . No court has ever found infringement of any trademark allegedly held by Stoller or his related companies in any reported opinion.

IT IS HEREBY ORDERED THAT the Executive Committee, in its capacity as the supervisor of the assignment of cases, has directed that Leo Stoller inform this court, within thirty (30) days of receipt of this Citation, of any claim by him why the Executive Committee should not impose reasonable and necessary restraints upon Mr. Stoller's ability to file civil cases in this District.

I hereby attest and certify on 12/22/05
that the foregoing document is a full, true and
correct copy of the original on file in my
office, and in my legal custody.

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

By [Signature] Deputy

DATED: December 15, 2005

ENTER:
FOR THE EXECUTIVE COMMITTEE

[Signature]
Chief Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In the Matter of)
)
LEO STOLLER)

EXECUTIVE COMMITTEE ORDER

IT APPEARING THAT on December 15, 2005, a Citation was issued to Leo Stoller, directing him to show cause, within 30 days of receipt of the Citation, why the Executive Committee should not impose reasonable and necessary restraints upon Mr. Stoller's ability to file civil cases in this District, and

IT FURTHER APPEARING THAT a United States Post Office return receipt indicates that Leo Stoller received the Citation on December 27, 2005, and

IT FURTHER APPEARING THAT on January 13, 2006, Leo Stoller submitted a request for an extension of time to retain counsel in order to file a formal response to the Citation, and

IT FURTHER APPEARING THAT the Executive Committee has approved Mr. Stoller's request for an extension of time, now therefore

IT IS HEREBY ORDERED THAT Leo Stoller is granted a 30-day extension of time to file a response to the Citation, and

IT IS FURTHER ORDERED THAT Leo Stoller's response to Citation is due by February 27, 2006

ENTER:

FOR THE EXECUTIVE COMMITTEE

Charles P. Kocoras
Chief Judge

Dated at Chicago, Illinois this 24th day of January, 2006

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In the Matter of)
)
LEO STOLLER)

(BEFORE THE EXECUTIVE COMMITTEE)

RESPONSE TO CITATION

This matter is before the Executive Committee pursuant to the Committee's Citation In the Matter of LEO STOLLER, dated December 22, 2005, and subsequent extension of time to file by February 27, 2006. The Committee noted Stoller and his corporate entities have filed at least 49 cases in the United States District Court for the Northern District of Illinois. The Committee also noted that some judges were of the opinion that Stoller might have filed cases which were spurious, vexatious or harassing and directed him to show cause as to why his future access to the Court should not be restrained.

The corporate entities identified in the citation are considered separate legal entities which cannot appear pro se or through Leo Stoller in the United States District Court. Those entities, therefore, respond through undersigned counsel. For the purpose of responding to the Citation only, the text herein refers to Stoller as the trademark owner and litigant. This is not intended to disregard the separate identities of the entities themselves or Stoller as the owner of the entities rather than the trademarks. Rather it acknowledges the extent to which actions initiated on behalf of the corporate litigants would involve Stoller's information and beliefs regarding infringement and avoids the complexity of

breaking each discussion down by reference to different parties in interest. The specific language in the Citation directs only Mr. Stoller to respond. However, this response assumes the Executive Committee anticipated its actions would apply to Mr. Stoller and the separate corporate entities he owns. Therefore, the response contains a primary statement and a separate statement from Leo Stoller in his individual capacity.

RESPONSE FOR THE CORPORATE ENTITIES.

Introduction

The Committee and the Court are right to control the nature, type, and number of cases filed by any litigant. However, such restraints should be imposed reasonably and only for an appropriate reason. De Long v. Hennessey 912 F.2d 1144, 1147 (C.A.9 (Cal.),1990) (citing Tripati v. Beaman, 878 F.2d 351, 352 (10th Cir.1989) (noting that restrictions must be carefully tailored to circumstances)). Enjoining future litigation is an extreme remedy and should be used only in exigent circumstances, as to not infringe upon the litigator's right to court access. In re Powell 851 F.2d 427, 431, 271 U.S.App.D.C. 172, 176 (C.A.D.C.,1988) (citing In re Oliver, 682 F.2d 443, 445 (3d Cir.1982)).

The Citation appears to condemn Stoller's entire filing history as though every case Stoller filed was baseless. Yet, analysis of the docket history and the opinions does not support that conclusion. Viewed individually the cases Stoller filed were often consistent with legitimate trademark litigation and have a solid basis in the law. Cases are vexatious at their inception when they are brought without reasonable or probable cause. The fact that a case is ultimately

unsuccessful does not make it vexatious in retrospect. When Stoller's perception that his rights were infringed had a basis in law or fact his decision to litigate should not be view as spurious, vexatious, or harassing because he did not prevail.

It is noteworthy that several of the opinions addressing Stoller's litigation practices directed comments at failures to comply with procedural requirements. While Stoller may share some responsibility for the mishandling of some of these cases, the committee should consider the fact that Stoller is not an attorney. Therefore, to the extent practicable, the events that predicated Stoller's lawsuits and the circumstances surrounding resolution should be examined to determine whether the cases were initiated in bad faith.

A history showing numerous filings for infringement of intellectual property rights could indicate a frivolous litigant, but it could just as easily indicate a popular, successful, or valuable intellectual property right that is frequently infringed. The fact that many infringers don't understand the implications of intellectual property rights or refuse to recognize them means that resort to litigation is frequently necessary. The defendants in these litigations will frequently alleged the lawsuit is harassment even when the underlying rights are incontestable, the infringement is obvious, and recognition of those rights would be apparent to one trained in the law. See Laurence R. Helfer, World Music on a U.S. Stage: A Berne/TRIPS and Economic Analysis of the Fairness in Music Licensing Act, 80 B.U.L. Rev. 93, 118 (2000) (Noting how defendants in routine copyright infringement actions alleged harassment by copyright holders and

performing rights societies). Litigation in these instances provides the learning curve necessary for settlement, generally as a result of the defendant's receipt of advice from an attorney who may also be getting familiar with the appropriate law.

Stoller and/or Stoller entities have been identified as having filed 49 lawsuits over a period of approximately 13 years. While numerous, this is not extraordinary when compared to the number of cases filed by holders of important or popular intellectual property rights. *Id.* Moreover, the fact that these cases resulted in settlement and licensing rather than findings of infringement and the issuance of injunctive relief is not unusual. See An Empirical Analysis of Intellectual Property Litigation: Some Preliminary Results. 41 Houston L.Rev. 749 (2004). (Noting that the number of intellectual property cases ending in termination rather than trial had increased over the last twenty-five years and trials represent a very small percentage of case resolutions.). Not only is licensing an accepted practice in trademark exploitation, the value of a license to a trademark holder is often the basis for calculating damages in an infringement action. Sands, Taylor & Wood v. Quaker Oats, 34 F.3d 1340, 1350 (7th Cir. 1994). (Citing Ramada Inns, Inc. v. Gadsden Motel Co., 804 F.2d 1562, 1565 (11th Cir. 1986)).

The recognized tension in intellectual property exist because the protected right is more valuable if it is more widely used. But widespread use of the property where the owner fails to appropriately protect the property can diminish and even jeopardize the owner's rights in the underlying intellectual property.

Silverman v. CBS, Inc., 870 F.2d 40, 48 (2d Cir. 1989) (where the court noted that the mere filing of an infringement action was not sufficient to prevent abandonment of the trademark). See also, Sands, Taylor & Wood Company v. Quaker Oats Company, 978 F.2d 947, 956 (7th Cir. 1992) (The court noted unsuccessful efforts to license the trademark to another were sufficient evidence of use to overcome abandonment.)¹

Stoller's lawsuits follow the pattern of many intellectual property litigations. The actual number of cases should, therefore, be of less concern. Otherwise the Citation could be read to suggest that an intellectual property holder who discovers 20 acts of infringement in one year must select certain infringers to pursue and let others continue to act in violation of the law. Thus, an appropriate examination of Stoller's litigation history should evaluate more than just the number of filings and their outcomes. It should investigate whether Stoller had valid trademark rights to protect; whether the defendants' use of the trademark was likely to cause consumer confusion and thereby appear to have infringed that right; and whether resort to litigation before the Court was warranted.

Stoller is the Owner of Valid Trademarks.

There is little to no dispute as to whether Stoller entities are the owner of the trademarks at the base of the litigations at issue in the Citation.² Indeed, the

¹ Lisa Bannon, Toys: Barrister Barbie? Mattel Plays Rough, Wall Street Journal, January 6, 1998 (reprinted October 18, 2003, www.s-t.com/daily/01-98/01-09-98/b02li044.htm) (Noting analysts who have indicated that trademark holders must police infringements because it is easy to lose it if infringements are allowed). See also George Dent, Lawyers and Trust in Business Alliances, 58 BUS. LAW. 45, 62 (2002) (noting that "[b]ecause in-house lawyers have only one client, they may be even more risk-averse than the more diversified outside counsel")

² In fact the trademarks are held by entities owned and controlled by Mr. Stoller. Since the Citation appears to be against Stoller individually this response refers to him as the owner for the purpose of examining his role with respect to the various litigations.

Northern District Court recognized the Stealth trademark had “created a distinctive designation of the origin of products on which it has place and is widely recognized by the public.” S Industries, Inc. v. World of Weapons, 1997 Lexis 643 (N.D. Ill., 1997).

As the owner of a trademark, Stoller has the right to use the mark to indicate himself or his companies as the source of a product or service. State of Idaho Potato Com'n v. G & T Terminal Packaging, Inc. 425 F.3d 708, 715 (C.A.9 (Idaho),2005) He may also license that right to another entity in the same or a related product or service area. McCarthy on Trademarks and Unfair Competition § 18:1 (4th ed. 2005), AmCan Enterprises, Inc. v. Renzi, 32 F.3d 233, *235 (C.A.7 (Ill.),1994)³. As a licensor, Stoller is entitled to protect the rights that are the subject of the license agreement in the same way he would if he were the actual source of the product or service that is the subject of the license agreement. Original Appalachian Artworks, Inc. v. S. Diamond Assocs., Inc., 911 F.2d 1548, 16 U.S.P.Q.2d 1194 (11th Cir. 1990), on remand, 28 U.S.P.Q.2d 1545 (N.D. Ga. 1993), aff'd, 44 F.3d 925, 33 U.S.P.Q.2d 1606 (11th Cir. 1995), cert. denied, 516 U.S. 1045, 133 L. Ed. 2d 661, 116 S. Ct. 705 (1996). See also Weight Watchers of Quebec, Ltd. v. Weight Watchers International, Inc., 398 F. Supp. 1047, 188 U.S.P.Q. 16 (E.D.N.Y. 1975) (there is an implied obligation of

³ Licensing the use of a trademark to related and unrelated products and services is not uncommon. Consider such trademarks as Disney, which licenses products and services for all ages including audio-visual, apparel, radio, travel, food products, video arcades and games, sporting goods, watches and fast food just to name a few. Nike is best known for shoes, but also licenses the production of prescription eye wear, watches, apparel, portable audio equipment, hockey skates, and equipment for virtually every popular sport.

Exact details of events surrounding these twenty-seven cases cannot be extracted from the brief docket history. However, settlement is not the usual resolution of baseless litigation. While the majority of these cases provide no admission of liability, they simultaneously provide no support for a conclusion that Stoller filed frivolous claims. Only one docket sheet, of the thirty-two sheets reviewed, contained reference to a motion for attorneys' fees or sanctions.

The case history reveals several cases in which Stoller was not successful. However, it must be pointed out that the term "meritless" is to be understood as meaning groundless or without foundation, rather than simply that the plaintiff has ultimately lost his case. Christiansburg Garment Co. v. Equal Employment Opportunity Commission 434 U.S. 412, 421, 98 S.Ct. 694, 700 (U.S.S.C., 1978). Moreover, the negative result in some of these cases appears to be a function of Stoller's choice of counsel rather than a lack of substantive or factual merit in the claims.

In S Industries v. World of Weapons, the defendant was dismissed for lack of jurisdiction. In his opinion, Judge Kocoras noted the incontestability of Stoller's trademark. He went on to say:

The 'Stealth' trademark is currently being licensed for use on a line of target rifles and guns, and the registration for the 'Stealth' mark has not been cancelled or abandoned by S Industries. The 'Stealth' mark has also created a distinctive designation of the origin of products on which it has [been] place[d] and is widely recognized by the public.

Despite S Industries' use of and rights to the mark 'Stealth', the name 'Stealth' has recently been place on a line of blowguns manufactured by defendant World of Weapons . . .

1997 U.S. Dist. Lexis 643 (N.D. Ill. 1997).

Notwithstanding the apparently solid basis for a case of infringement, Judge Kocoras properly dismissed the defendant because plaintiff "did not cite either the Illinois long-arm statute or any case law from Illinois state courts, the Northern District of Illinois, or the Seventh Circuit" to support its claim that the court had jurisdiction over the defendant. While upholding the defendant's dismissal in Illinois, however, Judge Kocoras noted that plaintiff was not barred from pursuing claims against the defendant in another forum.

Two points can be extracted from this opinion. First, the court acknowledged the legitimacy of Stoller's trademark rights and at least intimated that the trademark might have been infringed. Viewing Stoller as a trademark holder, not an attorney, it appears his claim was brought with a good faith belief that his rights were being infringed. Second, it also appears Stoller's claim against this defendant failed not for lack of merit, but as a result of the representation he received. On its face this claim was not frivolous, vexatious, nor filed with intent to harass. Indeed, from the perspective of a trademark holder, while Judge Kocoras was absolutely correct in his ruling, Stoller appears to have been compromised by a procedural failing beyond his control.

There are other cases, which may have suffered from similar problems in that Stoller, as a layman untrained in the law would have believed his case was meritorious to be presented. In S Industries v. Hobbico, Stoller pursued defendants for use of the Stealth trademark on fishing tackle. At the time Stoller had an incontestable trademark for Stealth as applied to games, toys, and sporting goods and also for boats. Here again Judge Shadur was correct in

good faith on the licensor to protect the licensed mark from infringement).⁴

Therefore, whether the trademark indicates Stoller as the source or one of his licensees as the source of a product or service is immaterial. His right to pursue infringing use is the same. Id.

Moreover, Stoller has an obligation to pursue activities that may constitute infringement once he becomes aware that such activities are occurring. Id.

Failure to protect a trademark can result in the loss of the rights stop infringement through acquiescence or loss of the mark itself through abandonment.

Review of the Cases Indicates Probable Infringement in Some Cases and a Lack of Bad Faith in Others.

The early cases the Committee references date back to approximately 1993. Recreating a precise history of the events that precipitated each case would be difficult. However, information gleaned from the procedural history supports a conclusion that some defendants recognized their potential exposure for infringement or other violation of trademark laws. A review of thirty-two docket sheets for Stoller litigations reveals settlement in at least fifteen cases.⁵ Three of these settled cases also resulted in entry of judgments. At least one included an award of attorney's fees for Mr. Stoller and one made specific reference to a license agreement. The docket sheets for at least twelve other cases indicate dismissal without specific reference to settlement. These cases were voluntarily dismissed with parties bearing their own costs.

⁴ See Restatement 3d Unfair Competition Section 33 (1995) (noting actions for infringement must be brought by the licensor).

⁵ These are cases where the docket entry actually states "settlement" in the entry. Other docket entries stated cases were dismissed by agreement or voluntarily dismissed with or without prejudice but did not specifically use the term settlement.

noting the specific enumeration of products covered by Stoller's trademarks did not include fishing bobbers. Yet, it is conceivable that a trademark covering boats and sporting goods could include fishing tackle.⁶ Moreover, the critical inquiry in an infringement action is likelihood of consumer confusion. See Sands, Taylor & Wood v. Quaker Oats, 978 F.2d at 957.

In Sands the court said "[t]he 'keystone' of trademark infringement is 'likelihood of confusion' as to source, affiliation, connection or sponsorship of goods or services among the relevant class of customers and ***potential customers***." Id. (emphasis added). The court noted the rationale for protecting against confusion for potential customers was aimed at protecting the mark holder in markets where it might reasonably be expected to expand in the future. Id. at 958.

In the Hobbico case, Judge Shadur used his opinion from S Industries, Inc. v. Kimberly-Clark as an overlay for his opinion in the latter case. 1996 U.S. Dist. Lexis 9567 (N.D. Ill. 1996). Judge Shadur may have been duly outraged by the way this case was presented in light of its timing with respect to the Kimberly-Clark litigation. Moreover, Judge Shadur was correct in his application of the law in so much as Stoller's registrations in the Stealth trademark would apply only to products indicated in the registration or products closely related to those

⁶ Consider Bass Pro Shops which has grown from a fishing tackle store to an entity selling everything from bobbers to boats under the Bass Pro trademark.

products. However, the Hobbico litigation when viewed on its own factual basis does not immediately leap forward as a facially frivolous claim.⁷

It is not the intent here to question the final decision in either case. However, the law in the 7th Circuit under Sands does not make Stoller's initial position in Hobbico appear so outrageous as to be obviously frivolous. Fishing tackle is a type of sporting good and it is sold in at least one example under a trademark that is used on boats and other sporting goods. Reasons why the Hobbico litigation should not have been pursued could easily require a finer understanding of the law than Stoller himself possessed. Here again, though the case did not prevail, it is not clear the litigation was initially instituted as a result of bad faith on Stoller's part.

In S Industries v. Centra 2000, the court easily granted summary judgment against Stoller in part because Stoller's attorney filed a responsive pleading that "fail[ed] to satisfy the requirements of Rule 12(N)(3)(a). 1998 U.S. Dist. LEXIS 4682. Similarly the thorough opinion by Judge Andersen in S Industries v. Diamond noted that the complaint was "poorly drafted". 991 F. Supp. 1012,1024 (N.D. Ill, 1998). In S Industries v. Diamond, for many errors the Court found in Stoller's pleading it cited similar errors made by parties in other cases. While this is devastating for Stoller's position in that case, it indicates that Stoller was not alone in having made these types of allegations. It was incumbent on Stoller's attorney to research this prior law and appropriately advise him about the wisdom

⁷ The Kimberly-Clark litigation involved a tenuous claim by S Industries with respect to the markets and products involved. The Hobbico litigation had facts which were quite different and arguably stronger for S Industries.

of proceeding in all of these cases. Yet the Citation at issue is directed at Stoller the individual not to Stoller as a practicing attorney.

**An Appropriate Remedy Should Not Generalize All of Stoller's
Lawsuits Into the Single Category of Baseless Litigation.**

The Citation notes that in 47 cases of alleged infringement there was no finding of actual infringement. While that is true, the record does not support a conclusion that Stoller has filed 47 vexatious litigations. As noted the expected outcome in most litigation would be settlement without a finding of liability. Further, licensing is the goal or result in most intellectual property cases which do not involve overt attempts to pass off bootleg merchandise. A legitimate response to the Citation cannot ignore the issues raised by the court in several opinions which indicate that some of Stoller's lawsuits have been misguided. On the other hand, it appears the majority of Stoller's cases were not similarly flawed.

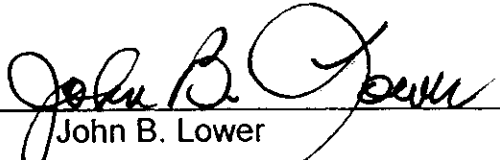
There is some disarray in the house Stoller has built with his intellectual property rights. And in some cases the house Stoller envisioned may not have been the empire he perceived it to be. However, the fact Stoller's house is not an empire does not make it a house of cards that should be swept away with a mere breath of air. Moreover, the disarray is the result of Stoller not always recognizing the subtle points of trademark law rather than overt acts in bad faith. Stoller acknowledges that he should have heeded the court's admonishments and has retained counsel with a more conservative and reasoned approach to protecting rights. In fashioning any reasonable restraints the Committee should

try to view the cases individually. Viewed separately, some cases are well-intentioned efforts to protect legitimate trademark rights. Those cases that went off track have already subjected Stoller to penalties for his and his former attorney's actions. As such, any restraint would be directed to keeping Stoller on a proper course rather than one intended to bar the door.

Respectfully submitted,

Dated: February 27, 2006

By: _____
Robert W. Fioretti

By:  _____
John B. Lower

Fioretti & Lower, Ltd.
39 South LaSalle Street
Suite 1400
Chicago, Illinois 60603
Phone: (312) 332-7374
Facsimile: (312) 332-0104

Attorneys for:
Central Mfg Inc.
Central Mfg Co.
Stealth Industries, Inc.
Sentra Industries, Inc.
S. Industries, Inc.
USA Sports Co. Inc.

Case 1:04-cv-03049 Document 96 Filed 09/30/2005 Page 31 of 33

Appendix I

Northern District of Illinois Cases Involving Leo Stoller and the "Stealth" Mark

Case Number	Case Name	Subject Matter
88-C-3722	Slazengers Ltd. v. Stoller et al.	Trademark Infringement
88-C-7215	Skierkewiecz, et al. v. Gonzalez, et al.	Non-Trademark Infringement
92-C-5622	Stoller v. Carbaugh et al.	Trademark Infringement
95-C-1634	Stealth Indus. Inc. v. Victor Stanzel Co., et al.	Trademark Infringement
95-C-2650	Stealth Indus. Inc. v. Grace Childrens Prods. et al.	Trademark Infringement
95-C-2651	Stealth Indus. Inc. v. Zebco Inc., et al.	Trademark Infringement
95-C-4509	Stealth Indus. Inc. v. All Amer. Prod. Inc., et al.	Trademark Infringement
95-C-5788	Stealth Indus. Inc. v. Oceanic USA	Trademark Infringement
96-C-1035	S Indus. Inc. v. Amer Soccer Co., Inc.	Trademark Infringement
96-C-1138	S Indus. Inc. v. Netti Export Corp., et al.	Trademark Infringement
96-C-1218	S Indus. Inc. v. Bard Wyers Sports, et al.	Trademark Infringement
96-C-1264	S Indus. Inc. v. HHA Sports, et al.	Trademark Infringement
96-C-1325	S Indus. Inc. v. ERO Indus. Inc., et al.	Trademark Infringement
96-C-1776	S Indus. Inc. v. Fit Bearings, et al.	Trademark Infringement
96-C-2037	S Indus. Inc. v. World of Weapons, et al.	Trademark Infringement
96-C-2038	S Indus. Inc. v. Pelican Pro Inc., et al.	Trademark Infringement
96-C-2166	S Indus. Inc. v. Wonderwand, et al.	Trademark Infringement
96-C-2231	S Indus. Inc. v. Lanc, et al.	Trademark Infringement
96-C-2232	S Indus. Inc. v. GMI Prof. Access Syst., et al.	Trademark Infringement
96-C-3389	S Indus. Inc. v. Diamond Multimedia, et al.	Trademark Infringement
96-C-3524	S Indus. Inc. v. Centra 2000 Inc., et al.	Trademark Infringement

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Case Number	Case Name	Subject Matter
96-C-3525	S Indus. Inc. v. NAAN Irrigation Syst., et al.	Trademark Infringement
96-C-3592	S Indus. Inc. v. Nat'l Baseball Hall of Fame	Trademark Infringement
96-C-3593	S Indus. Inc. v. Funline Mdse Co., Inc., et al.	Trademark Infringement
96-C-3916	S Indus. Inc. v. Kimberly-Clark Corp., et al.	Trademark Infringement
96-C-4140	S Indus. Inc. v. Ecolab Inc.	Trademark Infringement
96-C-4141	S Indus. Inc. v. Tru-Fit Mkg. Corp.	Trademark Infringement
96-C-4149	S Indus. Inc. v. Mitsubishi Int'l Inc., et al.	Trademark Infringement
96-C-4434	S Indus. Inc. v. Brodix Inc., et al.	Trademark Infringement
96-C-4659	S Indus. Inc. v. JL Audio Inc., et al.	Trademark Infringement
96-C-4951	S Indus. Inc. v. Stone Age Equip. Inc., et al.	Trademark Infringement
96-C-6047	S Indus. Inc. v. Tournament Grade, et al.	Trademark Infringement
96-C-6507	S Indus. Inc. v. Photostealth Fabric	Trademark Infringement
96-C-6509	S Indus. Inc. v. Hobbico Inc., et al.	Trademark Infringement
96-C-6538	S Indus. Inc. v. E-Force Sports, et al.	Trademark Infringement
97-C-1817	S Indus. Inc. v. Hobbico Inc., et al.	Trademark Infringement
97-C-2787	S Indus. Inc. v. Space-Age Tech, et al.	Trademark Infringement
97-C-3702	S Indus. Inc. v. Sunshine Golf	Trademark Infringement
97-C-3703	S Indus. Inc. v. Tour Advanced Int'l	Trademark Infringement
97-C-3704	S Indus. Inc. v. NGA Disc Golf	Trademark Infringement
97-C-3705	S Indus. Inc. v. S E Golf	Trademark Infringement
97-C-3706	S Indus. Inc. v. Proclub Golfing Co.	Trademark Infringement
97-C-3707	S Indus. Inc. v. M & M Golf Inc.	Trademark Infringement
99-C-1401	Hartford Ins. Co. v. Diamond Computer, et al.	Non-Trademark Infringement

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00-C-6586	Stealth Indus. Inc. v. Stealth Sec. Syst., Inc., et al.	Trademark Infringement
Case Number	Case Name	Subject Matter
00-C-7867	Centra Software Inc. v. Stoller, et al.	Trademark Infringement
04-C-3049	Stealth Indus. Inc. v. George Brett & Brett Bros. Sports Int'l, Inc.	Trademark Infringement
05-C-725	Central Mfg. Co., et al. v. Pure Fishing, Inc., et al.	Trademark Infringement
05-C-2052	Columbia Pictures Indus., Inc. v. Stoller et al.	Trademark Infringement

8/11/05

Total Number of Cases: 49

ORDER


This case is before the court on the defendants' motions for attorneys fees and costs. Defendants bring this motion pursuant to Rule 59(e) of the Federal Rules of Civil Procedure and request that the court amend its order of January 28, 1998, granting the defendants' motion for summary judgment, to include an award of costs and attorneys fees. For the reasons set forth below, the court denies the motions for attorneys fees. As the prevailing parties, the defendants are entitled to their costs. As such, the court will amend its order of January 28, 1998 to include an award of costs.

Section 1117(a) of the Lanham Act authorizes the court to grant an award of reasonable attorneys fees to the prevailing party in "exceptional cases." 15 U.S.C. § 1117(a). The Seventh Circuit has defined the phrase "exceptional cases" as cases that are "malicious, fraudulent, deliberate or willful." FASA Corp. v. Playmates Toys, Inc., 108 F.3d 140, 143 (7th Cir. 1997). A finding of bad faith on the part of the plaintiff is not necessary for a prevailing defendant to prove that the case is "exceptional" Id. Instead, a case may be deemed "exceptional" where it lacks merit and evidentiary support or was brought to extract a settlement based on the suit's nuisance value. Door Systems, Inc. v. Pro-Line Door Systems, Inc., 126 F.3d 1028, 1032 (7th Cir. 1997). The decision to award attorneys fees under the Lanham Act is firmly committed to the discretion of the district court. BASF Corp. v. Old World Trading Co., Inc., 41 F.3d 1081, 1099 (7th Cir. 1994).

The gist of the defendants' argument is that the plaintiff's suit lacked merit and evidentiary support and was brought by the plaintiff to extract a settlement from the defendants. Defendants point out that plaintiff has filed countless lawsuits against entities, such as the defendants, that attempt to use the "Stealth" name on products that are unrelated to the products listed in the plaintiff's trademark registrations. Upon review of the record and our opinion granting the defendants' motion for summary judgment, the court finds that an award of attorneys fees is not warranted in this case. Plaintiff has secured registrations for use of the "Stealth" name on a wide range of products since 1985. These products range from bicycles and comic strips to window locks and lawn sprinklers. Because of such a wide range of products, the plaintiff has more opportunities to sue for trademark infringement when another entity uses the "Stealth" name. The court, however, cannot base its decision to award fees on the plaintiff's conduct in other cases with other defendants. In this case, there was some evidence indicating that plaintiff used the "Stealth" name on garage door locks that could have been infringed upon by defendants' use of the "Stealth" name on garage door openers. We granted summary judgment for the defendants because S Industries did not provide any credible evidence to establish that consumers were confused by the defendants' use of the name on their garage door openers. While we agree with the defendants that the plaintiff's claims lacked evidentiary support, the court will not award attorneys fees because there is no evidence that the plaintiff's suit was fraudulent or malicious. Accordingly, we deny the defendants' motions for fees.

Nevertheless, the defendants, as the prevailing parties, are entitled to their costs. The court will amend its order of January 28, 1998 to include an award of costs to the defendants. Defendants are directed to file their bill of costs within ten days of this order. Plaintiff will have two weeks to respond to the defendants' petitions.

Dated: APR 30 1998


 CHARLES P. KOCORAS
 U.S. District Court Judge



Michael Dobbins
CLERK

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
219 SOUTH DEARBORN STREET
CHICAGO, ILLINOIS 60604

312 435-5670

March 20, 2006

Leo Stoller
c/o Fioretti & Lower, Ltd.
39 South LaSalle Street
Suite 1400
Chicago, IL 60603

Dear Mr. Stoller,

The Executive Committee for the Northern District of Illinois has considered your response to the citation issued to you on December 15, 2005. After discussion, the Committee will take no further action in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael W. Dobbins". The signature is stylized and cursive.

Michael W. Dobbins

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS

In Re:

LEO STOLLER,

Debtor.

Case No: 05-B-64075
Honorable Jack B. Schmetterer

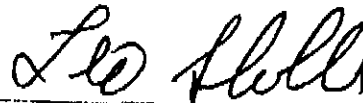
NOTICE OF MOTION

TO: William J. Factor, Seyfarth & Shaw, LLP.
55 E. Monroe Street, Suite 4200, Chicago, Illinois 60603

Michael T. Zeller, Quinn, Emanuel, et al.
865 S. Figueroa Street, 3rd Floor
Los Angeles, California 90017

Richard Fogel, Shaw, Gussis, Fishman, Glantz,
Wolfson & Lowbin LLC., 321 N. Clark Street, Suite 800
Chicago, Illinois 60610

PLEASE TAKE NOTICE that on the 15th day of Feb, 2007
at 10:00 a.m., Debtor shall appear before the Honorable Judge Schmetterer in the
courtroom usually occupied by him, 219 S. Dearborn, Chicago, Illinois, 60603, and then and
there present the attached motion.



Leo Stoller
7115 W. North Avenue
Oak Park, Illinois 60302
(312) 545-4554
Email: ldms4@hotmail.com

Date: February 7, 2007

FILED
UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
FEB 07 2007
KENNETH S. GARDNER, CLERK
PS REP. - AI

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

	)	Chapter 7
In Re:	)	Case No: 05 B 64075
LEO STOLLER,)	
	)	Hon. Jack B. Schmetterer
Debtor.)	

FILED
 UNITED STATES BANKRUPTCY COURT
 NORTHERN DISTRICT OF ILLINOIS
 FEB 07 2007
 KENNETH S. GARDNER, CL
 PS REP. - AI

MOTION FOR PERMISSION TO RETAIN COUNSEL

NOW COMES Leo Stoller and requests permission to retain counsel to represent Stoller's corporations, CENTRAL MFG. CO. and STEALTH INDUSTRIES, INC. in Case No: 07-cv-385 filed by Google, Inc.

This Court lifted the automatic stay on January 18, 2007, allowing Google, Inc. to sue Leo Stoller and his companies for civil RICO in the District Court. See attached true and correct copy of the Court's order.

The Trustee, Richard Fogel, stated in open court, that Google was not seeking any monetary damages against Stoller's corporations. The Court was led to belief that Google was not seeking monetary damages against Stoller's corporations prior to lifting the stay. The Trustee has refused to defend this RICO action against Stoller's corporations. The Trustee has refused to allow Stoller the right to retain counsel to defend his corporations in this and other matters, notwithstanding the fact that no funds from Stoller's Estate would be used to finance the attorneys who are required to represent Stoller's corporations for the benefit of Stoller's Estate and its legitimate creditors.

The Court on numerous occasions, on the record, has admonished the Trustee for his conduct, evidencing an abandonment of the Debtor's intellectual property and corporate assets by the Trustee's failure to defend those assets in litigation. For example, Leo Stoller, prior to the appointment of the Trustee, had only \$69,000 in claims against his Estate. Since the appointment of Richard Fogel, the Trustee, in September of 2006, the Debtor now has over \$2,300,000.00 in claims against the Debtor's Estate, as a direct result of the Trustee's failure

to defend Stoller's corporations. The Trustee has abused his fiduciary duty to the Estate of Leo Stoller by entering into a consent judgment of \$950,000.00 with Pure Fishing, Inc. rather than defend the action that Pure Fishing had pending against Leo Stoller and his corporations. In addition, the Trustee has acknowledged to the Debtor that Pure Fishing had a "duplicative claim" of over \$750,000.00 against the Debtor. The Trustee has taken no action to remove that duplicative claim from the claims registry of the Debtor.

The only conclusion that can be drawn which this Court has already acknowledged is that the Trustee has abandoned the intellectual property and the corporate assets of the Debtor. The Debtor is asking this Court here and now to declare that the Trustee has abandoned the Debtor's corporations and any intellectual property owned by them.

The Debtor is asking this Court permission for Leo Stoller to retain counsel to represent and defend his corporations in the civil RICO action filed by Google, Inc. Google cleverly sought to lift the stay in order to sue Leo Stoller and his corporations. However, Google did not sue *Leo Stoller*, only his corporations. Google knowingly and willfully avoided suing Leo Stoller in Google's civil RICO action because Google knows that the Trustee, Richard Fogel, will not represent Leo Stoller's corporations and Google will obtain a default judgment in a civil RICO action which is the most severe judgment that can be granted against an entity other than a criminal charge. The Court should not allow this abuse of the bankruptcy court system to go uncorrected. Leo Stoller should have a right to defend himself and/or his corporations against Google, Inc. in view of the fact that the Trustee has abandoned all rights in and to Stoller's corporations and their assets.

Prior to bringing this motion, Stoller has made a good faith to obtain permission from Richard Fogel for Stoller to retain counsel to represent Stoller's corporations. Mr. Fogel stated in an email dated February 6, 2007, "... I will not give you any carte blanche authority to do anything in connection with the pending litigation." Mr. Fogel has said that under certain limited conditions, he may allow an attorney to represent my companies in the case at bar if they restrict their representation to not upsetting any agreements that the Trustee has reached with Google, Inc.

Leo Stoller has attempted to talk with counsel regarding representing his corporations against Google's civil RICO action and there is no attorney that is willing to take Stoller's case with the prospective lawyers' hands tied behind their backs and restricted.

SUMMARY

It is obvious from the record that this Trustee has abandoned Stoller's corporations and corporate assets because he has failed and/or refused to defend them. In addition, as a direct result of the Trustee's conduct in this case, the Trustee has increased the Debtor's claims to over \$2,000,000.00. Claims which did not exist prior to the appointment of Richard Fogel. The Trustee has refused to investigate the claims and has objected to the Debtor's written discovery which was sent to the claimants in order to justify the claims in order to settle this case amicably. The Debtor has offered the Trustee over \$100,000.00 to settle the bankruptcy estate with the legitimate creditors and to pay the administrative costs of the Debtor's Estate. As a result of the Trustee's failure to verify the legitimate claims from the illegitimate claims, the Trustee has made it impossible for the Debtor to ascertain its legitimate creditors from its illegitimate creditors. It is obvious that the Trustee has abandoned the corporations and the corporate assets of the Debtor.

The Debtor is requesting that this Court declare that the Trustee has abandoned the Debtor's corporations and allow those assets to be defaulted back to the Debtor. In the alternative, the Debtor is requesting permission from this Court to obtain counsel to represent Stoller's corporations in the Google Inc. v. Central Co., et al. in the civil RICO action.

WHEREFORE, the Debtor prays that this Court grant permission to the Debtor to retain counsel to represent the Debtor's corporations in the Google civil RICO action, Case No. 07-cv-385. Further, the Debtor is requesting that this Court declare that the Trustee has abandoned the corporations of the Debtor and that those said corporations should be defaulted back to the Debtor as a result of the abandonment.

Leo Stoller

Leo Stoller
7115 W. North Avenue
Oak Park, Illinois 60302
(312) 545-4554
Email: ldms4@hotmail.com

Date: February 7, 2007

Certificate of Mailing

I hereby certify that the foregoing is being hand-delivered to the following address:

Clerk of the Court
United States Bankruptcy Court
219 N. Dearborn
Chicago, IL 60607

Leo Stoller

Leo Stoller
Date: February 7, 2007

Certificate of Service

I hereby certify that the foregoing is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to:

Richard M. Fogel, Trustee
Janice A. Alwin, Esq.
Counsel for Trustee
Shaw, Gussis, Fishman, Glantz,
Wolfson & Tow
321 N. Clark Street, Suite 800
Chicago, Illinois 60610

William J. Factor
Seyfarth & Shaw, LLP
55 E. Monroe Street, Suite 4200
Chicago, Illinois 60603

Michael T. Zeller
Quinn, Emanuel, et al.
865 S. Figueroa Street, 3rd Floor
Los Angeles, California 90017

Leo Stoller

Leo Stoller
Date: 2-7-07

From : Rick Fogel <rfogel@shawgussis.com>
Sent : Tuesday, February 6, 2007 9:46 AM
To : "L Lee" <ldms4@hotmail.com>
CC : "Janice Alwin" <jalwin@shawgussis.com>
Subject : RE: Attorney to Represent Central Mfg. Co. in Google Rico Case

Mr. Stoller:

Based on the information you have been posting on your blog, it does not appear as if you are making any effort to resolve your issues with Google in an amicable way. If you have an attorney that is willing to represent your companies, I will discuss the matter with him or her. I will not give you any carte blanche authority to do anything in connection with the pending litigation.

Richard M. Fogel
Shaw Gussis Fishman Glantz Wolfson & Towbin LLC
321 N. Clark Street, Suite 800
Chicago, IL 60610
Direct dial: (312) 276-1334
Direct fax: (312) 275-0578

-----Original Message-----

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In Re:

LEO STOLLER,

Debtor.

Hon. Jack B. Schmetterer

Appeal from the U.S. District
Court for the Northern District,
Eastern Division
Case No. 05-B-64075

NOTICE OF FILING

TO: William J. Factor
Sara E. Lorber
Seyfath & Shaw LLP.
131 S. Dearborn Street, Suite 2400
Chicago Illinois 60603

Lance G. Johnson
Roylance, Abrams, et al.
1300 19th Street, N.W., #600
Washington, DC 20036

Richard M. Fogel
Janice A. Alwin
Shaw, Gussis, Fishman, Glantx,
Wolfson & Tow
321 N. Clark Street, Suite 800
Chicago, Illinois 60610

Stephen G. Wolfe
Assistance United States Trustee
Office of the United States Trustee
227 W. Monroe Street, Suite 3350
Chicago, Illinois 60606

Michael T. Zeller
Quinn, Emanuel, Urquart,
Oliver & Hedges, LLP.
865 S. Figueroa Street, 10th floor
Los Angeles, CA 90017

PLEASE TAKE NOTICE that on the **16th day of February, 2007**, there was filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, **Notice of Appeal Of An Interlocutory Order Issued By Judge Jack Schmetterer From The Bend On February 15, 2007**, a copy of which is attached hereto.

I certify that I served this Notice mailing a copy to each person to whom it is directed at the address above indicated by depositing it in the U.S. Mail on this _____ day of February, 2007, with proper postage prepaid.



Leo Stoller
7115 W. North Avenue
Oak Park, Illinois 60302
(773) 551-4827
Email: ldms4@hotmail.com

**UNITED STATES BANKRUPTCY COURT
FOR NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In Re:)

LEO STOLLER,)

Debtor.)

Hon. Jack B. Schmetterer

)
) Appeal from the U.S. District
) Court for the Northern District,
) Eastern Division
) Case No. 05-B-64075
)
)

**NOTICE OF APPEAL OF AN INTERLOCUTORY ORDER ISSUED BY
JUDGE JACK SCHMETTERER FROM THE BENCH ON FEBRUARY 15, 2007**

NOW COMES the Appellant/Debtor and files its Notice of Appeal of an interlocutory Order by Judge Jack Schmetterer from the bench, Docket No. 270, denying Appellant's request and application to employ counsel, and states as follows:

Judge Schmetterer issued the order denying the Appellant's request to employ counsel to represent its corporations in a civil RICO action filed by Google, Inc., Case No. 07-cv-385. Without counsel representing the Debtor's corporations, a default civil RICO judgment will be issued against the Debtor's corporations. The Trustee, Richard Fogel¹, has refused to defend the Appellant's corporations. If the default judgment agreed to by the Trustee Richard Fogel is allowed to stand, the Appellant's corporate entities will be permanently discredited and tarnished without being able to present a valid defense to a frivolous civil RICO action brought by Google, Inc. in retaliation for Appellant's filing of a petition for cancellation proceeding

1. It is the position of the Appellant that the Trustee Richard Fogel has abandoned the corporations and the assets of the corporations. Currently, the Appellant has a pending appeal, Case No. 06-c-06599. Prior to September 5, 2006, the appointment of Richard Fogel, the Appellant had only \$65,000 in bankruptcy claims filed in his Estate. As a result of Richard Fogel being appointed Trustee on September 5th, Leo Stoller's bankruptcy estate is now over \$2,300,000 in claims as a result of the Trustee's failure to defend the corporations of Leo Stoller. As of this date, the Trustee has failed and/or refused to investigate any of the bankruptcy claims. The Trustee has also moved to quash the Appellant's attempt at submitting written discovery to the claimants. Currently, an appeal is pending by the Appellant on a decision denying the replacement of the Trustee Richard Fogel.

before the Trademark Trial and Appeal Board.

This Court Has Jurisdiction Over This Interlocutory Appeal

The general rule is that a court of appeals has jurisdiction over a bankruptcy appeal only if the bankruptcy court's original order and the district court's order reviewing the bankruptcy court's original order are both final. 28 U.S.C. sec. 158(d); *In re Devlieg, Inc.*, 56 F.3d 32, 33 (7th Cir. 1995) (per curiam); *In re Morse Elec. Co.*, 805 F.2d 262, 264 (7th Cir. 1986); 16 Charles Alan Wright, Arthur R. Miller, & Edward H. Cooper, *Federal Rules and Procedure* sec. 3926.2, at 273 (2d ed. 1996). In the bankruptcy context, however, finality does not require a final order concluding the entire bankruptcy proceeding; certain orders entered prior to the conclusion of the bankruptcy proceeding will be deemed final. *In re Forty-Eight Insulations, Inc.*, 115F.3d 1294, 1298-99 (9th Cir. 1977); *In re Official Committee of Unsecured Creditors of White Farm Equip. Co.*, 943 F.2d 752, 754-755 (7th Cir. 1991). Where an order terminates a discrete dispute that, but for the bankruptcy, would be a stand-alone suit by or against the trustee, the order will be considered final and appealable. *In re Szekely*, 936 F.2d 897, 899-900 (7th Cir. 1991); [*9] Wright, Miller & Cooper, *supra*, sec. 3926.2 at 272-73.

The February 15, 2007 decision of Judge Schmetterer from the bench that the Appellant is requesting this Court review, qualifies as a stand-alone suit by or against the Trustee. This order should be considered final and appealable. *In re Szekely*, 936 F.2d 897, 899-900 (7th Cir. 1991); [*9] Wright, Miller & Cooper, *supra*, sec. 3926.2 at 272-73, *id.*

The Appellant has ordered the transcript of the hearing of February 15, 2007 and will submit it to this Court upon receipt. The transcript was ordered on February 16, 2007 from the bankruptcy court reporting service.



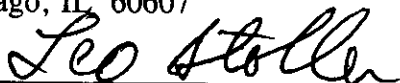
Leo Stoller, *pro se*
7115 W. North Avenue
Oak Park, Illinois 60302
(312) 545-4554
Email: ldms4@hotmail.com

Date: February 16, 2007

Certificate of Mailing

I hereby certify that the foregoing is being hand-delivered to the following address:

Clerk of the Court
United States Bankruptcy Court
219 S. Dearborn
Chicago, IL, 60607



Leo Stoller

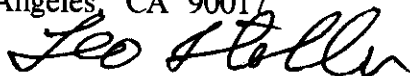
Date: February 16, 2007

Certificate of Service

I hereby certify that the foregoing is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to:

Richard M. Fogel, Trustee
Janice A. Alwin, Esq.
Counsel for Trustee
*Shaw, Gussis, Fishman, Glantz,
Wolfson & Towbin LLC.*
321 N. Clark Street, Suite 800
Chicago, Illinois 60610

Michael Zeller
*Quinn, Emanuel, Urquhart,
Oliver & Hedges, LLP.*
865 South Figueroa Street, 3rd Floor
Los Angeles, CA 90017



Leo Stoller

Date: 3-16-07

C:\MARKS43\STOLLER.MOT

AE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

FEB 22 2007
FEB 22 2007
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

GOOGLE, INC.)
)
Plaintiff,)
)
vs.)
)
CENTRAL MFG. INC. a/k/a)
CENTRAL MFG. CO., a/k/a)
CENTRAL MFG. CO.(INC).,)
a/k/a CENTRAL MANUFACTURING)
COMPANY, INC. and a/k/a)
CENTRAL MFG. CO. OF ILLINOIS;)
and STEALTH INDUSTRIES, INC.)
a/k/a RENTAMARK and a/k/a)
RENTAMARK.COM,)
)
Defendants.)

Case No: 07-CV-385
Judge Kendall
Magistrate Judge Cole

NOTICE OF FILING

TO: Michael T. Zeller
Quinn, Emanuel, Urquhart,
Oliver & Hedges, LLP.
865 S. Figueroa Street, 10th Floor
Los Angeles, California 90017

Richard M. Fogel, Trustee
Janice A. Alwin
Shaw, Gussis, Fishman, Glantz,
Wolfson & Towbin LLC.
321 N. Clark Street, Suite 800
Chicago, Illinois 60610

William J. Barrett
Barack, Ferrazzano, Kirschbaum,
Perlman & Nagelberg, LLP.
333 W. Wacker Drive, Suite 2700
Chicago, Illinois 60606

PLEASE TAKE NOTICE that on the 22nd day of February, 2007, there was filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, **Reply to Trustee's Omnibus Response**, a copy of which is attached hereto.

I certify that I served this Notice mailing a copy to each person to whom it is directed at the address above indicated by depositing it in the U.S. Mail on this 22nd day of February, 2007, with proper postage prepaid.

Leo Stoller

Leo Stoller, *pro se*
7115 W. North Avenue
Oak Park, Illinois 60302
(773) 551-4827
Email: ldms4@hotmail.com

AE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

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MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

GOOGLE, INC.)
)
Plaintiff,)
)
vs.)
)
CENTRAL MFG. INC. a/k/a)
CENTRAL MFG. CO., a/k/a)
CENTRAL MFG. CO.(INC).,)
a/k/a CENTRAL MANUFACTURING)
COMPANY, INC. and a/k/a)
CENTRAL MFG. CO. OF ILLINOIS;)
and STEALTH INDUSTRIES, INC.)
a/k/a RENTAMARK and a/k/a)
RENTAMARK.COM,)
)
Defendants.)

Case No: 07-CV-385
Hon. Virginia M. Kendall
Magistrate Judge Cole

**REPLY TO TRUSTEE'S OMNIBUS RESPONSE IN OPPOSITION
TO MOTIONS OF DEBTOR LEO STOLLER TO: (I) INTERVENE;
(II) INTERPLEAD; (III) SUSPEND PROCEEDING FOR SIXTY DAYS
TO RETAIN COUNSEL FOR DEFENDANTS; (IV) SUSPEND PENDING
APPEAL TO LIFT AUTOMATIC STAY FOR GOOGLE TO SUE THE DEBTOR;
AND (V) SUSPEND PENDING TRADEMARK TRIAL AND APPEAL BOARD'S
DECISION FOR DEFENDANTS' MOTION FOR SUMMARY JUDGMENT
AND JOINDER OF RESPONSES BY GOOGLE, INC.**

NOW COMES Leo Stoller in reply to the Trustee's response, and states as follows:

The Trustee's response is totally without any merit whatsoever.

Background

1. On December 20, 2005, Leo Stoller, the Debtor, filed a voluntary Chapter 13 bankruptcy case under the United States Bankruptcy Code. The Debtor was deluged with a half a dozen Federal District Court cases and was seeking a stay of those cases, and a breather from an extensive amount of trademark litigation.

2. The Debtor's Chapter 13 plan called for the Debtor to make monthly payments of \$690.00 into the plan.

3. The Debtor made those payments notwithstanding the Court converting Debtor's Chapter 13 to a Chapter 7 on September 1, 2006. At that particular time, the Debtor had claims in his estate of approximately \$65,000 (Sixty-Five Thousand Dollars).

4. Richard Fogel, Trustee, was appointed to administer the Debtor's estate on or about September 5, 2006. The first creditor's meeting was scheduled October 12, 2006. In a conversation with Mr. Golding, Leo Stoller's former attorney, Mr. Fogel indicated that he wanted Julia Bishop's (Leo Stoller's daughter's home) to become part of the bankruptcy. Mr. Fogel told Mr. Golding at that time, when Julia Bishop did not turn over her real estate to the Trustee, that Mr. Fogel would seek to have Leo Stoller indicted. Upon the advice of Mr. Golding, Leo Stoller took the Fifth Amendment at the first meeting of creditors.

5. Richard Fogel moved to take control of Leo Stoller's, Central Mfg. Inc. and Stealth Industries, Inc. Mr. Fogel commenced to enter into a series of frivolous settlement agreements on behalf of the Debtor's corporations with a number of companies that the Debtor was in litigation with. The Trustee breached his fiduciary duty by refusing to defend the Debtor's corporations and the assets of the Debtor. Mr. Fogel was negligent and breached his fiduciary duty in connection with his trusteeship of the Debtor's estate and proceeded to encumber the Debtor's estate to over \$2,200.00.00.

6. The claims of Debtor's estate, which are now asserted since Richard Fogel became Trustee, pertain exclusively to actions taken by the Trustee while administering the estate of Leo Stoller. The negligent actions of the Trustees, by increasing the debts of the estate from \$65,000 to \$2,200,000 vitiates the Trustee's *quasi-judicial* or derived judicial immunity. The Debtor asserts that the Trustee breached his fiduciary duty through negligence and/or willful misconduct, and that the Trustee and his law firm is personally liable for the debts created solely by the Trustee since September 5, 2006 to the current date.

The Trustee, Richard Fogel, engages in duplicitous conduct when the Trustee in front of Judge Schmetterer in open court in the Bankruptcy Court proceeding, asserts that Leo Stoller's corporations, Central Mfg. Inc. and Stealth Industries, Inc. are not valid entities. When the Trustee chooses to make that self-determination that Leo Stoller's corporations are valid, he comes into the Federal District Court in front of Judge Lindberg in *Pure Fishing*, Case. No. 05-CV-00725, and asserts that Stoller's corporations are valid and enters into a consent judgment for \$969,751.81 on behalf of the said corporations. The said consent judgment entered into with the Trustee on behalf of Leo Stoller's corporations was without Leo

Stoller's knowledge or approval. Furthermore, the consent judgment is inconsistent with Trustee Fogel's position now asserted before this Court that Stoller's corporations, Central Mfg. Inc. and Stealth Industries, Inc. are valid corporate entities and capable of participating in a settlement agreement with Google, Inc.

For example, the Trustee, Richard Fogel, knowingly and willfully entered into a frivolous settlement agreement with Pure Fishing, Inc. allegedly obligating the Debtor's corporations to \$969,751.81. The settlement agreement was without the approval, review or consent of the Debtor. The Trustee failed to properly evaluate the \$750,000 fee award that was part of the \$969,751.81 debt. The Debtor completely disavows any liability or responsibility for debts that were incurred irresponsibly and negligently, and in violation of the Trustee's fiduciary responsibility to the estate of Leo Stoller.

7. The Debtor contends that this Court, as result of the Trustee's negligence and breach of fiduciary duty in connection with the prosecution of the Trustee's duties, must as a matter of law, dismiss Stoller's Chapter 7 bankruptcy for good cause and/or give the Debtor permission to sue the Chapter 7 Trustee, Richard Fogel and Janice Alwin and the law firm of Shaw, Gussis, Fishman, Glantz, Wolfson & Tobin LLC. for breach of fiduciary duty, negligence in connection with Leo Stoller's Chapter 7 bankruptcy.

Argument

Leo Stoller asserts that the Trustee has no standing to make any of the arguments contained in his brief based on the fact that the Trustee has breached his fiduciary duty to the Estate of Leo Stoller. Leo Stoller has moved to have the Trustee disqualified. Judge Schmetterer denied Stoller's motion and Stoller has appealed.

In addition, Stoller has appealed Judge Schmetterer's order of August 31, 2006, converting Stoller's Chapter 13 bankruptcy to a Chapter 7. Further, Stoller has appealed Judge Schmetterer's order lifting the stay and permitting Google, Inc. to sue Leo Stoller, Central Mfg. Inc. and Stealth Industries, Inc.

Stoller asserts that he has standing and should be permitted to intervene in this case. The nefarious action that the Trustee and Michael Zeller, counsel for Google, Inc., are attempting to engage in before this Court is to deprive Leo Stoller of his right to defend

himself and to permit Leo Stoller's corporations to receive default judgments in a frivolous civil Rico action in order to permanently taint Leo Stoller and his companies from ever engaging in trademark litigation or protecting any of Stoller's trademark rights ever again. The stigmatism of a civil Rico judgment, whether by default or otherwise, as well known to Trustee Fogel and Michael Zeller, would preclude Leo Stoller from ever being able to defend his trademarks in any Court anywhere in direct violation of Stoller's due process and equal protection rights under the 5th and 14th Amendments of the U.S. Constitution. Fogel and Zeller are knowingly and willfully participating in a scheme to have this Court enter an allegedly agreed judgment with a discredited Trustee in order to defraud Leo Stoller and his estate. This Court should not countenance such a scam being perpetrated on this Court and on Leo Stoller and his corporations.

Stoller asserts that his being defrauded in the Bankruptcy Court by the Trustee and his law firm in conjunction with William Factor, Esq., Lance Johnson, Esq., attorneys for Pure Fishing, Inc., as well as Michael Zeller, Esq., attorney for Google, et al. See also Stoller's true and correct copy of a Motion to Spread of Record the Unlawful And/Or Disputed Claims in support of Stoller's assertions that he is being defrauded by the Trustee, Richard Fogel, in the underlying Chapter 7 proceeding.

WHEREFORE, Leo Stoller prays that the Court grant Stoller's motion to intervene and to permit Stoller to retain counsel to represent Stealth Industries, Inc. and Central Mfg. Inc. in the proceeding before this Court.



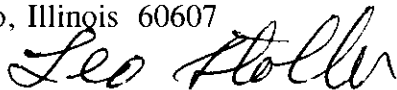
Leo Stoller, *pro se*
7115 W. North Avenue #272
Oak Park, Illinois 60302
312/ 545-4554
Email: ldms4@hotmail.com

Date: February 21, 2007

Certificate of Mailing

I hereby certify that this motion is being hand-delivered in an envelope addressed to:

Clerk of the Court
United States District Court
219 S. Dearborn
Chicago, Illinois 60607



Leo Stoller

Date: February 22, 2007

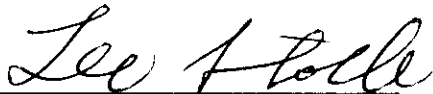
Certificate of Service

I hereby certify that the foregoing is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to:

Richard M. Fogel, Trustee
Janice A. Alwin, Esq.
Counsel for Trustee
*Shaw, Gussis, Fishman, Glantz,
Wolfson & Towbin LLC.*
321 N. Clark Street, Suite 800
Chicago, Illinois 60610

Michael T. Zeller
Quinn, Emanuel, Urquhart,
Oliver & Hedges, LLP.
865 S. Figueroa Street, 10th Floor
Los Angeles, California 90017

William J. Barrett
Barack, Ferrazzano, Kirschbaum,
Perlman & Nagelberg, LLP.
333 W. Wacker Drive, Suite 2700
Chicago, Illinois 60606



Leo Stoller

Date: 2-22-07

UNITED STATES BANKRUPTCY COURT, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

IN RE:
LEO STOLLER

CASE NO. 05 B 64075

CHAPTER 13

JUDGE: JACK B SCHMETTERER

Debtor
SSN XXX-XX-7972

TRUSTEE'S FINAL REPORT AND ACCOUNT

The case was filed on 12/20/2005 and was not confirmed.

The case was converted to chapter 7 without confirmation 09/01/2006.

CREDITOR NAME	CLASS	CLAIM AMOUNT	INTEREST PAID	PRINCIPAL PAID
BRETT BROTHERS INC	NOTICE ONLY	NOT FILED	.00	.00
COUNSEL PRESS	UNSECURED	11439.57	.00	.00
HI TEC SPORTS USA	NOTICE ONLY	NOT FILED	.00	.00
QUERREY & HARROW	UNSECURED	25382.40	.00	.00
NEWDEA INC	NOTICE ONLY	NOT FILED	.00	.00
PURE FISHING	UNSECURED	.00	.00	.00
PORTFOLIO RECOVERY ASSOC	UNSECURED	400.00	.00	.00
BENJAMIN BERNEMAN & BROM	UNSECURED	20826.40	.00	.00
LANCE JOHNSON	UNSECURED	3275.00	.00	.00
ASSET ACCEPTANCE LLC	UNSECURED	1296.04	.00	.00
ILLINOIS DEPT OF REVENUE	PRIORITY	317.91	.00	.00
RESURGENT CAPITAL SERVIC	UNSECURED	2070.02	.00	.00
WEINBERG RICHMOND LLP	ATTORNEY	.00	.00	.00
B-LINE	UNSECURED	215.48	.00	.00
RICHARD M FOGEL	ADMINISTRATIV	NOT FILED	.00	.00
MELVIN J KAPLAN	DEBTOR ATTY	.00		.00
TOM VAUGHN	TRUSTEE			.00
DEBTOR REFUND	REFUND			.00

Summary of Receipts and Disbursements:

	RECEIPTS	DISBURSEMENTS
TRUSTEE	.00	
PRIORITY		.00
SECURED		.00
UNSECURED		.00
ADMINISTRATIVE		.00
TRUSTEE COMPENSATION		.00
DEBTOR REFUND		.00
TOTALS	.00	.00

Based on the above information, the Trustee requests the court enter an order discharging the Trustee, releasing the Trustee's surety from any further liability related to the above proceedings.

Dated: 02/08/07

/s/ Tom Vaughn

TOM VAUGHN
CHAPTER 13 TRUSTEE

Northern District of Illinois Claims Register

05-64075 Leo Stoller CASE CONVERTED on 09/01/2006

Honorable Judge: Jack B. Schmetterer **Chapter:** 7
Office: Chicago **Last Date to file claims:** 12/20/2006
Trustee: Richard M Fogel **Last Date to file (Govt):** 12/20/2006

<i>Creditor:</i> # 10561302 Portfolio Recovery Associates, LLC PO Box 41067 Norfolk, Va 23541	Claim No: 1 <i>Filed:</i> 01/13/2006 <i>Entered:</i> 01/13/2006	<i>Status:</i> <i>Filed by:</i> CR <i>Entered by:</i> Garcia, Dolores <i>Modified:</i>
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Unsecured claimed: \$400.00

Total claimed: \$400.00

History:

1-1 01/13/2006 Claim #1 filed by Portfolio Recovery Associates, LLC , total amount claimed: \$400 (Garcia, Dolores)

Description:

Remarks:

<i>Creditor:</i> # 10543184 Counsel Press C/O Teller, Levit, et al 11 E. Adams, 8th Floor Chicago, IL 60603	Claim No: 2 <i>Filed:</i> 01/19/2006 <i>Entered:</i> 01/19/2006	<i>Status:</i> <i>Filed by:</i> AT <i>Entered by:</i> Posen, Kevin <i>Modified:</i>
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Unsecured claimed: \$11439.57

Total claimed: \$11439.57

History:

2-1 01/19/2006 Claim #2 filed by Counsel Press , total amount claimed: \$11439.57 (Posen, Kevin)

Description:

Remarks:

<i>Creditor:</i> # 10601427 Benjamin, Berneman and Brom, LLC 175 W. Jackson, Ste. 1600 Chicago, IL 60604	Claim No: 3 <i>Filed:</i> 02/16/2006 <i>Entered:</i> 02/16/2006	<i>Status:</i> <i>Filed by:</i> CR <i>Entered by:</i> Berneman, Beverly <i>Modified:</i>
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Unsecured claimed: \$20826.40

Total claimed: \$20826.40

History:

3-1 02/16/2006 Claim #3 filed by Benjamin, Berneman and Brom, LLC , total amount claimed: \$20826.4 (Berneman, Beverly)

Description:

Remarks:

Creditor: # 10601452

Querrey & Harrow, Ltd.
175 W. Jackson, Ste. 1600
Chicago, IL 60604

Claim No: 4

Filed: 02/16/2006
Entered: 02/16/2006

Status:

Filed by: CR
Entered by: Benjamin, Robert
Modified:

Unsecured claimed: \$25382.40

Total claimed: \$25382.40

History:

4-1 02/16/2006 Claim #4 filed by Querrey & Harrow, Ltd. , total amount claimed: \$25382.4 (Benjamin, Robert)

Description:

Remarks:

Creditor: # 10610239

ASSET ACCEPTANCE LLC
PROVIDIAN
PO BOX 2036
WARREN MI 48090

Claim No: 5

Filed: 02/23/2006
Entered: 02/23/2006

Status:

Filed by: CR
Entered by: Elliott, Christina
Modified:

Unsecured claimed: \$1296.04

Total claimed: \$1296.04

History:

5-1 02/23/2006 Claim #5 filed by ASSET ACCEPTANCE LLC , total amount claimed: \$1296.04 (Elliott, Christina)

Description:

Remarks:

Creditor: # 10647980

Illinois Department of Revenue
Bankruptcy Section
100 W Randolph St., Level 7-400

Claim No: 6

Filed: 03/17/2006
Entered: 03/17/2006

Status:

Filed by: CR
Entered by: Horton, Patience
Modified:

Chicago IL 60601

Priority claimed: \$317.91

Total claimed: \$317.91

History:

6-1 03/17/2006 Claim #6 filed by Illinois Department of Revenue , total amount claimed: \$317.91 (Horton, Patience)

Description:

Remarks:

Creditor: # 10659981
LVNV Funding LLC its successors and assigns
as assignee of Citibank NA
c/o Resurgent Capital Services
PO Box 10587
Greenville, SC 29603-0587

Claim No: 7
Filed: 03/24/2006
Entered: 03/24/2006

Status:
Filed by: CR
Entered by: Gaines, Susan
Modified:

Unsecured claimed: \$2070.02

Total claimed: \$2070.02

History:

7-1 03/24/2006 Claim #7 filed by LVNV Funding LLC its successors and assigns , total amount claimed: \$2070.02 (Gaines, Susan)

Description:

Remarks:

Creditor: # 10669986
Pure Fishing, Inc.
c/o Lance Johnson
Roylance, Abrams, Berdo & Goodman,
LLP
1300 19th Street, N.W. Suite 600
Washington, D.C. 20036

Claim No: 8
Filed: 03/30/2006
Entered: 03/30/2006

Status:
Filed by: CR
Entered by: Lauter, Richard
Modified:

Unsecured claimed: \$740315.36

Total claimed: \$740315.36

History:

8-1 03/30/2006 Claim #8 filed by Pure Fishing, Inc. , total amount claimed: \$740315.36 (Lauter, Richard)

Description:

Remarks:

Creditor: # 10605699
Lance Construction Co., Inc.
Lance Johnson
323 Hillcrest Drive

Claim No: 9
Filed: 03/30/2006
Entered: 03/31/2006

Status:
Filed by: CR
Entered by: Henley, Mary
Modified:

Algonquin, IL 60102

Unsecured claimed: \$3275.00

Total claimed: \$3275.00

History:

9-1 03/30/2006 Claim #9 filed by Lance Construction Co., Inc. , total amount claimed: \$3275 (Henley, Mary)

Description:

Remarks:

Creditor: # 10688087

B-Real, LLC/Chase Bank USA, N.A.

Mail Stop 550

2101 Fourth Ave., Suite 1030

Seattle, WA, 98121

Claim No: 10

Filed: 04/10/2006

Entered: 04/10/2006

Status:

Filed by: CR

Entered by: Kane, Steven

Modified:

Unsecured claimed: \$215.48

Total claimed: \$215.48

History:

10-1 04/10/2006 Claim #10 filed by B-Real, LLC/Chase Bank USA, N.A. , total amount claimed: \$215.48 (Kane, Steven)

Description:

Remarks:

Creditor: # 11050675

Google Inc.

c/o Michael Zeller

Quinn Emanuel et al

865 South Figueroa St, 10th Fl

Los Angeles, CA 90017

Claim No: 11

Filed: 12/07/2006

Entered: 12/07/2006

Amended By Claim No: 11

Status:

Filed by: CR

Entered by: Barrett, William

Modified:

Priority claimed: \$250000.00

Total claimed: \$250000.00

History:

● 11-1 12/07/2006 Claim #11 filed by Google Inc. , total amount claimed: \$250000 (Barrett, William)

● 11-2 12/20/2006 Amended Claim #11 filed by Google Inc. , total amount claimed: \$250000 (Barrett, William)

Description:

Remarks:

Creditor: # 10669986
Pure Fishing, Inc.
c/o Lance Johnson
Roylance, Abrams, Berdo & Goodman,
LLP
1300 19th Street, N.W. Suite 600
Washington, D.C. 20036

Claim No: 12
Filed: 12/19/2006
Entered: 12/19/2006

Status:
Filed by: CR
Entered by: Factor, William
Modified:

Unsecured claimed: \$969751.81

Total claimed: \$969751.81

History:

- 12-1 12/19/2006 Claim #12 filed by Pure Fishing, Inc. , total amount claimed: \$969751.81 (Factor, William)

Description:

Remarks:

Creditor: # 11071324
Wendy Morgan
Law Offices of Wendy R. Morgan
1845 East Rand Rd
Arlington Heights, Il. 60004-4356

Claim No: 13
Filed: 12/19/2006
Entered: 12/19/2006

Status:
Filed by: AT
Entered by: Mosberg, Clay
Modified:

Unsecured claimed: \$150000.00

Total claimed: \$150000.00

History:

- 13-1 12/19/2006 Claim #13 filed by Wendy Morgan , total amount claimed: \$150000 (Mosberg, Clay)

Description:

Remarks:

Creditor: # 11071324
Wendy Morgan
Law Offices of Wendy R. Morgan
1845 East Rand Rd
Arlington Heights, Il. 60004-4356

Claim No: 14
Filed: 12/19/2006
Entered: 12/19/2006

Status:
Filed by: AT
Entered by: Mosberg, Clay
Modified:

Unsecured claimed: \$30000.00

Total claimed: \$30000.00

History:

- 14-1 12/19/2006 Claim #14 filed by Wendy Morgan , total amount claimed: \$30000 (Mosberg, Clay)

Description:

Remarks:

Creditor: # 11071324
Wendy Morgan
Law Offices of Wendy R. Morgan
1845 East Rand Rd

Claim No: 15
Filed: 12/19/2006
Entered: 12/19/2006

Status:
Filed by: CR
Entered by: Mosberg, Clay
Modified:

Arlington Heights, Il. 60004-4356

Unknown claimed: \$50000.00

Total claimed: \$50000.00

History:

- 15-1 12/19/2006 Claim #15 filed by Wendy Morgan , total amount claimed: \$50000 (Mosberg, Clay)

Description:

Remarks:

Creditor: # 11074648

Lancope, Inc. [History](#)

Bryan G Harrison, ESQ

1600 Atlanta Financial Center

3343 Peachtree Road NE

Atlanta, GA 30326-1044

Claim No: 16

Filed: 12/20/2006

Entered: 12/20/2006

Status:

Filed by: CR

Entered by: Nylen, Sven

Modified:

Total claimed:

History:

- 16-1 12/20/2006 Claim #16 filed by Lancope, Inc. , total amount claimed: \$0 (Nylen, Sven)

Description:

Remarks: (16-1) SEE EXHIBIT A

Creditor: # 11073980

Pure Fishing, Inc. (ADMINISTRATIVE)

c/o Lance Johnson

Roylance, Abrams, Berdo & Goodman

1300 19th St., NW Suite 600

Washington, D.C. 20036

Claim No: 17

Filed: 12/20/2006

Entered: 12/20/2006

Status:

Filed by: AT

Entered by: Lorber, Sara

Modified:

Admin claimed: \$131760.00

Total claimed: \$131760.00

History:

- 17-1 12/20/2006 Claim #17 filed by Pure Fishing, Inc. , total amount claimed: \$131760 (Lorber, Sara)

Description:

Remarks:

Creditor: # 11076084

GoDaddy Software, Inc

Gallagher & Kennedy, P.A.

Attn: Joseph E Cotterman

Claim No: 18

Filed: 12/21/2006

Entered: 12/22/2006

Status:

Filed by: CR

Entered by: Henley, Mary

Modified:

2575 East Camelback Road,
 Phoenix, AZ 85016

Total claimed:

History:

- 18-1 12/21/2006 Claim #18 filed by GoDaddy Software, Inc , total amount claimed: \$0 (Henley, Mary)

Description: (18-1) Unliquidated

Remarks:

Creditor: # 11082709
 C. William Michaels
 1579 Dellsway Road
 Baltimore, MD 21286

Claim No: 19
Filed: 12/27/2006
Entered: 12/28/2006

Status:
Filed by: CR
Entered by: Henley, Mary
Modified:

Unsecured claimed: \$2065.00

Total claimed: \$2065.00

History:

- 19-1 12/27/2006 Claim #19 filed by C. William Michaels , total amount claimed: \$2065 (Henley, Mary)

Description:

Remarks:

Claims Register Summary

Case Name: Leo Stoller
Case Number: 05-64075
Chapter: 7
Date Filed: 12/20/2005
Total Number Of Claims: 19

	Total Amount Claimed	Total Amount Allowed
Unsecured	\$1957037.08	
Secured		
Priority	\$250317.91	
Unknown	\$50000.00	
Administrative	\$131760.00	
Total	\$2389114.99	\$0.00

PACER Service Center

Transaction Receipt

01/05/2007 11:47:23

PACER Login:	it0085	Client Code:	
Description:	Claims Register	Search Criteria:	05-64075 Filed or Entered From: 9/7/2005 Filed or Entered To: 1/5/2007
Billable Pages:	2	Cost:	0.16

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS

In Re:)	
)	
LEO STOLLER,	)	Case No: 05-B-64075
	)	Honorable Jack B. Schmetterer
)	
Debtor.)	
)	

**MOTION TO SPREAD OF RECORD DEBTOR'S
UNLAWFUL AND/OR DISPUTED CLAIMS**

NOW COMES the Debtor, Leo Stoller ("Stoller"), and moves to spread of record the Debtors disputed, unsubstantiated and/or fraudulent bankruptcy claims filed against debtors estate.

BACKGROUND

Debtor filed a chapter 13 Bankruptcy in December 20, 2005. According to the Chapter 13 Trustee Tom Vaughn final report and account filed on February 8, 2007, there was only \$65,221.43 in claims. These said claims existed prior to conversion of Leo Stoller's Chapter 13 to a Chapter 7 on August 31, 2006 by order of Judge Schmetterer. After the Appointment of the Chapter 7 Trustee, Richard Fogel who assumed control of Leo Stoller's corporations, Central Mfg Inc., d/b/a and Stealth Industries, Inc., Mr. Fogel solely and on behalf of Stoller's corporations entered into agreements and consent agreements with parties who were in litigation with Stoller's companies rather than litigating and protecting the assets of Leo Stoller's Estate. Mr. Fogel clearly abandoned Stoller's corporations and is solely responsible for the Bankruptcy claims of \$2,323,893.50.

Richard Fogel Trustee has refused to date to investigate Stoller's claims on his Claims Register.

SETTLEMENT OFFER

According to the Chapter 13 Trustee Tom Vaughn's final report and account, Mr. Vaughn lists \$65,221.43. See attached copy of Trustee's Final Report and Account attached

hereto and made a part hereof. Leo Stoller has offered to pay \$100,000 to the Chapter 7 Trustee, Richard Fogel, to settle with the legitimate creditors of Stoller's estate and to pay the administrative costs of this proceeding. Richard Fogel has refused to accept Stoller's offer of settlement for the legitimate creditors of payment of \$100,000.00. Mr. Fogel claims that Leo Stoller has more than \$100,000 in litigate creditors, but has refused to investigate the bankruptcy claims to Leo Stoller's estate which are listed on the attached true and correct copy of the said Northern District of Illinois Claims Register for case No. 05-64075. Leo Stoller has moved before this court to strike Stoller's invalid claims. This court had denied Stoller's motion to strike. Leo Stoller requested that the trustee, Mr. Richard Fogel investigate the alleged undocumented and unsupported bankruptcy claims amounting to over 2.2 million dollars which have been filed against Stoller's estate since Mr. Fogel was appointed trustee on September 5, 2005. Mr. Fogel has refused to investigate any bankruptcy claims to date. Stoller moved before this court to request written discovery, admissions, interrogatories, production of documents and notices of depositions in order to determine and establish the validity or non validity of the bankruptcy claims. The court denied Stoller's written discovery requests. See Feb. 02, 2007 court order.

STOLLER'S FORMAL OBJECTIONS TO CLAIMS SPREAD OF RECORD

Stoller now spreads of record his formal objections to the following unsubstantiated, undocumented, false bankruptcy claims listed on Stoller Claims Register. For the record, Leo Stoller disavows and rejects the following bankruptcy claims on Stoller Claims Register as unsupported and fraudulent bankruptcy claims. Stoller further disavows and rejects as valid any bankruptcy claim that has been filed against Leo Stoller estate as a result of any agreement that the Trustee, Richard Fogel entered into with any party, as the appointed shareholder of Leo Stoller's Corporations. Stoller asserts for the Trustee Richard Fogel to refuse to defend Stoller's corporations in litigation and lieu of defending them, for Mr. Fogel to enter into consent judgments resulting in over \$2,300,000 in additional claims being filed against Leo Stoller's personal Chapter 7 bankruptcy, represents a fraud on the Bankruptcy court and Stoller disavows and rejects responsibility for each and every claim that the Trustee Richard Fogel created by entering into without consulting with and/or authorized by Leo Stoller. False claims

that were entered into by Mr. Fogel as sole share holder of Stoller's corporations Central Mfg Inc., and Stealth Industries, Inc. Trustee Fogel has made the representations to this court that one hand Leo Stoller's corporations are nothing more than the "alter ego" of Leo Stoller and are not valid corporations, on the other hand Trustee Fogel has, when it was convenient for Mr. Fogel treated Leo Stoller's corporations as "valid" corporations when entering into numerous unauthorized (by Leo Stoller) settlement agreements with third parties in lieu defending Stoller's corporations against frivolous lawsuits.

Stoller lodges on the record is objections to the following false, unsupported bankruptcy claims listed on Stoller Official Claims Register.

Claim No. 1, Creditor #10561302 Portfolio Recovery Associates LLC false claim \$400.00

Claim No. 3 Creditor #10601427 Benjamin, Berneman and Brom disputed claim No. 3 \$20,826.40. This claim is disputed and subject to the Debtor's counter claim for attorney malpractice.

Claim No. 4 Creditor #10601452 Querrey & Harrow Ltd., This claim of \$25382.40 is disputed and subject to the Debtor's counter claim for attorney malpractice.

Claim No. 5 Creditor #10610239 Asset Acceptance LLC Providian. This claim of \$1296.04 is disputed.

Claim No. 8 Creditor #10669986 Pure Fishing, Inc., c/o Lance Johnson. This claim for \$740315.35 is a disputed fraudulent claim. Trustee Fogel has admitted that it is a "duplicative" claim. Attorney William Factor has admitted in front of Judge Hibbler, that claim No. 8 was only an "estimated" claim. As of this date Trustee Fogel has refused to investigate the fraudulent \$740,315.35 claim and has refused to remove this claim from Stoller's Claims Register. The debtor disavows Claim No. 8 for \$740,315.35.

Claim No. 11 Creditor Google Inc., #11050675 This \$250,000 unsupported, unlawful claim is disputed. The Creditor under no theory of law owes any money to Google Inc., as well known to Michael Zeller Esq., attorney for Google Inc., and the Trustee Fogel.

Claim No. 12. Creditor #10669986 Pure Fishing, Inc., This claim for \$969,751.81 represents a an alleged debt that was created solely by Trustee Fogel entering into a consent judgment on behalf of Stoller's corporations Central Mfg Inc., and Stealth Industries, Inc., without the

knowledge, consent, authorization or approval of the Debtor. This represents another illustration of the Trustee Fogel entering into a consent decree on behalf of the Stoller corporations rather than defending those corporations. Secondly, this conduct further evidences the Trustee's abandonment of the assets of the Debtor by failing to defend those corporate and consenting to an unjustified consent judgment which included a \$750,000.00 fee award in which the Trustee Fogel did not contest on attorney fees entry in the said award. Thirdly, Trustee Fogel entry into the "consent" judgment on behalf of Stoller's corporations illustrates that Trustee Fogel will treat Stoller's corporations as valid "corporate" entities when he chooses and will make representations to this court that Stoller's corporations are not "valid" corporate entities only the alter ego of Leo Stoller. The debtor completely disavows Trustee Fogel's consent judgment of \$969,751.81 which the creditor Pure Fishing, Inc., has now assessed against Leo Stoller's bankruptcy estate.

Claim(s) Number 13, 14, and 15, Creditor #11071324 for \$150,0000, \$30,000 and \$50,000. (\$230,000 if fraudulent claims) These claims are a fraud on the Bankruptcy court. There are no supporting documentation for such claims and there is no documentation that can be provided by this claimant in support of these claims as well known to Trustee Fogel. These claims were filed by attorney Wendy Morgan who is an admitted friend of Trustee Fogel. As of this date, Trustee Fogel has not investigated these claims and has objected to the debtor's investigation of these claims by filing a Motion to Quash the Debtor written discovery requests. The debtor completely disavows these three claims totally \$230,000 and states that under the circumstances Wendy Morgan's said Claims represents a fraud on the bankruptcy court.

Claim No. 16, Creditor #11074648 Lancopo Inc., is another fraudulent claim asserted against the debtor's estate which Leo Stoller completely disavows.

Claim No. 17, Creditor #11073980 Pure Fishing Inc., files another fraudulent unsupported claim of \$131,760.00 against the estate of Leo Stoller. Leo Stoller attempted to file written discovery against this claimant, but Trustee Fogel filed a motion to quash Stoller written discovery request so that this claim could not be investigated by the debtor. Stoller disavows this claim as a fraud on the bankruptcy court.

Claim No. 18, creditor #11076084 Go Daddy Software Inc., also have no valid claim to assert against the debtor's estate. The debtor disavows Claim No. 18.

Claim No. 19, creditor #11082709 C. William Michaels filed a claim for \$2065.00 7 days late, the cut off date for filing claims against Stoller estate was Dec. 20, 2006. Stoller disavows this late filed claim.

SUMMARY

The debtor filed his Chapter 13 in Dec. 05. The Trustee Tom Vaughn filed a Final Report and Account on Feb. 08, 07 listing \$65,221.43 in claims against Stoller estate. Stoller Chapter 13 was converted to a Chapter 7 on August 31, 2006. On Sept 5, 2006 a Chapter 7 Trustee Richard Fogel was appointed. Since the appointment of Trustee Fogel the alleged claims asserted have increased from \$65,221.43 to \$2,389,114.00 as a direct result of Trustee Fogel refusing to represent Stoller's corporations Central Mfg Inc., and entering into consent judgments and settlements with third parties rather than defending the assets of the debtor's estate. Such conduct establishes that the Trustee Fogel has not only abandoned the assets of the debtor's estate, but is solely responsibility for encumbering the estate of the Debtor for an additional \$2,370,500.09 in claims. As of this date Trustee Fogel has not investigated these said claims and has thwarted the debtor from investigating the said claims by file a motion to quash the debtor's written discovery submitted to the claimants in order to establish the said claims.

As of this date February 12, 2007 there are now \$2,389,114.99 in claims listed in the Debtor's Claims Register. The Debtor is disavowing and disputing all of the claims that Trustee Richard Fogel entered into on behalf of Stoller's corporations, Central Mfg Inc., and Stealth Industries, Inc., without consulting with the debtor first and failing to first defend the debtor's corporations in a court of law against the third parties. Such a failure evidences a clear abandonment of the Debtors' corporations awns assets. The debtor requests that this court declare that trustee Fogel has abandoned the debtor's corporations and intellectual property.

WHEREFORE, the debtor spreads of record his formal objections to the claims against the estate of the debtor and prays that this court enter an order declaring that trustee Fogel has

abandoned the corporations and assets of the debtor.



Leo Stoller, pro se
7115 W. North Avenue
Oak Park, Illinois 60302
(312) 545-4554
Email: ldms4@hotmail.com

Date: February 16, 2007

Certificate of Mailing

I hereby certify that the foregoing is being mailed first class mail to the following address:

Clerk of the Court
United States Bankruptcy Court
219 N. Dearborn
Chicago, IL 60607



Leo Stoller
Date: February 16, 2007

Certificate of Service

I hereby certify that the foregoing is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to:

Richard M. Fogel, Trustee
Janice A. Alwin, Esq.
Counsel for Trustee
Shaw, Gussis, Fishman, Glantz,
Wolfson & Tow
321 N. Clark Street, Suite 800
Chicago, Illinois 60610

William J. Barrett
Barack, Ferrazzano, Kirschbaum
333 West Wacker Drive Suite 2700
Chicago, Ill 60606



Leo Stoller
Date: 2-22-07

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ew
FILED

MAR 2 2007

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

GOOGLE, INC.)
)
Plaintiff,)
)
vs.)
)
CENTRAL MFG. INC. a/k/a)
CENTRAL MFG. CO., a/k/a)
CENTRAL MFG. CO.(INC).,)
a/k/a CENTRAL MANUFACTURING)
COMPANY, INC. and a/k/a)
CENTRAL MFG. CO. OF ILLINOIS;)
and STEALTH INDUSTRIES, INC.)
a/k/a RENTAMARK and a/k/a)
RENTAMARK.COM,)
)
Defendants.)

Case No: 07-CV-385

Hon. Virginia M. Kendall

Magistrate Judge Cole

**MOTION TO DISMISS FOR FAILURE TO
JOIN A PARTY UNDER RULE F.R.C.P. 19**

NOW COMES Leo Stoller and moves this Court to dismiss this action for failure to join a party (Leo Stoller) under F.R.C.P. 19.

Fed. R. Civ. P. 19 makes applicable to this proceeding the requirement of a joinder of Leo Stoller as a party without whom complete relief cannot be accorded among those already parties, or that claims an interest relating to the subject of the Google civil RICO action are so situated that the disposition of the said action in Leo Stoller's absence may (i) as a practical matter impair or impede Leo Stoller's ability to protect that interest or (ii) leave any of the entities already parties subject to substantial risk or incurring double, multiple, or otherwise inconsistent obligations by reason of the claimed interest. Fed. R. Civ. P. 19.

All of the foregoing conditions have been met and the Court should have joined Leo Stoller as a party to this litigation. See *Thomas v. U.S.*, 189 F.3d 662, 667 (7th Cir. 1999).

See Stoller's Reply to Google's Combined Opposition, et al., which is incorporated herein and made a part hereof as if fully copied and attached. Stoller realleges and reaffirms the arguments contained therein which are made a part hereof.

WHEREFORE, Leo Stoller prays that this Court dismiss this action for failure to join Leo Stoller under Federal Rule 19 with prejudice.



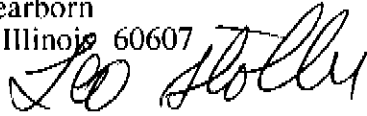
Leo Stoller, *pro se*
7115 W. North Avenue #272
Oak Park, Illinois 60302
312/ 545-4554
Email: ldms4@hotmail.com

Date: March 2, 2007

Certificate of Mailing

I hereby certify that this motion is being hand-delivered in an envelope addressed to:

Clerk of the Court
United States District Court
219 S. Dearborn
Chicago, Illinois 60607



Leo Stoller
Date: March 2, 2007

Certificate of Service

I hereby certify that the foregoing is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to:

Richard M. Fogel, Trustee
Janice A. Alwin, Esq.
Counsel for Trustee
*Shaw, Gussis, Fishman, Glantz,
Wolfson & Towbin LLC.*
321 N. Clark Street, Suite 800
Chicago, Illinois 60610

Michael T. Zeller
Quinn, Emanuel, Urquhart,
Oliver & Hedges, LLP.
865 S. Figueroa Street, 10th Floor
Los Angeles, California 90017

William J. Barrett
Barack, Ferrazzano, Kirschbaum,
Perlman & Nagelberg, LLP.
333 W. Wacker Drive, Suite 2700
Chicago, Illinois 60606



Leo Stoller
Date: 3-2-07

UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – **CM/ECF LIVE, Ver 3.0**
Eastern Division

Google Inc

Plaintiff,

v.

Case No.: 1:07-cv-00385

Honorable Virginia M. Kendall

Central Mfg. Inc., et al.

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Monday, March 5, 2007:

MINUTE entry before Judge Virginia M. Kendall :On March 2, 2007, Leo Stoller ("Stoller") filed a Motion to Dismiss for failure to join a party -- himself -- pursuant to Fed. R. Civ. P. 19. Stoller previously filed a motion to intervene in this action on February 6, 2007. The Court has not yet ruled upon that motion. As such, Stoller remains a non-party and lacks standing to file a motion pursuant to Rule 19. See *Arrow v. Gambler's Supply, Inc.*, 55 F.3d 407, 409 (8th Cir. 1995) ("only a party may make a Rule 19 motion") (citing *Thompson v. Boggs*, 33 F.3d 847, 858 n. 10 (7th Cir. 1994) (noting lack of any precedent for granting a non-party's motion for joinder)). Accordingly, Stoller's Motion to Dismiss [32] is stricken and the parties need not appear on March 7, 2007. Mailed notice(gmr,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

AE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED
J.N
MAR X 2 2007
MAR 2 2007
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

GOOGLE, INC.)
)
Plaintiff,)
)
vs.)
)
CENTRAL MFG. INC. a/k/a)
CENTRAL MFG. CO., a/k/a)
CENTRAL MFG. CO.(INC).,)
a/k/a CENTRAL MANUFACTURING)
COMPANY, INC. and a/k/a)
CENTRAL MFG. CO. OF ILLINOIS;)
and STEALTH INDUSTRIES, INC.)
a/k/a RENTAMARK and a/k/a)
RENTAMARK.COM,)
)
Defendants.)

Case No: 07-CV-385

Judge Kendall

Magistrate Judge Cole

RECEIVED
2007 MAR -2 P 3:58

NOTICE OF FILING

TO: Michael T. Zeller
Quinn, Emanuel, Urquhart,
Oliver & Hedges, LLP.
865 S. Figueroa Street, 10th Floor
Los Angeles, California 90017

Richard M. Fogel, Trustee
Janice A. Alwin
Shaw, Gussis, Fishman, Gantz,
Wolfson & Towbin LLC.
321 N. Clark Street, Suite 800
Chicago, Illinois 60610

William J. Barrett
Barack, Ferrazzano, Kirschbaum,
Perlman & Nagelberg, LLP.
333 W. Wacker Drive, Suite 2700
Chicago, Illinois 60606

PLEASE TAKE NOTICE that on the **2nd day of March, 2007**, there was filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, **Reply to Google's Combined Opposition, et. al.**, a copy of which is attached hereto.

I certify that I served this Notice mailing a copy to each person to whom it is directed at the address above indicated by depositing it in the U.S. Mail on this 3-2 day of March, 2007, with proper postage prepaid.



Leo Stoller, *pro se*
7115 W. North Avenue
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(773) 551-4827
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AE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

J.N. FILED
MAR 2 2007
MAY 2 2007
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

GOOGLE, INC.)
)
Plaintiff,)
)
vs.)
)
CENTRAL MFG. INC. a/k/a)
CENTRAL MFG. CO., a/k/a)
CENTRAL MFG. CO.(INC).,)
a/k/a CENTRAL MANUFACTURING)
COMPANY, INC. and a/k/a)
CENTRAL MFG. CO. OF ILLINOIS;)
and STEALTH INDUSTRIES, INC.)
a/k/a RENTAMARK and a/k/a)
RENTAMARK.COM,)
)
Defendants.)

Case No: 07-CV-385
Hon. Virginia M. Kendall
Magistrate Judge Cole

**REPLY TO GOOGLE INC.'S COMBINED OPPOSITION TO
DEBTOR LEO STOLLER'S MOTIONS (1) TO INTERVENE, (2) TO INTERPLEAD,
(3) TO SUSPEND FOR SIXTY DAYS TO RETAIN COUNSEL
FOR DEFENDANTS AND (4) TO SUSPEND PENDING APPEAL TO
LIFT AUTOMATIC STAY FOR GOOGLE TO SUE THE DEBTOR**

NOW COMES Leo Stoller in reply to Google, Inc.'s Combined Opposition To Debtor Leo Stoller's Motions (1) To Intervene, (2) To Interplead, (3) To Suspend For Sixty Days To Retain Counsel For Defendants, and (4) To Suspend Pending Appeal To Lift Automatic Stay For Google To Sue The Debtor, and states as follows:

Google, Inc.'s attorneys, William J. Barrett and Michael Zeller, have violated the Illinois Rules of Professional Conduct, Rule 3.3(a), making misstatements of material fact and/or law to Judge Kendall and before Judge Schmetterer regarding Leo Stoller's standing to defend himself in the civil RICO action which now is pending before this Court.

Michael Zeller and William Barrett, (hereinafter referred to as "counsel for Google"), on behalf of Google, Inc., filed a motion to lift the stay in Bankruptcy Case No. 05-64075 in front of Judge Schmetterer in August of 2006. See attached true and correct copy incorporated herein by reference and made a part hereof, marked as **Exhibit 1**. Counsel for Google argued throughout the motion for an order declaring proposed suit to be outside the scope of stay, or

in the alternative, modifying stay that Leo Stoller is a necessary party.

Counsel for Google, having persuaded Judge Schmetterer to lift the automatic stay in Leo Stoller's bankruptcy, in order for Google, Inc. to sue Leo Stoller, Central Mfg. Inc. and Stealth Industries, Inc. for alleged civil RICO violations, cannot now take a contrary tact here without running afoul of the doctrine of judicial estoppel. *Johnson v. Exxon Mobil Corp.*, 426 F.3d 887, 891 (7th Cir. 2005). The doctrine of judicial estoppel prevents a party from adopting a position in a legal proceeding contrary to a position successfully argued in an earlier proceeding. See also *Shannon-Stokes v. Potter*, -- F.3d --, 2006 WL 1816010, at *1-2 (7th Cir. July 5, 2006) (applying judicial estoppel to bar inconsistent claim. Based on counsel for Google's representations to Judge Schmetterer, the judge granted an order removing the stay on January 18, 2007. See a true and correct copy attached hereto, marked as **Exhibit 2**.

Counsel for Google's duplicitous misrepresentation of material fact to this Court in their opposition to Leo Stoller's motions, represents a clear violation of ARDC Rule 3.3(a) making a misrepresentation of material fact or law to a tribunal. Not only are counsel for Google barred by the doctrine of judicial estoppel from asserting a different position before this Court regarding Leo Stoller's standing, but counsel for Google are also barred by Illinois Supreme Court Rule 3.3(a).

Further, in the District Court Complaint that Google, Inc. has lodged with this Court, Leo Stoller is mentioned numerous times. See a true and correct copy of Google's Complaint, marked as **Exhibit 3**. Stoller asks the Court to take notice of Leo Stoller's name mentioned in paragraphs 2, 10, 14, 15, 16, 17, 20, 21, 21(b), 21(c), 21(d), 21(e), 22, 23, 23(a), 23(b), 30, 31, 39, 40, 41(c), 41(d), 44(d), 52, 53, 53(a), 53(b), 53(c), 54, et. al., of the Complaint.

For counsel to even suggest that Leo Stoller should not be a necessary party to this Complaint after having argued before Judge Schmetterer that Leo Stoller was a necessary party in their motion to lift the stay, and then incorporating Stoller as many times in the actual Complaint that was filed before this Court, to now suggest that Stoller is not a necessary party, should subject counsel for the plaintiff to *sua sponte* sanctions. For Counsel for Google to suggest that Stoller does not have standing in this proceeding is exactly like saying that "the emperor is not wearing clothes."

Judge Schmetterer in open court on February 15, 2007, in Case No. 05 B 64075 stated the following:

"THE COURT: You have a right to seek to intervene in that case (Google) ..."

**COUNSEL FOR GOOGLE'S SCHEME TO DEFRAUD
THIS COURT AND LEO STOLLER**

Stoller has alleged that the Trustee has conspired with counsel for Google to enter into a frivolous consent judgment finding Stoller's corporations guilty of civil RICO violations without permitting Leo Stoller, the President and sole shareholder and sole employee of the said entities, to defend himself, to retain counsel to defend his corporations.

The Trustee, Richard Fogel, has breached his fiduciary duty to Leo Stoller's Estate and to his corporate entities. Prior to Richard Fogel being appointed Trustee on September 4, 2006, Leo Stoller had \$65,000.00 in claims in his Chapter 13 proceeding. On August 31, 2006, Judge Schmetterer converted Leo Stoller's Chapter 13 to a Chapter 7. After Richard Fogel's appointment, he negligently and fraudulently engaged in settlements with third-parties and is personally responsible for encumbering the Estate of Leo Stoller to \$2,300,000. Leo Stoller has alleged in pleadings before Judge Schmetterer that the Trustee has acted outside the scope of his authority as Trustee, i.e. ultra vires, or breached a fiduciary duty that the Trustee owed to the Estate of Leo Stoller. See generally In re Schechter, 195 B.R. 380, 384 (N.D. Ill. 1996); and In re Weisser Eyecare, Inc., 245 B.R. 844 (Bankr. N.D. Ill. 2000), and cases cited. In this Circuit, a trustee's personal liability for a breach of fiduciary duty extends only to a willful and deliberate violation of his fiduciary duties. In re Chicago Pacific Corp., 773 F.2d 909, 915 (7th Cir. 1985) citing Mosser v. Darrow, 341 U.S. 267, 272, 71 S.Ct. 680, 95 L.Ed. 927 (1951).

**DEBTOR SATISFIES FOUR REQUIREMENTS TO BE ENTITLED
TO INTERVENE AS A MATTER OF RIGHT**

To intervene as of right under Rule 234(a), an applicant must satisfy four requirements:

(1) the application must be timely; (2) the applicant must claim an interest relating to the property or transaction which is the subject of the action; (3) the applicant must be so satisfied that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest; and (4) existing parties must not be adequate representatives of the applicant's interest.

Leo Stoller's request to intervene was timely, in that it was filed within approximately two weeks after Plaintiff filed its Complaint.

Leo Stoller has an interest relating to the property or the transaction which is the subject of the action.

Leo Stoller is so situated that the disposition of the action may as a practical matter impair or impede Leo Stoller's ability to protect his interest.

The existing parties, Central Mfg. Inc. and Stealth Industries, Inc. are not adequate representatives of Leo Stoller's interest are not being represented and have put forth no defense to the frivolous civil RICO allegations raised in the Complaint.

PLAINTIFF'S ARGUMENT THAT DEFENDANTS TO THIS SUIT ARE CORPORATIONS AND THAT THEY ARE PART OF THE CHAPTER 7 BANKRUPTCY ESTATE OF LEO STOLLER AND IS UNDER THE EXCLUSIVE CONTROL OF THE TRUSTEE, IS WITHOUT MERIT

Leo Stoller has moved to disqualify the Trustee, Richard Fogel, for a breach of his fiduciary duty, negligence, and fraud. Stoller asserts that although the U.S. Trustee has appointed Richard Fogel to be Trustee of Leo Stoller's Estate, and the said Trustee has moved to take control of Stoller's corporations, Richard Fogel has disqualified himself as Trustee by breaching his fiduciary duty to the Estate of Leo Stoller.

LEO STOLLER ASSERTS THAT THE TRUSTEE, RICHARD FOGEL, HAS ENGAGED IN A SCHEME TO DEFRAUD THE ESTATE OF LEO STOLLER, LEO STOLLER, THE COURT, AND THE U.S. BANKRUPTCY SYSTEM

Leo Stoller filed Chapter 13 bankruptcy in December of 2005. Stoller made every scheduled Chapter 13 payment up and until August of 2006. On August 31, 2006, Judge Schmetterer converted Leo Stoller's Chapter 13 to a Chapter 7, generally on the grounds that Leo Stoller did not have sufficient income to pay his plan. Currently, an Appeal is pending of

Judge Schmetterer's Order converting Leo Stoller's bankruptcy from a Chapter 13 to a Chapter 7. At the time that Leo Stoller's bankruptcy was converted to a Chapter 7, Leo Stoller had only \$65,000 in Claims against his Estate. See a true and correct copy of the Chapter 13 - Trustee's Final Report and Account, attached hereto as **Exhibit 4**. Richard Fogel, the Trustee, was appointed on September 5, 2006. Shortly thereafter, Richard Fogel had a meeting with Richard Golding, Leo Stoller's then attorney, where a property, 1212 N. Lathrop, River Forest, Illinois, valued at \$540,000.00, belonging to Leo Stoller's daughter, Julia Bishop, was discussed. Mr. Fogel wanted Mr. Golding to turn over Julia Bishop's property, known as 1212 N. Lathrop to Mr. Fogel. When Mr. Golding declined, Richard Fogel told Mr. Golding that he was going to seek a Federal indictment against Leo Stoller for bankruptcy fraud. At the first 341 Meeting of Creditors in October of 2006, Richard Golding advised Leo Stoller to take the Fifth Amendment.

After which, Richard Fogel conspired with certain creditors and their attorneys to increase the claims of Leo Stoller's Estate to over \$2,300,000.00 (Two Million Three Hundred Thousand Dollars). For example, Richard Fogel, entered into a frivolous consent judgment with Lance Johnson, Esq. and William Factor, Esq. attorneys for *Pure Fishing*, a counter-plaintiff in Case No. 1:05-CV-00725, in the amount of \$969,751.81 (Nine Hundred Sixty Nine Thousand Seven Hundred Fifty One and 81/100ths Dollars). See attached true and correct copy of the Order dated December 12, 2006, marked as **Exhibit 5**. \$750,000 of which consisted of a fee award. Richard Fogel did not contest one entry of Pure Fishing's attorneys fee award, despite the fact that Pure Fishing employed two large law firms, Banner & Witcoff in Chicago and Roylance, Abrams, et al. in Washington, D.C. The attorneys' fees of \$750,000 contained billings by two separate law firms for the identical work, one out of state and one in state. Under the *Continental* decision written by Judge Grady, over 50% of the said fee award was non-billable.

In addition, Judge Lindberg in the *Pure Fishing* case entered an Order on February 3, 2006, waiving all of Pure Fishing's "pecuniary (monetary) damages as to each counter-defendant except Mr. Stoller." See an attached true and correct copy of the Order dated February 3, 2006, attached hereto and marked as **Exhibit 6**. Trustee Fogel knew or should

have known that the consent agreement, Exhibit 5, which Fogel entered into obligating Leo Stoller's corporations on behalf of his Estate to \$969,751.81, was void *ab initio* and/or was a clear breach of his fiduciary duties to Leo Stoller's Estate and/or was gross negligence and/or was a fraud on the Court. Secondly, no trustee would enter into a consent decree for \$969,751.81 without attempting to either defend the corporate entities involved, and/or allow the Debtor to retain counsel for the corporate entities to defend them, which Fogel has denied Leo Stoller that right, unless that trustee had an ulterior motive.

TRUSTEE FOGEL'S MOTIVE TO DEFRAUD THE ESTATE OF LEO STOLLER

When the Trustee was appointed on September 5, 2006, Leo Stoller had claims of only \$65,000, (Exh.4). Leo Stoller was a nominee for his daughter, Julia Bishop, regarding a piece of real estate known as 1212 N. Lathrop valued at \$540,000. Leo Stoller has no interest in the said property. Fogel demanded that Leo Stoller cause the 1212 N. Lathrop property be turned over to the Trustee to satisfy the \$65,000 in claims. The property was sold in November of 2006 for \$540,000 of which the Trustee has seized \$345,000 which the Trustee is holding pending the resolution of an adversary proceeding filed by the Trustee. In order for the Trustee to be able to justify the unlawful seizure of Julia Bishop's property, the Trustee had to create debt for Leo Stoller's Estate in excess of the \$345,000 that the Trustee was holding. The Trustee knowingly and wilfully entertained into a campaign, along with his co-conspirators, Lance Johnson and William Factor, to enter into a consent judgment of \$969,751.81. By entry of the agreed consent judgment by Richard Fogel of \$969,751.81, Mr. Fogel was able to justify keeping the entire \$345,000 in cash which Fogel is currently holding in his trust account. In other words, Fogel's motive for defrauding the Estate of Leo Stoller was to create debt which previously did not exist before the filing of Leo Stoller's Chapter 13 in December of 2005 or the conversion to a Chapter 7 on August 31, 2006.

Leo Stoller had offered Mr. Fogel \$100,000 to settle the claims of Leo Stoller's Estate which existed prior to Trustee Fogel being appointed the Trustee on September 5, 2006. The Trustee has refused to accept Leo Stoller's payment of \$100,000 which would have covered the \$65,000 in claims made prior to Leo Stoller's conversion to a Chapter and the appointment

of Richard Fogel as Trustee, along with the administrative fees of Leo Stoller's bankruptcy proceeding.

Mr. Fogel counter-offered to resolve Leo Stoller's bankruptcy and the frivolous adversary proceeding that he has filed against Julia Bishop by paying Julia Bishop \$25,000 of the \$345,000, with Mr. Fogel retaining the balance. This matter has also been referred to Patrick J. Fitzgerald, U.S. Attorney and Mr. David Gloekner, Criminal Chief, at the U.S. Department of Justice. See a true and correct copy of the Complaint, attached hereto and marked as **Exhibit 7**. Leo Stoller also attaches a true and correct copy of Motion to Spread Of Record Debtor's Unlawful And/Or Disputed Claims, attached hereto and marked as **Exhibit 8**.

The Plaintiff's argue at page two of their brief that "Debtor's lack of standing is fatal to his Motions. They also fail for other fundamental reasons. For example, to intervene as of right, Debtor must prove that the Trustee is not an adequate representative. The Seventh Circuit has held that where, as here, a debtor seeks to intervene in a District court action, he bears 'a heavy burden' to prove inadequacy of representation by a trustee. In the present case, Debtor offers no evidence, but only bald assertions that do not even bear on the legal criteria required to show inadequate representation." Stoller has established that Richard Fogel has breached his fiduciary duty to Stoller's Estate, participated in gross negligence and fraud on the Bankruptcy Court.

In addition, Trustee Fogel has indicated that Leo Stoller is a vexatious litigator and he must be stopped from engaging in policing trademarks. In order to stop Stoller from continuing to police trademarks, Mr. Fogel entered into a fraudulent consent judgment with Pure Fishing for \$969,751.81, which permitted Judge Lindberg to cancel 35 STEALTH federal trademarks which were the most valuable assets of Leo Stoller's Estate rather than to defend them.

Trustee Fogel has also entered into a fraudulent settlement agreement in order to permit Google to get a default civil RICO judgment against Leo Stoller's companies, Central Mfg. Inc. and Stealth Industries, Inc. in order to permanently damage Leo Stoller's corporations to prevent them from ever being able to police their trademarks again. In addition, Mr. Fogel has consistently argued before Judge Schmetterer that Leo Stoller's corporations, Central Mfg.

Inc. and Stealth Industries, Inc. are invalid and nothing more than alter egos of Leo Stoller. Yet Mr. Fogel has argued before this Court and has signed consent judgments on behalf of Central Mfg. Inc. and Stealth Industries, Inc. in the District Courts when it suits Mr. Fogel's purposes to destroy the assets of Leo Stoller. This is further evidence of the Trustee's duplicity, breach of fiduciary duty, gross negligence and fraud on the Court. Under the doctrine of judicial estoppel, Trustee Fogel is barred from making representations that Leo Stoller's corporations are not valid entities before Judge Schmetterer in bankruptcy proceeding 05 B 64075 and then come into this Court and argue that Trustee Fogel has a right to enter into settlement agreements on behalf of Stealth Industries, Inc. and Central Mfg. Inc. as valid corporate entities. Likewise, the Trustee's duplicity and material misrepresentations on this Court, in violation of the 3.3(a) of the Illinois Rules of Professional Conduct, is further established by Fogel's argument that Leo Stoller should not even have a right to intervene as a defendant in the Google civil RICO action in order to permanently damage Leo Stoller's corporations and Leo Stoller's reputation in violation of Stoller's Fifth and Fourteenth Amendment rights of due process and equal protection.

**PLAINTIFF'S ARGUMENT THAT DEBTOR TOOK THE
FIFTH IN HIS 341 MEETING OF CREDITORS VITIATING
STOLLER'S STANDING IN THIS PROCEEDING, IS WITHOUT MERIT**

Trustee Fogel had threatened Leo Stoller's attorney Richard Golding that because Leo Stoller would not cause his daughter Julia Bishop to turn over her \$540,000 piece of real estate to satisfy \$65,000 in claims filed by claimants against Leo Stoller's Estate, Fogel would move to indict Leo Stoller. Leo Stoller was thus advised by counsel to take the Fifth at the 341 Meeting of Creditors. The fact that Leo Stoller took the Fifth at the 341 meeting and refused to answer any questions pursuant to Leo Stoller's Fifth Amendment rights does not establish that Leo Stoller does not substantiate any cognizable interest in Defendants or in any trademarks. Leo Stoller was the founder, sole-shareholder and sole director of Stealth Industries, Inc. and Central Mfg. Inc., as well as the creator and developer of all of the trademarks which were ever created and held by Stoller's corporate entities. The fact that the Trustee allegedly has control over Stoller's corporations now as a result of the bankruptcy filing, is irrelevant because the Trustee has clearly breached his fiduciary duty to the Estate of

Stoller; the corporate assets and the intellectual property held by the corporations. Judge Schmetterer has recognized on the record in bankruptcy proceeding Case No. 05 B 64075 that Fogel has indicated by his actions of failing to protect the intellectual properties and corporations of Leo Stoller, that he has, in fact, abandoned those assets. Stoller has pending motions before Judge Schmetterer asking for a declaration of abandonment by the Trustee of the corporations and their assets. Judge Schmetterer has ordered the Trustee to file his response. After which, on March 1, 2007, the Trustee Richard Fogel comes before Judge Schmetterer and tells Judge Schmetterer that he wants to now sell Stoller's intellectual properties for \$10,000, when Trustee Fogel knows that Pure Fishing, Inc. in the litigation before Judge Lindberg in Case No. 1:05-CV-00725 spent over \$950,000 to acquire the rights of just one of Stoller's STEALTH federal trademark registrations. The Trustee Fogel now being faced with the proposition that a declaration of abandonment will be entered, in furtherance of his scheme to defraud the Estate of Leo Stoller and to prevent Leo Stoller from ever recovering his trademarks and ever allowing him to police them, has offered to liquidate them for the paltry sum of \$10,000. This occurring after the Trustee has solely indebted Stoller's Estate to over \$2,300.00.00. Stoller has met the heavy burden to show the inadequacy of Richard Fogel's representation in the said bankruptcy.

WHEREFORE, Leo Stoller prays that this Court permit Leo Stoller to intervene and/or to interplead and to suspend this proceeding for sixty (60) days to retain counsel to defend Debtor's corporations, and/or to suspend this case pending Stoller's appeals to lift the automatic stay for Google to sue the Debtor.



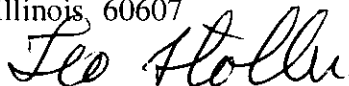
Leo Stoller, *pro se*
7115 W. North Avenue #272
Oak Park, Illinois 60302
312/ 545-4554
Email: ldms4@hotmail.com

Date: March 2, 2007

Certificate of Mailing

I hereby certify that this motion is being hand-delivered in an envelope addressed to:

Clerk of the Court
United States District Court
219 S. Dearborn
Chicago, Illinois, 60607



Leo Stoller
Date: March 2, 2007

Certificate of Service

I hereby certify that the foregoing is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to:

Richard M. Fogel, Trustee
Janice A. Alwin, Esq.
Counsel for Trustee
Shaw, Gussis, Fishman, Glantz,
Wolfson & Towbin LLC.
321 N. Clark Street, Suite 800
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Michael T. Zeller
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333 W. Wacker Drive, Suite 2700
Chicago, Illinois 60606



Leo Stoller
Date: 3-2-07

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:	)	Case No. 05 B 64075
	)	Chapter 13
LEO STOLLER,)	
	)	Hon. Jack B. Schmetterer
Debtor.)	
	)	Presentment Date: August 23, 2006
	)	Presentment Time: 9:30 a.m.

**MOTION OF GOOGLE INC. FOR ORDER DECLARING PROPOSED SUIT
TO BE OUTSIDE SCOPE OF STAY OR, IN THE ALTERNATIVE, MODIFYING STAY**

Google Inc. ("Google") respectfully requests that the Court declare that its anticipated lawsuit (the "Proposed Action") against Leo Stoller ("Stoller" or "Debtor"), Central Mfg. Inc. ("Central Mfg.") and Stealth Industries, Inc. ("Stealth") is outside the scope of the automatic stay under Section 362(d) of the United States Bankruptcy Code (11 U.S.C. § 362(d)) or, in the alternative, that the Court modify the stay for cause to allow Google to proceed with its Proposed Action. In support of its requested relief, Google states and alleges as follows.

Preliminary Statement

1. As explained in Google's Complaint for the Proposed Action,¹ Debtor, Central Mfg. and Stealth are engaged in a pattern of illegal conduct that targets Google. Google has no alternative but to file suit to put a stop to it. Among other things, Debtor, Central Mfg. and Stealth have been fraudulently holding themselves out as variously named "Google" entities, including through the use of fabricated commercial documents such as company letterhead. They also continue to falsely claim in advertising materials that they own rights to, and offer for license to third parties, the GOOGLE mark and falsely assert that they indeed have even cancelled Google's federal trademark registration for the GOOGLE mark. This is despite the fact that not only have Google's federal registrations for GOOGLE not been cancelled, but the Trademark Trial and Appeal Board ("TTAB") has found Debtor's and his companies' claims of ownership to the GOOGLE mark to be wholly groundless and to have been made for the

¹ A copy of the Complaint for the Proposed Action (the "Complaint") is attached as Exhibit 1 to the Declaration of Michael T. Zeller, dated August 17, 2006 and filed concurrently herewith ("Zeller Dec.").

EXHIBIT 1

"improper purpos[e]" of seeking to "harass" Google as well as many others "to pay [Debtor] to avoid litigation or to license one of the marks in which [Debtor] assert[s] a baseless claim of rights."² The ongoing acts by Debtor, Central Mfg. and Stealth constitute false advertising in violation of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B), violations of the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1961 *et seq.*, and unfair competition. It is for this conduct, as set forth in the Complaint, that Google proposes to sue Debtor, Central Mfg. and Stealth for injunctive and monetary relief.

2. Google respectfully asks the Court to declare that the automatic stay is not applicable to its Proposed Action under Section 362(a) because the Proposed Action was not and could not have been commenced before the Petition Date. Debtor filed in this Court a voluntary petition for relief under Chapter 13 of the Bankruptcy Code (the "Petition") on December 20, 2005 (the "Petition Date"). The acts alleged in the Proposed Action to constitute false advertising occurred entirely after the Petition Date and thus could not have been the subject of a claim by Google prior to that time. Likewise, Google could not have brought its RICO claim before the Petition Date since it did not arise until later for the independent reasons that (1) Google did not begin suffering damage until after the Petition Date and (2) the second predicate act necessary to establish a RICO claim occurred post-Petition. Under these circumstances, Google's claims are considered post-Petition and thus not subject to the automatic stay.³ Furthermore, even apart from the post-Petition accrual of Google's claims, Debtor, Central Mfg. and Stealth all have taken the position that Section 362's automatic stay does not apply to entities such as Central Mfg. and Stealth. Thus, there could be no dispute here that the Proposed Action can commence against Central Mfg. and Stealth notwithstanding the automatic stay.

3. In the alternative, in the event that the Court believes the automatic stay applies to the Proposed Action in whole or in part, there is "cause" under Section 362(d)(1) to modify any such stay so that Google can proceed. Neither fairness nor law justify allowing Debtor to continue to damage Google with impunity. The purpose of the Bankruptcy Code is to protect the innocent, yet unfortunate, debtor. Debtor in this case is neither, and clearly the automatic stay is not designed to provide Debtor with a safe haven for his continuing fraudulent conduct and

² For this reason, as discussed below, TTAB recently dismissed outright a sham legal proceeding that Debtor and Central Mfg. had brought against Google.

³ The Complaint for the Proposed Action does discuss certain pre-Petition acts, but as explained further below that does not mean Google's claims accrued then.

racketeering activities. Indeed, as the Court is aware, such misdeeds by Debtor, Central Mfg. and Stealth are unfortunately not an isolated episode, but an extension of their extortion racket that numerous judges in this Circuit and District have condemned. In short, because Google will continue to be irreparably damaged if the Proposed Action is delayed, whereas Debtor will not suffer any cognizable harm if he is forced to account for and cease his unlawful activities against Google, the equities strongly favor allowing Google to proceed with its Proposed Action. Debtor also brought his Petition in bad faith, which further supports any necessary modification of the stay.

Jurisdiction and Venue

4. This Court has jurisdiction of this matter pursuant to 28 U.S.C. §§ 1334(a) and (b) and 157(a). This motion is a "core proceeding" in which the Court is entitled to enter a final order under 28 U.S.C. §§ 1334 and 157(b)(2)(G), 11 U.S.C. § 362(d) and Bankruptcy Rules 4001 and 9014. *In re Benalcazar*, 283 B.R. 514, 521-22 (Bankr. N.D. Ill. 2002).

5. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§ 1408 and 1409.

Argument

I. THE PROPOSED ACTION IS NOT SUBJECT TO THE AUTOMATIC STAY.

A. Because Google's Claims Accrued After The Petition Date, They Could Not Have Been Brought Pre-Petition And Are Not Within The Scope Of The Automatic Stay.

6. 11 U.S.C. § 362 defines the scope of the automatic stay. By its terms, Section 362(a)(1) states in relevant part that it prohibits "the commencement . . . of a judicial . . . action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title." Accordingly, claims that arise after the filing of a bankruptcy petition are not subject to this automatic stay provision. *E.g.*, *In re Anderson*, 23 B.R. 174, 175 (Bankr. N.D. Ill. 1982) ("The automatic stay provisions of Section 362(a)(1), (5), (6) and (7) have been held to be inapplicable to proceedings commenced after the filing of the Chapter 13 proceedings."); *see also Bellini Imports, Ltd v. The Mason & Dixon Lines, Inc.*, 944 F.2d 199, 201 (4th Cir. 1991); *In re Gull Air, Inc.*, 890 F.2d 1255, 1263 (1st Cir. 1989) ("proceedings or claims arising post-petition are not subject to the automatic stay."); *In re M. Frenville Co.*, 744 F.2d 332, 335 (3d Cir. 1984) ("[o]nly proceedings that could have been

commenced or claims that arose before the filing of the bankruptcy petitions are automatically stayed"); *In re Koop*, 2002 WL 1046700, at *3 (Bankr. N.D. Ill. May 23, 2002).

7. Google's claims in the Proposed Action accrued after the Petition Date and thus are not within the scope of the automatic stay. Each claim is discussed in turn below.

1. **Google's False Advertising Claim Arose Post-Petition.**

8. Count I of the Complaint asserts against Debtor, Central Mfg. and Stealth a claim for false advertising under the Lanham Act. As 15 U.S.C. § 1125(a)(1)(B) states in pertinent part that "[a]ny person" who "in commercial advertising or promotion, misrepresents the nature, characteristics, qualities, or geographic origin of his or her or another person's goods, services, or commercial activities, shall be liable in a civil action by any person who believes that he or she is or is likely to be damaged by such act."

9. As set forth in the Complaint for the Proposed Action, Debtor, Central Mfg. and Stealth have made such false and misleading representations in their advertising and promotional materials. Each of those operative acts also occurred after the Petition Date. More specifically, the unlawful acts of false advertising alleged in the Proposed Action are:

(a) Beginning on or about April 20, 2006 and continuing through the present, Debtor, Central Mfg. and Stealth have falsely represented on the commercial rentmark.blogspot.com web site that "STOLLER CANCELS THE GOOGLE TRADEMARK." (Complaint, ¶ 42(c) & Exh. P thereto).

(b) This was followed shortly, beginning on or about April 28, 2006 and continuing through the present, by the dissemination of false advertisements by Debtor and Stealth on the commercial rentamark.com web site that "GOOGLE" was, and remains, among the marks that they purport to "own and control" and purport to offer for licensing to third parties. (*Id.*, ¶ 40 & Exh. M thereto).

(c) Also beginning on or about April 20, 2006 and through the present, Debtor, Central Mfg. and Stealth have falsely represented on the commercial rentmark.blogspot.com web site that "Stoller has thus far prevailed in over 90% of its [*sic*] police actions against third party infringers. Companies like Wal-Mart, K-Mart and hundreds of other well known American companies have acknowledged Stoller's superior rights to its [*sic*] marks as a result of trademark litigation." (*Id.*, ¶ 42(b) & Exh. P thereto). Beginning on or about June 16, 2006 and continuing through the present, Debtor, Central Mfg. and Stealth also have been falsely representing on the

commercial www.rentmark.blogspot.com web site that "Leo Stoller has participated in over 200 inter party [*sic*] proceedings over 25 years prevailing in [*sic*] over 95% of the time and over 60 district court trademark cases." (*Id.*, ¶ 42(d) & Exh. Q thereto).

10. Because Google could not have sued for false advertising until Debtor, Central Mfg. and Stealth began disseminating these false representations in or after April 2006 in a manner that was calculated to damage Google -- well after the Petition Date -- there can be no question that Google's claim in Count I is not subject to the automatic stay of Section 362(a)(1). *See Keller Medical Specialties Products v. Armstrong Medical Indus., Inc.*, 1992 WL 390733, at *3-4 (N.D. Ill. 1992) (Lanham Act cause of action arises when plaintiff discovers injury from act of defendant).

2. Google's RICO Claim Accrued Post-Petition.

11. Count II of the Complaint for the Proposed Action alleges RICO violations by Debtor, Central Mfg. and Stealth. RICO makes unlawful the operation of an "enterprise" by means of a "pattern" of racketeering activity. 18 U.S.C. § 1962(a)-(d). As the Seventh Circuit has held, the elements of a civil RICO claim are "1) a violation of the RICO statute, including proof that the defendant has participated in a pattern of racketeering, and 2) an injury to business or property." *McCool v. Strata Oil Co.*, 972 F.2d 1452, 1464 (7th Cir. 1992). Accordingly, a RICO claim accrues "when the plaintiff discovers her injury, even if she has not yet discovered the pattern of racketeering." *Id.* at 1465. Moreover, "[t]here must, of course, be a pattern of racketeering before the plaintiff's RICO claim accrues, and this requirement might delay accrual until after the plaintiff discovers her injury." *Id.* "Racketeering" activity is any of a number of "predicate" offenses specified in 18 U.S.C. § 1961(a), which pertinent here include mail fraud, wire fraud and violation of state extortion laws. "A 'pattern' is (loosely) defined as 'at least two acts of racketeering activity . . . the last of which occurred within ten years . . . after the commission of a prior act of racketeering activity.'" *McCool*, 972 F.2d at 1464 (quoting 18 U.S.C. § 1961(5)).

12. The Complaint for the Proposed Action asserts the following predicate racketeering acts by Debtor, Central Mfg. and Stealth:

(a) **Acts And Threats Involving Extortion.** The Complaint alleges as predicate acts that Debtor, Central Mfg. and Stealth engaged in extortion which is chargeable under State law and punishable by imprisonment for more than one year as set forth in 18 U.S.C. § 1961(1).

These include: (i) their November 29, 2005 letter from a bogus entity called "GOOGLE BRAND PRODUCTS & SERVICES" that contained threats to bring sham legal proceedings and to otherwise harass Google unless it paid them \$100,000 or else ceased use of the GOOGLE mark in connection with Google's business (Complaint, ¶ 44(a) & Exh. I thereto);⁴ (ii) their subsequent initiation, on March 1, 2006, of sham legal proceedings against Google in TTAB, which TTAB subsequently dismissed because it was predicated on a claim of right to the "Google" mark by Debtor and Central Mfg. that was "baseless" (*id.*, ¶¶ 28(a), 41(b) & Exhs. E, N thereto); (iii) their February 9, 2006 email threatening to publicize their groundless allegations, which they claimed would mean "Google's stock won't be worth \$5.00 a share" and would result in "the total destruction" of Google (*id.*, ¶ 44(c) & Exh. R thereto); (iv) their March 2, 2006 email again threatening to publicize their allegations with the avowed intention of "driv[ing] down Google stock price" (*id.*, ¶ 44(d) & Exh. S thereto); and (v) their email of March 31, 2006 which threatened to "refe[r]" Plaintiff's executives "to the US Attorney for a perjury charge should they lie under oath." (*Id.*, ¶ 44(b) & Exh. O thereto).

(b) Acts Involving Wire And Mail Fraud. The Complaint also alleges predicate acts of wire and mail fraud by Debtor, Central Mfg. and Stealth. *See* 18 U.S.C. §§ 2, 1341 & 1343. These include: (i) their November 29, 2005 letter described above and its attachments (*id.*, ¶ 40 & Exh. I thereto); (ii) their sham legal proceedings in TTAB described above (*id.*, ¶¶ 28(a), 41(b) & Exhs. E, N thereto); (ii) the March 31, 2006 email from Debtor touting its supposed litigation success statistics (*id.*, ¶ 44(b) & Exh. O thereto); (iii) their multiple fraudulent mail and wire communications in or about April 2006 purporting to be from a bogus business entity variously called "GOOGLE LICENSING [sic]" and "GOOGLE™ BRAND TRADEMARK LICENSING" (*id.*, ¶¶ 38-39 & Exhs. J-L thereto); and (iv) their fraudulent statements beginning on or about April 28, 2006 and through the present that Debtor and Stealth "own and control," and license to third parties, the "GOOGLE" mark (*id.*, ¶ 40 & Exh. M thereto).

13. As is evident from these dates and the law cited above, Google's RICO claim did not arise until after the December 20, 2005 Petition Date. Although the proposed defendants' letter dated November 29, 2005 does qualify as their first predicate act, Google plainly could not have sued for their violation of RICO at that time for at least two, separate reasons.

⁴ Also according to the letter, this purported company had been operating "SINCE 1981." *See* Exh. I to Complaint (capitalization in original).

14. First, merely because the first RICO predicate act targeting Google occurred by letter dated November 29, 2005 -- shortly before the Petition Date -- does not in itself render the RICO claim pre-petition. See *Anderson*, 23 B.R. at 175 (post-petition breach of contract deemed to be outside scope of automatic stay even though contract was executed pre-petition; "[t]he fact that a contract was executed among the parties" pre-petition "is not sufficient basis to hold that the claim arose prior to the filing."); see also *In re M. Frenville Co.*, 744 F.2d at 335 ("Pre-petition acts by a debtor, by themselves, are not sufficient to cause the automatic stay to apply."). Under the law, Google's RICO claim did not accrue until it had discovered its injury. *McCool*, 972 F.2d at 1465. In this case, that did not occur until the very earliest (even as to the first predicate act consisting of the November 29, 2005 letter) until approximately January 12, 2006 when Google was forced to begin incurring out-of-pocket fees and costs in order to initially investigate the representations set forth in the letter and when Google subsequently ascertained they were false by approximately January 26, 2006. Because Google's discovery of its injury was after the Petition Date, Google's RICO claim could not have been brought before then and is not subject to the automatic stay.

15. Second, and independently, Google's RICO claim could not have accrued before the Petition Date because "[t]here must, of course, be a pattern of racketeering before the plaintiff's RICO claim accrues, and this requirement might delay accrual until after the plaintiff discovers her injury." *McCool*, 972 F.2d at 1465. Put differently, Google could not have sued on its RICO claim until (at a minimum) the second predicate act occurred. See *id.*; see also *Bygrave v. Van Reken*, 238 F.3d 419, 2000 WL 1769587, at *4 (6th Cir. 2000) (unpublished disposition) (plaintiff "had no viable RICO claim at that time, because no second predicate act had yet occurred."); *Matthews v. Kidder, Peabody & Company, Inc.*, 2000 WL 33726916, at *13 (W.D. Pa. Aug. 18, 2000) ("Since the pattern requirement of a RICO claim depends on the commission of two or more predicate acts, a cause of action in that case would not accrue until the occurrence of the second act"); *Poling v. K. Hovnanian Enterprises*, 99 F. Supp. 2d 502, 510-11 (D.N.J. 2000) (same, and noting that second predicate act is "necessary to establish the pattern"). As such, because the second predicate act did not occur until the February 9, 2006 email, Google again could not have commenced suit on its RICO claim before the Petition Date

and the automatic stay does not apply to Google's RICO claim for this further, dispositive reason.⁵

3. Google's Unfair Competition Claim Arose Post-Petition.

16. Count III of the Complaint for the Proposed Action is an unfair competition claim against Debtor, Central Mfg. and Stealth. The acts of unfair competition alleged in the Complaint are those previously described above. (See Complaint, ¶¶ 59-60.)

17. An unfair competition claim does not arise until, *inter alia*, the plaintiff discovers its injury. *E.g., Highsmith v. Chrysler Credit Corp.*, 18 F.3d 434, 441 (7th Cir. 1994) (unfair competition claim "accrues when the plaintiff 'knows or reasonably should know of his injury and also knows or reasonably should know that it was wrongfully caused.'" (quoting and citing *Knox College v. Celotex Corp.*, 88 Ill.2d 407, 415, 430 N.E.2d 976, 980 (1981) and *Midland Management Corp. v. Computer Consoles Inc.*, 837 F. Supp. 886 (N.D. Ill. 1993) (Posner, J., sitting by designation)).

18. As discussed above, Google discovered that it had been injured after the Petition Date. Thus, Google's unfair competition claim likewise arose after the Petition Date and is not subject to the automatic bankruptcy stay.

B. Debtor Himself Has Asserted In Other Litigation That The Automatic Stay Does Not Apply To Central Mfg. Or Stealth.

19. Debtor cannot dispute that the Proposed Action should be allowed to proceed against Central Mfg. and Stealth. He himself, along with Central Mfg. and Stealth, asserted in the *Pure Fishing* action earlier this year that the automatic bankruptcy stay did not apply at all to either Central Mfg. or Stealth:

[I]t is clear from a plain reading of § 362(a) that the automatic stay applies only to the bankrupt party. 11 U.S.C. § 362(a)(1); *see also, Lee v. RCN Corp.*, 2004 U.S. Dist. LEXIS 18941 (N.D. Ill. 2004) (citing *Fox Valley Constr. Workers v. Pride of the Fox Masonry*, 140 F.3d 61, 666 [*sic*] (7th Cir. 1998)). This comports with the overall purpose

⁵ As the discussion above makes clear, even though the Complaint does allege various other pre-Petition Date acts by Debtor and others (including some as early as the 1990 time period), those allegations do not transmogrify Google's claims into pre-petition ones. They are included to prove such matters as the proposed defendants' fraudulent intent and lack of mistake and, furthermore, to establish such matters as continuity and relationship as part of the later pattern of RICO predicate acts that targeted Google. To state the obvious, Google could not have sued Debtor, Central Mfg. and Stealth under any plausible scenario for RICO violations until it was injured by their misconduct and then discovered its injury beginning in January 2006 and until they committed their second predicate act in February 2006.

of the statute since that particular section was not designed to afford collateral benefits to non-bankrupt parties involved in litigation with the debtor as party defendants or as co-defendants. *Id.* In fact, the overwhelming majority of courts have held that the lawsuit is only stayed as to the bankrupt party and not as to the non-bankrupt co-defendants. *In re Richard B. Vance & Co.*, 289 B.R. 692, 696-97 (citing, *inter alia*, *Pitts v. Unarco Industries*, 698 F.2d 313 (7th Cir. 1983); *Sav-a-Trip, Inc. v. Belfort*, 164 F.3d 1137 (8th Cir. 1999); *In re Miller*, 262 B.R. 499 (9th Cir. BAP 2001); *Lukas, Nace, Gutierrez & Sachs, Chartered v. Havens*, 245 B.R. 180 (D.D.C. 2000)).⁶

20. Having persuaded Judge Lindenberg that the automatic stay did not apply to Central Mfg. or Stealth,⁷ Debtor cannot take a contrary tact here without running afoul of the doctrine of judicial estoppel. *Johnson v. ExxonMobil Corp.*, 426 F.3d 887, 891 (7th Cir. 2005) ("The doctrine of judicial estoppel prevents a party from adopting a position in a legal proceeding contrary to a position successfully argued in an earlier legal proceeding."); *see also Cannon-Stokes v. Potter*, -- F.3d --, 2006 WL 1816010, at *1-2 (7th Cir. July 5, 2006) (applying judicial estoppel to bar inconsistent claim).

II. IN THE ALTERNATIVE, THERE IS CAUSE FOR MODIFYING THE STAY TO ALLOW GOOGLE TO PROCEED WITH THE PROPOSED ACTION.

21. In the alternative, should the Court decide that the automatic stay applies to the Proposed Action in whole or in part, Google respectfully submits that the Court should modify any such stay for cause so as to allow it to file and proceed with the Proposed Action.

22. Section 362(d)(1) permits the Court to modify the Bankruptcy Code's automatic stay provisions for "cause." Whether cause exists so as to permit a lawsuit to commence or proceed in another court involves balancing the costs and benefits of maintaining a stay, and discretionary relief from the stay "is determined on a case-by-case basis." *In re Fernstrom Storage & Van Co.*, 938 F.2d 731, 735 (7th Cir. 1991); *see also In re Benalcazar*, 283 B.R. at 535-36. The Seventh Circuit has adopted a three-prong "balancing of the equities" analysis to guide this determination: (1) whether any great prejudice will result to the debtor or the bankruptcy estate if the stay is modified; (2) whether the hardship to the movant if the stay is not

⁶ Counter-Defendants' Response in Opposition to Counter-Plaintiffs' Brief Captioned as "Response to December 20, 2005 Order," at page 2, attached as Exhibit 2 to the Zeller Dec.

⁷ Zeller Dec., Exh. 3. As the Order shows, Judge Lindenberg agreed the automatic stay did not apply to parties other than Debtor, but decided to stay the civil action as against the entity co-defendants as a discretionary matter. *Id.*

lifted considerably outweighs the hardship of the debtor; and (3) whether the movant has a likelihood of prevailing on the merits. *Fernstrom*, 938 F.2d at 735.

23. These factors heavily favor allowing Google to proceed with its Proposed Action. Given the position he took in the *Pure Fishing* case, Debtor cannot argue that Central Mfg. or Stealth are subject to the automatic stay and thus cannot rely on any alleged prejudice to those entities if the Proposed Action were to proceed.⁸ Nor can Debtor plausibly claim that he will suffer any cognizable prejudice or that the Proposed Action would interfere with this proceeding. While he undoubtedly will have to defend himself in the Proposed Action, that burden cannot be seriously regarded as prejudice, particularly for someone who touts himself as a professional, full-time litigant and has been responsible for filing dozens of lawsuits in this District alone. *E.g., In re A Partners, LLC*, --- B.R. ---, 2006 WL 1593954, at * 10 (Bankr. E.D. Cal. June 5, 2006) (in Chapter 11 case, noting that while lifting stay for cause to allow foreclosure would "interfere with" debtor's "financial affairs, that does not mean that the granting of relief [from the stay to the movant] will interfere with this bankruptcy in any way that the court could find to be inappropriate."). Furthermore, since Debtor is the one who chose to intentionally target Google for extortion and fraud -- as TTAB already has found as discussed below -- Debtor should not be allowed to escape the consequences of his actions. The purpose of the Bankruptcy Code is to protect the innocent, yet unfortunate, debtor. Debtor here is neither. Fairness and equity in no way would justify allowing Debtor to continue to damage Google and its shareholders with impunity, and the automatic stay clearly is not designed to provide him with a safe haven for his continuing fraudulent conduct and racketeering activities. Permitting Google to seek judicial relief to put an end to Debtor's on-going misconduct would not result in prejudice, but in justice.

24. Conversely, if forced to delay securing relief and vindicating its rights, Google would suffer hardship that far outweighs any legitimate interest Debtor could invoke. Debtor's deliberate, on-going false advertising alone constitutes irreparable harm because his misrepresentations damage Google's reputation, just as Debtor has indicated is his avowed intent. *Castrol, Inc. v. Quaker State Corp.*, 977 F.2d 57, 62 (2d Cir. 1992) (irreparable harm presumed where literally false advertisement mentions plaintiff or its product by name); *Abbott Laboratories v. Mead Johnson & Co.*, 971 F.2d 6, 16 (7th Cir. 1992) (noting in false advertising

⁸ Moreover, there could be no equitable considerations favoring delay in proceeding against Central Mfg. or Stealth since "the 'fresh start' concept does not apply to corporate debtors." *In re Pettibone Corp.*, 151 B.R. 166, 174 (Bankr. N.D. Ill. 1993).

case the "well-established presumption that injuries arising from Lanham Act violations are irreparable, even absent a showing of business loss."). Debtor's continuing dissemination of false statements about his alleged ownership of the GOOGLE mark and his claims to be operating various bogus "Google" entities threatens to deceive the unsuspecting public as well.

25. Similarly, the "congressional objective" in enacting RICO was to "encourag[e] civil litigation to supplement Government efforts to deter and penalize . . . prohibited practices. The object of civil RICO is thus not merely to compensate victims but to turn them into prosecutors, 'private attorneys general,' dedicated to eliminating racketeering activity." *Rotella v. Wood*, 528 U.S. 549, 557 (2000). The longer Google is delayed in bringing its RICO claim, the longer this interest is thwarted and the greater Google is damaged. In this regard, Debtor has threatened, in violation of state criminal extortion laws, to "drive down Google stock price" and bring about the "total destruction" of Google unless he is paid his protection money. Having made those dire threats, Debtor can scarcely contest that Google would potentially suffer significant prejudice and hardship if it is precluded from bringing its Proposed Action.

26. Google's likelihood of success also weighs in favor of finding that "cause" exists to modify any applicable automatic stay. The Complaint sets forth in detail the facts -- supported by documentary evidence -- giving rise to Google's claims. Many of those facts are beyond dispute. As one example, the claims by the proposed defendants that they own rights to the "Google" mark, and the materials fabricated by Debtor, Central Mfg. and Stealth to misrepresent themselves as variously named "Google" entities, are unquestionably fraudulent. Indeed, while there is abundant evidence to establish this, suffice it to say that TTAB already has so found. Thus, in its Order dated July 14, 2006, TTAB deemed the proposed defendants' assertions of rights to some 1800 marks that they had claimed in legal proceedings before TTAB -- which include their claim of right to the "Google" mark -- to be groundless and made "for improper purposes, namely, to harass the applicants to pay you to avoid litigation or to license one of the marks in which you assert a baseless claim of rights."⁹ For those violations -- which TTAB stated rose to the level of "egregious" misconduct -- TTAB imposed an array of sanctions, including the subsequent dismissal of an opposition proceeding that Debtor and Central Mfg. had brought against Google in TTAB.¹⁰ And, further eliminating any doubt that the proposed

⁹ A copy of TTAB's July 14, 2006 Order is attached as Exhibit E to the Complaint.

¹⁰ A copy of the TTAB's dismissal Order is attached as Exhibit N to the Complaint.

defendants' claims of right are false, Debtor's own filings in this Chapter 13 proceeding and in his 1998 bankruptcy case conspicuously fail to disclose any interest in any entity called "Google," even though Debtor has claimed that this purported business entity has been in operation "SINCE 1981." To cite another example, Debtor's own advertising materials assert that "STOLLER CANCELS THE GOOGLE TRADEMARK." Not only is this an unambiguously false statement, but it is no coincidence that he publicly disseminated it starting on April 20, 2006, only days before announcing -- also falsely -- that Debtor and Stealth "own and control" the "GOOGLE" mark and proclaiming that they have the right to license it to third parties for a fee. And, as for Debtor's representations that it has prevailed in "over 90%" or "over 95%" of its legal actions or obtained settlements from "99%" of those companies and individuals Defendants have targeted, one Court recently has pointed out their falsity in blunt terms: "[n]o Court has ever found infringement of any trademark allegedly held by Stoller or his related companies in any reported opinion."¹¹

27. Further confirming the likelihood of Google's success on the merits is the long, irrefutable string of Court decisions condemning the pattern of similar misdeeds perpetrated by Debtor, Central Mfg. and Stealth. Although the Complaint identifies additional instances of the numerous Court and TTAB decisions against the proposed defendants for their false claims of right to trademarks they do not own, their use of bogus corporate identities and their efforts at extortion, the following are particularly pertinent here:

(a) In *S Industries, Inc. v. Centra 2000, Inc.*, 249 F.3d 625, 627-29 (7th Cir. 2001), the Seventh Circuit found that Debtor and his company's assertion of trademark rights was legally groundless and affirmed an award of attorneys' fees against them for filing "meritless claims" and engaging in other litigation misconduct, which the Seventh Circuit found was part of a "pattern of abusive and improper litigation with which the company and Lee Stoller, its sole shareholder, have burdened the courts of this circuit."

(b) Even more recently, in *Central Mfg. Co. v. Brett*, No. 04 C 3049 (N.D. Ill) (Coar, J.), the Court ruled that Central Mfg. and Debtor lacked the trademark rights they had claimed.¹² It further observed that "Stoller appears to be running an industry that produces often spurious, vexatious, and harassing federal litigation" and recited the findings by "several courts in this

¹¹ See Order of September 30, 2005, *Central Mfg. Co. v. Brett*, No. 04 C 3049 (N.D. Ill) (Coar, J.), at page 2, copy attached as Exhibit 4 to the Zeller Dec.

¹² A copy of the Court's Order is attached as Exhibit 4 to the Zeller Dec.

district" that Debtor and Central Mfg. are "engage[d] in a pattern and practice of harassing legitimate actors for the purpose extracting a settlement amount." In this regard, the Court noted that "[t]he sheer number of cases" that Defendants here "have filed in this district raises serious questions" about the "good faith" of Defendants and their counsel. Further, the Court found that the terms of the "settlement agreements" which Debtor and Central Mfg. alleged evidenced their trademark rights in fact confirmed that they had "engage[d] in a pattern and practice of harassing legitimate actors for the purpose of extracting a settlement amount. The judicial system is not to be used as an aid in such deliberate, malicious, and fraudulent conduct." Finding that "Leo Stoller and his companies present paradigmatic examples of litigants in the business of bringing oppressive litigation designed to extract settlement," and that they also had offered "questionable, and seemingly fantastical documents" and "inconsistent, uncorroborated, or arguably false testimony," the Court ordered them to pay an award of attorneys' fees.

(c) In *Central Mfg. Co. v. Pure Fishing, Inc.*, No. 05 C 725 (N.D. Ill) (Lindenberg, J.), the Court entered judgment against Debtor and Central Mfg. as a sanction for their abuse of the legal process.¹³ In doing so, the Court observed that Debtor "has earned a reputation for initiating spurious and vexatious federal litigation." In the particular case before it, the Court found that Debtor, Central Mfg. and their counsel had engaged in "gross misconduct" and "unethical conduct" which included Debtor's forging of signatures on pleadings, had brought "baseless" motions and had evinced "flagrant contempt for this Court" and "an appalling lack of regard" for the judicial process. In particular, the Court ruled that "Central Mfg. Co., through Mr. Stoller," and their counsel had violated Federal Rule of Civil Procedure 11 "by maintaining that Central Mfg. Co. was a Delaware corporation," even though it was in reality a "false corporation" and a "false name" used by Debtor to facilitate and conceal his fraudulent claims to trademark rights.

(d) In *S Industries, Inc. v. Diamond Multimedia Sys., Inc.*, 17 F. Supp. 2d 775, 779 (N.D. Ill. 1998) (Andersen, J.), the Court awarded attorney's fees against a company of Debtor based on findings that its claims in the suit were "patently frivolous" and that it had "apparently taken a legitimate procedure designed to protect trademark rights and turned [it] into a means of judicial extortion."

¹³ A copy of the Court's Order is attached as Exhibit 5 to the Zeller Dec.

28. Thus, the balancing of equities here amply supports allowing Google to proceed with its Proposed Action even if the automatic stay is deemed to apply.

29. Furthermore, "cause" for relief from the automatic stay may be found where the debtor's filing of a bankruptcy petition was in bad faith. *In re Laguna Associates Limited Partnership v. Aetna Cas. & Surety Co.*, 30 F.3d 734, 737 (6th Cir. 1994) ("As a number of our sister circuits have recognized, a debtor's lack of good faith in filing a petition for bankruptcy may be the basis for lifting the automatic stay."); *In re Arnold*, 806 F.2d 937, 939 (9th Cir. 1986) ("The debtor's lack of good faith in filing a bankruptcy has often been used as cause for removing the automatic stay."); *see also In re Syed*, 238 B.R. 126, 133 (Bankr. N.D. Ill. 1999) (lack of good faith "supports the retroactive annulment of the automatic stay."). Good faith in Chapter 13 filings is determined by the totality of the circumstances, and "the focus of the inquiry is fundamental fairness." *In re Love*, 957 F.2d 1350, 1357 (7th Cir. 1992) (also explaining "both objective evidence of a fundamentally unfair result and subjective evidence that a debtor filed a petition for a fundamentally unfair purpose that was not in line with the spirit of the Bankruptcy Code are relevant to the good faith inquiry").

30. The lack of good faith in Debtor's filing of his Chapter 13 Petition has already been briefed on the Motion to Convert filed by the Pure Fishing entities and is set for an evidentiary hearing before the Court. In the event that the Court finds Debtor's filing was in bad faith on the Motion to Convert, then that finding should equally serve here to establish cause for lifting any applicable automatic stay. Google will not burden the Court by repeating the evidence and legal analysis presented on that motion showing Debtor's lack of good faith, although one additional point mentioned above that bears on Google's claims further tends to underscore Debtor's bad faith in this, as well as his 1998, bankruptcy. None of Debtor's disclosures in those proceedings mentioned the supposed "Google" business that he now claims to have been long operating, allegedly since 1981. Accordingly, if it does exist, Debtor committed fraud by failing to disclose assets in which he has an interest to the Court and the Trustee. If it does not exist, then permitting Google to bring its suit to establish the fraudulent nature of those and related representations by Debtor could not possibly interfere with this proceeding. Either way, having not deigned to identify this alleged "business" in his bankruptcy

disclosures, Debtor should not now be heard to argue that his bankruptcy case should shield him from Google's Proposed Action.¹⁴

Waiver of Rule 4001(a)(3)

31. Google requests that any Order granting relief provide for a waiver of the 10-day period set forth in Bankruptcy Rule 4001(a)(3).

Prayer for Relief

WHEREFORE, Google respectfully requests that the Court enter an order declaring that Google's Proposed Action is not subject to the automatic stay or, in the alternative, modifying any such stay to allow Google to file and proceed with the Proposed Action.

DATED: August 18, 2006

Respectfully submitted,
GOOGLE INC.

By /s/ William J. Barrett
William J. Barrett (ARDC No. 6206424)
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(213) 443 3000

Attorneys for Google Inc.

¹⁴ To avoid any argument by Debtor that a granting of the Motion to Convert by the Court would render Google's claims pre-petition and thus subject to the automatic stay, Google respectfully requests that the Court grant Google's motion before entering an order granting the Motion to Convert.

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re

LEO STOLLER,

Debtor.

Chapter 7

Case No. 05-64075

Hon. Jack B. Schmetterer

Hearing Date: January 18, 2007

Hearing Time: 11:00 a.m.

**ORDER GRANTING MOTION FOR ORDER DECLARING PROPOSED SUIT TO BE
OUTSIDE SCOPE OF STAY OR, IN THE ALTERNATIVE, MODIFYING STAY
[DOCKET NO. 113]**

Google Inc. ("Google") having filed its Motion for Order Declaring Proposed Suit to be Outside Scope of Stay or, In the Alternative, Modifying Stay (the "Motion") on August 18, 2006, and hearings having been held on the Motion on August 23, 2006, August 31, 2006, September 14, 2006, October 5, 2006, October 19, 2006, November 9, 2006, December 5, 2006, December 12, 2006, December 19, 2006, and January 4, 2007 and Google having entered into a compromise with the Chapter 7 trustee appointed in this case concerning the relief sought in the Motion as to the estate and entities owned or controlled by the estate, which compromise has been approved by a separate Order of this Court entered on December 5, 2006 (such Order and the Settlement Agreement it approved being the "Settlement Order"), and the Debtor having objected to the Motion which objection the Court overruled in open court on January 4, 2007, and the Court having made, on the record at the January 4, 2007 hearing, findings of fact and conclusions of law, and the Court having found that there is cause to grant Google relief from the automatic stay,

IT IS HEREBY ORDERED that Google is granted relief from the automatic stay so that it may take the actions, including filing an action against the Debtor in the United States District

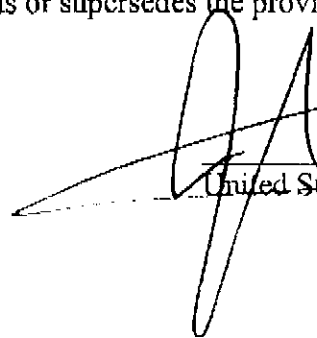
EXHIBIT 2

Court, described in the Motion and any ancillary, necessary, or appropriate actions in connection therewith.

is that fact as is the Traditional Third Appeal Board on hold.

IT IS FURTHER ORDERED that Google shall take no action to collect a monetary judgment against Leo Stoller personally without obtaining prior leave of this Court; provided however that if this case is dismissed or if Leo Stoller has been denied a discharge under 11 U.S.C. §727 then Google shall not have to obtain leave before collecting any judgment it obtains against Leo Stoller.

IT IS FURTHER ORDERED that the relief granted herein pertains only to Leo Stoller personally and nothing herein amends or supersedes the provisions of the Settlement Order.


United States Bankruptcy Judge
JAN 18 2007

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In Re:

LEO STOLLER,

Debtor.

)
) Chapter 7
)
) Case No: 05-64075
)
) Hon. Jack B. Schmetterer
)
)

NOTICE OF APPEAL

NOW COMES the Debtor and files a Notice of Appeal of the attached orders:

- 1) Motion to Dismiss A Case Under Chapter 7 (246)
- 2) Motion to Stay Court's Order Lifting Stay for Google, Inc. to Sue The Debtor (245)
- 3) Motion for Leave to Object to Claims (237)

dearied

Leo Stoller

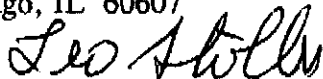
Leo Stoller
7115 W. North Avenue
Oak Park, Illinois 60302
(312) 545-4554
Email: ldms4@hotmail.com

Date: January 5, 2007

Certificate of Mailing

I hereby certify that the foregoing is being hand-delivered to the following address:

Clerk of the Court
United States Bankruptcy Court
219 S. Dearborn
Chicago, IL 60607



Leo Stoller

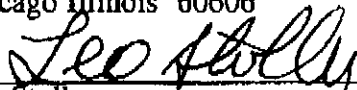
Date: January 5, 2007

Certificate of Service

I hereby certify that the foregoing is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to:

Richard M. Fogel, Trustee
Janice A. Alwin, Esq.
Counsel for Trustee
Shaw, Gussis, Fishman, Glantz,
Wolfson & Tow
321 N. Clark Street, Suite 800
Chicago, Illinois 60610

Timothy C. Meece
BANNER & WITCOFF, LTD.
10 South Wacker Drive, Suite 3000
Chicago Illinois 60606



Leo Stoller

Date: January 5, 2007

111

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GOOGLE INC.,)
)
Plaintiff,)
)
vs.)
)
CENTRAL MFG. INC. a/k/a CENTRAL)
MFG. CO., a/k/a CENTRAL MFG. CO.)
(INC.), a/k/a CENTRAL)
MANUFACTURING COMPANY, INC.)
and a/k/a CENTRAL MFG. CO. OF)
ILLINOIS; and STEALTH INDUSTRIES,)
INC. a/k/a RENTAMARK and a/k/a)
RENTAMARK.COM,)
)
Defendants.)

07CV385
JUDGE KENDALL
MAGISTRATE JUDGE COLE

FILED

JAN 18 2007
JAN 19 2007

NF

**MICHAEL W. COBBINS
CLERK, U.S. DISTRICT COURT**

COMPLAINT

Plaintiff Google Inc. ("Google"), by its attorneys and for its Complaint against Defendants, alleges as follows:

Nature of This Action

1. As the Seventh Circuit, Courts in this District and the Trademark Trial and Appeal Board repeatedly have found, Defendants and their alleged principal, Leo Stoller ("Stoller"), are engaged in a scheme of falsely claiming trademark rights for the purpose of harassing and attempting to extort money out of legitimate commercial actors, both large and small. Indeed, the judicial decisions awarding fees and otherwise imposing sanctions against Defendants and Stoller for their fraudulent and other illegal conduct, their assertion of rights that they do not own, their pattern of bringing meritless lawsuits and even their fabrication of evidence are legion.

2. Despite the admonitions of Courts and others, Defendants and Stoller have not only continued with, but expanded the scope of, their fraudulent scheme. Among other things, Defendants have fabricated, and threaten to continue to fabricate, non-existent entities that they falsely represent to unsuspecting victims are actual business entities. Defendants further falsely

claim that these non-existent entities have been using a wide array of trademarks on goods or services and otherwise have ownership and licensing rights to thousands of trademarks -- when in reality they have no such rights -- for the purposes of extracting money and obtaining the transfer of property to which Defendants are not entitled. To create an aura of legitimacy for their deceptive enterprise, Defendants have engaged in a widespread pattern of fraudulent acts that have included (i) preparing and circulating fabricated letterhead and other commercial documents supposedly evidencing the existence of their phony entities; (ii) repeatedly publishing advertisements and promotional materials which falsely claim rights to, and the ability to license, marks in which Defendants have no lawful interest and which falsely represent that Courts or others have upheld their alleged rights; (iii) disseminating false statements which represent that Defendants own federal registrations for marks when no such registration exists; (iv) asserting the ownership of fraudulently procured or fraudulently maintained federal registrations; (v) soliciting and employing perjured testimony and other materially false statements made under oath; and (vi) filing materially false documents with U.S. government agencies. Defendants employ these and other unlawful devices as described below to deceive, induce and coerce innocent parties into paying them money or else surrendering to Defendants property rights which Defendants then, in turn, use to defraud others. To date, Defendants have made hundreds of such misrepresentations to hundreds of legitimate companies.

3. Unfortunately, Plaintiff Google's widely-publicized success has attracted the attention of Defendants. As part of their scheme to defraud, Defendants have falsely represented that they own a federal registration for the GOOGLE mark, that they are owners of common law rights in the GOOGLE mark and that they have the right to license the GOOGLE mark to third parties. In order to effectuate their fraud, Defendants further have prepared and circulated, and continue to circulate, bogus letterhead and other corporate documents supposedly evidencing an entity they variously call "GOOGLE™ BRAND TRADEMARK LICENSING," "GOOGLE LICENSING [sic]" and "GOOGLE BRAND PRODUCTS AND SERVICES," even though by all indications no such entity exists. Defendants also have published, and continue to publish, promotional materials that falsely and deceptively represent that Defendants have rights to license the GOOGLE mark, that falsely claim that Defendants have successfully cancelled one or more of Plaintiff's federal trademark registrations for GOOGLE, and that otherwise misrepresent the nature of Defendant's goods, services and commercial activities.

4. Defendants' scheme is and has been with the intent to deceive. Defendants targeted Plaintiff Google, as well as hundreds of other legitimate companies, despite Defendants' knowledge that Defendants have no rights to the marks that they claim and no rights to license them to third parties. Defendants have falsely asserted, and continue to falsely assert, that they have such rights in order to defraud and extort their intended victims. After Plaintiff Google investigated Defendants' allegations of rights and refused Defendants' demands for money, Defendants not only persisted in their spurious demands for a pay-off, but also threatened to publicize their allegations which, they claimed, would bring about "the total destruction" of Plaintiff as a business.

5. Accordingly, Defendants have engaged in, and threaten in the future to engage in, acts of false advertising in violation of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B), as well as acts of unfair competition. Furthermore, because Defendants constitute an enterprise engaged in a pattern of racketeering activity that has caused injury and damage to Plaintiff Google, they are liable under the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961 *et seq.* As a consequence of the foregoing, Google is entitled to monetary and injunctive relief against Defendants.

The Parties

6. Plaintiff Google Inc. is a Delaware corporation with its principal place of business in Mountain View, California. Plaintiff Google offers a variety of services and products, including a web site that provides the world's most popular Internet search engine and that is visited by more than 380 million users each month.

7. On information and belief, Defendant Central Mfg. Inc. is a Delaware corporation with its principal place of business in Oak Park, Illinois and operates under one or more aliases, including without limitation as Central Mfg. Co., Central Mfg. Co. (Inc.), Central Manufacturing Company, Inc. and/or Central Mfg. Co. of Illinois (collectively, "Central Mfg."). Defendant Central Mfg. has at all times relevant hereto conducted activities in interstate commerce.

8. On information and belief, Defendant Stealth Industries, Inc. ("Stealth") is a Delaware corporation with its principal place of business in Oak Park, Illinois. Defendant Stealth has at all times relevant hereto conducted activities in interstate commerce.

9. On information and belief, Rentamark, which is also known as Rentamark.com, is an unincorporated business entity with its principal place of business in Oak Park, Illinois.

According to sworn testimony by Stoller, Rentamark is operated by and a part of Defendant Stealth.

10. On information and belief, Stoller was CEO and shareholder of Defendant Central Mfg. and Defendant Stealth at all times relevant hereto. Stoller is also known by aliases that include Leo Reich. Stoller has at all times relevant hereto conducted the activities complained of herein in interstate commerce.

11. Defendant Stealth and Defendant Central Mfg. purport to be successors-in-interest of a defunct business named S Industries, Inc. Stoller was at all relevant times the President and a shareholder of S Industries, Inc.

Jurisdiction And Venue

12. This action arises under the Trademark Act of 1946, Title 15, United States Code, the Racketeer Influenced and Corrupt Organizations Act, Title 18, United States Code and the law of Illinois and other states. The Court therefore has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338, 18 U.S.C. § 1964(c) and principles of supplemental jurisdiction under 28 U.S.C. § 1367(a).

13. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and 1391(c) and 18 U.S.C. §§ 1965(b) and 1965(d). Defendants reside in, are found in, transact affairs in and are subject to personal jurisdiction in this District, and a substantial part of the events giving rise to the claims herein occurred in this District.

Facts

Defendants' Fraudulent Conduct Using SI

14. S Industries, Inc. ("SI"), the claimed predecessor of Defendant Central Mfg. and Defendant Stealth, was incorporated in or about 1985. Stoller acted as SI's principal. During that time in the 1980s, according to Stoller, SI engaged in the business of importing sporting goods such as tennis rackets from manufacturers in Taiwan and other Asian countries.

15. In or about January 1990, Stoller was evicted from the business premises of SI. By that point, while SI nominally moved to Stoller's house, it was defunct as a business. As Stoller subsequently admitted during a 2001 deposition, and contrary to his prior sworn statements otherwise to the Courts and the U.S. Trademark Office, SI had at best only "very nominal, or de minimis" sales by and throughout the 1990s.

16. No longer conducting legitimate operations by or in about 1990, SI and Stoller focused their energies on a new "business" model. This included, in particular, the implementation of a widespread scheme of asserting rights to trademarks, including by way of purported federal registrations, that SI and Stoller knew they had no rights to in order to fraudulently extract money from businesses and individuals.

17. Among other things, Stoller was well aware that common law trademark rights are acquired only through sufficient bona fide use in commerce and that such use is also required for the legitimate acquisition and maintenance of use-based federal trademark registrations. Even though SI was effectively dissolved and thus not using any marks in commerce in a manner and to an extent necessary for trademark rights, SI and Stoller nevertheless represented that they owned non-existent trademark rights and sought to assert them by demanding the payment of license fees and by threatening and filing sham litigation for the purpose of extorting money or property from their victims. Between 1995 and 1997 alone, SI and Stoller filed no fewer than 35 trademark lawsuits in the United States District Court for the Northern District of Illinois alone. A list of those cases is attached as Exhibit A hereto and is incorporated herein by this reference.

18. The Seventh Circuit and this Court found that the suits filed and prosecuted by SI and Stoller were part of a pattern of vexatious litigation that falsely claimed rights to marks they did not own and had no lawful right to assert. Those rulings included the following.

(a) In *S Industries, Inc. v. Centra 2000, Inc.*, 249 F.3d 625, 627-29 (7th Cir. 2001), the Seventh Circuit found that SI and Stoller's assertion of trademark rights was groundless and affirmed an award of attorneys' fees against SI for filing "meritless claims" and engaging in other litigation misconduct, which the Seventh Circuit found was part of a "pattern of abusive and improper litigation with which the company and Lee Stoller, its sole shareholder, have burdened the courts of this circuit." Although this suit resulted in a fee award against SI and/or Stoller, upon information and belief such award has not been paid.

(b) In *S Indus., Inc. v. Stone Age Equip., Inc.*, 12 F. Supp. 2d 796, 798-99, 810 (N.D. Ill. 1998) (Castillo, J.), the Court awarded attorney's fees against SI for its "continuing pattern of bad faith litigation." The Court also found that the documentary evidence submitted by SI and Stoller was "highly questionable" and "perhaps fabricated" and that Stoller's sworn testimony was "inconsistent, uncorroborated, and in some cases, demonstrably false."

(c) In *S Industries, Inc. v. Diamond Multimedia Sys., Inc.*, 17 F. Supp. 2d 775, 779 (N.D. Ill. 1998) (Andersen, J.), the Court awarded fees against SI based on findings that its claims were "patently frivolous" and that it had "apparently taken a legitimate procedure designed to protect trademark rights and turned [it] into a means of judicial extortion."

19. In addition to filing and prosecuting numerous sham lawsuits in the Courts, SI and Stoller instituted and prosecuted a flurry of sham proceedings before the United States Trademark Trial and Appeal Board ("TTAB" or the "Board") based on their fraudulent claims of trademark rights. Those proceedings resulted in decisions that included the following findings by TTAB:

(a) In *S Indus., Inc. and Central Mfg. Co. v. JL Audio, Inc.*, Opposition No. 110,672, Order of May 13, 2003 (TTAB), the Board stated that "Mr. Stoller's and opposers' litigation strategy of delay, harassment and even falsifying documents in other cases is well documented" and further noted Stoller's history of being "sanctioned, individually, for making material misrepresentations."

(b) In *S Indus., Inc. and Central Mfg. Co. v. Casablanca Indus., Inc.*, Cancellation No. 92024330, Order of Oct. 3, 2002 (TTAB), the Board likewise observed that Defendant Central Mfg.'s and Stoller's "litigation strategy of delay, harassment, and falsifying documents in other cases is well documented."

(c) In *S Indus., Inc. v. S&W Sign Co., Inc.*, Opposition No. 91102907 (Dec. 16, 1999), the Board noted that "[t]he lack of credibility of Mr. Stoller is a matter of public record."

(d) In *S. Indus. Inc. v. Lamb-Weston Inc.*, 45 U.S.P.Q.2d 1293, 1295 (TTAB 1997), the Board found that SI and Stoller had made "fraudulent" statements under oath in order to backdate pleadings filed with the Board.

Defendants' Fraudulent Acquisition Of Federal Registrations From SI

20. SI, through Stoller, purported to assign several federal trademark registrations and applications to Defendant Central Mfg. Many of the alleged assignments were dated on or about June 5, 1994, but were not recorded with the U.S. Trademark Office until various times in or after 1998. The registrations and applications allegedly assigned by SI to Defendant Central Mfg. include those that are listed in Exhibit B hereto and are incorporated herein by this reference.

21. The assignments from SI to Defendant Central Mfg. for the registrations and applications listed in Exhibit B hereto were knowingly and deliberately fraudulent on the part of Stoller and Defendant Central Mfg. Defendant Central Mfg., Defendant Stealth and Stoller also utilized these purported registrations as vehicles to perpetrate an intentional pattern of fraud on a significant number of persons and companies, as well as on the Courts and TTAB. Among other things:

(a) SI had ceased operating as an actual business years before the alleged assignments. Not only had SI's rights in the marks accordingly been abandoned (assuming they ever existed), but the subsequent purported assignments were not accompanied by any assets or existing, on-going business. Nor did the assignment agreements -- which recited that the transfers of the registrations were only for nominal consideration -- reflect any such transfer of any assets or existing, on-going business. As such, and as has been known to Defendants at all material times, because no existing good will accompanied them, the ostensible transfers were assignments-in-gross that rendered invalid both the registrations and any common law rights, even assuming any such rights ever once existed.

(b) According to sworn testimony by Stoller, SI had allegedly transferred ownership of most or all of the registrations and applications set forth in Exhibit B to Defendant Central Mfg. in or about 1994. Nevertheless, after the alleged assignments, SI and Stoller continued to fraudulently hold out SI as the owner of intellectual property and to fraudulently file and prosecute, in the name of SI, lawsuits in the Courts and proceedings before TTAB. In the United States District Court for the Northern District of Illinois during the years 1996 and 1997, SI and Stoller initiated at least 35 suits in SI's name that misrepresented that SI was the owner of the registrations and applications asserted in those cases and that SI was the owner of the common law trademark rights asserted in those cases. See Exhibit A hereto.

(c) Likewise, in TTAB, SI and Stoller initiated numerous proceedings in SI's name that alleged SI was the owner of the registrations, both after SI had ceased to effectively exist and after SI had purportedly transferred the registrations to Defendant Central Mfg. Examples of such fraudulently commenced and prosecuted proceedings in TTAB include without limitation each of the following:

Proceeding No.	Registration No.	Filing Date of Proceeding by SI and Stoller	Date of Alleged Assignment of Registration to Central Mfg.	Other Party to Proceeding
91110672	1717010	05/29/1998	12/29/1997	JL AUDIO, INC
91110659	2140524	03/23/1998	06/05/1997	ENTRA TECHNOLOGIES COMPANY
92027323	2057613	01/23/1998	11/01/1997	ROSE'S RESTAURANTS INC.
91108615	1326765	11/17/1997	06/05/1997	INTRACO FOODS PTE LTD.
91107902	1623790	09/12/1997	06/05/1996	REALITY BYTES, INC
91107648	2064576	09/03/1997	06/05/1997	GLOBAL UPHOLSTERY COMPANY
91107040	1326765	07/10/1997	06/05/1997	ST. JOSEPH LIGHT & POWER CO
91106515	1326765	06/06/1997	06/05/1997	SENTRACHEM LIMITED
91110350	1615004	05/01/1998	09/01/1997	KAYDON CORPORATION
91109973	1615004	03/25/1998	09/01/1997	MANCO PRODUCTS, INC
91108480	1615004	11/05/1997	09/01/1997	TERMINATOR TURTLE, LP

(d) Stoller and SI also filed knowingly fraudulent papers with the U.S. Trademark Office in order to unlawfully maintain the registrations that had allegedly been

transferred to Defendant Central Mfg. For example, SI, through Stoller, purported to assign Registration No. 1,564,751 for AEROSPACE to Defendant Central Mfg. on or about June 5, 1994. Nevertheless, on or about November 11, 1994, SI, through Stoller, filed a sworn statement with the U.S. Trademark Office to obtain supposed incontestability status for the registration that averred SI had continuously been using the mark on the goods listed in the registration, that it was still doing so and that SI was the owner of the purported registration. Even to this day, SI holds itself out as the purported owner of Registration No. 1,564,751.

(e) The registrations and applications listed in Exhibit B attached hereto were, and are, invalid and fraudulent for the further, independent reason that the alleged assignments from SI were to a non-existent entity. The assignee named by SI and Stoller in their transfer documents and in their filings with the Courts and TTAB is listed as "Central Mfg. Co." Although a company named Central Mfg. Inc. apparently is a legal entity under the laws of Delaware, Central Mfg. Co. does not exist and never has existed. Nor was Stoller's misidentification inadvertent. Rather, as the Court found in *Central Mfg. Co. v. Pure Fishing Inc.*, No. 05 C 725 (N.D. Ill) (Lindenberg, J.) as discussed further below, Stoller's misrepresentations about the corporate status of "Central Mfg. Co." were intentional so as to mislead and defraud those who dealt with the non-existent "Central Mfg. Co." and to perpetrate a fraud on the Courts by enabling and concealing Defendants' false assertions of trademark rights.

(f) In addition, Stoller has obtained, through baseless assertions of rights and by threatening and instituting sham litigation, the transfer of trademark applications and registrations previously held by third parties to Defendant Stealth and Defendant Central Mfg. These include without limitation U.S. Trademark Application Nos. 74-735,867, 74-735,868, 74-493,718, 74-475,481, 74-340,300, 74-476,028, 74-630,176, 74-734,680, and 74-534,766 as well as U.S. Trademark Registration Nos. 1,717,010, 1,766,806 and 2,269,113. Upon information and belief, these transfers were also invalid assignments-in-gross, including without limitation in that they were not accompanied by any assets or existing, on-going business, and furthermore were not validly maintained, including without limitation in that the alleged marks were not used in commerce in connection with the goods or services set forth in the applications and registrations. Nevertheless, Defendants have misused these applications and registrations to claim rights they do not own, to fraudulently demand licensing fees and to threaten sham

lawsuits against others, despite Defendants' knowledge that such applications and registrations are not, and were not, valid.

Defendants Continue, And Expand, Their Pattern Of Fraud

22. Since the time of the alleged assignment of the registrations and applications from SI, Defendant Central Mfg., Defendant Stealth and Stoller have engaged in, and continue to engage in, numerous fraudulent business practices as part of a scheme to extort money and property from innocent individuals and innocent companies, both large and small. As described further below, these practices include:

- (a) false claims, including through the creation and circulation of fraudulent commercial documents, that non-existent entities are actual, legitimate businesses and that such non-existent entities have ownership and/or licensing rights to trademarks;
- (b) false claims of right to intellectual property that Defendants know they do not own and have no colorable right to;
- (c) false claims to own federal trademark registrations that Defendants know they do not own and in some instances do not even exist;
- (d) the filing of fraudulent documents with U.S. government agencies;
- (e) representations that Defendants offer or have offered goods or services that they have not, and in some cases never have, supplied;
- (f) false representations that they provide legal services, even though they are not admitted in any State to practice law;
- (g) unlawful threats to disseminate, and the unlawful dissemination of, false representations about targeted companies or individuals in the media or to the public if they do not pay money or surrender rights as demanded by Defendants; and
- (h) threatening and instituting sham trademark lawsuits and other frivolous legal proceedings.

23. This and other Courts repeatedly have confirmed that Defendants continue to engage in a pattern of falsely claiming rights to marks they do not own, including by the fabrication of evidence and the provision of false testimony, and continue to attempt to enforce those non-existent rights by threatening and filing frivolous litigation, including in some instances by the use of false names. In addition to the decisions involving Stoller, Defendant Central Mfg. and SI that are discussed above, such decisions include the following

(a) In *Central Mfg. Co. v. Brett*, No. 04 C 3049 (N.D. Ill) (Coar, J.), the Court ruled that Defendant Central Mfg. and Stoller lacked the trademark rights they had claimed and on that basis, among others, entered judgment against them. It further observed that "Stoller appears to be running an industry that produces often spurious, vexatious, and harassing federal litigation" and recited the findings by "several courts in this district" that Stoller and Defendant Central Mfg. are "engage[d] in a pattern and practice of harassing legitimate actors for the purpose extracting a settlement amount." The Court ordered them to pay an award of attorneys' fees based on findings that "Leo Stoller and his companies present paradigmatic examples of litigants in the business of bringing oppressive litigation designed to extract settlement" and that they had offered "questionable, and seemingly fantastical documents" and "inconsistent, uncorroborated, or arguably false testimony." As a further part of that decision, the Court reviewed and summarized the terms of the "settlement agreements" that Stoller and Defendant Central Mfg. alleged evidence their trademark rights and found that they, in fact, confirmed such Defendants had "engage[d] in a pattern and practice of harassing legitimate actors for the purpose of extracting a settlement amount. The judicial system is not to be used as an aid in such deliberate, malicious, and fraudulent conduct."

(b) In *Central Mfg. Co. v. Pure Fishing, Inc.*, No. 05 C 725 (N.D. Ill) (Lindenberg, J.), the Court entered judgment against Defendant Central Mfg. as a sanction for Defendant Central Mfg.'s and Stoller's abuse of the legal process. In doing so, the Court found that Stoller "has earned a reputation for initiating spurious and vexatious federal litigation." In the case before it, the Court found that Stoller, Defendant Central Mfg. Co. and their counsel had engaged in "gross misconduct" and "unethical conduct" which included Stoller's signing of pleadings with counsel's name even though Stoller is not a lawyer; had brought motions "that lacked any evidentiary support" and were otherwise "baseless"; and had evinced "flagrant contempt for this Court" and "an appalling lack of regard" for the judicial process. In particular, the Court ruled that "Central Mfg. Co., through Mr. Stoller," and their counsel violated Federal Rule of Civil Procedure 11(b) "by maintaining that Central Mfg. Co. was a Delaware corporation," even though it was not. As it explained:

Contrary to the statements in Central Mfg. Co.'s initial and amended complaints, it is not an independent legal entity and is not incorporated under the laws of Delaware. Central Mfg. Co. filed an amended complaint with this Court on May

26, 2005 stating that it was a Delaware corporation, while almost simultaneously filing a motion before Judge Hart stating that Central Mfg. Co. was a d/b/a for Central Mfg. Inc. See *Columbia Pictures Industries, Inc. v. Stoller, et al.*, 05 C 2052. Plaintiff, through Mr. Stoller, filed this case under a false name. Since the inception of this case, and unquestionably prior to filing the amended complaint, Mr. Stoller knew that he had not incorporated Central Mfg. Co. However, Mr. Stoller likely attempted to conceal this fact from the Court because the trademark registrations that are the basis for the infringement claims, state that Central Mfg. Co., not Central Mfg. Inc., owns sole title to the disputed marks. The conduct of Central Mfg. Co., through Mr. Stoller, is akin to the conduct in *Dotson*, 321 F.3d 663. In *Dotson*, the Seventh Circuit upheld dismissal of a plaintiff's case with prejudice as a sanction for filing suit under a false name. *Id.* at 668. Accordingly, Central Mfg. Co. and Mr. Stoller deserve the same sanction for filing suit on [be]half of a false corporation.

(c) In *Central Mfg. Co. v. Medtronic Sofamor Danek Inc.*, Opposition Nos. 9115485 and 91154617 (TTAB Feb. 19, 2004), the Board imposed Rule 11 sanctions against Defendant Central Mfg. for filing motions that were "without merit, constitute harassment, and can only be assumed to have been brought for purposes of delay."

(d) In *Central Mfg. Inc. v. Third Millennium Tech. Inc.*, 61 U.S.P.Q. 1210, 1214-15 (TTAB 2001), the Board found that Stoller and Defendant Central Mfg. had "engaged in a pattern" of submitting papers that were based on "false statements and material misrepresentations." It ruled, in particular, that Stoller and Defendant Central Mfg. had filed requests for extensions of time on the basis of non-existent settlement negotiations and had "acted in bad faith and for improper purposes, i.e., to obtain additional time to harass the applicant, to obtain unwarranted extension of the opposition period, and to waste resources of applicant and the Board."

24. Undeterred by these and similar rulings, Defendants to this day have continued and even expanded, their fraudulent scheme by now falsely claiming that they own rights in and have the right and ability to license, many thousands of trademarks. As described below, Defendants have repeatedly made these misrepresentations in commercial advertising and to hundreds of companies and individuals, including Plaintiff, targeted by Defendants for extortion.

25. Since November 2005 alone, Defendants filed more than 1800 requests for extensions of time to oppose applications for trademark registrations that had been published by the United States Trademark Office. Simultaneous with this proliferation of filings, Defendants have sought to extract money or property out of at least many hundreds of applicants by asserting that Defendants purportedly own rights to all of these many hundreds of marks which have been the subject of those applications.

26. Many of these extortionate demands and false representations directed to applicants for registration are evidenced in Defendants' sham filings with the Trademark Office itself. For example, Defendants' April 12, 2006 request for an extension of time to oppose Application Serial No. 78192386 for "VP VENTURES" includes the following:

Please contact (773-589-0915 FAX) VENTURE BRAND LICENSING to resolve this trademark controversy VENTURE v VP VENTURES and/or merely file an Express Abandonment! See rentamark.com, the nationally renowned trademark licensing and enforcement firm since 1974 for all of your VENTURE BRAND LICENSING, trademark valuations, expert witness testimony and trademark litigation support services, ie., brief writing, trademark searches, legal research, appeals, etc.

A true and correct copy of the April 12, 2006 request is attached hereto as Exhibit C.

27. Many of Defendants' more than 1800 filings included virtually identical language, except that they substitute a different alleged licensing entity that purports to have a name supposedly similar to the mark which was the subject of the application -- such as "FLIA BRAND LICENSING," "FINGO BRAND LICENSING," "SKILL BRAND LICENSING," "MERMAID BRAND LICENSING," "DIAMOND BRAND LICENSING," "STRA BRAND LICENSING," "WORKOUT BRAND LICENSING," "FRIENDS NETWORK BRAND LICENSING," "SIFI BRAND LICENSING," "PM BRAND LICENSING," "NANO BRAND LICENSING," "HAPPY BRAND LICENSING," "LAKE BRAND LICENSING" and "RUNNER BRAND LICENSING." True and correct copies of examples of these additional requests are attached hereto as Exhibit D.

28. The representations contained in Defendants' more than 1800 filings described above as well as their associated communications were, and are, knowingly false.

(a) The multitude of licensing companies claimed by Defendants do not exist, nor did they own the purported rights to the marks claimed. Not only did Stoller's bankruptcy

filing in December 2005 make no mention that he has ownership interests in any of these hundreds of supposed entities, but by an Order dated July 14, 2006 TTAB ruled that neither Stoller nor his supposed entities owned the rights they proclaimed to have. In its July 14, 2006 Order, TTAB initially referenced the "pattern of misconduct and abuse of the TTAB's processes" over the course of "many years" by Stoller and the purported entities associated with him. Although TTAB had ordered Defendants to provide "for each of the marks for which you requested an extension of time to file an opposition, evidence that supports a claim that you may be damaged by registration of the mark" and to "demonstrate that the extension requests were not filed for improper purposes but, instead, were based on cognizable rights you may have arising under the Trademark Act," Defendants provided no such proof: "Your submissions do not substantiate your rights in any of the claimed marks, let alone support a colorable claim of damage. . . . You submitted no evidence of products or services bearing these alleged marks, no evidence that you have sold any products or services under these marks, and no evidence of your advertising of goods or services with these marks." As TTAB observed, the evidence Defendants did submit only served to "reinforce the conclusion that you are holding up thousands of applications in an attempt to coerce applicants to license, i.e., 'rent,' trademarks to which you have not demonstrated any proprietary right." TTAB thus found that Defendants had "filed the extension requests for improper purposes, namely, to harass the applicants to pay you to avoid litigation or to license one of the marks in which you assert a baseless claim of rights. For those violations, which were deemed to constitute "egregious" misconduct, the Board imposed an array of sanctions, including dismissal of the TTAB proceedings filed by Defendants which were the result of their frivolous requests for extension of time. A true and correct copy of TTAB's July 14, 2006 Order is attached hereto as Exhibit E.

(b) Furthermore, Defendants are not qualified to practice law in any state and are not entitled to engage in the practice of law. Nevertheless, in their abusive filings described above, Defendants have solicited payment for the provision of legal services such as "brief writing," "drafting pleadings" and "legal research." Not only do such acts constitute the unauthorized practice of law by Defendants, but Defendants tout these false representations in order to cause targeted victims to erroneously believe that Defendants are authorized to engage in the practice of law, including for its *in terroriam* effect and to deceive victims into capitulating to their extortionate demands.

29. Defendants also have made fraudulent representations in advertising and promotions through commercial web sites that they have published and displayed, and continue to publish and display.

30. Defendant Stealth and Stoller have represented on the site located at www.rentamark.com, and continue to represent, that "RENTAMARK.COM is an independent, full service, international licensing and merchandising agency. RENTAMARK.COM owns and controls over 10,000 famous trademarks specializing in the trademark licensing business." Elsewhere on that site, Defendant Stealth and Stoller represent: "RENTAMARK.COM is able to license your company with any one of our famous trademarks that will allow your business to sell its products and services worldwide. Below are our Licensed Word Marks. To view our e-Marks, simply click on the button in the control panel." That page then links to other pages that list many thousands of terms that Defendants claim to own and have the right to license. True and correct hard copy excerpts from Defendants' web site pages are attached hereto as Exhibits F and G.

31. The foregoing representations contained on Defendants' site are false. As to all or virtually all of the marks to which Defendants claim rights, Defendants do not have, and never have had, subsisting federal registrations for such marks and have not used such terms as marks or trade names in interstate commerce. Furthermore, Stoller's bankruptcy filing in December 2005 made no mention that he has purported ownership interests in any of the thousands of marks listed on the rentamark.com web site.

32. Confirming the bad faith and extortionate purpose behind Defendants' ever proliferating, false claims of right, Defendants' latest campaign also came on the heels of recent Court actions that raise the prospect of imposing substantial monetary liability for Defendants' frivolous legal proceedings and other misconduct. The *Central Mfg. Co. v. Brett* decision quoted above was issued on September 30, 2005. This was soon followed by the decision quoted above in *Central Mfg. Co. v. Pure Fishing, Inc.* on November 16, 2005. In both cases, the Court ruled that Defendant Central Mfg. and Stoller are liable to pay attorneys' fees and costs, and the parties in those cases are seeking more than \$700,000 in reimbursement from Defendant Central Mfg. and Stoller.

Defendants' Scheme To Defraud Targeting Plaintiff Google

33. It is in the context of Defendants' expanded scheme of making spurious claims of right to many thousands of marks, and their continuing pattern of unlawfully demanding licensing fees and threatening and filing sham legal proceedings, that Defendants targeted Plaintiff Google.

34. As one of the some 1800 requests for extension of time filed by Defendants with TTAB since November 2005, Defendant Central Mfg. and Stoller sought on November 27, 2005 a request for an extension of time to oppose an application for registration filed by Plaintiff Google. A true and correct copy of Defendants' November 27, 2005 request, which was sent by means of the U.S. mail and interstate wires on or about November 27, 2005 and at times thereafter, is attached hereto as Exhibit II.

35. On or about November 29, 2005, by means of the U.S. mail and interstate wires Defendants sent a letter that purported to be on the letterhead of an entity called "GOOGLE BRAND PRODUCTS & SERVICES," which claimed to have been in business "SINCE 1981." In it, Defendants alleged to "hold common law rights" in the mark GOOGLE and to "have been using the similar mark GOOGLE for many years." The letter was signed "Leo Stoller GOOGLE." A true and correct copy of Defendants' November 29, 2005 letter and its attachments is annexed hereto as Exhibit I.

36. The attachments to the November 29, 2005 letter were also sent by means of U.S. mail and the interstate wires. In the proposed "Agreement To Discontinue Use (Covenant Not To Sue)" and the proposed "Settlement Agreement" attached to the letter, Stoller and Defendant Stealth proclaimed their "ownership of the mark GOOGLE," and the signature block to the proposed agreement was signed by Stoller for "GOOGLE" and as a "[r]epresentative of GOOGLE." Furthermore, both documents purported to identify Defendant Stealth (under the alias "Rentamark") as "Google." Elsewhere in the attachments, Defendants purported to identify the entity preparing the attachments as an entity named "GOOGLE" and included an alleged notice that the materials were "© GOOGLE 2000."

37. In the attachments to the November 29, 2005 letter sent by U.S. mail and interstate wires, Defendants also repeatedly represented that they owned a federal trademark registration for "Google" by use of the "®" symbol, including in the attachments entitled "Why

Obtain A GOOGLE® License . . .," "GOOGLE® Licensing Program Licensee Requirements," "GOOGLE® Licensing Program," and "Licensing GOOGLE® Enables You To . . .".

38. In or about April or May 2006, Defendants sent by U.S. mail to Plaintiff correspondence with a return address label which falsely represented that it had been sent by an entity called "GOOGLE LICENSING [sic]" and which reflected Defendants' address in Oak Park, Illinois. (The exact day of this fraudulent mailing cannot be ascertained because in violation of U.S. Postal Service Regulations, Defendants omitted the date from their postage meter stamp.) A true and correct copy of this mailing label is attached hereto as Exhibit J.

39. On April 10, 2006, Stoller and Defendant Stealth transmitted to Plaintiff by interstate wires two documents that purported to be from an entity called "GOOGLE™ BRAND TRADEMARK LICENSING." True and correct copies of these faxes from Defendants are attached hereto as Exhibits K and L.

40. Beginning on or about April 28, 2006, Stoller and Defendant Stealth also represented on the rentamark.com web site that that "GOOGLE" was, and is, among the marks that they purport to "own and control" and that they offer for licensing to third parties. True and correct copies of the relevant web pages are attached hereto as Exhibit M.

41. Each of the foregoing representations of fact by Defendants recited above in paragraphs 35 through 40 above were, and are, false and made by Defendants with the intent to deceive. As Defendants have known at all relevant times, those statements were false in at least each of the following respects:

(a) Defendants knowingly misrepresented the existence of an entity or entities variously called by Defendants as "GOOGLE BRAND LICENSING AND PRODUCTS," "GOOGLE LICENSING [sic]" and "GOOGLE™ BRAND TRADEMARK LICENSING." No such entities exist, but are a fabrication by Defendants, and the commercial letterhead, fax cover sheets, labels and other commercial documents allegedly reflecting their existence are fraudulent.

(b) Defendants' representations to have common law rights in or to "Google" as a mark or trade name are fraudulent. Defendants own no right, title or interest of any kind in "Google" as a mark, trade name or designation of origin. Defendants have not used "Google" as a mark or trade name, whether directly or through any licensee, in connection with bona fide sale of goods or services. No segment of the consuming public associates "Google" with Defendant or with any goods or services originating from or associated with Defendants. Defendants have

no right to license "Google" as a mark or trade name to any person or entity. Indeed, because Defendants' claim of right to "Google" was part and parcel of their more than 1800 filings with TTAB since November 2005, TTAB already has found pursuant to the July 14, 2006 Order that Defendants' assertion of rights to the "Google" mark was "baseless" and made for the unlawful purpose of seeking to extort money from Plaintiff. For those reasons, TTAB dismissed outright Defendant Central Mfg.'s sham opposition proceeding against Plaintiff. A true and correct copy of TTAB's dismissal Order is attached hereto as Exhibit N. Nevertheless, to this day and as shown above, Defendants continue to hold themselves out as the owner of rights to the "Google" mark and offer to license "Google" as a mark to third parties.

(c) Defendants' further claims that they have a federal trademark registration for "Google," made through their repeated uses of the statutory federal registration notice "R" and elsewhere, are false. Neither Defendants nor Stoller own any federal registration for "Google."

42. Defendants also have made materially false representations of fact regarding Defendants' purported success in litigation and in TTAB proceedings for the purpose of deceiving and coercing their victims into paying money and bolstering their false claims of right to trademarks, including as to "Google." Examples of such misrepresentations include:

(a) In a March 31, 2006 email to Plaintiff sent by means of the interstate wires, Defendants, through Stoller, falsely asserted that "99% of my opponents opt to settle" and that "Google is in the 1% category that refused to pay any deference to my early on trays [sic] for a quick settlement." A true and correct copy of the March 31, 2006 email is attached hereto as Exhibit O.

(b) According to claims on Defendants' rentmark.blogspot.com web site beginning on or about April 20, 2006 and continuing through the present: "Stoller has thus far prevailed in over 90% of its [sic] police actions against third party infringers. Companies like Wal-Mart, K-Mart and hundreds of other well known American companies have acknowledged Stoller's superior rights to its [sic] marks as a result of trademark litigation." A true and correct hard copy printout of Defendants' relevant web pages is attached hereto as Exhibit P.

(c) Beginning on or about April 20, 2006 and continuing through the present Defendants claimed on the www.rentmark.blogspot.com web site that "STOLLER CANCELS THE GOOGLE TRADEMARK." See Exhibit P attached hereto.

(d) Beginning on or about June 16, 2004 and continuing through the present, Defendants claimed on the www.rentmark.blogspot.com web site that "Leo Stoller has participated in over 200 inter party [sic] proceedings over 25 years prevailing in [sic] over 98% of the time and over 60 district court trademark cases." A true and correct hard copy printout of Defendants' relevant web pages is attached hereto as Exhibit Q.

43. The foregoing representations of fact by Defendants set forth in paragraph 42 above were, and are, false. Neither Defendants nor Stoller have cancelled any registration owned by Plaintiff. Moreover, Defendants' representations as to its "success" in litigation are fictional. Defendants have not prevailed in "over 90%" or "over 95%" of its legal actions or obtained settlements from "99%" of those companies and individuals Defendants have targeted. To the contrary, as the Court observed in the *Brett* decision discussed above: "no Court has ever found infringement of any trademark allegedly held by Stoller or his related companies in any reported opinion." Indeed, as described above, Courts have repeatedly found lawsuits brought by Defendants and Stoller to be part of a pattern of sham litigation and have repeatedly sanctioned them for their groundless claims of trademark rights, their fabrication of evidence, their provision of false testimony and their other abuses of the judicial system.

44. In addition to their repeated assertion and dissemination of materially false statements, Defendants also made repeated unlawful threats against Plaintiff. These include without limitation:

(a) Defendants' November 29, 2005 letter attached as Exhibit I hereto contained threats to bring sham legal proceedings and to harass, including by threatening to conduct "extensive discovery" which included depositions of Applicant's "executive officers," and referenced the fact that the mere filing of a legal proceeding, regardless of its lack of merit, would cost Plaintiff at least \$150,000. In exchange for refraining from inflicting such damage, Defendants demanded that Plaintiff either pay them money in the amount of at least \$100,000 or else cease all use of GOOGLE in connection with Plaintiff's business.

(b) Defendants' March 31, 2006 email attached as Exhibit O hereto threatened to "refe[r]" Plaintiff's executives "to the US Attorney for a perjury charge should they lie under oath."

(c) In a February 9, 2006 email, Stoller and Defendant Stealth threatened to publicize their allegations, which they claimed would mean "Google's stock won't be worth

\$5.00 a share" and would result in "the total destruction" of Applicant. A true and correct copy of the February 9, 2006 email is attached hereto as Exhibit R.

(d) In a March 2, 2006 email, Stoller and Defendant Central Mfg again threatened to publicize their allegations with the intention of "driv[ing] down Google stock price" and then concluded with the statement that "I would not be surprised [sic] if Google goes out of business by the conclusion of this proceeding." A true and correct copy of the March 2, 2006 email is attached hereto as Exhibit S.

COUNT 1

(15 U.S.C. § 1125(a)(1)(B) -- Against All Defendants)

45. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 43 above, as though fully set forth at length.

46. Defendants have made and disseminated, and continue to make and disseminate, false statements of fact in commercial promotions and advertisements about their goods, services and commercial activities. Such misrepresentations by Defendants include without limitation those set forth in paragraphs 26(a) through 31, 40, 42(b)-(d) and 43 above. Such statements are literally false and have a tendency to deceive a substantial segment of their audience.

47. Defendants have caused and continue to cause their false and misleading statements to enter interstate commerce, including by means of the Internet.

48. By reason of the acts alleged herein, Defendants have misrepresented, in commercial advertising and promotion, the nature, characteristics and qualities of their goods, services and commercial activities in violation of 15 U.S.C. § 1125(a)(1)(B).

49. Defendants' acts complained of herein have damaged and will continue to damage Plaintiff irreparably. Plaintiff has no adequate remedy at law for these wrongs and injuries. The damage to Plaintiff includes harm to its reputation that money cannot compensate. Plaintiff is, therefore, entitled to an injunction restraining and enjoining Defendants and their agents, servants and employees, and all persons acting thereunder, in concert with, or on their behalf, from engaging in false advertising and from otherwise making or utilizing false and misleading statements in connection with the promotion, advertisement or sale of goods, services and commercial activities.

50. Plaintiff has been and is likely in the future to be injured as result of Defendants' false statements. Plaintiff is entitled to recover three times its damages, to an accounting of Defendants' profits and to disgorgement of Defendants' ill-gotten gains, together with Plaintiff's attorneys' fees and costs, pursuant to 15 U.S.C. § 1117.

COUNT II

(18 U.S.C. §§ 1962(c) and 1964(c) -- Against All Defendants)

51. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 44 above, as though fully set forth at length.

52. Stoller is a "person" within the meaning of 18 U.S.C. § 1961(3). Stoller, Defendant Central Mfg. and Defendant Stealth constitute an enterprise within the meaning of 18 U.S.C. § 1961(4) in that they constitute a union and group of individuals and entities associated in fact although not a legal entity. Said enterprise evinces a hierarchy and structure separate and apart from the pattern of racketeering alleged herein, including without limitation in that Defendant Central Mfg. and Defendant Stealth purport to engage in legitimate activities in addition to the unlawful activities alleged in this Complaint.

53. Defendant Central Mfg., Defendant Stealth and Stoller, directly and indirectly as stated in 18 U.S.C. § 1962(c), execute an enterprise in and affecting interstate commerce by fraudulent, deceitful and extortionate practices as the term "enterprise" is defined in 18 U.S.C. § 1961(4), including through without limitation the predicate acts of mail fraud and wire fraud and the predicate acts of extortion. In particular, these racketeering activities include:

(a) Acts And Threats Involving Extortion: On or about the date indicated in and as described in paragraph 44(b) above, Defendant Central Mfg., Defendant Stealth and Stoller, without lawful authority and with an intent to cause another to perform or to omit the performance of any act, communicated a threat to accuse a person of an offense, in violation of 720 ILCS 5/12-6 and 720 ILCS 5/15-5, and furthermore to harm the business repute of another, in violation of 720 ILCS 5/15-5, all of which accordingly constitute acts and threats involving extortion which are chargeable under State law and punishable by a term of imprisonment of more than one year as set forth in 18 U.S.C. § 1961(1). In addition, on or about the dates indicated in and as described in paragraph 44 above, Defendant Central Mfg., Defendant Stealth and Stoller, with an intent to extort money and other property from Plaintiff, sent and delivered

letters and other writings that expressly and impliedly threatened to inflict unlawful injuries to property in violation of California Penal Code §§ 519 and 523, which pursuant to California Penal Code §§ 520 and 523 constitute acts and threats involving extortion which are chargeable under State law and punishable by a term of imprisonment of more than one year as set forth in 18 U.S.C. § 1961(1).

(b) Mail Fraud: On or about the dates indicated in and as described in paragraphs 35 through 38 above, Defendant Central Mfg., Defendant Stealth and Stoller, having devised a scheme or artifice to defraud Plaintiff by false representations, did for the purpose of furthering and executing such scheme or artifice to defraud, transmit and cause to be transmitted by means of mail communications in interstate commerce, writing, signs, signals, pictures or sound, in violation of 18 U.S.C. § 1341 and 18 U.S.C. § 2.

(c) Wire Fraud: On or about the dates indicated in and as described in paragraphs 35 through 43 above, Defendant Central Mfg., Defendant Stealth and Stoller, having devised a scheme or artifice to defraud Plaintiff by false representations, did for the purpose of furthering and executing such scheme or artifice to defraud, transmit and cause to be transmitted by means of wire communications in interstate commerce, writings, signs, signals, pictures or sound, in violation of 18 U.S.C. § 1343 and 18 U.S.C. § 2.

54. Defendant Central Mfg., Defendant Stealth and Stoller have executed within the past six years, and continue to execute, a pattern of racketeering activity within the meaning of 18 U.S.C. § 1961(1). The pattern of racketeering activity, as defined by 18 U.S.C. §§ 1961(1) and (5), presents both a history of unlawful conduct and a distinct threat of continuing unlawful activity in the future. Such activity consists of multiple acts of racketeering, is interrelated, not isolated, and is perpetrated for the same or similar purposes. Such activity extends over a substantial period of time, up to and beyond the date of this Complaint, and threatens to continue and to project itself into the future, including without limitation in that the predicate acts and offenses alleged herein have been part of an ongoing entity's regular way of doing business. Such activities occurred after the effective date of 18 U.S.C. §§ 1961 *et seq.*, and the last such act occurred within 10 years after the commission of a prior act of racketeering activity. Defendant Central Mfg., Defendant Stealth and Stoller have done so by performing the acts set forth above, including but not limited to the acts set forth in paragraphs 35 through 43 above, which constitute repeated violations of 18 U.S.C. § 1342 relating to wire fraud and 18 U.S.C. § 1341

relating to mail fraud, and the acts set forth in paragraph 44 above, which constitute repeated violations of State laws prohibiting extortion within the meaning of 18 U.S.C. § 1961(1).

55. The enterprise as described herein is at all relevant times a continuing enterprise because, among obvious reasons, it is designed to unlawfully extract and has damaged legitimate businesses including Plaintiff based upon fraudulent statements and threats of extortion as alleged herein.

56. As a direct and proximate result of the racketeering activity alleged herein, including by reason of the predicate acts constituting such pattern of racketeering activity by said Defendants, Plaintiff has suffered, and will in the future suffer, injury in its business or property.

57. Pursuant to 18 U.S.C. § 1964(c), Plaintiff is entitled to recover damages, to be trebled in accordance with statute, plus interest, costs and attorneys' fees, by reason of the pattern of racketeering activity and violations of 18 U.S.C. § 1962(c) alleged herein.

COUNT III

(Unfair Competition -- Against All Defendants)

58. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 44 above, as though fully set forth at length.

59. Defendants are, and at all relevant times have been, perpetrating a scheme of fraudulently claiming trademark and other rights, including without limitation by means of false marketing materials, by the use and circulation of fraudulent letterhead and other documents, by threatening and filing sham legal proceedings and by other illegal means as described herein, for the purpose of extorting money and property from others, including Plaintiff.

60. Defendants' statements, misrepresentations, threats and conduct alleged herein were made not for the purpose of protecting or enforcing any legitimate, or even colorable, rights, but instead for the bad faith purpose of unlawfully extracting money from Plaintiff Google. Said statements, misrepresentations, threats and conduct by Defendants, made for such illegitimate reason, constitute unfair competition under the laws of this State and other jurisdictions.

61. Defendants' acts complained of herein have damaged and will in the future continue to damage Plaintiff Google irreparably. Plaintiff has no adequate remedy at law for these actual and threatened wrongs and injuries. The damage to Plaintiff includes harm to its

good will and reputation in the marketplace that money cannot compensate. Plaintiff is therefore entitled to injunctive relief restraining Defendants and their agents, servants, and employees, and all persons acting thereunder, in concert with them, or on their behalf, from further engaging in acts of unfair competition as against Plaintiff.

62. As consequence of the foregoing acts of unfair competition by Defendants, Plaintiff is also entitled to an award of its actual damages, together with its costs and attorney's fees, and to the disgorgement of Defendants' ill-gotten gains.

63. Defendants' acts were in bad faith, in conscious disregard of Plaintiff's rights and were performed with the intention of depriving Plaintiff of its rights. Accordingly, Defendants' conduct merits, and Plaintiff seeks, an award of punitive damages in an amount sufficient to punish Defendants and deter such conduct in the future.

Prayer for Relief

WHEREFORE, Plaintiff Google prays that this Court enter judgment as follows:

A. Enter an injunction prohibiting Defendants from engaging in further acts of false advertising, further acts of racketeering activity and further acts of unfair competition as to Plaintiff, pursuant to 15 U.S.C. § 1116, 18 U.S.C. § 1964(a) and state law;

B. Enter an order requiring the dissolution and/or reorganization of the enterprise and requiring the divestment of any interest, whether direct or indirect, therein, pursuant to 18 U.S.C. § 1964(a);

C. Award Plaintiff three times its damages and Defendants' profits, together with Plaintiff's reasonable attorney's fees and costs, pursuant to 15 U.S.C. § 1117 and state law;

D. Award Plaintiff treble damages and costs of suit, including reasonable attorneys' fees, pursuant to 15 U.S.C. § 1117 and 18 U.S.C. § 1964(c);

E. Award Plaintiff punitive damages in an amount sufficient to punish Defendants and deter such misconduct in the future;

F. Award Plaintiff prejudgment interest, as appropriate; and

G. Grant Plaintiff such other and further relief as this Court deems just and proper.

DATED: January 18, 2007

Respectfully submitted,

GOOGLE INC.

By: *Michael T. Zeller*
One of Its Attorneys

Michael T. Zeller (ARDC No. 6226433)
QUINN EMANUEL URQUHART OLIVER
& HEDGES, LLP
865 South Figueroa Street, 10th Floor
Los Angeles, California 90017
(213) 443-3000
(213) 443-3100 (fax)

William J. Barrett (ARDC No. 6206424)
BARACK, FERRAZZANO, KIRSCHBAUM,
PERLMAN & NAGELBERG, LLP
333 West Wacker Drive, Suite 2700
Chicago, Illinois 60606
(312) 629 5170
(312) 984-3150 (fax)

UNITED STATES BANKRUPTCY COURT, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

RE:
LEO STOLLER

CASE NO. 05 B 64075

CHAPTER 13

JUDGE: JACK B SCHMETTERER

Debtor
SSN XXX-XX-7972

TRUSTEE'S FINAL REPORT AND ACCOUNT

The case was filed on 12/20/2005 and was not confirmed.

The case was converted to chapter 7 without confirmation 09/01/2006.

CREDITOR NAME	CLASS	CLAIM AMOUNT	INTEREST PAID	PPINCIPAL PAID
BRETT BROTHERS INC	NOTICE ONLY	NOT FILED	.00	.00
COUNSEL PRESS	UNSECURED	11439.57	.00	.00
HI TEC SPORTS USA	NOTICE ONLY	NOT FILED	.00	.00
QUERREY & HARROW	UNSECURED	25382.40	.00	.00
NEWDEA INC	NOTICE ONLY	NOT FILED	.00	.00
PURE FISHING	UNSECURED	.00	.00	.00
PORTFOLIO RECOVERY ASSOC	UNSECURED	400.00	.00	.00
BENJAMIN BERNEMAN & BROM	UNSECURED	20826.40	.00	.00
LANCE JOHNSON	UNSECURED	3275.00	.00	.00
ASSET ACCEPTANCE LLC	UNSECURED	1296.04	.00	.00
ILLINOIS DEPT OF REVENUE	PRIORITY	317.91	.00	.00
RESURGENT CAPITAL SERVIC	UNSECURED	2070.02	.00	.00
WEINBERG RICHMOND LLP	ATTORNEY	.00	.00	.00
B-LINE	UNSECURED	215.48	.00	.00
RICHARD M FOGEL	ADMINISTRATIV	NOT FILED	.00	.00
MELVIN J KAPLAN	DEBTOR ATTY	.00	.00	.00
TOM VAUGHN	TRUSTEE			.00
DEBTOR REFUND	REFUND			.00

Summary of Receipts and Disbursements:

	RECEIPTS	DISBURSEMENTS
TRUSTEE	.00	
PRIORITY		.00
SECURED		.00
UNSECURED		.00
ADMINISTRATIVE		.00
TRUSTEE COMPENSATION		.00
DEBTOR REFUND		.00
TOTALS	.00	.00

Based on the above information, the Trustee requests the court enter an order discharging the Trustee, releasing the Trustee's surety from any further liability related to the above proceedings.

Dated: 02/08/07

/s/ Tom Vaughn

TOM VAUGHN
CHAPTER 13 TRUSTEE

 *** ERROR TX REPORT ***

TX FUNCTION WAS NOT COMPLETED

TX/RX NO 0707
 CONNECTION TEL 17734747165
 SUBADDRESS
 CONNECTION ID
 ST. TIME 02/20 13:32
 USAGE T 00'00
 PGS. SENT 0
 RESULT NG #018 BUSY/NO SIGNAL

United States District Court, Northern District of Illinois

AE

Name of Assigned Judge or Magistrate Judge	George W. Lindberg	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	05 C 725	DATE	12/12/2006
CASE TITLE	Central Manufacturing Co., et al. Vs. Pure Fishing, Inc., et al.		

DOCKET ENTRY TEXT

It is hereby ordered that judgment is entered in favor of Pure Fishing in the amount of \$969,751.81, which includes an award of attorney fees and nontaxable costs of \$759,303.20, taxable costs in the amount of \$5529.71, and a current value of \$209,918.90 for the \$134,083.41 judgment in Counterclaim IV with post-judgment interest, according to 28 U.S.C. § 1961, from July 1998 to date at the rate of 5.25%. Enter agreed final order. Civil case terminated.

Docketing to mail notices

AE

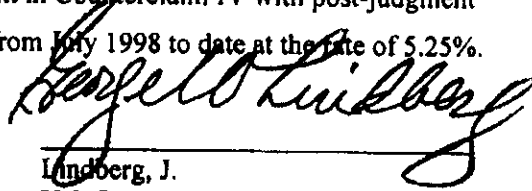
**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

CENTRAL MFG. CO., *et al*)
)
 Plaintiff/Counter)
 Defendant,)
)
 v.)
)
 PURE FISHING, INC., *et al*)
)
 Defendant/Counter)
 Plaintiff,)

Case No: 1:05-CV-00725
Honorable George E. Lindberg

AGREED FINAL ORDER

IT IS HEREBY ORDERED that judgment is entered in favor of Pure Fishing in the amount of \$969,751.81, which includes an award of attorney fees and nontaxable costs of \$759,303.20, taxable costs in the amount of \$5529.71, and a current value of \$204,918.90 for the \$136,083.41 judgment in Counterclaim IV with post-judgment interest, according to 28 U.S.C. § 1961, from July 1998 to date at the rate of 5.25%.



Lindberg, J.
U.S. District Court Judge

12/12/2006

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	George W. Lindberg	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	05 C 725	DATE	2/3/2006
CASE TITLE	Central Mfg. Co., et al. vs. Pure Fishing, Inc., et al.		

DOCKET ENTRY TEXT

Defendants/counter-plaintiffs' "response to December 20, 2005 order" [206, 210] is granted in part and their second motion for judicial notice [211] is denied. No appearance required on the noticed motion date.

■ [For further details see text below.]

Docketing to mail notices

STATEMENT

The Court construes defendants/counter-plaintiffs' "response to December 20, 2005 order" [206] and "reply" [210] as a motion to stay the proceedings. In light of ongoing bankruptcy proceedings, this case is automatically stayed as to Leo Stoller. See 11 U.S.C. § 362(a)(1). The Court also has the inherent power to stay the proceedings as to the remaining counter-defendants. *Landis v. North American Co.*, 299 U.S. 248, 254-55 (1936). In their response to what the Court has construed as a motion to stay the proceedings [208], the counter-defendants do not object to a complete stay in this case, although they do correctly note that such a stay is not automatic under 11 U.S.C. §362. Instead, their pleading seeks an order that the counter-plaintiffs have waived their non-pecuniary claims of relief as to each counter-defendant and their pecuniary damage claims as to the non-bankrupt, corporate counter-defendants. Counter-defendants argue that the counter-plaintiffs violated the Court's December 20, 2005 order and waived their rights to damages by filing a motion to stay in lieu of a brief in support of their alleged damages.

In the interests of efficiency and judicial economy and because of the relationship between Mr. Stoller and his wholly-owned corporate counter-defendants, the Court exercises its discretion and stays all proceedings in this case, pending the resolution of Mr. Stoller's bankruptcy proceedings. The Court also finds that counter-plaintiffs, based on their own admission, have waived their rights to pecuniary damages as to each counter-defendant except Mr. Stoller. However, counter-plaintiffs have not waived their other damage claims. Finally, counter-defendants' second motion for judicial notice is denied, without prejudice, and may be refiled once the stay in this case has been lifted.

U.S. DEPARTMENT OF JUSTICE

Northern District of Illinois

In Re.)
 Lance Johnson Esq.)
 William J. Factor Esq.)
 Sara E. Lorber Esq.)
 Michael Zeller Esq.)
 Et al)
 Respondents)

Complaint No. _____

Patrick J. Fitzgerald U.S. Attorney
 Att: Mr. David Gloekner, Criminal Chief
 Of the U.S. Attorney's Office
 Served. January 07, 2007
 USTP.Bankruptcy.Fraud@usdoj.gov
 Criminal.division@usdoj.gov

AMENDED BANKRUPTCY FRAUD COMPLAINT UNDER

TITLE 18 U.S.C. §152 & § 3571

RECEIVED
 2007 JAN -8 A 8:18
 U.S. DEPARTMENT OF JUSTICE
 CHICAGO, ILLINOIS

NOW COMES, Leo Stoller, Complainant, who alleges that Lance Johnson Esq., William J. Factor, Esq., and Sara E. Lorber Esq., allegedly conspired together in order to engaged in Federal Bankruptcy fraud scheme in order to swindle, Leo Stoller, a debtor in Case No. 05 B 64075 out of \$2,000,000 (2 million dollars) in fraudulent bankruptcy claims against Stoller estate, his famous trademark portfolio and trademark licenses. David Gloekner, Criminal Chief of the U.S. Attorney's Office, stated, "Bankruptcy laws enable individuals in obtaining a fresh start financially". Attorneys who use the bankruptcy system to defraud Debtors expose themselves to criminal prosecution. Mr. William T. Neary, United States Trustee said, "...abuse of the nation's bankruptcy laws will not be tolerated." The complaint evidences a massive abuse of the nation's bankruptcy laws by a number of well known bankruptcy lawyers against a pro se, debtor.

PARTIES

Leo Stoller, the complainant, filed a Chapter 13 Bankruptcy, which was converted to a Chapter 7 on August 31, 2006. Case No. 05 B 64075, Leo Stoller holds rights to a large portfolio of famous trademark (Intellectual Property) that Pure Fishing Co wants to take away:

Leo Stoller, Complainant
 7115 West North Avenue. #272
 Oak Park, Illinois 60302
 312-545-4554
[ldms4@hotmail.com/](mailto:ldms4@hotmail.com)

RESPONDENTS et al

**Attorneys for Pure Fishing Inc.
WILLIAM J. FACTOR Esq. (6205675)
Sara E. Lorber Esq. (6229740)
SEYFARTH SHAW LLP
131 South Dearborn Street
Suite 2400
Chicago, Illinois 60603
312 460-5000
312 460-7000 FAX
wfactor@seyfarth.com
slorber@seyfarth.com**

**Attorneys for Pure Fishing Inc.
Lance G. Johnson Esq.
Roylance, Abrams, Berdo
& Goodman, L.L.P.
1300 19th Street, N.W. Suite 600
Washington, D.C. 2006
202-659-9076
202-659-9344 FAX
[ljohnson@roylance.com/](mailto:ljohnson@roylance.com)**

FACTUAL BACKGROUND

Leo Stoller, 60, Complaint holds rights to a large portfolio of trademarks and polices and litigates to protect those trademarks. Leo Stoller and his companies, Central Mfg Inc., dba Central Mfg Co., (Delaware Corporation) and Stealth Industries, Inc., (a Delaware Corporation) brought a trademark infringement action Case No. 05 C 725 against Pure fishing Inc., in 2005. Leo Stoller held rights to 35 STEALTH Federal Trademarks, two of which were on fishing equipment. Pure Fishing Inc., adopted the mark STEALTH SPIDER WIRE. Pure Fishing purchased an unsatisfied judgment of \$136,000 against a former company of Leo Stoller's and asserted that judgment against Leo Stoller in the case No. 05 C 725. Leo Stoller offered to settle the said case with Pure Fishing for \$5,000 allowing Pure Fishing to retain their STEALTH SPIDER WIRE trademarks. Pure Fishing counters that they wanted all of Leo Stoller's 100 Federal Trademarks and/or to put Leo Stoller out of business or Pure Fishing would not settle.

Judge Lindberg dismissed Leo Stoller's complaint and granted a default judgment against Stoller and his corporations as a sanction for Leo Stoller signing, with the permission of his attorney, Peter Woods Esq., his name to several pleadings.

Leo Stoller filed a Chapter 13 Bankruptcy petition in Dec. of 2005 Case No. 05 B 64075.

On Feb. 3, 2006, Judge Lindberg granted Leo Stoller/Defendants/counter-plaintiffs "response to December 20, 2005 order"[206,210]. "The court (Judge Lindberg) also finds that counter-plaintiffs (Pure Fishing), based on their own admission, have waived their rights to pecuniary (monetary) damages as to each counter-defendant

(Central Mfg. Co., Stealth Industries, Inc.) except Mr. Stoller. In other words, Pure Fishing could not receive monetary damages against Central Mfg. Co. and Stealth Industries, Inc. See a true and correct copy of Judge Lindberg's Order dated 2/3/06

On September 1, 2006 Leo Stoller's chapter 13 was converted to a Chapter 7. Richard M. Fugal Esq. was appointed trustee. See a true and correct copy of Mr. William T. Notary's Sept. 05, 2006 letter to Mr. Fugal.

BANKRUPTCY FRAUD CHARGE

Respondents Lance Johnson, William J. Factor and Sara E. Lorber without informing the trustee, Richard Fogel of Judge Lindberg's order dated 2/3/06 see attached, wherein Pure Fishing had "waived their rights to pecuniary damages at to each counter-defendant (Central Mfg. Co., Stealth Industries, Inc.) Implemented a scheme to commit bankruptcy fraud on the court and on Mr. Stoller, by duping Mr. Fogel the Trustee representing Stoller's corporations, Central Mfg Co., and Stealth Industries, see attached Court Order dated Oct. 05, 2006 authorizing Mr. Fogel "to act on behalf of each of the Wholly-Owned Corporations in the capacity of sole shareholder of each respect corporation..." The said respondents swindled the trustee into signing a Local rule 54.3(a) Joint Statement in which Stoller's corporations would be liable to pay a monetary damage award of \$969,751.81. Pure Fishing Inc., attorneys, the Respondents William J. Factor, Lance G. Johnson and Sara E. Lorber hid and concealed from Mr. Fogel Judge Lindberg's Feb. 3, 2006 Order where Pure Fishing Inc., had waived its rights to monetary damages as to the corporate counter defendants, Central Mfg Co., and Stealth Industries, Inc. see attached order of Judge Lindberg dated Feb. 03,06

In addition, Respondents prepared an unlawful "Agreed Final Order" for Judge Lindberg signature. Judge Lindberg signed the respondents' unlawful order on 12/12/06. See attached

Stoller is asserting that Lance Johnson Esq., William Factor Esq., and Sara L. Lorber Esq., are guilty of violating title 18 U.S.C. §152 & §3571 by filing knowingly and willfully filing three false Bankruptcy claims. The said false Bankruptcy claims are listed on Leo Stoller Case No. 05-64075 Claims Register see attached true and correct copy of a Northern District of Illinois Claims Register for case No. 05-64075.

When Leo Stoller learned of the false claims that were being filed in his bankruptcy 05-64075 he notified the Trustee Mr. Richard Fogel. Mr. Fogel declined to do anything about Stoller allegations of false bankruptcy claims being filed. Fogel's office directed Leo Stoller, to the pro se U.S. Trustee's Office. Leo Stoller, pro se than filed a Motion before Judge Jack Schmetterer attempting to have the false some of the false claims dismissed. The Motion was heard on January 4, 2007. The trustee Richard Fogel was present. The judge declined Stoller's motions to dismiss the false claims. Stoller was then advised to call attention to the fraudulent bankruptcy claims to the Bankruptcy email hotline for bankruptcy fraud.

When Leo Stoller filed his original Chapter 13 Petition in December of 2005 there were claims of only \$69,000 against Leo Stoller's estate. Leo Stoller had offered to pay those claims and all of the administrative charges against his estate in order to affect an amicable resolution and dismissal of Leo Stoller Chapter 7 proceeding.

Now as a result of the Respondent's bankruptcy fraud there is now a total of \$2,335,000.00 of alleged bankruptcy FRAUD claims against Stoller's estate.

Stoller alleges that the following additional Bankruptcy claims are fraudulent. In view of the fact that the Trustee Richard Fogel is not taking any action to dismiss the said fraudulent claims. In view of the fact that Stoller has presented a motion to dismiss some of the claims before Judge Schmetterer and the said motion was denied for no valid lawful cause. It behooves the Justice Department to fully investigate the following additional fraudulent claims make against the bankruptcy of Leo Stoller:

FRAUDULENT BANKRUPTCY CLAIMS LISTED ON STOLLER NORTHERN DISTRICT OF ILLINOIS CLAIMS REGISTER THAT MUST BE INVESTIGATED BY THE DEPARTMENT OF JUSTICE

Stoller asserts that Claim No 8 .is fraudulent.

**Creditor #10669986 Claim No. 8 fraudulent claim \$740,315.36
Pure Fishing Inc.
Lance Johnson Esq.
Roy lance, Abrams, Bred & Goodman LLP
1300 19th Street N.W. Suite 600
Washington, D.C. 20036**

**Creditor #11050675 Claim No. 11 fraudulent claim \$250,000.00
Goggle Inc.
Michael Zeller Esq.
Quinn Emanuel et al
865 South Figueroa St, 10 Fl
Los Angeles, Ca 90017**

**Creditor #10669986 Claim No. 12 fraudulent duplicate claim \$969,751.81
Pure Fishing Inc.,
Lance Johnson Esq.
Roy lance, Abrams, Berdo & Goodman LLP**

**Creditor # 11071324 Claim No. 13 Fraudulent Claim for \$150,000
Wendy Morgan Esq.
Law Offices of Wendy R. Morgan
1845 East Rand Rd.
Arlington Heights, Il 60004-4356**

Creditor #11071324 Claim No. 14 Fraudulent Claim for \$30,000.00
Wendy Morgan Esq.
Law Offices of Wendy R. Morgan
1845 East Rand Rd.
Arlington Heights, IL. 60004-4356

Creditor #11071324 Claim No. 15 Fraudulent Claim for \$50,000.00
Wendy Morgan Esq.
Law Offices of Wendy R. Morgan
1845 East Rand Rd.
Arlington Heights, IL. 60004-4356

Creditor # 11074648 Claim No. 16 Fraudulent Claim for \$30,000.00
Lancope Inc. See true and correct copies of attached documents
Bryan g. Harrison Esq.
1600 Atlanta Financial Center
3343 Peachtree Road NE
Atlanta, Ga. 3-326-1044

Creditor #10669986 Claim No. 17 Fraudulent Claim \$131,760.00
Pure Fishing Inc.
Lance Johnson Esq.
Roylance, Abrams, Berdo & Goodman LLP
1300 19th Street N.W. Suite 600
Washington, D.C. 20036

THERE ARE A TOTAL OF \$2,351,182.71 (TWO MILLION THREE HUNDRED AND FIFTY ONE THOUSAND ONE HUNDRED AND EIGHT TWO AND 71/100 OF FRAUDULENT CLAIMS THAT HAVE BEEN FILED AGAINST LEO STOLLER ESTATE.

On August 30, 2006 Leo Stoller had \$69,000 in claims against his estate. Leo Stoller had offered the trustee, Richard Fogel \$100,000.00 to pay his creditors and the administrative costs of his estate.

Now there has been over \$2,351,182.71 of fraudulent claims filed against Stoller estate. The Trustee has failed to contest any of these said fraudulent claims. Stoller, pro se, brought a motion to dismiss certain claims on January 4, 2007 in front of Judge Jack B. Schmetterer. Judge Schmetterer asked the trustee what he wanted to do about the disputed claims. The trustee has refused to act and Judge Schmetterer denied Stoller's request to dismiss claims. Judge Schmetterer also denied Stoller motion to dismiss the Chapter 7 on January 4, 2007.

The above has defrauded Leo Stoller, pro se, and debtor named creditors; neither the court and/or the trustee care to investigate the \$2,351,182.71 in fraudulent claims. Leo Stoller was directed to notify the Criminal Division of the Justice Department of the on-going bankruptcy fraud being perpetrated by a series of lawyers by the filing of false bankruptcy claims against the estate of Leo Stoller.

SIMPLE RELIEF REQUESTED

The complainant is merely requesting that the Department of Justice write 8 letters to the claimants in Stoller's bankruptcy case regarding bankruptcy claims 8, 11, 12, 13, 14, 15, 16, and claim 17. Request that the said claimants provide the supporting documents for the said claims to the Justice Department. When and if the said claimants are unable to provide valid justification for the said claims, (which Stoller asserts there is no valid justification for the said \$2,000,000.00+ in false claims) for the Justice Department to take the necessary action under the law to bring the said claimants to justice for filing false claims in bankruptcy proceedings.

WHEREFORE, LEO STOLLER prays that the Justice Department investigate Stoller's allegations of Bankruptcy fraud regarding bankruptcy claims 8, 11, 12, 13, 14, 16, and claim 17 by the said Respondents who are alleged to have filed the fraudulent claims of over \$2,000,000.00

Respectfully Submitted,



/Leo Stoller/
7115 West North Avenue #272
Oak Park, Illinois 60302
312 545-4554

MSN Hotmail -

Page 1 of 2



ldms4@hotmail.com

Printed: Saturday, January 6, 2007 10:30 AM

From : L Lee <ldms4@hotmail.com>
Sent : Friday, December 22, 2006 11:56 AM
To : jalwin@shawgussis.com
Subject : RE: In re Stoller / Objection to Claims

Ms. Alwin,

I requested that the trustee object to certain claims that have been brought against my company and/or provide me with the procedural information to object myself, in view of the fact that the trustee has failed to object to the claims.

You informed that if I want object that the objection should be made be me and that you would or will not object and/or provide me with any procedural advise on how to object. You further directed me to contact the US Trustee's help desk to acquire procedural information on how to file my own objection to the disputed claims.

Most Cordially,

Leo Stoller
312-545-4554

From: "Janice Alwin" <jalwin@shawgussis.com>
To: "L Lee" <ldms4@hotmail.com>
CC: "Rick Fogel" <rfogel@shawgussis.com>
Subject: RE: In re Stoller / Objection to of Claim by Lancope Inc.
Date: Thu, 21 Dec 2006 15:09:24 -0600

Mr. Stoller:

I cannot provide you with legal advice. You may wish to contact the Help Desk at the U.S. Bankruptcy Clerk's Office for information.

I will duly note your comments and discuss them with the Trustee so that

he may determine what action, if any, is necessary.

Janice A. Alwin
Shaw Gussis Fishman Glantz
Wolfson & Towbin LLC
321 North Clark Street, Suite 800
Chicago, IL 60610
Tel: (312) 276-1323
Fax: (312) 275-0571
jalwin@shawgussis.com

-----Original Message-----

From: L Lee [<mailto:ldms4@hotmail.com>]
Sent: Thursday, December 21, 2006 3:06 PM
To: Janice Alwin
Subject: RE: In re Stoller / Objection to of Claim by Lancope Inc.

Ms. Alwin:

I am putting you on notice that I am disputing the Lancope claim. They do not have any judgment against me. Secondly, I am not liable for fees their client obtained in an opposition. Secondly, this opposition was dismissed by the trustee in opposition to my request. I am not liable for any Fees submitted by Lancope. Since I am action pro se in this

MSN Hotmail -

Page 2 of 2

proceeding, I need to know what I have to do procedural to object to the claim made by Lancope and my wife.

Do I have to file a fomral objection to these said claims with the court?

Most Cordially,

Leo Stoller

>From: "Janice Alwin" <jalwin@shawgussis.com>
>To: "L Lee" <kims4@hotmail.com>
>CC: "Rick Fogel" <rfogel@shawgussis.com>
>Subject: In re Stoller / Proof of Claim by Lancope Inc.
>Date: Thu, 21 Dec 2006 13:46:41 -0600
>
>Mr. Stoller:
>
>The Trustee requested that I forward to you a copy of the proof of
>claim filed by Lancope Inc. Please see the attached.
>
>Janice A. Alwin
>Shaw Gussis Fishman Glantz
>Wolfson & Towbin LLC
>321 North Clark Street, Suite 800
>Chicago, IL 60610
>Tel: (312) 276-1323
>Fax: (312) 275-0571
>jalwin@shawgussis.com <<mailto:jalwin@shawgussis.com>>
>
>
>

><< Stoller.ClaimbyLancopeInc(A0154399).PDF >>

Get FREE Web site and company branded e-mail from Microsoft Office Live
<http://clk.atdmt.com/MRT/go/mcrssaub0050001411mrt/direct/01/>

The MSN Entertainment Guide to Golden Globes is here. Get all the scoop.
<http://tv.msn.com/tv/globes2007/>

Northern District of Illinois Claims Register

05-64075 Leo Stoller CASE CONVERTED on 09/01/2006

Honorable Judge: Jack B. Schmetterer **Chapter:** 7

Office: Chicago

Last Date to file claims: 12/20/2006

Trustee: Richard M Fogel

Last Date to file (Govt): 12/20/2006

Creditor: # 10561302

Portfolio Recovery Associates, LLC

PO Box 41067

Norfolk, Va 23541

Claim No: 1

Filed: 01/13/2006

Entered: 01/13/2006

Status:

Filed by: CR

Entered by: Garcia, Dolores

Modified:

Unsecured claimed: \$400.00

Total claimed: \$400.00

History:

1-1 01/13/2006 Claim #1 filed by Portfolio Recovery Associates, LLC , total amount claimed: \$400 (Garcia, Dolores)

Description:

Remarks:

Creditor: # 10543184

Counsel Press

C/O Teller, Levit, et al

11 E. Adams, 8th Floor

Chicago, IL 60603

Claim No: 2

Filed: 01/19/2006

Entered: 01/19/2006

Status:

Filed by: AT

Entered by: Posen, Kevin

Modified:

Unsecured claimed: \$11439.57

Total claimed: \$11439.57

History:

2-1 01/19/2006 Claim #2 filed by Counsel Press , total amount claimed: \$11439.57 (Posen, Kevin)

Description:

Remarks:

Creditor: # 10601427

Benjamin, Berneman and Brom, LLC

175 W. Jackson, Ste. 1600

Chicago, IL 60604

Claim No: 3

Filed: 02/16/2006

Entered: 02/16/2006

Status:

Filed by: CR

Entered by: Berneman, Beverly

Modified:

Unsecured claimed: \$20826.40

Total claimed: \$20826.40*History:*3-1 02/16/2006 Claim #3 filed by Benjamin, Berneman and Brom, LLC , total amount claimed: \$20826.4 (Berneman, Beverly)*Description:**Remarks:**Creditor:* # 10601452

Querrey & Harrow, Ltd.

175 W. Jackson, Ste. 1600

Chicago, IL 60604

Claim No: 4*Filed:* 02/16/2006*Entered:* 02/16/2006*Status:**Filed by:* CR*Entered by:* Benjamin, Robert*Modified:*

Unsecured claimed: \$25382.40

Total claimed: \$25382.40*History:*4-1 02/16/2006 Claim #4 filed by Querrey & Harrow, Ltd. , total amount claimed: \$25382.4 (Benjamin, Robert)*Description:**Remarks:**Creditor:* # 10610239

ASSET ACCEPTANCE LLC

PROVIDIAN

PO BOX 2036

WARREN MI 48090

Claim No: 5*Filed:* 02/23/2006*Entered:* 02/23/2006*Status:**Filed by:* CR*Entered by:* Elliott, Christina*Modified:*

Unsecured claimed: \$1296.04

Total claimed: \$1296.04*History:*5-1 02/23/2006 Claim #5 filed by ASSET ACCEPTANCE LLC , total amount claimed: \$1296.04 (Elliott, Christina)*Description:**Remarks:**Creditor:* # 10647980

Illinois Department of Revenue

Bankruptcy Section

100 W Randolph St., Level 7-400

Claim No: 6*Filed:* 03/17/2006*Entered:* 03/17/2006*Status:**Filed by:* CR*Entered by:* Horton, Patience*Modified:*

Illinois Northern Bankruptcy Live System - Modify the description fo... <https://ecf.ilnb.uscourts.gov/cgi-bin/SearchClaims.pl?95193445>

Chicago IL 60601

Priority claimed: \$317.91

Total claimed: \$317.91*History:*6-1 03/17/2006 Claim #6 filed by Illinois Department of Revenue , total amount claimed: \$317.91 (Horton, Patience)*Description:**Remarks:**Creditor:* # 10659981

LVNV Funding LLC its successors and assigns

as assignee of Citibank NA
c/o Resurgent Capital Services
PO Box 10587

Greenville, SC 29603-0587

Claim No: 7*Filed:* 03/24/2006*Entered:* 03/24/2006*Status:**Filed by:* CR*Entered by:* Gaines, Susan*Modified:*

Unsecured claimed: \$2070.02

Total claimed: \$2070.02*History:*7-1 03/24/2006 Claim #7 filed by LVNV Funding LLC its successors and assigns , total amount claimed: \$2070.02 (Gaines, Susan)*Description:**Remarks:**Creditor:* # 10669986

Pure Fishing, Inc.

c/o Lance Johnson

Royslance, Abrams, Berdo & Goodman,
LLP

1300 19th Street, N.W. Suite 600

Washington, D.C. 20036

Claim No: 8*Filed:* 03/30/2006*Entered:* 03/30/2006*Status:**Filed by:* CR*Entered by:* Lauter, Richard*Modified:*

Unsecured claimed: \$740315.36

Total claimed: \$740315.36*History:*8-1 03/30/2006 Claim #8 filed by Pure Fishing, Inc. , total amount claimed: \$740315.36 (Lauter, Richard)*Description:**Remarks:**Creditor:* # 10605699

Lance Construction Co., Inc.

Lance Johnson

323 Hillcrest Drive

Claim No: 9*Filed:* 03/30/2006*Entered:* 03/31/2006*Status:**Filed by:* CR*Entered by:* Henley, Mary*Modified:*

Illinois Northern Bankruptcy Live System - Modify the description fo... <https://ecf.ilnb.uscourts.gov/cgi-bin/SearchClaims.pl?951934459>

Algonquin, IL 60102

Unsecured claimed: \$3275.00

Total claimed: \$3275.00*History:*

9-1 03/30/2006 Claim #9 filed by Lance Construction Co., Inc. , total amount claimed: \$3275 (Henley, Mary)

*Description:**Remarks:**Creditor:* # 10688087

B-Real, LLC/Chase Bank USA, N.A.

Mail Stop 550

2101 Fourth Ave., Suite 1030

Seattle, WA, 98121

Claim No: 10*Filed:* 04/10/2006*Entered:* 04/10/2006*Status:**Filed by:* CR*Entered by:* Kane, Steven*Modified:*

Unsecured claimed: \$215.48

Total claimed: \$215.48*History:*

10-1 04/10/2006 Claim #10 filed by B-Real, LLC/Chase Bank USA, N.A. , total amount claimed: \$215.48 (Kane, Steven)

*Description:**Remarks:**Creditor:* # 11050675

Google Inc.

c/o Michael Zeller

Quinn Emanuel et al

865 South Figueroa St, 10th Fl

Los Angeles, CA 90017

Claim No: 11*Filed:* 12/07/2006*Entered:* 12/07/2006*Amended By Claim No:* 11*Status:**Filed by:* CR*Entered by:* Barrett, William*Modified:*

Priority claimed: \$250000.00

Total claimed: \$250000.00*History:*

- 11-1 12/07/2006 Claim #11 filed by Google Inc. , total amount claimed: \$250000 (Barrett, William)
- 11-2 12/20/2006 Amended Claim #11 filed by Google Inc. , total amount claimed: \$250000 (Barrett, William)

*Description:**Remarks:*

Illinois Northern Bankruptcy Live System - Modify the description fo... <https://ecf.ilnb.uscourts.gov/cgi-bin/SearchClaims.pl?95193445>**Creditor: # 10669986**Pure Fishing, Inc.
c/o Lance Johnson
Roylance, Abrams, Berdo & Goodman,
LLP
1300 19th Street, N.W. Suite 600
Washington, D.C. 20036**Claim No: 12**Filed: 12/19/2006
Entered: 12/19/2006**Status:**Filed by: CR
Entered by: Factor, William
Modified:

Unsecured claimed: \$969751.81

Total claimed: \$969751.81**History:**

- 12-1 12/19/2006 Claim #12 filed by Pure Fishing, Inc. , total amount claimed: \$969751.81 (Factor, William)

Description:**Remarks:****Creditor: # 11071324**Wendy Morgan
Law Offices of Wendy R. Morgan
1845 East Rand Rd
Arlington Heights, Il. 60004-4356**Claim No: 13**Filed: 12/19/2006
Entered: 12/19/2006**Status:**Filed by: AT
Entered by: Mosberg, Clay
Modified:

Unsecured claimed: \$150000.00

Total claimed: \$150000.00**History:**

- 13-1 12/19/2006 Claim #13 filed by Wendy Morgan , total amount claimed: \$150000 (Mosberg, Clay)

Description:**Remarks:****Creditor: # 11071324**Wendy Morgan
Law Offices of Wendy R. Morgan
1845 East Rand Rd
Arlington Heights, Il. 60004-4356**Claim No: 14**Filed: 12/19/2006
Entered: 12/19/2006**Status:**Filed by: AT
Entered by: Mosberg, Clay
Modified:

Unsecured claimed: \$30000.00

Total claimed: \$30000.00**History:**

- 14-1 12/19/2006 Claim #14 filed by Wendy Morgan , total amount claimed: \$30000 (Mosberg, Clay)

Description:**Remarks:****Creditor: # 11071324**Wendy Morgan
Law Offices of Wendy R. Morgan
1845 East Rand Rd**Claim No: 15**Filed: 12/19/2006
Entered: 12/19/2006**Status:**Filed by: CR
Entered by: Mosberg, Clay
Modified:

Illinois Northern Bankruptcy Live System - Modify the description fo... <https://ecf.ilnb.uscourts.gov/cgi-bin/SearchClaims.pl?95193445>

Arlington Heights, Il. 60004-4356

Unknown claimed: \$50000.00

Total claimed: \$50000.00*History:*

- 15-1 12/19/2006 Claim #15 filed by Wendy Morgan , total amount claimed: \$50000 (Mosberg, Clay)

*Description:**Remarks:**Creditor:* # 11074648Lancope, Inc. [History](#)

Bryan G Harrison, ESQ

1600 Atlanta Financial Center

3343 Peachtree Road NE

Atlanta, GA 30326-1044

Claim No: 16*Filed:* 12/20/2006*Entered:* 12/20/2006*Status:**Filed by:* CR*Entered by:* Nylen, Sven*Modified:***Total claimed:***History:*

- 16-1 12/20/2006 Claim #16 filed by Lancope, Inc. , total amount claimed: \$0 (Nylen, Sven)

*Description:**Remarks:* (16-1) SEE EXHIBIT A*Creditor:* # 11073980

Pure Fishing, Inc. (ADMINISTRATIVE)

c/o Lance Johnson

Roylance, Abrams, Berdo & Goodman

1300 19th St., NW Suite 600

Washington, D.C. 20036

Claim No: 17*Filed:* 12/20/2006*Entered:* 12/20/2006*Status:**Filed by:* AT*Entered by:* Lorber, Sara*Modified:*

Admin claimed: \$131760.00

Total claimed: \$131760.00*History:*

- 17-1 12/20/2006 Claim #17 filed by Pure Fishing, Inc. , total amount claimed: \$131760 (Lorber, Sara)

*Description:**Remarks:**Creditor:* # 11076084

GoDaddy Software, Inc

Gallagher & Kennedy, P.A.

Attn: Joseph E Cotterman

Claim No: 18*Filed:* 12/21/2006*Entered:* 12/22/2006*Status:**Filed by:* CR*Entered by:* Henley, Mary*Modified:*

Illinois Northern Bankruptcy Live System - Modify the description fo... <https://ecf.ilnb.uscourts.gov/cgi-bin/SearchClaims.pl?95193445>

2575 East Camelback Road,
Phoenix, AZ 85016

Total claimed:

History:

- 18-1 12/21/2006 Claim #18 filed by GoDaddy Software, Inc , total amount claimed: \$0 (Henley, Mary)

Description: (18-1) Unliquidated

Remarks:

Creditor: # 11082709
C. William Michaels
1579 Dellsway Road
Baltimore, MD 21286

Claim No: 19
Filed: 12/27/2006
Entered: 12/28/2006

Status:
Filed by: CR
Entered by: Henley, Mary
Modified:

Unsecured claimed: \$2065.00

Total claimed: \$2065.00

History:

- 19-1 12/27/2006 Claim #19 filed by C. William Michaels , total amount claimed: \$2065 (Henley, Mary)

Description:

Remarks:

Claims Register Summary

Case Name: Leo Stoller
Case Number: 05-64075
Chapter: 7

Date Filed: 12/20/2005

Total Number Of Claims: 19

	Total Amount Claimed	Total Amount Allowed
Unsecured	\$1957037.08	
Secured		
Priority	\$250317.91	
Unknown	\$50000.00	
Administrative	\$131760.00	
Total	\$2389114.99	\$0.00

PACER Service Center

Transaction Receipt

01/05/2007 11:47:23

Illinois Northern Bankruptcy Live System - Modify the description fo... <https://ecf.ilnb.uscourts.gov/cgi-bin/SearchClaims.pl?9519,3448>

PACER Login:	it0085	Client Code:	
Description:	Claims Register	Search Criteria:	05-64075 Filed or Entered From: 9/7/2005 Filed or Entered To: 1/5/2007
Billable Pages:	2	Cost:	0.16

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS

RECEIVED
UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS

FEB 16 2007

KENNETH S. GARDNER, CLERK

In Re:)
)
)
LEO STOLLER,)
)
)
Debtor.)
)
)

Case No: 05-B-64075
Honorable Jack B. Schmetterer

**MOTION TO SPREAD OF RECORD DEBTOR'S
UNLAWFUL AND/OR DISPUTED CLAIMS**

NOW COMES the Debtor, Leo Stoller ("Stoller"), and moves to spread of record the Debtors disputed, unsubstantiated and/or fraudulent bankruptcy claims filed against debtors estate.

BACKGROUND

Debtor filed a chapter 13 Bankruptcy in December 20, 2005. According to the Chapter 13 Trustee Tom Vaughn final report and account filed on February 8, 2007, there was only \$65,221.43 in claims. These said claims existed prior to conversion of Leo Stoller's Chapter 13 to a Chapter 7 on August 31, 2006 by order of Judge Schmetterer. After the Appointment of the Chapter 7 Trustee, Richard Fogel who assumed control of Leo Stoller's corporations, Central Mfg Inc., d/b/a and Stealth Industries, Inc., Mr. Fogel solely and on behalf of Stoller's corporations entered into agreements and consent agreements with parties who were in litigation with Stoller's companies rather than litigating and protecting the assets of Leo Stoller's Estate. Mr. Fogel clearly abandoned Stoller's corporations and is solely responsible for the Bankruptcy claims of \$2,323,893.50.

Richard Fogel Trustee has refused to date to investigate Stoller's claims on his Claims Register.

SETTLEMENT OFFER

According to the Chapter 13 Trustee Tom Vaughn's final report and account, Mr. Vaughn lists \$65,221.43. See attached copy of Trustee's Final Report and Account attached

hereto and made a part hereof. Leo Stoller has offered to pay \$100,000 to the Chapter 7 Trustee, Richard Fogel, to settle with the legitimate creditors of Stoller's estate and to pay the administrative costs of this proceeding. Richard Fogel has refused to accept Stoller's offer of settlement for the legitimate creditors of payment of \$100,000.00. Mr. Fogel claims that Leo Stoller has more than \$100,000 in litigate creditors, but has refused to investigate the bankruptcy claims to Leo Stoller's estate which are listed on the attached true and correct copy of the said Northern District of Illinois Claims Register for case No. 05-64075. Leo Stoller has moved before this court to strike Stoller's invalid claims. This court had denied Stoller's motion to strike. Leo Stoller requested that the trustee, Mr. Richard Fogel investigate the alleged undocumented and unsupported bankruptcy claims amounting to over 2.2 million dollars which have been filed against Stoller's estate since Mr. Fogel was appointed trustee on September 5, 2005. Mr. Fogel has refused to investigate any bankruptcy claims to date. Stoller moved before this court to request written discovery, admissions, interrogatories, production of documents and notices of depositions in order to determine and establish the validity or non validity of the bankruptcy claims. The court denied Stoller's written discovery requests. See Feb. 02, 2007 court order.

STOLLER'S FORMAL OBJECTIONS TO CLAIMS SPREAD OF RECORD

Stoller now spreads of record his formal objections to the following unsubstantiated, undocumented, false bankruptcy claims listed on Stoller Claims Register. For the record, Leo Stoller disavows and rejects the following bankruptcy claims on Stoller Claims Register as unsupported and fraudulent bankruptcy claims. Stoller further disavows and rejects as valid any bankruptcy claim that has been filed against Leo Stoller estate as a result of any agreement that the Trustee, Richard Fogel entered into with any party, as the appointed shareholder of Leo Stoller's Corporations. Stoller asserts for the Trustee Richard Fogel to refuse to defend Stoller's corporations in litigation and lieu of defending them, for Mr. Fogel to enter into consent judgments resulting in over \$2,300,000 in additional claims being filed against Leo Stoller's personal Chapter 7 bankruptcy, represents a fraud on the Bankruptcy court and Stoller disavows and rejects responsibility for each and every claim that the Trustee Richard Fogel created by entering into without consulting with and/or authorized by Leo Stoller. False claims

that were entered into by Mr. Fogel as sole share holder of Stoller's corporations Central Mfg Inc., and Stealth Industries, Inc. Trustee Fogel has made the representations to this court that one hand Leo Stoller's corporations are nothing more than the "alter ego" of Leo Stoller and are not valid corporations, on the other hand Trustee Fogel has, when it was convenient for Mr. Fogel treated Leo Stoller's corporations as "valid" corporations when entering into numerous unauthorized (by Leo Stoller) settlement agreements with third parties in lieu defending Stoller's corporations against frivolous lawsuits.

Stoller lodges on the record is objections to the following false, unsupported bankruptcy claims listed on Stoller Official Claims Register.

Claim No. 1, Creditor #10561302 Portfolio Recovery Associates LLC false claim \$400.00

Claim No. 3 Creditor #10601427 Benjamin, Berneman and Brom disputed claim No. 3 \$20,826.40. This claim is disputed and subject to the Debtor's counter claim for attorney malpractice.

Claim No. 4 Creditor #10601452 Querrey & Harrow Ltd., This claim of \$25382.40 is disputed and subject to the Debtor's counter claim for attorney malpractice.

Claim No. 5 Creditor #10610239 Asset Acceptance LLC Providian. This claim of \$1296.04 is disputed.

Claim No. 8 Creditor #10669986 Pure Fishing, Inc., c/o Lance Johnson. This claim for \$740315.35 is a disputed fraudulent claim. Trustee Fogel has admitted that it is a "duplicative" claim. Attorney William Factor has admitted in front of Judge Hibbler, that claim No. 8 was only an "estimated" claim. As of this date Trustee Fogel has refused to investigate the fraudulent \$740,315.35 claim and has refused to remove this claim from Stoller's Claims Register. The debtor disavows Claim No. 8 for \$740,315.35.

Claim No. 11 Creditor Google Inc., #11050675 This \$250,000 unsupported, unlawful claim is disputed. The Creditor under no theory of law owes any money to Google Inc., as well known to Michael Zeller Esq., attorney for Google Inc., and the Trustee Fogel.

Claim No. 12. Creditor #10669986 Pure Fishing, Inc., This claim for \$969,751.81 represents a an alleged debt that was created solely by Trustee Fogel entering into a consent judgment on behalf of Stoller's corporations Central Mfg Inc., and Stealth Industries, Inc., without the

knowledge, consent, authorization or approval of the Debtor. This represents another illustration of the Trustee Fogel entering into a consent decree on behalf of the Stoller corporations rather than defending those corporations. Secondly, this conduct further evidences the Trustee's abandonment of the assets of the Debtor by failing to defend those corporate and consenting to an unjustified consent judgment which included a \$750,000.00 fee award in which the Trustee Fogel did not contest on attorney fees entry in the said award. Thirdly, Trustee Fogel entry into the "consent" judgment on behalf of Stoller's corporations illustrates that Trustee Fogel will treat Stoller's corporations as valid "corporate" entities when he chooses and will make representations to this court that Stoller's corporations are not "valid" corporate entities only the alter ego of Leo Stoller. The debtor completely disavows Trustee Fogel's consent judgment of \$969,751.81 which the creditor Pure Fishing, Inc., has not assessed against Leo Stoller's bankruptcy estate.

Claim(s) Number 13, 14, and 15, Creditor #11071324 for \$150,0000, \$30,000 and \$50,000. (\$230,000 if fraudulent claims) These claims are a fraud on the Bankruptcy court. There are no supporting documentation for such claims and there is no documentation that can be provided by this claimant in support of these claims as well known to Trustee Fogel. These claims were filed by attorney Wendy Morgan who is an admitted friend of Trustee Fogel. As of this date, Trustee Fogel has not investigated these claims and has objected to the debtor's investigation of these claims by filing a Motion to Quash the Debtor written discovery requests. The debtor completely disavows these three claims totally \$230,000 and states that under the circumstances Wendy Morgan's said Claims represents a fraud on the bankruptcy court.

Claim No. 16, Creditor #11074648 Lancop Inc., is another fraudulent claim asserted against the debtor's estate which Leo Stoller completely disavows.

Claim No. 17, Creditor #11073980 Pure Fishing Inc., files another fraudulent unsupported claim of \$131,760.00 against the estate of Leo Stoller. Leo Stoller attempted to file written discovery against this claimant, but Trustee Fogel filed a motion to quash Stoller written discovery request so that this claim could not be investigated by the debtor. Stoller disavows this claim as a fraud on the bankruptcy court.

Claim No. 18, creditor #11076084 Go Daddy Software Inc., also have no valid claim to assert against the debtor's estate. The debtor disavows Claim No. 18.

Claim No. 19, creditor #11082709 C. William Michaels filed a claim for \$2065.00 7 days late, the cut off date for filing claims against Stoller estate was Dec. 20, 2006. Stoller disavows this late filed claim.

SUMMARY

The debtor filed his Chapter 13 in Dec. 05. The Trustee Tom Vaughn filed a Final Report and Account on Feb. 08, 07 listing \$65,221.43 in claims against Stoller estate. Stoller Chapter 13 was converted to a Chapter 7 on August 31, 2006. On Sept 5, 2006 a Chapter 7 Trustee Richard Fogel was appointed. Since the appointment of Trustee Fogel the alleged claims asserted have increased from \$65,221.43 to \$2,389,114.00 as a direct result of Trustee Fogel refusing to represent Stoller's corporations Central Mfg Inc., and entering into consent judgments and settlements with third parties rather than defending the assets of the debtor's estate. Such conduct establishes that the Trustee Fogel has not only abandoned the assets of the debtor's estate, but is solely responsibility for encumbering the estate of the Debtor for an additional \$2,370,500.09 in claims. As of this date Trustee Fogel has not investigated these said claims and has thwarted the debtor from investigating the said claims by file a motion to quash the debtor's written discovery submitted to the claimants in order to establish the said claims.

As of this date February 12, 2007 there are now \$2,389,114.99 in claims listed in the Debtor's Claims Register. The Debtor is disavowing and disputing all of the claims that Trustee Richard Fogel entered into on behalf of Stoller's corporations, Central Mfg Inc., and Stealth Industries, Inc., without consulting with the debtor first and failing to first defend the debtor's corporations in a court of law against the third parties. Such a failure evidences a clear abandonment of the Debtors' corporations awns assets. The debtor requests that this court declare that trustee Fogel has abandoned the debtor's corporations and intellectual property.

WHEREFORE, the debtor spreads of record his formal objections to the claims against the estate of the debtor and prays that this court enter an order declaring that trustee Fogel has

abandoned the corporations and assets of the debtor.



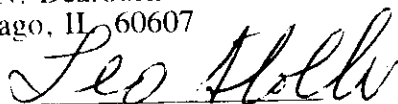
Leo Stoller, pro se
7115 W. North Avenue
Oak Park, Illinois 60302
(312) 545-4554
Email: ldms4@hotmail.com

Date: February 16, 2007

Certificate of Mailing

I hereby certify that the foregoing is being mailed first class mail to the following address:

Clerk of the Court
United States Bankruptcy Court
219 N. Dearborn
Chicago, IL 60607



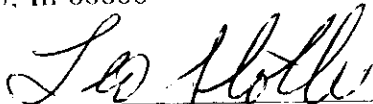
Leo Stoller
Date: February 16, 2007

Certificate of Service

I hereby certify that the foregoing is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to:

Richard M. Fogel, Trustee
Janice A. Alwin, Esq.
Counsel for Trustee
Shaw, Gussis, Fishman, Glantz,
Wolfson & Tow
321 N. Clark Street, Suite 800
Chicago, Illinois 60610

William J. Barrett
Barack, Ferrazzano, Kirschbaum
333 West Wacker Drive Suite 2700
Chicago, Ill 60606



Leo Stoller
Date: 2-16-07

AE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED
J N
MAR X 2 2007
MAR 2 2007
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

GOOGLE, INC.)
)
Plaintiff,)
)
vs.)
)
CENTRAL MFG. INC. a/k/a)
CENTRAL MFG. CO., a/k/a)
CENTRAL MFG. CO.(INC).,)
a/k/a CENTRAL MANUFACTURING)
COMPANY, INC. and a/k/a)
CENTRAL MFG. CO. OF ILLINOIS;)
and STEALTH INDUSTRIES, INC.)
a/k/a RENTAMARK and a/k/a)
RENTAMARK.COM,)
)
Defendants.)

Case No: 07-CV-385
Judge Kendall
Magistrate Judge Cole

NOTICE OF FILING

TO: Michael T. Zeller
Quinn, Emanuel, Urquhart,
Oliver & Hedges, LLP.
865 S. Figueroa Street, 10th Floor
Los Angeles, California 90017

William J. Barrett
Barack, Ferrazzano, Kirschbaum,
Perlman & Nagelberg, LLP.
333 W. Wacker Drive, Suite 2700
Chicago, Illinois 60606

Richard M. Fogel, Trustee
Janice A. Alwin
Shaw, Gussis, Fishman, Glantz,
Wolfson & Towbin LLC.
321 N. Clark Street, Suite 800
Chicago, Illinois 60610

PLEASE TAKE NOTICE that on the **2nd day of March, 2007**, there was filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, **Reply to Google's Opposition To Debtor Leo Stoller's Motion To Suspend Pending The Trademark Trial And Appeal Board's Decision On Defendant's Motion For Summary Judgment**, a copy of which is attached hereto.

I certify that I served this Notice mailing a copy to each person to whom it is directed at the address above indicated by depositing it in the U.S. Mail on this 2nd day of March, 2007, with proper postage prepaid.



Leo Stoller, *pro se*
7115 W. North Avenue
Oak Park, Illinois 60302
(773) 551-4827
Email: ldms4@hotmail.com

AE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED
J.N
MAR 2 2007
MAR 2 2007
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

GOOGLE, INC.)
)
Plaintiff,)
)
vs.)
)
CENTRAL MFG. INC. a/k/a)
CENTRAL MFG. CO., a/k/a)
CENTRAL MFG. CO.(INC).,)
a/k/a CENTRAL MANUFACTURING)
COMPANY, INC. and a/k/a)
CENTRAL MFG. CO. OF ILLINOIS;)
and STEALTH INDUSTRIES, INC.)
a/k/a RENTAMARK and a/k/a)
RENTAMARK.COM,)
)
Defendants.)

Case No: 07-CV-385
Hon. Virginia M. Kendall
Magistrate Judge Cole

**REPLY TO GOOGLE INC.'S OPPOSITION TO
DEBTOR LEO STOLLER'S MOTION TO SUSPEND PENDING THE
TRADEMARK TRIAL AND APPEAL BOARD'S DECISION ON
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

NOW COMES Leo Stoller in reply to Google, Inc.'s Opposition To Debtor Leo Stoller's Motion To Suspend Pending The Trademark Trial And Appeal Board's Decision On Defendant's Motion For Summary Judgment, and states as follows:

Google, Inc. argues that Trademark Trial and Appeal Board should suspend Stoller's petition for cancellation proceeding and allow this District Court proceeding to go first. Google misses the point for the following reason:

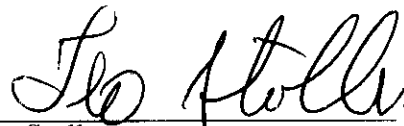
As the U.S. Supreme Court has said:

The declaratory judgment procedure will not be used to preempt and prejudice issues that are committed for initial decision to an administrative body or special tribunal any more than it will be used as a substitute for statutory methods of review Responsibility for effective functioning of the administrative process cannot be thus

transferred from the bodies in which Congress has placed it to the courts¹.

The distinction between all of the case law presented by Google in support of the Trademark Trial & Appeal Board suspending action before the TTAB and allowing a District Court proceeding to go forward does not apply in the case at bar. For Google, Inc. is attempting to preempt and prejudge issues that are committed for an initial decision to the TTAB. In other words, Google, Inc. is facing a motion for summary judgment in a petition for cancellation filed by Leo Stoller, President of Central Mfg. Inc. When a party is in a proceeding before the TTAB and facing a motion for summary judgment, a District Court proceeding cannot be used to short-circuit the TTAB from being able to rule on Stoller's motion for summary judgment.

WHEREFORE, Leo Stoller prays that this Court suspend this proceeding pending resolution of Stoller's Motion for Summary Judgment before the Trademark Trial & Appeal Board.



Leo Stoller, *pro se*
7115 W. North Avenue #272
Oak Park, Illinois 60302
312/ 545-4554
Email: ldms4@hotmail.com

Date: March 2, 2007

1. Public Service Comm'n v. Wycoff Co., 344 U.S. 237, 97 L. Ed. 291, 73 S. Ct. 236 (1952). See *Englishtown Sportswear Ltd. v. Tuttle*, 547 F. Supp. 700, 216 USPQ 488 (S.D.N.Y. 1982) (a court that bypasses the administrative system of the PTO impairs expeditious resolution and forfeits administrative expertise.) See §32:53 Declaratory judgment cannot short-circuit administrative remedies - exhausting administrative remedies before the Trademark Board - McCarthy on Trademarks.

Certificate of Mailing

I hereby certify that this motion is being hand-delivered in an envelope addressed to:

Clerk of the Court
United States District Court
219 S. Dearborn
Chicago, Illinois 60607



Leo Stoller

Date: March 2, 2007

Certificate of Service

I hereby certify that the foregoing is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to:

Richard M. Fogel, Trustee
Janice A. Alwin, Esq.
Counsel for Trustee
*Shaw, Gussis, Fishman, Glantz,
Wolfson & Towbin LLC.*
321 N. Clark Street, Suite 800
Chicago, Illinois 60610

Michael T. Zeller
Quinn, Emanuel, Urquhart,
Oliver & Hedges, LLP.
865 S. Figueroa Street, 10th Floor
Los Angeles, California 90017

William J. Barrett
Barack, Ferrazzano, Kirschbaum,
Perlman & Nagelberg, LLP.
333 W. Wacker Drive, Suite 2700
Chicago, Illinois 60606



Leo Stoller

Date: 3-2-07

§ 32:52

achieved jurisdiction over the issues.⁵

§ 32:53 **Declaratory judgment cannot short-circuit administrative remedies—exhausting administrative remedies before the Trademark Board**

West Key No. Digests References

Declaratory Judgment ⇔ 66 to 68, 237, 274.1

Trade Regulation ⇔ 334.1, 345.1

KeyCite™: Cases and other legal materials listed in KeyCite Scope can be researched through West Group's KeyCite service on WESTLAW®. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

The declaratory judgment procedure cannot be used to short-circuit established administrative procedures, such as those set up in the Patent and Trademark Office to determine the validity of federal trademark registration.¹ As the U.S. Supreme Court has stated:

[T]he declaratory judgment procedure will not be used to preempt and prejudge issues that are committed for initial decision to an administrative body or special tribunal any more than it will be used as a substitute for statutory methods of review. . . . Responsibility for effective functioning of the administrative process cannot be thus transferred from the bodies in which Congress has placed it to the courts.²

Since Congress has granted the power to register trademarks to the United States Patent and Trademark Office (PTO), federal courts

⁵ *Circuit City Stores v. Speedy Car-X*, 35 U.S.P.Q.2d 1703, 1995 WL 568818 (E.D. Va. 1995) (quoting this sentence from treatise with approval); *Kosmeo Cosmetics Inc. v. Lancome Parfums et Beaute & Cie.*, 44 U.S.P.Q.2d 1472, 1996 WL 929600 (E.D. Tex. 1996) (citing treatise with approval).

[Section 32:53]

¹ See ch. 20.

² *Public Service Comm'n v. Wycoff Co.*, 344 U.S. 237, 97 L. Ed. 291, 73 S. Ct. 236 (1952). See *Englishtown Sportswear, Ltd. v. Tuttle*, 547 F. Supp. 700, 216 U.S.P.Q. 486 (S.D.N.Y. 1982) (a court that bypasses the administrative system of the PTO impairs expeditious resolution and forfeits administrative expertise).

PROCEDURE

§ 32:53

have no jurisdiction over administrative registration proceedings except the appellate jurisdiction expressly granted by statute.³ So an applicant whose mark is opposed before the Trademark Board, or a registrant whose mark is attacked for cancellation before the Trademark Board, cannot short-circuit the administrative process by filing suit for declaratory judgment in the federal courts.⁴ Where an administrative proceeding is already under way, the courts should not short-cut the proceeding by way of entertaining a suit for declaratory judgment. As the Second Circuit said, "The Declaratory Judgment Act may not be used simply to remove a controversy from a forum where it properly belongs."⁵ Under this rule, it has been said: "The Court will not, by declaratory judgment, intercede gratuitously in the unfinished and pending administrative proceedings."⁶

³ *Merrick v. Sharp & Dohme, Inc.*, 185 F.2d 713, 88 U.S.P.Q. 145 (7th Cir. 1950), cert. denied, 340 U.S. 954, 95 L. Ed. 687, 71 S. Ct. 573, 88 U.S.P.Q. 569 (1951). See § 21:20-21:25. See: *Johnny Blastoff, Inc. v. Los Angeles Rams Football Co.*, 48 U.S.P.Q.2d 1385, 1998 WL 766703 (N.D. Ill. 1998), aff'd on other grounds, 188 F.3d 427, 51 U.S.P.Q.2d 1920 (7th Cir. 1999) (*Merrick* is still controlling authority).

⁴ *Merrick v. Sharp & Dohme, Inc.*, 185 F.2d 713, 88 U.S.P.Q. 145 (7th Cir. 1950), cert. denied, 340 U.S. 954, 95 L. Ed. 687, 71 S. Ct. 573, 88 U.S.P.Q. 569 (1951) (opposition proceeding against plaintiff); *Homemakers, Inc. v. Chicago Home for the Friendless*, 169 U.S.P.Q. 262, 1971 WL 16689 (7th Cir. 1971), cert. denied, 404 U.S. 831, 30 L. Ed. 2d 60, 92 S. Ct. 70, 171 U.S.P.Q. 321 (1971) (cancellation proceeding against plaintiff); *Topp-Cola Co. v. Coca-Cola Co.*, 314 F.2d 124, 136 U.S.P.Q. 610 (2d Cir. 1963) (opposition proceeding against plaintiff in Puerto Rico); *Gillette Co. v. "42" Products, Ltd.*, 135 F.2d 1114, 168 U.S.P.Q. 197 (9th Cir. 1970) (opposition proceeding; dicta as no decision rendered on this point). *Contra Sam S. Goldstein Industries, Inc. v. Botany Industries, Inc.*, 301 F. Supp. 728, 163 U.S.P.Q. 442 (S.D.N.Y. 1969) (registrant allowed to maintain declaratory judgment action, even though defendant had pending petition to cancel proceeding in the Trademark Office).

⁵ *Topp-Cola Co. v. Coca-Cola Co.*, 314 F.2d 124, 136 U.S.P.Q. 610 (2d Cir. 1963). *Applied in: American Pioneer Tours, Inc. v. Suntrek Tours, Ltd.*, 46 U.S.P.Q.2d 1779, 1998 WL 60944 (S.D.N.Y. 1998) (Once an inter partes case is proceeding before the Trademark Board, the parties should not deflect that proceeding. "The Declaratory Judgements Act may not be used simply to remove a controversy from a forum where it properly belongs.").

⁶ *Goya Foods, Inc. v. Tropicana Products, Inc.*, 666 F. Supp. 585, 4 U.S.P.Q.2d 1893 (S.D.N.Y. 1987), modified, LEXIS slip op. (S.D.N.Y. 1987), rev'd on other grounds, 846 F.2d 848, 6 U.S.P.Q.2d 1950 (2d Cir. 1988) (Applicant defendant in previously-filed T.T.A.B. opposition proceeding in the PTO filed a declaratory judgment suit in federal court seeking a declaration of non infringement. Suit must be dismissed or stayed pending resolution of the PTO opposition. Citing treatise, held that: (1) the filing of

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Virginia M. Kendall	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	07 C 0385	DATE	3/12/2007
CASE TITLE	Google, Inc. Vs. Central Mfg. Inc., et al.		

DOCKET ENTRY TEXT

For the reasons set out in the Memorandum Opinion and Order, Motion to intervene [16] is denied; Motion to interplead [8] is denied; and Motions to suspend [9][10][11] are denied.

■ [For further detail see separate order(s).]

Docketing to mail notices.

	Courtroom Deputy Initials:	GR
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GOOGLE, INC.,)	
)	
Plaintiff,)	
v.	)	Case No: 07 C 385
)	
CENTRAL MFG. INC. a/k/a CENTRAL MFG.	)	Judge Virginia M. Kendall
CO., a/k/a CENTRAL MFG. CO.(INC).,a/k/a)	
CENTRAL MANUFACTURING COMPANY)	
INC. and a/k/a CENTRAL MFG. CO. OF)	
ILLINOIS; and STEALTH INDUSTRIES, INC.)	
a/k/a RENTAMARK and a/k/a)	
RENTAMARK.COM,)	
)	
Defendants.)	
)	

MEMORANDUM OPINION AND ORDER

Plaintiff Google Inc. (“Google”) has filed this civil RICO action against Defendants Central Mfg. Inc. (“Central”) a/k/a Central Mfg. Co. a/k/a Central Mfg. Co.(Inc.) a/k/a Central Manufacturing Company Inc. a/k/a Central Mfg. Co. of Illinois and Stealth Industries, Inc. (“Rentamark”) a/k/a Rentamark a/k/a Rentamark.com (collectively, “Defendants”) alleging, among other things, that Defendants and their purported principal, Leo Stoller (“Stoller”), are engaged in a scheme of falsely claiming trademark rights for the purpose of attempting to extort money out of legitimate commercial actors. More specifically, Google alleges that Defendants aimed their continuing scheme in its direction by first seeking to oppose Google’s application for registration of the “Google” trademark based upon a fraudulent claim of common law rights in or to that mark and then sending settlement communications to Google that offered to resolve the “registerability controversy” if Google would, among other things, agree to: (1) abandon its trademark application;

(2) pay a 5% royalty for use of the “Google” mark; and (3) pay \$100,000.00 to Rentamark.com and acknowledge Rentamark.com’s exclusive ownership of the “Google” mark.

On December 20, 2005, Stoller filed a voluntary petition for relief under Chapter 13 of the United States Bankruptcy Code (the “Code”). On motion of one of Stoller’s creditors, Stoller’s bankruptcy case, styled *In re Stoller*, No. 05-64075 in the United States Bankruptcy Court for the Northern District of Illinois, was converted to a case under Chapter 7 of the Code on September 1, 2006. The property of Stoller’s estate in bankruptcy includes, among other things, the stock and interests of incorporated and unincorporated businesses, including Stoller’s wholly-owned interest in the Defendants. On September 6, 2006, the United States Trustee for Region 11 appointed Richard M. Fogel (“Trustee”) as trustee to administer Stoller’s estate in bankruptcy. Stoller’s bankruptcy case remains pending before Bankruptcy Judge Jack B. Schmetterer.

Now before this Court is Stoller’s motion to intervene in this action pursuant to Fed. R. Civ. P. 24. In addition to the motion to intervene, Stoller, who is not (and never has been) a party to this action, has also filed motions: (1) to interplead; (2) to suspend these proceedings for sixty days to retain counsel for defendants; (3) to suspend these proceedings pending an appeal of the decision of the bankruptcy court to permit Google to initiate this action; and (4) to suspend these proceedings pending the Trademark Trial and Appeal Board’s decision on Defendants’ motion for summary judgment in the proceedings related to the “Google” mark. For the reasons set forth below, each of Stoller’s motions is denied.

DISCUSSION

I. Intervention as of Right Under Rule 24(a).

Under Rule 24, intervention may be as of right or it may be permissive. *Heartwood v. U.S. Forest Service, Inc.*, 316 F.3d 694, 7000 (7th Cir. 2003). A party seeking to intervene as of right

must satisfy four requirements: (1) the motion to intervene must be timely; (2) the party seeking to intervene must claim an interest related to the property or transaction which is the subject of the action; (3) the party seeking to intervene must be so situated that the disposition of the action may as a practical matter impair or impede the party's ability to protect that interest; and (4) the existing parties must not be adequate representatives of the applicant's interest. Fed. R. Civ. P. 24(a); *see also Skokaogon Chippewa Community v. Babbitt*, 214 F.3d 941, 945-46 (7th Cir. 2000). Failure to satisfy any one of the four requirements for intervention as of right is sufficient grounds to deny a motion to intervene. *United States v. BDO Seidman*, 337 F.3d 802, 808 (7th Cir. 2003).

A party seeking to intervene in a case must assert an interest in the action that is a "direct, significant legally protectible" one. *Reich v. ABC/York-Estes Corp.*, 64 F.3d 316, 322 (7th Cir. 1995) (quoting *Am. Nat'l Bank v. City of Chicago*, 865 F.2d 144, 146 (7th Cir. 1989)). In the Seventh Circuit, this inquiry focuses "on the issues to be resolved by the litigation and whether the potential intervenor has an interest in those issues." *Id.* (citing *Am. Nat'l Bank*, 865 F.2d at 147).

In this case, Stoller has not identified any direct, significant legally protectible interests in these proceedings that would provide him with a right to intervene. Stoller argues that he has such an interest in this action because: (1) he was the sole shareholder of Defendants; (2) he was the party that filed a petition for cancellation of the Google trademark registration; (3) he was the party that communicated with Google's counsel regarding the registerability controversy; (4) he was the party that claimed rights in and to the Google trademark; and (5) absent his involvement in this case, the corporate defendants will not be adequately represented. Each of these arguments fails.

First, Stoller's concern that the corporate defendants will not receive adequate representation without his involvement does not suffice to provide him with a right to intervene because it is based upon the *Defendants'* rights, not upon his own. *Reich*, 64 F.3d at 322. True, Stoller asserts that he

was once the sole shareholder of the corporate defendants, but that is no longer the case.¹ The Defendants are now part of Stoller's Chapter 7 bankruptcy estate. Accordingly, Stoller no longer holds any interest in the Defendants. *See Spenlinhauer v. O'Donnell*, 261 F.3d 113, 118 (1st Cir. 2001) ("The advent of the chapter 7 estate and the appointment of the chapter 7 trustee divest the chapter 7 debtor of all right, title and interest in nonexempt property of the estate at the commencement of the case."). At this juncture, it is the Trustee, and not Stoller, that has the authority to administer all aspects of Defendants' business, including this lawsuit. *See Cable v. Ivy Tech State College*, 200 F.3d 467, 472 (7th Cir. 1999) (in Chapter 7 bankruptcy proceedings, "only the trustee has standing to prosecute or defend a claim belonging to the estate.") (emphasis in original) (citing *In re New Era, Inc.*, 135 F.3d 1206, 1209 (7th Cir. 1998) for the proposition that "Chapter 7 trustee has exclusive right to represent debtor in court").

Stoller also argues that he has an interest in this action because: he was the party that filed a petition for cancellation of the Google trademark registration; he was the party that communicated with Google's counsel regarding the registerability controversy; and he was the party that claimed rights in and to the Google trademark. Each of these assertions is contradicted by the record. The record demonstrates that it was defendant Central, and not Stoller, that filed a petition for cancellation of the Google trademark registration and that claimed rights in and to the Google trademark. (Zeller Declaration, Exhs. 8-10.) Nor did Stoller communicate in his individual capacity

¹Indeed, it may never have been the case. On October 20, 2006, during proceedings before the Chapter 7 Trustee, Stoller asserted Fifth Amendment rights and refused to answer the question whether he had any proof of ownership of Defendants. Stoller's refusal to answer that question may give rise to an inference that no such proof exists. *See Harris v. City of Chicago*, 266 F.3d 750, 753 (7th Cir. 2001) (citing *LaSalle Bank Lake View v. Sequban*, 54 F.3d 387, 389-91 (7th Cir. 1995) for the proposition that "[t]he rule that adverse inferences may be drawn from Fifth Amendment silence in civil proceedings has been widely recognized by the circuit courts of appeals, including our own..").

with Google regarding the purported registerability controversy - he did so in his capacity as president of one or both of the defendants. *See* Cplt., Exhs. O, R & S.

Stoller's failure to assert a significant, legally protectible interest in these proceedings is fatal to his motion to intervene as of right under Rule 24(a). *BDO Seidman*, 337 F.3d at 808. Accordingly, there is no need for this Court to consider whether Stoller can satisfy the other requirements for intervention as of right.

II. Permissive Intervention Under Rule 24(b).

Permissive intervention is allowed under Rule 24(b) upon a timely application demonstrating that the "applicant's claim or defense and the main action have a question of law or fact in common." *Skokaogon Chippewa Community*, 214 F.3d at 949. "Permissive intervention under Rule 24(b) is wholly discretionary." *Id.* (citing *Keith v. Daley*, 764 F.2d 1265, 1272 (7th Cir. 1985)). In exercising its discretion to grant or deny permissive intervention, a district court "shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties." Rule 24(b); *Heartwood*, 316 F.3d at 701.

As a party to or participant in various lawsuits in this district, Stoller "has earned a reputation for initiating spurious and vexatious federal litigation" and has demonstrated "an appalling lack of regard for [courts in this district] and a lack of respect for the judicial process." *Central Mfg. Co. v. Pure Fishing, Inc.*, No. 05 C 725, 2005 U.S. Dist. LEXIS 28280, *2-4, 17-18 (N.D. Ill. Nov. 16, 2005) (citing *Central Mfg. Co. et al. v. Brett*, No. 04 C 3049, 2005 U.S. Dist. LEXIS 23379, *2 (N.D. Ill. Sept. 30, 2005) (Coar, J.) ("Stoller appears to be running an industry that produces often spurious, vexatious, and harassing federal litigation."); *S. Indus. Inc. v. Stone Age Equip., Inc.*, 12 F. Supp.2d 796, 798 (N.D. Ill. 1998) (Castillo, J.) (Stoller initiates "litigation lacking in merit and approaching harassment."); *S. Indus. Inc. v. Hobbico, Inc.*, 940 F. Supp. 210, 211 (N.D. Ill. 1996)

(Shadur, J.) (Stoller "appears to have entered into a new industry -- that of instituting federal litigation.")).

Stoller has given this Court no reason to believe that he would behave differently than he has in the past were he to be granted permission to intervene in this action. To the contrary, as noted above, several of the bases for Stoller's motion to intervene – including that Stoller “was the party that filed a petition for cancellation of the said Google registration” and that “Leo Stoller is the party who claimed rights in and to the Google trademark” – are squarely contradicted by the record, including pleadings filed by Stoller on Central's behalf with the Trademark Trial and Appeal Board. Moreover, in his reply brief in support of his several pending motions, Stoller claims – without providing any evidence – that the Trustee and counsel for Google have conspired to defraud this Court and Stoller. Stoller further claims – also without providing any evidentiary support – that the Trustee has engaged in a scheme to defraud Stoller's estate in bankruptcy, Stoller himself, this Court, and the “U.S. Bankruptcy System.”² This behavior is also, unfortunately, not unprecedented for Stoller. *See Pure Fishing, Inc.*, 2005 U.S. Dist. LEXIS 28280 at *18 (“Mr. Stoller accused this Court and opposing counsel of participating in a scheme to defraud the federal courts and others and of engaging in unprofessional and unethical conduct.”).

The parties to this action have negotiated a settlement agreement that contemplates a release of Google's monetary claims against Defendants and against Stoller's estate in bankruptcy.³ (Zeller Declaration, Exh. 7.) That release is contingent upon the entry, in this case, of a stipulated

²In an apparent attempt to intimidate Google and the Trustee, Stoller sent a copy of his reply brief and the unsupported allegations contained therein to the office of the United States Attorney for the Northern District of Illinois. Mr. Stoller would do well to recall that *pro se* litigants are subject to Fed. R. Civ. P. 11 and that making claims not warranted by existing law or making allegations without evidentiary support may subject him to sanctions.

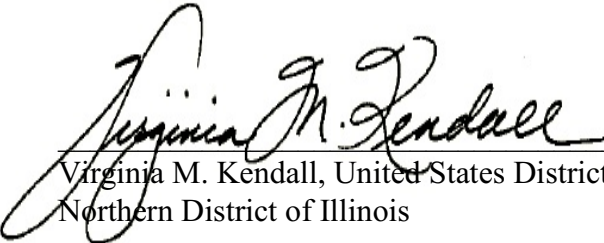
³The settlement agreement has been approved by the bankruptcy court. (Zeller Declaration, Exh. 6.)

permanent injunction and final judgment. *Id.* Working toward that end, the parties filed, on February 12, 2007, a joint motion for entry of stipulated permanent injunction and final judgment. The Court has no doubt that permitting Stoller to intervene in this action would frustrate the parties' efforts to resolve this matter by settlement. Accordingly, Stoller's motion to intervene under Rule 24(b) is denied.

III. Stoller's Motions to Interplead and to Suspend these Proceedings.

Stoller has not identified - and this Court is not aware of - any procedural mechanism by which a non-party may file a motion to suspend ongoing proceedings without intervening therein. Accordingly, Stoller's motions to suspend these proceedings are denied. The Court finds that Stoller's motion to "interplead as a necessary party" amounts to nothing more than a motion to intervene. As such, it is duplicative of Stoller's Rule 24 motion and, for the reasons stated above, that motion is also denied.

So ordered.


Virginia M. Kendall, United States District Judge
Northern District of Illinois

Date: March 12, 2007

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

GOOGLE, INC.)
)
 Plaintiff,)
)
 vs.)
)
 CENTRAL MFG. INC. a/k/a)
 CENTRAL MFG. CO., a/k/a)
 CENTRAL MFG. CO.(INC).,)
 a/k/a CENTRAL MANUFACTURING)
 COMPANY, INC. and a/k/a)
 CENTRAL MFG. CO. OF ILLINOIS;)
 and STEALTH INDUSTRIES, INC.)
 a/k/a RENTAMARK and a/k/a)
 RENTAMARK.COM,)
)
 Defendants.)

MAR 13 2007 *gh*

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT.

Case No: 07-CV-385
Hon. Virginia M. Kendall
Magistrate Judge Cole
Appeal from the U.S. District
Court for the Northern District
Eastern Division
Order by Virginia M. Kendall
Dated March 12, 2007
)

**NOTICE OF APPEAL OF ORDER ISSUED BY
JUDGE VIRGINIA M. KENDALL ON MARCH 12, 2007**

NOW COMES Leo Stoller and files its Notice of Appeal of the Order by Virginia M. Kendall, denying Leo Stoller's Motion To Intervene; Motion To Interplead; and Motions To Suspend, and states as follows:



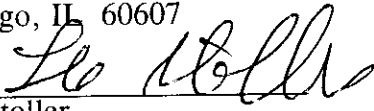
Leo Stoller, *pro se*
7115 W. North Avenue
Oak Park, Illinois 60302
(312) 545-4554
Email: ldms4@hotmail.com

Date: March 13, 2007

Certificate of Mailing

I hereby certify that the foregoing is being hand-delivered to the following address:

Clerk of the Court
United States Bankruptcy Court
219 S. Dearborn
Chicago, IL 60607



Leo Stoller
Date: March 13, 2007

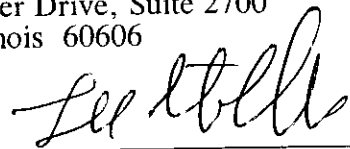
Certificate of Service

I hereby certify that the foregoing is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to:

Richard M. Fogel, Trustee
Janice A. Alwin, Esq.
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Wolfson & Towbin LLC.*
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Chicago, Illinois 60610

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William J. Barrett
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Perlman & Nagelberg, LLP.
333 W. Wacker Drive, Suite 2700
Chicago, Illinois 60606



Leo Stoller
Date: 3-13-07

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Virginia M. Kendall	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	07 C 0385	DATE	3/12/2007
CASE TITLE	Google, Inc. Vs. Central Mfg. Inc., et al.		

DOCKET ENTRY TEXT

For the reasons set out in the Memorandum Opinion and Order, Motion to intervene [16] is denied; Motion to interplead [8] is denied; and Motions to suspend [9][10][11] are denied.

■ | For further detail see separate order(s.)

Docketing to trial by res.

Courtroom Deputy Initials:

CR

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GOOGLE, INC.)

Plaintiff,)

vs.)

CENTRAL MFG. INC. a/k/a)
CENTRAL MFG. CO., a/k/a)
CENTRAL MFG. CO.(INC).,)
a/k/a CENTRAL MANUFACTURING)
COMPANY, INC. and a/k/a)
CENTRAL MFG. CO. OF ILLINOIS;)
and STEALTH INDUSTRIES, INC.)
a/k/a RENTAMARK and a/k/a)
RENTAMARK.COM,)

Defendants.)

Case No: 07-CV-385

Judge Kendall

Magistrate Judge Cole

FILED

MAR 13 2007 *MA*

**MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT.**

NOTICE OF FILING

TO: Michael T. Zeller
Quinn, Emanuel, Urquhart,
Oliver & Hedges, LLP.
865 S. Figueroa Street, 10th Floor
Los Angeles, California 90017

Richard M. Fogel, Trustee
Janice A. Alwin
Shaw, Gussis, Fishman, Glantz,
Wolfson & Towbin LLC.
321 N. Clark Street, Suite 800
Chicago, Illinois 60610

William J. Barrett
Barack, Ferrazzano, Kirschbaum,
Perlman & Nagelberg, LLP.
333 W. Wacker Drive, Suite 2700
Chicago, Illinois 60606

PLEASE TAKE NOTICE that on the 13 day of March, 2007, there was filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, **Notice of Appeal**, a copy of which is attached hereto.

I certify that I served this Notice mailing a copy to each person to whom it is directed at the address above indicated by depositing it in the U.S. Mail on this 13 day of March, 2007, with proper postage prepaid.

Leo Stoller

Leo Stoller
7115 W. North Avenue
Oak Park, Illinois 60302
(773) 551-4827
Email: ldms4@hotmail.com

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Appeal No: _____

FILED

MAR 15 2007 WH
3-15-07
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

GOOGLE, INC.)

Plaintiff,)

vs.)

CENTRAL MFG. INC. a/k/a)
CENTRAL MFG. CO., a/k/a)
CENTRAL MFG. CO.(INC).,)
a/k/a CENTRAL MANUFACTURING)
COMPANY, INC. and a/k/a)
CENTRAL MFG. CO. OF ILLINOIS;)
and STEALTH INDUSTRIES, INC.)
a/k/a RENTAMARK and a/k/a)
RENTAMARK.COM,)

Defendants.)

Case No: ~~07~~-CV-385 07-CV-385

Hon. Virginia M. Kendall

Magistrate Judge Cole

Appeal from the U.S. District
Court for the Northern District
Eastern Division
Order by Virginia M. Kendall
Dated March 12, 2007

MOTION FOR PERMISSION TO APPEAL IN FORMA PAUPERIS

NOW COMES Leo Stoller, who is currently in Chapter 7 bankruptcy, Case No: 05-B-64075. All the assets of Leo Stoller are in the custody of the Trustee. Leo Stoller has no funds in any bank account. Leo Stoller has no income. Leo Stoller is unable to pay the Appeal fee and is seeking permission to appeal *in forma pauperis*.

My issues on 07cv385 Document 41

Leo Stoller has unclear file date

corporations, Central
bankruptcy before Jud
necessary party to a G
Google, Inc. successfu
party and Judge Kenda
Stoller's bankruptcy, C
The Plaintiff, G

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NO action against his
le, Inc. argued in Stoller's
matic stay, that Stoller was a
Schmetterer lifted the stay,
oller was not a necessary
Judge Schmetterer in
had a right to intervene.
ned Opposition to Debtor

Leo Stoller's Motions (1) To Intervene, (2) To Interplead, (3) To Suspend For Sixty Days To

Retain Counsel For Defendants and (4) To Suspend Pending Appeal To Lift Automatic stay For Google To Sue The Debtor, that Stoller " ... has no income, no assets and no likelihood of future income", at page 14, paragraph 2.

Leo Stoller submits an Affidavit in support of this motion, attached hereto.

WHEREFORE, Leo Stoller prays that the Court grant his Motion for Permission to Appeal Informa Pauperis.



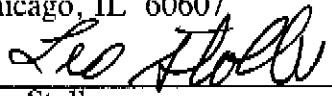
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7115 W. North Avenue
Oak Park, Illinois 60302
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Date: March 15, 2007

Certificate of Mailing

I hereby certify that the foregoing is being **hand-delivered** to the following address:

Clerk of the Court
United States District Court
219 S. Dearborn
Chicago, IL 60607



Leo Stoller
Date: March 15, 2007

Certificate of Service

I hereby certify that the foregoing is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to:

Richard M. Fogel, Trustee
Janice A. Alwin, Esq.
*Shaw, Gussis, Fishman, Glantz,
Wolfson & Towbin LLC.*
321 N. Clark Street, Suite 800
Chicago, Illinois 60610

Michael T. Zeller
Quinn, Emanuel, Urquhart,
Oliver & Hedges, LLP.
865 S. Figueroa Street, 10th Floor
Los Angeles, California 90017

William J. Barrett
Barack, Ferrazzano, Kirschbaum,
Perlman & Nagelberg, LLP.
333 W. Wacker Drive, Suite 2700
Chicago, Illinois 60606



Leo Stoller
Date: 3-15-07

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Appeal No: _____

GOOGLE, INC.)
)
Plaintiff,)
)
vs.)
)
CENTRAL MFG. INC. a/k/a)
CENTRAL MFG. CO., a/k/a)
CENTRAL MFG. CO.(INC).,)
a/k/a CENTRAL MANUFACTURING)
COMPANY, INC. and a/k/a)
CENTRAL MFG. CO. OF ILLINOIS;)
and STEALTH INDUSTRIES, INC.)
a/k/a RENTAMARK and a/k/a)
RENTAMARK.COM,)
Defendants.)

Case No: 07-CV-385
Hon. Virginia M. Kendall
Magistrate Judge Cole
Appeal from the U.S. District
Court for the Northern District
Eastern Division
Order by Virginia M. Kendall
Dated March 12, 2007

**AFFIDAVIT IN SUPPORT OF
PERMISSION TO APPEAL IN FORMA PAUPERIS**

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. 28 U.S.C. § 1746; 18 U.S.C. §1621.

1. I am presently going through a divorce, Case No: 05 D 007216. I do not live with any wife any longer. I am staying with relatives. I receive no income from my wife, and I am engaged in a protracted visitation and custody battle.

2. I have been self-employed for thirty years and my business and all of my assets have been consolidated by the Trustee in the Chapter 7 bankruptcy.

3. I have no cash on hand or in any bank.

4. I have no assets which have not been made part of the Chapter 7 bankruptcy proceeding.

5. No one owes me any money.

6. I have three children under the age of 18, who are in the custody of my estranged wife, and I have been unable to make any child support payments due to the divorce action and the Chapter 7 bankruptcy.

7. During the pendency of my divorce and my Chapter 7 bankruptcy, I have been living with my relatives, and my relatives have allowed me to stay in their homes.

Consequently, I have nominal expenses.

8. I do not expect any major changes in my financial situation for the next twelve months.

9. I have not paid any attorney any money for services in connection with this case, including completion of this affidavit.

10. I have not paid any one other than an attorney any money for services in connection with this case, including the completion of this affidavit.

11. My social security number is 327-38-7972. My age is 60 years old.



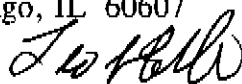
Leo Stoller
7115 W. North Avenue, #272
Oak Park, Illinois 60302
(312) 545-4554
Email: ldms4@hotmail.com

Date: December 14, 2006

Certificate of Mailing

I hereby certify that the foregoing is being hand-delivered to the following address:

Clerk of the Circuit Court
United States District Court
219 N. Dearborn
Chicago, IL 60607



Leo Stoller

Date: ~~December 14, 2006~~

3-15-07

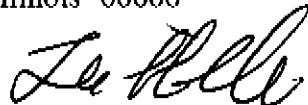
Certificate of Service

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Janice A. Alwin, Esq.
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321 N. Clark Street, Suite 800
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Barack, Ferrazzano, Kirschbaum,
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333 W. Wacker Drive, Suite 2700
Chicago, Illinois 60606



Leo Stoller

Date:

3-15-07

wh

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

MAR 15 2007 WH

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

GOOGLE, INC.)

Plaintiff,)

vs.)

CENTRAL MFG. INC. a/k/a)
CENTRAL MFG. CO., a/k/a)
CENTRAL MFG. CO.(INC).,)
a/k/a CENTRAL MANUFACTURING)
COMPANY, INC. and a/k/a)
CENTRAL MFG. CO. OF ILLINOIS;)
and STEALTH INDUSTRIES, INC.)
a/k/a RENTAMARK and a/k/a)
RENTAMARK.COM,)

Defendants.)

Case No: 07-CV-385

Hon. Virginia M. Kendall

Magistrate Judge Cole

MOTION UNDER FRCP 59 AND/OR 60

NOW COMES Leo Stoller and submits to the Court transcripts of proceedings before Judge Schmetterer dated December 12, 2006 and February 15, 2007.

Leo Stoller requests that the Court reconsider its decision denying Stoller the right to intervene based upon the attached transcripts.



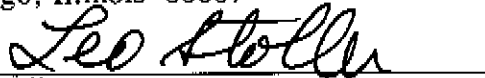
Leo Stoller, *pro se*
7115 W. North Avenue #272
Oak Park, Illinois 60302
312/ 545-4554
Email: ldms4@hotmail.com

Date: March 15, 2007

Certificate of Mailing

I hereby certify that this motion is being hand-delivered in an envelope addressed to:

Clerk of the Court
United States District Court
219 S. Dearborn
Chicago, Illinois 60607



Leo Stoller

Date: March 15, 2007

Certificate of Service

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Richard M. Fogel, Trustee
Janice A. Alwin, Esq.
Counsel for Trustee
*Shaw, Gussis, Fishman, Glantz,
Wolfson & Towbin LLC.*
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William J. Barrett
Barack, Ferrazzano, Kirschbaum,
Perlman & Nagelberg, LLP.
333 W. Wacker Drive, Suite 2700
Chicago, Illinois 60606



Leo Stoller

Date: 3-15-07

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LEO STOLLER,) No. 05B64075
) Chicago, Illinois
) December 12, 2006
Debtor.) 10:30 a.m.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JACK B. SCHMETTERER

APPEARANCES:

Trustee: Mr. Richard Fogel;
For the Trustee: Ms. Janice Alwin;
For Google, Inc.: Mr. William Barrett;
For Pure Fishing: Mr. William Factor;
Mr. Lance Johnson;

ALSO PRESENT:

Mr. Leo Stoller,
Pro Se.

1 THE CLERK: Stoller, 05-64075.

2 MR. STOLLER: Good morning, Judge. Leo
3 Stoller, debtor, pro se.

4 MS. ALWIN: Good morning, Your Honor. Janice
5 Alwin on behalf of the trustee.

6 MR. FOGEL: Good morning, Your Honor.
7 Richard Fogel, the trustee.

8 MR. BARRETT: Your Honor, William Barrett for
9 Google, Inc.

10 MR. FACTOR: Good morning, Your Honor.
11 William Factor and Lance Johnson for Pure Fishing.

12 THE COURT: As for Google, there is a motion
13 of Google, this is old business, for an order declaring
14 the proposed suit to be outside the scope of the stay.
15 Didn't I deal with that?

16 MS. ALWIN: Draft order to follow, Your
17 Honor.

18 MR. FOGEL: Draft order to follow for today.

19 THE COURT: Oh, is this the order here?

20 MR. BARRETT: Your Honor, if I --

21 THE COURT: Do you have an order?

22 MR. BARRETT: Yes. Google has the order.

23 MR. STOLLER: Your Honor, if I may say, this
24 is the motion that Google filed. I didn't receive this
25 until about two days ago and I filed --

1 THE COURT: This motion?

2 MR. STOLLER: This was a motion, the motion
3 we're talking about here, and it's about 300 pages. And
4 I didn't receive it until two days ago. And I filed an
5 objection.

6 THE COURT: I have not received any 300-page
7 motion, so I'm not passing on what you're talking about.

8 MR. STOLLER: This is the motion --

9 THE COURT: I can't help it. That is not
10 what I'm ruling --

11 MR. STOLLER: -- that you're ruling on today.

12 THE COURT: No, it isn't. The motion we're
13 talking about was presented here August 25th.

14 MR. STOLLER: That's this one.

15 THE COURT: And it's not 300 pages.

16 MR. BARRETT: Your Honor, if I may, the
17 motion with all the exhibits is a binder, motion --
18 document that the court has before it right now. I know
19 when we were here in August we had this complete binder
20 and it was offered to the court. The court at that time
21 had the complete set.

22 THE COURT: I see.

23 MR. BARRETT: We did serve -- we're very
24 careful, last August, about serving -- we had multiple
25 addresses for Mr. Stoller. I have one return package

1 here.

2 THE COURT: You have what and what?
3 According to the service list, it was addressed to
4 Mr. Stoller at 7300 West Fullerton, Elmwood Park.

5 Was that your home?

6 MR. STOLLER: No. That was a post office
7 mailing address which I have not used and discontinued.
8 And I've just first been notified of this motion, and I
9 filed a proper response to it with the court. And I
10 would like to be able to make an objection to the entry
11 of any order regarding the motion because I never had
12 it.

13 THE COURT: You're representing yourself.

14 MR. STOLLER: Yes.

15 THE COURT: I understand that. Now have you
16 filed a response to this?

17 MR. STOLLER: Yes, I have filed a response.

18 THE COURT: Have you served it?

19 MR. STOLLER: Yes, and I served it.

20 THE COURT: Did you get it?

21 MR. BARRETT: I saw it this morning in court.

22 THE COURT: You did not get it?

23 MR. BARRETT: Not before this morning.

24 THE COURT: Have you served it?

25 MR. STOLLER: Yes.

1 THE COURT: -- means delivered and how?

2 MR. STOLLER: I mailed it by first class
3 mail.

4 THE COURT: When?

5 MR. STOLLER: On the 9th of --

6 THE COURT: Three days ago?

7 MR. STOLLER: Three days ago.

8 THE COURT: Obviously nobody has received it.

9 MR. STOLLER: And I handed him a copy of it,
10 as he's handed me a copy of his response.

11 THE COURT: Counsel, did you receive it?

12 MR. BARRETT: Your Honor, I just saw it this
13 morning in court.

14 THE COURT: Yes or no to received it.

15 MR. BARRETT: I received it in the courtroom.
16 this morning, yes.

17 THE COURT: Thank you. May I have a copy,
18 please.

19 MR. STOLLER: Yes.

20 MR. BARRETT: Your Honor, also at the time
21 that the motion was filed the debtor was represented by
22 Mr. Golding, who did receive a copy of this package.

23 THE COURT: I know, but Mr. Stoller has
24 listed on his bankruptcy schedules a certain address --

25 MR. BARRETT: I believe --

1 THE COURT: And that's the address that
2 you're entitled then to serve notice on unless and until
3 a change of address is filed.

4 Have you ever filed a change of
5 address?

6 MR. STOLLER: Yes, I have, Judge.

7 THE COURT: And when did you file that
8 address -- time, rather?

9 MR. STOLLER: Probably within the last 30
10 days.

11 THE COURT: Okay.

12 MS. ALWIN: Your Honor, there's no change of
13 address on the docket that I'm aware of.

14 THE COURT: Do you have a copy of your change
15 of address?

16 MS. ALWIN: And we have not received one.

17 MR. STOLLER: Yes. I don't have it with me,
18 but I did file it.

19 THE CLERK: I will check the docket.

20 THE COURT: Did you find it?

21 THE CLERK: I am checking it now.

22 THE COURT: We'll check the docket.

23 Trustee, have you looked at this order?

24 MS. ALWIN: Yes. The motion -- we have, Your
25 Honor. The order? Proposed order?

1 THE COURT: Order. Have you looked at this
2 order?

3 MS. ALWIN: I've looked at the proposed order
4 by -- yes, Your Honor. We have no objection.

5 THE COURT: You think that the claims that he
6 wishes to file arose after commencement of the
7 bankruptcy case?

8 MS. ALWIN: Yes, Your Honor.

9 MR. FOGEL: We had a hearing on this matter
10 last week and there was an objection to the settlement
11 motion raised by Mr. Stoller, which you overruled and
12 had it today for draft order to follow in connection
13 with that ruling.

14 THE COURT: Was this the case in which I said
15 that I'll reserve --

16 MR. FOGEL: Yes.

17 THE COURT: -- I was going to reserve
18 jurisdiction?

19 MR. FOGEL: You were reserving jurisdiction.
20 You were reserving the right to modify the order --

21 THE COURT: This order does not say -- this
22 proposed order doesn't say that.

23 MR. FOGEL: The order approving the
24 settlement --

25 MS. ALWIN: I have a copy if Your Honor needs

1 one.

2 MR. FOGEL: -- does say that. This order
3 is -- this is the order to modify the stay as a result
4 of the approval of that settlement.

5 MR. BARRETT: If I may eliminate some --

6 THE COURT: I see, to let them go forward.
7 All right, now I recall. The idea was I could withdraw
8 that which, in effect, wiped out his rights permanently
9 if this case gets dismissed. But in the meantime the
10 stay would be modified --

11 MR. FOGEL: Yes.

12 THE COURT: -- so that the suit could go
13 forward. I think that's what you're talking about.

14 MR. STOLLER: I would like to make an
15 argument to the contrary, which I have never, as far as
16 removing the stay.

17 THE COURT: Well, hang on a second, sir. All
18 right. What was that last thing you said?

19 MR. STOLLER: I would like to make an
20 argument against removing the stay and allowing them to
21 file a district court case against me.

22 THE COURT: Just a moment, please. Let me
23 have your big black book binder with all those exhibits.

24 Is there a proposed lawsuit attached to
25 this?

1 MR. BARRETT: Yes, Your Honor. The lawsuit
2 is Exhibit 1.

3 THE COURT: All right. Just for the record,
4 my clerk informs me that she finds no change of address
5 form filed by you, Mr. Stoller. If you wish to file
6 one, everybody is going to be bound by it. If you file
7 one and serve it on everybody, they'll be bound to give
8 you notice at your address. But right now your only
9 address on the record is 7300 West Fullerton.

10 MR. STOLLER: Okay, Judge.

11 THE COURT: Now what exhibit would I find
12 your proposed complaint, sir?

13 MR. BARRETT: Exhibit 1.

14 THE COURT: I'm on page two and it appears
15 you have a suit that refers to activity that took place
16 prior to the filing of the bankruptcy. Am I right?

17 MR. BARRETT: Your Honor, the suit does refer
18 to activity that took place prior to the filing, that's
19 right. That is necessary in order to state a claim
20 under the RICO statute.

21 THE COURT: Right. But, therefore, the order
22 I have been handed is not right.

23 MR. BARRETT: Well, Your Honor, to make a
24 claim under the RICO statute you need to allege two
25 things. You need to allege two predicate acts, that the

1 claims arise under two predicate acts. Those acts, at
2 least the second act occurred post-petition.

3 THE COURT: I'm not questioning what's right
4 to plead under that act. What I'm questioning is the
5 order you want me to approve. You say the claims of
6 Google first arose after the commencement of this case.
7 Evidently they did not.

8 MR. BARRETT: Your Honor, I have a time line.

9 THE COURT: There may be a good reason to
10 modify the stay, but since the activities you complain
11 of started before the case began, it seems to me that I
12 cannot use that reason.

13 MR. BARRETT: If I can just address that a
14 second, the claim that -- and I use the word activities,
15 the activities that gave rise to the claim, the actual
16 claim, occurred post-petition. The complaint does refer
17 to activities that occurred pre-petition as part of the
18 allegations about pattern racketeering activity. The
19 claim Google has, though, is not based on that historic
20 pattern. It must allege and plead that pattern to state
21 a RICO claim. I have a time line here if the court
22 would like to see it of the acts that relate to Google's
23 actual claim and how it fits in with the filing of the
24 case.

25 THE COURT: You have a history here. Like a

1 many people that come here you want to fire a shotgun
2 and give a huge history and then you give me a
3 pinpointed order that pretends as though the history
4 prior to the filing of the bankruptcy is not alleged.

5 MR. STOLLER: Are you addressing that to me,
6 Judge?

7 THE COURT: No.

8 MR. BARRETT: Your Honor, it is alleged. You
9 could never state a RICO claim in these circumstances
10 against the debtor.

11 THE COURT: All right. I have to have a
12 basis for modifying the stay because part of the
13 activity that you wish to sue on occurred
14 pre-bankruptcy.

15 MR. BARRETT: And, Your Honor, I could
16 address the alternative relief in the motion, which is
17 relief Google is seeking, which is injunctive relief for
18 false advertising; wrongful competition; and violation
19 of the RICO statute, which the predicate offense is mail
20 fraud, wire fraud, and extortion. That is the type of
21 relief most appropriately entered by the district court.

22 MR. STOLLER: I'd like to be able to

23 THE COURT: You are arguing there is cause to
24 modify the stay.

25 MR. BARRETT: As an alternative, yes.

1 THE COURT: Okay. I'll entertain that
2 motion. Now I have already approved the settlement.

3 MS. ALWIN: Yes, Your Honor. An order has
4 been entered. Would you like a copy?

5 MR. BARRETT: And if I could just maybe
6 address some confusion. The settlement addresses claims
7 of Google against the estate and the assets administered
8 by the trustee. Today we are dealing with Mr. Stoller
9 as the individual debtor.

10 THE COURT: I understand. If we permit this
11 to go forward, of course, he can find some way, if he
12 can, to defend himself.

13 MR. BARRETT: That's right.

14 THE COURT: What this does is take it out of
15 the bankruptcy. The suits are also against Central
16 Manufacturing and Stealth.

17 MS. ALWIN: That has been resolved as part of
18 the settlement order.

19 THE COURT: As part of the settlement?

20 MS. ALWIN: Yes, Your Honor.

21 THE COURT: Mr. Stoller, I've read your
22 response. Is there anything you want to add to it?

23 MR. STOLLER: Yes, I do, Judge, is the fact
24 that all of the acts of which they're complaining of,
25 and I need at least two minutes for you to indulge me

1 because this is a very serious issue, what they're
2 complaining of is I wrote three settlement letters under
3 408 to try to resolve a registerability issue and I
4 brought a petition to cancel against Google's
5 registration based on the fact that it's generic or
6 descriptive. From those three acts, which all occurred
7 prior to the filing of the bankruptcy, they have
8 construed and concocted this very serious charge, the
9 RICO charge.

10 Under the trademark law, there is no
11 statutory reason why when we're dealing with just a
12 registerability issue, I didn't threaten their
13 customers, I didn't threaten -- only the cancelation of
14 their mark --

15 THE COURT: I've got to interrupt you and
16 tell you I'm not here to decide the merits of that.

17 MR. STOLLER: Okay, but I just want to point
18 that out. The other thing that's --

19 THE COURT: The only question is whether I
20 should modify the stay --

21 MR. STOLLER: Right.

22 THE COURT: -- so they can litigate against
23 you.

24 MR. STOLLER: And here's why I'm going to
25 suggest you shouldn't. The purpose of the stay is to

1 give a creditor a respite from litigation. We're trying
2 to resolve this bankruptcy issue. And I had a meeting
3 yesterday with the trustee and I think it's possible
4 that we'll be able to resolve the bankruptcy issue.

5 THE COURT: In the event the bankruptcy issue
6 were resolved, what would happen to the bankruptcy do
7 you think?

8 MR. STOLLER: What would happen would depend
9 on the ultimate resolution.

10 THE COURT: Yes.

11 MR. STOLLER: My hope is --

12 THE COURT: Might the bankruptcy be
13 dismissed?

14 MR. STOLLER: That it might be dismissed,
15 yes, and my creditors could be paid.

16 THE COURT: Well, but this particular
17 creditor, if the bankruptcy is dismissed, would be free
18 to sue you anyway, right?

19 MR. STOLLER: If the bankruptcy were to be
20 dismissed and I was able to regain control of my
21 corporations and be in business again, they could sue
22 me. However, the predicate acts of which they're
23 complaining about are no longer taking place because I'm
24 not in control of my business. For them to bring these
25 charges against me now when I am not pursuing the

1 petition to cancel, I'm not writing letters to them, the
2 trustee is in charge of the corporations --

3 THE COURT: Let me pause for that. Is one of
4 the corporations Central Manufacturing?

5 MR. STOLLER: Yes.

6 THE COURT: Which has some other names.

7 MR. STOLLER: Stealth Industries, Inc.

8 THE COURT: Stealth Industries, also

9 Rentamark.

10 MR. STOLLER: Correct.

11 THE COURT: Right?

12 MR. STOLLER: Right. In other words, what
13 relief they're seeking, Judge --

14 THE COURT: I understand. Let me ask the
15 trustee something. He wants to -- if we modify the stay
16 then, of course, Stoller can be sued but also these
17 corporations. Do you take the view that he has no right
18 to represent the corporations or hire a lawyer to
19 represent the corporations?

20 MR. FOGEL: I take that view, yes, because as
21 part of the settlement there is no relief being sought
22 against the estate or the entities. There is no
23 monetary relief being sought against them. And getting
24 back to whether we've talked many times, the entities
25 all appear to be Mr. Stoller, so that we're talking

1 about claims against the bankruptcy estate on the one
2 hand, we're talking about claims against Mr. Stoller as
3 an individual post-conversion living the rest of his
4 life, on the other hand. The second --

5 THE COURT: Yeah, but --

6 MR. FOGEL: -- part is what Google is going
7 after.

8 THE COURT: Central Manufacturing is a
9 corporate entity?

10 MR. STOLLER: Yes, in Delaware. Yes, Judge,
11 it is.

12 THE COURT: What do you think, Google?

13 MR. BARRETT: Your Honor, I understand the
14 court made a finding of fact at the conversion trial
15 finding that these entities were inseparable from
16 Mr. Stoller himself.

17 THE COURT: Well, they may be maybe
18 inseparable.

19 MS. ALWIN: The debtor has also failed to
20 produce --

21 THE COURT: In a piercing corporate veil
22 sense, but I was just asking whether or not it was
23 corporate entities.

24 MR. STOLLER: They are. I paid the franchise
25 fee for 20 years for each one of those corporations in

1 Delaware. They exist. All you have to do is go on the
2 computer and pull them up.

3 MS. ALWIN: Your Honor, as we've noted at
4 the --

5 MR. FOGEL: Your Honor, there is an entity in
6 Delaware called Central M-f-g, I want to say comma, Inc.
7 that is in good standing. I've not seen a document that
8 in any way, shape, or form connects Mr. Stoller to that
9 entity. He is not listed as the registered agent. The
10 State of Delaware does not identify corporate officers.
11 I have not seen a stock certificate. I've not seen a
12 record book.

13 THE COURT: Counsel --

14 MR. FOGEL: I've not seen a tax return. I've
15 not seen anything.

16 THE COURT: Are you abandoning or not
17 abandoning your claims by reason -- against these
18 entities, whatever they are, by reason of his stock
19 ownership therein, if he has any stock ownership or any
20 other interest? Are you abandoning the interest --

21 MR. FOGEL: No.

22 THE COURT: -- by reason of his relationship.

23 MR. FOGEL: No. I am holding onto all
24 property of the estate at the moment while I continue --

25 THE COURT: Why are you not abandoning, if

1 you think it is valueless for the estate --

2 MR. FOGEL: No. I'm not asserting a claim
3 against Google, which I think is valueless for the
4 estate.

5 THE COURT: Why are you not abandoning these
6 corporate --

7 MR. FOGEL: They may, in turn -- they may, in
8 fact, turn out to be companies. They may, in turn, turn
9 out to have assets.

10 THE COURT: If they are, are you going to be
11 defending them in the Google lawsuit that they proposed
12 to file?

13 MR. FOGEL: Not if they're not seeking any
14 monetary relief. I can't --

15 THE COURT: They seek relief against the
16 companies or with -- companies. They do.

17 MR. STOLLER: See, that's the rub, Your
18 Honor. I can't have attorneys represent my
19 corporations. They're going to consent to judgments
20 against my corporations. Then they're going to throw me
21 to the wolves, and I'm going to have to defend myself in
22 a RICO action for what I think is basically not RICOish.

23 On the other hand, I don't have an
24 attorney and I can't afford an attorney to represent
25 myself. So this is putting the debtor, in prejudicing

1 the debtor beyond what should be allowed under the law.
2 I can't represent my corporations with attorneys to
3 protect them and, therefore, I can't even represent
4 myself.

5 THE COURT: I understand. I'm perfectly
6 clear as to why you wanted the settlement which -- but
7 you're also, through this device, exposing the
8 corporations in which you claim an interest to damages
9 undefended. And I don't understand that unless you want
10 to abandon your interests in --

11 MR. STOLLER: And he's done that in every
12 case where I'm in litigation, Your Honor.

13 THE COURT: Mr. Stoller, wait please. Bear
14 with me one second.

15 MS. ALWIN: Your Honor, part of the
16 settlement was a release of claims.

17 THE COURT: Against who?

18 MS. ALWIN: Google and the estate and the
19 entities, so we've resolved it.

20 THE COURT: You mean, Google has released its
21 claims against the entities?

22 MS. ALWIN: That's my understanding, Your
23 Honor.

24 THE COURT: Counsel for Google, please?

25 MR. BARRETT: Your Honor, I'm looking at the

1 relevant language right now in the agreement. The
2 language is Google hereby releases and discharges
3 Stoller's bankruptcy estate and the trustee, as
4 representative of Stoller's bankruptcy estate, from any
5 and all claims.

6 THE COURT: Not the entities.

7 MR. BARRETT: It does not appear to
8 specifically include the entities.

9 MS. ALWIN: There are no claims against the
10 entities.

11 THE COURT: Counsel?

12 MS. ALWIN: If I misspoke, Your Honor, my
13 apologies, but my understanding is --

14 THE COURT: If it included the entities --

15 MS. ALWIN: -- there are no claims then.

16 THE COURT: -- then there's no reason for him
17 to file this shotgun suit.

18 MR. FOGEL: The suit was drafted before the
19 settlement was reached.

20 THE COURT: I know, but from what I just
21 heard, the entities are still liable and you want them
22 to go undefended even though you think that potentially
23 you may find out they had a value.

24 MR. STOLLER: That's correct, Your Honor.

25 MR. BARRETT: The relief sought by Google

1 against the entities in the settlement agreement is
2 injunctive relief.

3 THE COURT: I'm sorry. I was just looking at
4 this complaint. I always take these requests for relief
5 kind of seriously. You want treble damages. You want
6 punitive damages. You don't want -- you want much more
7 than an injunction against an entity that the trustee
8 wants to hold onto in case he can find some value there.
9 And yet the trustee does not intend to defend this,
10 defend the entities. I don't understand that. I'm not
11 sure I should modify the stay to permit -- to go after
12 the entities since the entities are part of the estate.

13 MR. FOGEL: I don't see how entry of
14 injunctive relief against the entities would affect
15 their value.

16 THE COURT: I assure you that punitive
17 damages would and treble damages would.

18 MR. FOGEL: It's my understanding that Google
19 was not going to be seeking monetary relief against the
20 entities and was only going to pursue Mr. Stoller. And
21 if I misunderstood the settlement then --

22 THE COURT: Counsel, is all you want to do is
23 to get the injunction against the entities?

24 MR. BARRETT: Your Honor, my understanding --
25 we're dealing with an issue I think that wasn't really

1 fully fleshed out in the settlement talks with the
2 trustee.

3 THE COURT: I know. And I know this draft
4 was prepared a long time ago.

5 MS. ALWIN: Yes.

6 THE COURT: I guess you had better think it
7 through; also me. I'm prepared -- I've approved that
8 settlement and it makes sense for the estate, but now
9 I've got to see whether the form of the order here makes
10 sense and the extent to which I permit him to go forward
11 with litigation makes sense.

12 MR. FOGEL: May we put this over so that
13 Mr. Barrett can confer with his lead counsel? And
14 perhaps the fix is to have a revised proposed
15 complaint --

16 THE COURT: Yes.

17 MR. FOGEL: -- that will not be seeking the
18 type of relief that we're talking about.

19 THE COURT: I think that may very well be.
20 Now, Mr. Stoller, based on your objection, it's going to
21 be overruled. I'll tell you why. There is good cause
22 here for allowing Google to go forward and sue you. As
23 to whether he should be allowed to sue the entities, I'm
24 not so sure, but there is good cause to allow him to sue
25 you because that has nothing to do with this estate and

1 suing you won't hurt the estate and, therefore, I should
2 not in any way bar him from going forward. There is
3 good cause. He has certainly got an issue that ought to
4 be resolved somewhere, and I don't see why it should be
5 resolved in bankruptcy court at all.

6 MR. STOLLER: Well, none of the predicate
7 acts of which he's trying to seeking relief, or
8 allegedly seeking relief and, of course, I deny all the
9 allegations in the complaint, you know, it's like taking
10 the captain of a ship and saying -- I'm not doing
11 anything. You know, in other words, there is an
12 injunction by virtue --

13 THE COURT: Well, you can argue that to
14 whatever court this is before.

15 MR. STOLLER: But I'm just merely saying it
16 doesn't make any sense to shove me into an environment
17 when I'm in a bankruptcy proceeding, I'm trying to
18 resolve the bankruptcy, pay my creditors, and then I
19 would say, Judge, if I get out of this bankruptcy and I
20 pay my creditors and regain my corporations, I would
21 relish having the opportunity to defend it.

22 THE COURT: At least you should understand
23 that there is good cause to show why they should go
24 ahead and be able to sue you on a matter not affecting
25 the bankruptcy to get injunctions. Now as to how much

1 beyond that should I allow is the question that's still
2 open. Okay?

3 So when can we have you folks back
4 here?

5 MR. FOGEL: Your Honor, we have a pending
6 date in January, I think on the 11th, for some matters.
7 I don't know if there is a time between now and then
8 that we can get back before you. I'm going to be out of
9 town.

10 THE COURT: Well, I can find some time if you
11 tell me when you want to come back here.

12 MR. FOGEL: Wait, January 11th is the 341.

13 THE COURT: I can find some time. I will
14 just pick a date a week from now or 10 days from now.

15 MR. FOGEL: A week from now would work.

16 THE COURT: Okay. Date please?

17 THE CLERK: January 19th at 10:30.

18 THE COURT: January?

19 THE CLERK: I'm sorry, December.

20 THE COURT: December 19th at what, 10:30?

21 THE CLERK: 10:30.

22 THE COURT: For hearing on order and possible
23 limits to litigation -- to suit.

24 May I continue to borrow your big black
25 book, please?

1 MR. BARRETT: You you may, Your Honor.

2 THE COURT: I don't know what happened to my
3 copy.

4 Now did you, Mr. Stoller, get a full
5 set of this big black binder?

6 MR. STOLLER: I just received it, yes.

7 THE COURT: All right. There was a motion on
8 today, a trustee's motion to approve compromise of
9 Lanard Toys.

10 MS. ALWIN: Yes. I have a draft order to
11 follow, Your Honor.

12 THE COURT: May I have it please?

13 MS. ALWIN: Yes.

14 THE COURT: I've overruled the debtor's
15 objection.

16 MR. FOGEL: We've changed the language to
17 make it clear that the reference in that paragraph is
18 only to me on behalf of the estate and the related
19 entities and it's not applicable to Mr. Stoller.

20 THE COURT: Which paragraph are you talking
21 about?

22 MR. FOGEL: It's paragraph four of the --

23 THE COURT: The language in the agreement you
24 mean?

25 MR. FOGEL: Yes.

1 MS. ALWIN: Yes.

2 MR. FOGEL: Paragraph four of the agreement
3 is what Mr. Stoller's objecting to.

4 THE COURT: Okay.

5 MR. FOGEL: -- and make clear that I'm the
6 someone.

7 THE COURT: So we -- get a copy of this order
8 to Mr. Stoller, please.

9 MR. FOGEL: Yes, sir.

10 THE COURT: Now I also have Mr. Stoller's
11 motion for permission to allow him to represent himself
12 and his corporate entities before the Trademark Trial
13 and Appeal Board. What is the status of that?

14 MR. FOGEL: Your Honor, the status of the
15 matters before the -- they are, I guess the word is they
16 are frozen pending further determinations in the
17 bankruptcy case as to what ultimately happens. There
18 are, as you may recall Mr. Stoller said last week, you
19 know, over a thousand matters were filed to possibly
20 investigate whether or not there was a reason for him to
21 fight with any of the people that he was filing against.

22 I would say this motion is similar to
23 the motion that he filed a couple of weeks ago that you
24 denied where he sought a declaration either that I had
25 abandoned my interest in the portfolio or that he should

1 be allowed to join the entities and the estate in the
2 appeal of the Pure Fishing case. And I resisted the
3 motion. I resisted that motion at that time --

4 THE COURT: Is that procedure before the
5 Trademark Trial and Appeal Board --

6 MR. FOGEL: No.

7 THE COURT: -- Pure Fishing?

8 MR. FOGEL: Pure Fishing is pending in the
9 district court before Judge Lindberg. It has been
10 appealed to the Seventh Circuit by Mr. Stoller.

11 The matters before the Patent Trademark
12 Board involve a variety of other parties and, again,
13 until I have either reached some type of settlement with
14 Mr. Stoller or proceeded without settlement with
15 Mr. Stoller to deal with the intellectual property
16 portfolio, I am opposed to him being authorized to act
17 on behalf of the estate or on behalf of the entities.

18 THE COURT: What I can do is to keep this
19 alive and see what happens.

20 MR. FOGEL: I have no problem with entering
21 and continuance of this motion.

22 THE COURT: Because your view is that the
23 proceeding is frozen.

24 MR. FOGEL: Yes.

25 MR. STOLLER: Your Honor, the last time we

1 were here one of the attorneys presented an action. At
2 the Trademark Trial and Appeal Board -- and the last
3 time we were here you made your order in the Google case
4 predicated upon the fact that I may get my companies
5 back.

6 THE COURT: Mr. Stoller, the trademark
7 procedure, is it going forward now or is it frozen
8 temporarily?

9 MR. STOLLER: No. They're going to be
10 dismissed and that's the urgency. All my actions at the
11 Trademark Trial and Appeal Board of which there are 30
12 cases many of which I have been involved in for 10 years
13 or more, Judge, are now all destined to be dismissed.

14 THE COURT: Mr. Stoller, do you have anything
15 to back up your contention that they're about to be --

16 MR. STOLLER: Yes.

17 THE COURT: I don't mean Stoller. Trustee,
18 do you have anything that shows that they're frozen as
19 opposed to actively considering dismissal?

20 MS. ALWIN: I believe it's the order attached
21 to Google's response.

22 MR. JOHNSON: Your Honor, if I may interject
23 a moment on the Trademark Trial and Appeal Board
24 procedure. An opposition is filed by a party who
25 believes they will be harmed by the granting of a

1 trademark registration. There is an alternative
2 proceeding available. If that registration has already
3 been granted, the one aggrieved can seek to have the mar
4 canceled. The two are procedurally identical, merely a
5 difference in posture as to whether the application has
6 been registered or whether the registration will be
7 canceled.

8 MR. STOLLER: What happened the last time we
9 were here, the board issued an order which was tendered
10 to you. In that order the Trademark Trial and Appeal
11 Board dismissed a case which the trustee entered into an
12 agreement to dismiss the case with and I merely filed a
13 notice before the Trademark Trial and Appeal Board,
14 Judge, to advise them that the case was on appeal and
15 not to -- to put them in the stay position.

16 The board issued a decision saying,
17 "Stoller has no authority to respond," and then
18 dismissed the action. That single decision which was
19 tendered to you last time is now being used by all my
20 opponents so that all of my decisions, all of the 30
21 pending oppositions will be dismissed based on that
22 board decision. I need to go back to the TTAB. I went
23 in good faith and tried to contact Mr. Fogel and asked
24 him if he would give me authority so I could go back to
25 the board and say, "No, I do have the authority."

1 I'm not looking to litigate the cases
2 over there. I'm merely looking to advise the board that
3 we are -- that these decisions are on appeal and they
4 should be stayed pending my appeal.

5 THE COURT: What decisions are on appeal?

6 MR. STOLLER: Pardon me?

7 THE COURT: What was handed to me now is a
8 letter from the Patent Trademark office to you dated
9 July 14, '06.

10 MR. STOLLER: That's just a sanction order.
11 That has nothing to do --

12 THE COURT: It determines that you have not
13 made a showing that you have a colorable claim of
14 damages justifying the extension request that you filed.

15 MR. STOLLER: You're being -- there is an
16 attempt to confuse the court. That decision, that was a
17 sanction order based on my filing a series of requests
18 to -- requests for extensions of time to file in
19 opposition. That does absolutely nothing with the 30
20 pending initiated opposition proceedings. The
21 criticality of it is if I'm going to get my companies
22 back, I want my oppositions in the same position they
23 were at the time this proceeding began.

24 Mr. Lance Johnson's allegation to you
25 that I could then now go back and refile 30 or 40 cases,

1 pay those filing fees, and then litigate under the
2 theory that a petition to cancel is the same as an
3 opposition is not the case. There is a different
4 standard.

5 All I want is that the board suspend
6 everything, like the trustee said, pending the
7 resolution of these issues so that if we can reach an
8 amicable resolution, I pay my creditors, I get my
9 companies back, everything is stayed. Right now the
10 board has said, "Stoller has no authority." I've
11 received letters from other counsel using that last
12 decision by the board and they're going to dismiss all
13 30 of them which would never allow me to be made whole
14 again.

15 THE COURT: Trustee, have you filed anything
16 in that proceeding?

17 MR. FOGEL: Yes, and let me clarify it there.
18 I think maybe what Mr. Stoller is looking for may, in
19 fact, be available to him. After Judge Lindberg entered
20 his opinion in the Pure Fishing case in the district
21 court dealing with the Stealth marks that Mr. Stoller
22 has the fights with before the Patent Trademark Board, I
23 entered into a joint motion to dismiss in opposition
24 without prejudice.

25 THE COURT: Pertaining to Pure?

1 MR. FOGEL: Pertaining to another entity.

2 THE COURT: Just one?

3 MR. FOGEL: I believe one.

4 MR. STOLLER: He entered three of them. He
5 dismissed three of my cases.

6 MR. FOGEL: I thought only one of them had
7 actually been --

8 THE COURT: Has it been dismissed?

9 MR. STOLLER: Three.

10 MR. FOGEL: I believe one of them has. And
11 as soon as Mr. Stoller filed his notice of appeal of the
12 Pure Fishing action, I decided to stand still and take
13 no actions before the Patent and Trademark Board.

14 THE COURT: Mr. Stoller, let me ask, are
15 these cases where you claim some interest in what other
16 people say are their trademarks or patents?

17 MR. STOLLER: It's a claim where my company
18 held rights and does the 35 Stealth federal trademark
19 registrations. We have 35.

20 THE COURT: Mr. Stoller, are these
21 proceedings where you claim an interest in certain
22 trademarks that other companies are using?

23 MR. STOLLER: I claim an interest in the
24 trademarks that I own, 35. A company will file an
25 application for a trademark.

1 THE COURT: You don't want to answer my
2 question.

3 MR. STOLLER: I am answering it.

4 THE COURT: No, you're not. I asked you
5 whether you're claiming rights in trademarks that other
6 companies are using.

7 MR. STOLLER: Yes, I am.

8 THE COURT: And do you contend that you used
9 the -- that you obtained the trademarks first?

10 MR. STOLLER: I have 35 that I've obtained
11 since 1981.

12 THE COURT: First, before they started to use
13 them?

14 MR. STOLLER: Yes. And these cases are not
15 being dismissed by the board summarily. They're motions
16 to dismiss. They're being litigated. And I need to be
17 able to defend my trademarks.

18 Now the only thing I'm looking for,
19 Judge, the only thing here is to go back to the board
20 and say, "No, they should be stayed." I should have the
21 right to write them a letter and say they should be
22 stayed pending what appeals you said, the Pure Fishing
23 appeal and my appeal in this case. That's all I'm
24 looking for.

25 THE COURT: Let me say to the trustee, it may

1 very well be that Mr. Stoller is misusing his rights
2 under the patent system. It may very well be that it
3 would be a better world if he were stopped. I am not
4 here to make that decision. It may very well be that
5 some other court or agency ought to make that decision.
6 I just don't think that if the trustee is not claiming
7 any property rights that the bankruptcy should be used
8 to prevent Mr. Stoller from litigating whatever he
9 thinks his rights are. So I'm a little troubled by . .

10 MR. FOGEL: I'm a little troubled, too. But
11 if he would show me any documents, if he would give me
12 any cooperation along the lines that would enable me to
13 make intelligent decisions --

14 THE COURT: He has this problem because he's
15 asserted the Fifth Amendment. He's not cooperated with
16 you and he complains that you're moving slowly and are
17 not proceeding to take some dispositive action that will
18 allow him to get back control of his business. And, of
19 course, I understand that once a trustee is faced by a
20 proper assertion of a Fifth Amendment, if it be proper,
21 that does slow the trustee down. I understand that on
22 the other side as well. But, generally speaking, one
23 may punish themselves by asserting the Fifth Amendment,
24 but one may not be punished for asserting the Fifth
25 Amendment properly.

1 MR. FOGEL: Your Honor, I --

2 THE COURT: Now where are we here? What I'd
3 like to see happen is that whatever you do and whatever
4 I do freezes the proceedings.

5 MR. FOGEL: That's what I'm trying to do.
6 I'm trying to maintain the status quo. I am not seeking
7 dismissal of any matters, and I will be happy to
8 notify --

9 THE COURT: I want you to think about that as
10 to how we can arrive at that as opposed to allowing him
11 to represent his agencies or himself in matters.

12 MR. FOGEL: I can't stop him from
13 representing himself.

14 THE COURT: Yes, you can, because the claim
15 is a claim of the estate.

16 MR. FOGEL: Well, if it's a claim of the
17 estate, then it's mine to assert.

18 THE COURT: Yes, it is. And you could
19 abandon it, or you could assert it, or you could try to
20 freeze it while you evaluate it.

21 MR. FOGEL: That's what I'm pretty much doing
22 I believe. I'm not doing things with any prejudice.
23 Anything I've done to date has been without prejudice.

24 THE COURT: Until you abandon it.

25 MR. FOGEL: And I'm not going to do anything

1 else before the Patent Trademark Board until either I
2 reach settlement with Mr. Stoller or until the appeal
3 before Judge Lindberg is litigated out.

4 THE COURT: Okay. But basically on his
5 motion I think you ought to take the view you're either
6 going to prosecute those claims, or abandon them, or ask
7 that they be frozen.

8 MR. FOGEL: That's what I'm telling you. I
9 want them to be frozen for now.

10 THE COURT: If they are frozen, then I'm
11 certainly not going to let him represent an asset of the
12 estate that you have not been able to evaluate yet.

13 MR. FOGEL: I'm happy to notify the general
14 counsel of the patent --

15 THE COURT: I'm fully aware also of a dilemma
16 that it seems to me you probably have. If you suspect
17 that a lot of these claims that he has made are phony,
18 you probably don't want to be asserting them if that's
19 your belief.

20 MR. FOGEL: Thank you, Judge.

21 THE COURT: And so you have a dilemma because
22 you can't evaluate. So you're reluctant to abandon and
23 you're reluctant to prosecute.

24 MR. FOGEL: I will say that I did have a good
25 conversation with Mr. Stoller yesterday. And I don't

1 know where it will go, but I'm going to talk to him
2 again. So I'd like to maybe put this over and I will
3 represent to Mr. Stoller and to the court --

4 THE COURT: -- the 19th to see if we can
5 approach this problem that way.

6 MR. FOGEL: Fine.

7 MR. STOLLER: Your Honor, could I make one
8 suggestion? In this one case we only have about 20
9 days. I would like to talk to Mr. Fogel.

10 THE COURT: Well, 7 days is shorter than 20.

11 MR. STOLLER: I'm saying in terms of
12 notifying the board that this one action shouldn't be
13 dismissed, I'd like to be able to --

14 THE COURT: You say you have 20 days, but
15 I'll be back here on the 19th with you and let's see
16 what we can do.

17 MR. STOLLER: Okay.

18 THE COURT: The debtor's response to a motion
19 of Pure Fishing to extend the date, this was filed
20 December 5. Haven't I --

21 MR. FOGEL: You ruled on it.

22 THE COURT: -- ordered -- I ruled on that.

23 MR. FOGEL: You entered that order. There is
24 one last matter for today. As part of the objection
25 that Mr. Stoller filed to one of the settlement motions,

1 he asked that I be disqualified as trustee.

2 THE COURT: I thought I ruled on that.

3 MR. FOGEL: You did.

4 THE COURT: I thought I orally ruled on that.

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6 that we could draft an order that I believe reflects

7 what you said that he didn't show cause to remove me.

8 THE COURT: Right.

9 MR. STOLLER: I would like to have a copy of
10 that, too.

11 THE COURT: Yes, please. Get him a copy of
12 that. I've signed that. I'll see you folks on the
13 19th.

14 MR. FOGEL: Thank you very much.

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16 (Which were all the proceedings
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19 your belief.

20 MR. FOGEL: Thank you, Judge.

21 THE COURT: And so you have a dilemma because
22 you can't evaluate. So you're reluctant to abandon and
23 you're reluctant to prosecute.

24 MR. FOGEL: I will say that I did have a good
25 conversation with Mr. Stoller yesterday. And I don't

1 know where it will go, but I'm going to talk to him
2 again. So I'd like to maybe put this over and I will
3 represent to Mr. Stoller and to the court --

4 THE COURT: -- the 19th to see if we can
5 approach this problem that way.

6 MR. FOGEL: Fine.

7 MR. STOLLER: Your Honor, could I make one
8 suggestion? In this one case we only have about 20
9 days. I would like to talk to Mr. Fogel.

10 THE COURT: Well, 7 days is shorter than 20.

11 MR. STOLLER: I'm saying in terms of
12 notifying the board that this one action shouldn't be
13 dismissed, I'd like to be able to --

14 THE COURT: You say you have 20 days, but
15 I'll be back here on the 19th with you and let's see
16 what we can do.

17 MR. STOLLER: Okay.

18 THE COURT: The debtor's response to a motion
19 of Pure Fishing to extend the date, this was filed
20 December 5. Haven't I --

21 MR. FOGEL: You ruled on it.

22 THE COURT: -- ordered -- I ruled on that.

23 MR. FOGEL: You entered that order. There is
24 one last matter for today. As part of the objection
25 that Mr. Stoller filed to one of the settlement motions,

1 he asked that I be disqualified as trustee.

2 THE COURT: I thought I ruled on that.

3 MR. FOGEL: You did.

4 THE COURT: I thought I orally ruled on that.

5 MR. FOGEL: It was draft order to follow so
6 that we could draft an order that I believe reflects
7 what you said that he didn't show cause to remove me.

8 THE COURT: Right.

9 MR. STOLLER: I would like to have a copy of
10 that, too.

11 THE COURT: Yes, please. Get him a copy of
12 that. I've signed that. I'll see you folks on the
13 19th.

14 MR. FOGEL: Thank you very much.

15 MR. STOLLER: Thank you, Judge.

16 (Which were all the proceedings
17 had in the above-entitled cause
18 as of December 12, 2006.)

19
20
21 I, Barbara A. Casey, do hereby
22 certify that the foregoing is
23 a true and accurate transcript
24 of proceedings had in the
25 above-entitled cause.

1 IN THE UNITED STATES BANKRUPTCY COURT
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION

4 In re:)
5 LEO STOLLER,) No. 05 B 64075
6) Chicago, Illinois
7 Debtor.) February 15, 2007
8) 10:00 A.M.

9 TRANSCRIPT OF PROCEEDINGS BEFORE THE
10 HONORABLE JACK B. SCHMETTERER

11 APPEARANCES:

12 MS. JANICE ALWIN
13 on behalf of the trustee;

14 MR. RICHARD FOGEL
15 trustee;

16 MS. KIM ROBINSON
17 on behalf of Google;

18 MR. BILL FACTOR
19 on behalf of Pure Fishing.

20 ALSO PRESENT:

21 MR. LEO STOLLER
22 debtor.
23
24
25

1 THE CLERK: Stoller, 05 64075.

2 MR. STOLLER: Good morning, Judge. Leo
3 Stoller, debtor.

4 THE COURT: Good morning, sir.

5 MS. ALWIN: Good morning, Your Honor.
6 Janice Alwin on behalf of the trustee.

7 MR. FOGEL: Good morning, Your Honor.
8 Richard Fogel, the trustee.

9 MS. ROBINSON: Good morning, Your Honor.
10 Kim Robinson on behalf of Google.

11 MR. FACTOR: Good morning, Your Honor.
12 Bill Factor on behalf of Pure Fishing.

13 THE COURT: Good morning. First I have --
14 we have only one thing up this morning that I'm
15 aware of. Mr. Stoller moves for permission to
16 retain counsel for corporations that the -- and
17 Google has filed an objection to it. Let me ask
18 some questions.

19 Mr. Stoller, what lawyer do you want
20 to hire?

21 MR. STOLLER: First of all -- I will
22 answer that. But first of all, you gave them
23 permission to sue me, Leo Stoller. They came in ten
24 times before you to lift --

25 THE COURT: I've read --

1 MR. STOLLER: -- the stay.

2 THE COURT: -- your motion.

3 MR. STOLLER: I'm not in this. I'm not --
4 they didn't sue Leo Stoller. They just sued --

5 THE COURT: I read your motion.

6 MR. STOLLER: Okay. They just sued my --

7 THE COURT: I read --

8 MR. STOLLER: -- corporations.

9 THE COURT: -- their answer.

10 MR. STOLLER: Right.

11 THE COURT: I want to ask you what lawyer
12 you wish to hire.

13 MR. STOLLER: I have a lawyer that I have
14 talked with on this that -- I haven't confirmed it
15 yet because I haven't gotten your permission, but
16 his first name is Marty. And I have discussed it
17 with him, if he would take the case. But I don't
18 know yet because I can't --

19 THE COURT: Does he have a last name that
20 you can share with us, please?

21 MR. STOLLER: I'm looking for his card.
22 I'll provide that this afternoon for you.

23 THE COURT: You're unwilling or unable to
24 tell me the lawyer you wish to hire?

25 MR. STOLLER: I'm not unwilling. I am

1 willing. His name is Marty. He's handling another
2 matter for me and --

3 THE COURT: Did you respond at all to the
4 trustee's invitation to have that lawyer contact
5 him?

6 MR. STOLLER: At this particular point, he
7 hasn't said yes or no to the case because I don't
8 have permission.

9 THE COURT: In the event --

10 MR. STOLLER: I will have --

11 THE COURT: -- you should hire Marty --

12 MR. STOLLER: Pardon me?

13 THE COURT: In the event you should hire
14 Marty, last name unknown, out of what source would
15 you pay him?

16 MR. STOLLER: He would be paid out of
17 Illinois trade. He's a lawyer that's on barter, a
18 barter system, and he would take barter points, he
19 said. And he would take -- 25 percent of his hourly
20 wage would be paid by cash, 75 percent by barter.
21 And my brother who -- has agreed to borrow me the
22 funds to pay him the 25 percent of his hourly wage
23 for cash.

24 The critical point here is that
25 they're seeking a civil RICO action. This is the

1 most serious type of action --

2 THE COURT: I read --

3 MR. STOLLER: -- against a --

4 THE COURT: -- your motion, I read their
5 answer. I understand what they're doing and I
6 understand what you're doing.

7 Have you yet turned over any documents
8 relating to the corporations involved in this
9 lawsuit you're talking about? Have you turned over
10 any documents relating to those corporations to the
11 trustee?

12 MR. STOLLER: No, I haven't.

13 THE COURT: Why not?

14 MR. STOLLER: Because under the advice of
15 my counsel when I took the Fifth, he advised me to
16 take the Fifth. But in terms of whatever documents
17 I have in my possession regarding those corporations
18 which are their corporate -- you know, the book from
19 Delaware, I would be more than happy to turn those
20 over to Mr. Fogel.

21 THE COURT: Sir, do you have documents
22 relating to what you think would be your defense in
23 that case?

24 MR. STOLLER: In the Google case?

25 THE COURT: That's the case we're talking

1 about.

2 MR. STOLLER: In the Google case, there
3 are --

4 THE COURT: That's the one you want to
5 hire lawyers to defend.

6 MR. STOLLER: Yes, right. I have
7 documents --

8 THE COURT: That's the subject of this
9 discussion.

10 MR. STOLLER: I have documents --

11 THE COURT: Do you have documents?

12 MR. STOLLER: Yes, I do, that are --

13 THE COURT: Have you turned those over to
14 the trustee?

15 MR. STOLLER: No. But I haven't been
16 asked specifically for that, but I will.

17 THE COURT: What's the answer to my
18 question?

19 MR. STOLLER: Yes, I have documents. I
20 haven't --

21 THE COURT: And the --

22 MR. STOLLER: -- turned them over --

23 THE COURT: And the question is --

24 MR. STOLLER: -- but I will turn them
25 over.

1 THE COURT: You have not turned them over
2 yet?

3 MR. STOLLER: As of this second, I was not
4 required to give my defense for this RICO action,
5 which was just filed, to the trustee. I didn't know
6 that was -- I had to do that.

7 THE COURT: Did you appear at a meeting of
8 creditors?

9 MR. STOLLER: We had one meeting of
10 creditors.

11 THE COURT: Did you appear at a --

12 MS. ALWIN: Yes.

13 THE COURT: -- meeting of creditors?

14 MR. STOLLER: Yes.

15 THE COURT: Did you testify?

16 MR. STOLLER: I took the Fifth at --

17 THE COURT: Did you --

18 MR. STOLLER: -- the advice of my --

19 THE COURT: -- turn over any documents at
20 the meeting of creditors?

21 MR. STOLLER: No, I did not. But I am
22 willing to turn over documents in the defense of
23 this case because it is so critical to the trustee
24 what is my defense in this case. I was not asked
25 for that specific defense.

1 THE COURT: Sir, the corporations that are
2 named in this case that you want to defend --

3 MR. STOLLER: Yes.

4 THE COURT: -- those corporations, do you
5 own stock in those corporations?

6 MR. STOLLER: Yes, I do, Judge.

7 THE COURT: Do you own all the stock,
8 in --

9 MR. STOLLER: Yes, I --

10 THE COURT: -- those corporations?

11 MR. STOLLER: -- do, Judge.

12 THE COURT: Does anybody else own stock in
13 those --

14 MR. STOLLER: No --

15 THE COURT: -- corporations?

16 MR. STOLLER: -- Judge.

17 THE COURT: Are you an officer in --

18 MR. STOLLER: Yes.

19 THE COURT: -- each of those companies?

20 Is there any reason you want to tell
21 me why you don't think the trustee has the right to
22 control those corporations and responsible for any
23 assets of them?

24 MR. STOLLER: Yes, I do.

25 THE COURT: What's that?

1 MR. STOLLER: When the Chapter 13 trustee
2 just filed his final report on February 7th in this
3 case, they showed I owed \$65,000 in debt. That's
4 when we came before you when Golding was here on the
5 conversion. Prior to the conversion and the
6 appointment of this trustee, I only owed in this
7 court in my bankruptcy claims of 65,000. Since the
8 trustee has taken over, those claims have been
9 elevated to \$2.3 million.

10 THE COURT: Mostly Google?

11 MR. STOLLER: No. Pure Fishing, which he
12 agreed to. He has refused to defend any of my
13 corporations, resulting in the ballooning of the
14 debt which has been leveled on me.

15 THE COURT: Mr. Stoller, when, as, and if
16 the trustee ever collects any assets, he wishes to
17 pass them out to your creditors. I understand that
18 Stoller -- pardon me, that Google has agreed to
19 withdraw any claims because of the settlement with
20 the trustee; is that right?

21 MR. FOGEL: Yes, sir.

22 MS. ROBINSON: That's correct, Your Honor.

23 THE COURT: That's the one on settlement
24 that I approved.

25 MR. FOGEL: Yes, sir.

1 MR. STOLLER: But the problem --

2 THE COURT: So other creditors will
3 the money.

4 MR. STOLLER: The problem --

5 THE COURT: It doesn't matter how many
6 Google is claiming.

7 MR. STOLLER: The problem is not that
8 withdraw their monetary claims. It's a class
9 action where I'm mentioned 15 times in a complaint
10 in which I am deprived of defending myself. I'm
11 even listed in it.

12 THE COURT: You have a right, I suppose,
13 to seek to intervene in that case and to express
14 interest of yours personally, but I see no reason
15 why I should authorize you to hire lawyers on behalf
16 of the companies.

17 MR. STOLLER: Because if --

18 THE COURT: If you feel that the action
19 indirectly impinges on your rights, nothing is going to
20 you from doing that.

21 MS. ROBINSON: Your Honor, if, in fact,
22 the settlement is approved by the district court
23 next week, the case is going to go away.

24 THE COURT: I understand.

25 MS. ROBINSON: The case is going to go away.

1 THE COURT: I don't know --

2 MS. ROBINSON: -- to completely --

3 THE COURT: -- what he means by --

4 MR. STOLLER: It's not going to go --
5 It's going to live with me forever, and I'm going
6 be held responsible for a civil RICO action. The
7 complaint here is a heinous complaint. It's
8 frivolous on its face. There aren't -- and I
9 defend my corporations, and that's like telling me
10 to cut my legs off, go in front of another court
11 and I already got --

12 THE COURT: Do you have the --

13 MR. STOLLER: -- a judgment against

14 THE COURT: -- motion -- do you have
15 order modifying stay that I allowed Google to
16 after, please? Nobody has that order?

17 MS. ROBINSON: Yes, we have it, Your
18 Honor.

19 MR. FOGEL: Yes, sir.

20 MR. STOLLER: And the other thing, you
21 asked --

22 MS. ROBINSON: Your Honor --

23 MR. STOLLER: -- Judge, to file the motion
24 to the motion. It is pending at the Trial Court
25 and Appeal Board. You modified your order --

1 wrote that language in. They have -- I believe
2 refused to respond to my motion for summary
3 judgment.

4 THE COURT: Nobody has the order
5 entered.

6 MS. ROBINSON: Yes, we have it, Your
7 Honor.

8 THE COURT: Okay. See if you can put
9 the docket in the Stoller case.

10 Do you remember the approximate date
11 of the entry of the order?

12 MS. ROBINSON: Your Honor, are you asking
13 for the order against Mr. Stoller individually?

14 THE COURT: No.

15 MS. ROBINSON: -- or the order that allowed you

16 THE COURT: The order that allowed you
17 proceed, counsel. The order modifying stay.

18 MS. ALWIN: That was in January.

19 THE COURT: Okay. Do we know the
20 approximate date of the order?

21 MS. ALWIN: January.

22 MS. ROBINSON: January 5th or 4th, Your
23 Honor.

24 THE COURT: Okay.

25 Let's pull it up and see if you

1 find the order modifying stay.

2 MR. STOLLER: It's important that
3 in their motion before you they had asked that
4 they had me, Leo Stoller, a necessary party
5 was in their motion to lift the stay. When they
6 come to filing the suit, they don't have it
7 there.

8 THE COURT: So nobody -- this what
9 turns largely on this order which I signed
10 permitting stay, and I believe I tailored it
11 little bit. But nobody has it, so we're going to

12 MS. ROBINSON: We do have it, Your Honor.
13 We do have it, Your Honor.

14 THE CLERK: February 8th.

15 THE COURT: I can't hear you. What?

16 MS. ROBINSON: It is Exhibit 5 to our
17 response -- or our objection, Your Honor. I'll
18 to give a copy to you right now.

19 THE COURT: Just a second. Exhibit 5
20 ought to be able to find. Exhibit 5, order
21 approving trustee's agreement with Google to lift
22 stay and compromise certain claims; is that it?

23 MS. ROBINSON: That's it, Your Honor.

24 THE COURT: Got it.

25 MR. STOLLER: And they have not

1 their answer to the motion expending the
2 Trademark Trial and Appeal Board which you
3 language in there yourself, handwrote it, and
4 they --

5 THE COURT: What subject are you referring to?

6 MR. STOLLER: I'm on the subject of the
7 order right there.

8 THE COURT: This order does not deal with
9 that subject. Do you have an order that deals with
10 that subject?

11 MR. STOLLER: You wrote the Trademark
12 Trial and Appeal Board, I thought, on that
13 particular order.

14 MS. ROBINSON: That's not correct, Your
15 Honor.

16 THE COURT: That's a different order than
17 you're thinking about.

18 MR. STOLLER: Oh, a different order, Your
19 sorry.

20 MS. ROBINSON: I think the particular
21 language that you included on this order, Your
22 Honor, was that there would be ability to review
23 or vacate or modify the order --

24 THE COURT: -- case gets dismissed --
25 the bankruptcy gets dismissed.

1 MS. ROBINSON: That's correct, Your Honor.

2 THE COURT: Now, let's see.

3 MS. ROBINSON: This order approving the
4 settlement --

5 THE COURT: Do you have a copy of the
6 agreement here somewhere?

7 MS. ROBINSON: The settlement agreement,
8 Your Honor, that you approved?

9 THE COURT: Yes.

10 MS. ROBINSON: Yes. That, I believe.

11 THE COURT: Which exhibit is that, please?

12 MS. ROBINSON: I believe it is Exhibit 3,
13 Your Honor. Yes, it's Exhibit 3, Your Honor.

14 THE COURT: I don't think so. Exhibit 3 is
15 No.

16 MS. ROBINSON: Exhibit 3.

17 THE COURT: Well -- oh, I see. Exhibit 3
18 starts way back in here.

19 MS. ROBINSON: Yeah, there are a lot of
20 attachments to that exhibit, Your Honor.

21 THE COURT: Now, this deal which the
22 trustee made said they wouldn't oppose a permanent
23 injunction and final judgment as to certain
24 defendants, Central Manufacturing and Steel
25 Industries, right?

1 MS. ROBINSON: That's correct. And the
2 permanent injunction, Your Honor, is set forth in the
3 motion --

4 THE COURT: Now, is --

5 MS. ROBINSON: -- before the --

6 THE COURT: -- there anything --

7 MS. ROBINSON: -- district court on
8 Tuesday.

9 THE COURT: -- in here which indicates
10 were going to sue under RICO?

11 MS. ROBINSON: Your Honor, the draft
12 complaint was attached to the stay motion that
13 filed back in, I believe, August. The draft
14 complaint, virtually identical except for the fact
15 that Mr. Stoller is not included, was attached to
16 the stay motion that's been a subject of these
17 proceedings for several months. The fact that
18 Google decided not to include Mr. Stoller, I would
19 think he would be happy about that. I've never
20 somebody upset about the fact that they were
21 sued.

22 THE COURT: Does the complaint to which
23 the trustee is about to agree to with a consent
24 judgment affect Mr. Stoller personally?

25 MR. STOLLER: Yes, it does. I don't know

1 Judge.

2 THE COURT: Would you hold on for
3 second?

4 MS. ROBINSON: It does not, Your Honor.
5 It is against the two corporations --

6 THE COURT: Does a --

7 MS. ROBINSON: -- that are --

8 THE COURT: -- verdict --

9 MS. ROBINSON: -- no longer --

10 THE COURT: -- against his company --
11 says they violated the stay, RICO, affect him
12 indirectly?

13 MS. ROBINSON: I don't believe so, Your
14 Honor. I believe there is an permanent injury
15 stopping the companies from doing the activities
16 that they've been doing throughout. Google is
17 to withdraw --

18 THE COURT: May I --

19 MS. ROBINSON: -- their claims --

20 THE COURT: -- see it?

21 MR. STOLLER: I have --

22 MS. ROBINSON: -- against the --

23 MR. STOLLER: -- the complaint --

24 MS. ROBINSON: -- estate.

25 MR. STOLLER: -- here.

1 THE COURT: Let's have it. If you want to go
2 around this way, it's the --

3 MR. STOLLER: I'm sorry.

4 THE COURT: -- way to come around.
5 Otherwise --

6 MR. STOLLER: This --

7 THE COURT: -- you step all --

8 MR. STOLLER: This materially --

9 THE COURT: -- over the --

10 MR. STOLLER: -- affects me --

11 THE COURT: -- court reporter.

12 MR. STOLLER: -- in at least ten different
13 areas where they're calling me an extortionist,
14 where they're calling -- engaging a fraudulent
15 activity. You wanted me, Judge, to have an
16 opportunity, not in this court, to defend my
17 business practices. In this I've marked the
18 sections where they mentioned my name. I will be
19 permanently branded for the rest of my career as an
20 extortionist if I'm not allowed to defend this
21 action, which is frivolous on its face. There is no
22 merit to it. But I need to have my due process and
23 equal protection rights protected. You have to give
24 me that opportunity.

25 THE COURT: Can I get back -- I think

1 have an understanding of what's going on with
2 this coming up before the --

3 MR. STOLLER: The 20th --

4 THE COURT: -- district judge?

5 MR. STOLLER: -- we're in --

6 MS. ROBINSON: On Tuesday.

7 MR. STOLLER: -- front of Judge Reed.

8 THE COURT: If you think you are going to
9 in some way, why didn't you seek to intervene?

10 MR. STOLLER: I have. I filed to
11 intervene. But the point --

12 THE COURT: What happened when you filed?

13 MR. STOLLER: Well, that's up on the wall.

14 THE COURT: Oh, really?

15 MR. STOLLER: Um-hmm, the motion to
16 intervene. But the point is I can't --

17 THE COURT: Then do it.

18 MR. STOLLER: I am.

19 THE COURT: Don't come here --

20 MR. STOLLER: But this is --

21 THE COURT: -- sir.

22 MR. STOLLER: I need --

23 THE COURT: This is --

24 MR. STOLLER: -- my corporations
25 represented --

1 THE COURT: Sir, would --

2 MR. STOLLER: -- too.

3 THE COURT: -- you please take the --

4 MR. STOLLER: It's not a question of
5 myself. I need the corporations. They're
6 brand the corporations as extortionists.

7 THE COURT: Well...

8 MR. STOLLER: And by default.

9 MS. ROBINSON: Your Honor --

10 THE COURT: Sir --

11 MR. STOLLER: And you wanted me --

12 THE COURT: Sir, let --

13 MR. STOLLER: -- to have --

14 THE COURT: -- me say something. You
15 in bankruptcy. You've not cooperated with the
16 trustee. You've not given any information to the
17 trustee or documents intending to help the trustee
18 defend these actions. The trustee is trying to do
19 his best for the sake of creditors and get rid of
20 this Google claim against the estate. It makes sense
21 to me. It still makes sense to me. You're in the
22 position of having given no cooperation at all in
23 bankruptcy, and yet you want something, you want an
24 extraordinary right to represent a company. We have
25 no idea at this point, and I don't think that's

1 does, I certainly don't, whether these companies
2 have assets other than whatever claims you think
3 they have, which the trustee is unwilling to take
4 responsibility for asserting for good reason, I
5 think.

6 In any event, for all we know, there
7 are assets of these companies that are out there
8 which you've not helped the trustee identify
9 or given him documents or given him testimony
10 have a right to assert the Fifth Amendment,
11 have the right to --

12 MR. STOLLER: Not use it against me.

13 THE COURT: -- say that the trustee has
14 responsibility for this corporation, not you. The
15 motion is denied for reasons stated from the bench.

16 MS. ROBINSON: Thank you, Your Honor.

17 MR. FOGEL: Thank you, Your Honor.

18 THE COURT: Good morning.

19
20 (Which were all the proceedings
21 had in the above-entitled case on
February 15, 2007.)

22 I, GARY SCHNEIDER, CSR, RPR, DO HEREBY CERTIFY THAT
23 THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT OF THE
24 PROCEEDINGS HAD IN THE ABOVE-ENTITLED CASE.

24

25

ea

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

GOOGLE, INC.

Plaintiff,

vs.

CENTRAL MFG. INC. a/k/a
CENTRAL MFG. CO., a/k/a
CENTRAL MFG. CO.(INC).,
a/k/a CENTRAL MANUFACTURING
COMPANY, INC. and a/k/a
CENTRAL MFG. CO. OF ILLINOIS;
and STEALTH INDUSTRIES, INC.
a/k/a RENTAMARK and a/k/a
RENTAMARK.COM,

Defendants.

MAK 15 2007 WH
03-15-07

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

Case No: 07-CV-385

Judge Kendall

Magistrate Judge Cole

NOTICE OF FILING

TO: Michael T. Zeller
Quinn, Emanuel, Urquhart,
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865 S. Figueroa Street, 10th Floor
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Richard M. Fogel, Trustee
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PLEASE TAKE NOTICE that on the **15nd day of March, 2007**, there was filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, **Motion For Permission To Appeal In Forma Pauperis**, a copy of which is attached hereto.

I certify that I served this Notice mailing a copy to each person to whom it is directed at the address above indicated by depositing it in the U.S. Mail on this 3-15-07 day of March, 2007, with proper postage prepaid.

Leo Stoller

Leo Stoller, *pro se*
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(773) 551-4827
Email: ldms4@hotmail.com

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 3.0
Eastern Division**

Google Inc

Plaintiff,

v.

Case No.: 1:07-cv-00385
Honorable Virginia M. Kendall

Central Mfg. Inc., et al.

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Friday, March 16, 2007:

MINUTE entry before Judge Virginia M. Kendall :For the reasons stated below, Movant Stoller's motion to reconsider [43] is denied. The presentment date of 3/19/2007 for said motion is hereby stricken.Mailed notice(gmr,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Virginia M. Kendall	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	07 C 385	DATE	3/16/2007
CASE TITLE	Google, Inc. vs. Central Mfg. Inc., et al.		

DOCKET ENTRY TEXT

For the reasons stated below, Movant Stoller's motion to reconsider [43] is denied. The presentment date of 3/19/2007 for said motion is hereby stricken.

■ [For further details see text below.]

Notices mailed by Judicial staff.

STATEMENT

On March 12, 2007, this Court issued a Memorandum Opinion and Order denying Leo Stoller's ("Stoller") motions to: (1) intervene; (2) interplead; (3) suspend the proceedings for sixty days to retain counsel for defendants; (4) suspend the proceedings pending an appeal of the decision of the bankruptcy court to permit plaintiff Google Inc. ("Google") to initiate this action; and (5) to suspend the proceedings pending the Trademark Trial and Appeal Board's decision on a motion for summary judgment in the proceedings related to the Google trademark.

On March 15, 2007, Stoller filed a motion asking this Court to reconsider its decision to deny Stoller's motion to intervene. Stoller's motion to reconsider reads, in its entirety:

NOW COMES Leo Stoller and submits to the Court transcripts of proceedings before Judge Schmetterer dated December 12, 2006 and February 15, 2007.

Leo Stoller requests that the Court reconsider its decision denying Stoller the right to intervene based upon the attached transcripts.

"Motions to reconsider are rarely granted -- they serve a narrow function and must be supported by a showing of extraordinary circumstances." *Trading Techs. Int'l, Inc. v. eSpeed Inc.*, No. 04 C 5312, 2007 U.S. Dist. LEXIS 12965, *10 (N.D. Ill. Feb. 21, 2007) (citing *Caisse Nationale de Credit Agricole v. CBI Indus., Inc.*, 90 F.3d 1264, 1269 (7th Cir. 1996)). In order to succeed on a motion to reconsider, the movant "must clearly establish either a manifest error of law or fact or must present newly discovered evidence." *LB Credit Corp. v. Resolution Trust Corp.*, 49 F.3d 1263, 1267 (7th Cir. 1995) (citing *FDIC v. Meyer*, 781 F.2d 1260, 1268 (7th Cir. 1986)). Stoller's motion presents no newly discovered evidence, nor does he attempt to identify any manifest error of law or fact. Instead he has simply submitted nearly 60 pages of transcripts from bankruptcy proceedings before Judge Schmetterer without making any effort whatsoever to direct the Court to the portions thereof that he deems relevant to his motion to reconsider.

Having reviewed the aforementioned transcripts in search of potential bases for Stoller's motion to

STATEMENT

reconsider, this Court has identified only one potential area and assumes that Stoller relies primarily upon the following passage:

MR. STOLLER: The problem is not that they withdraw their monetary claims. It's a civil RICO action where I'm mentioned 15 times in a complaint in which I am deprived of defending myself. I'm not even listed in it.

THE COURT: You have a right, I suppose, to seek to intervene in that case and to defend any interest of yours personally, but I see no reason why I should authorize you to hire lawyers on behalf of the companies.

MR. STOLLER: Because if - -

THE COURT: If you feel that the action indirectly impinges on your rights, nothing stops you from doing that.

(Transcript of Proceedings before the Honorable Jack B. Schmetterer, Feb. 15, 2007 at p. 10:12-20).

Setting to one side the fact that Stoller's motion to intervene was before this Court and not before Judge Schmetterer, this Court does not read Judge Schmetterer's comments above as any indication that Stoller has a right to intervene in this case. Judge Schmetterer correctly advised Stoller that he had a right to *seek* to intervene in this action. Stoller did seek intervention as of right in this action but, because he was not able to identify any significant, legally protectible interest in these proceedings, that motion was denied. Stoller also sought permissive intervention but, because the Court found that permitting Stoller to intervene in this action would frustrate the parties' efforts to resolve this matter by settlement, that request was denied as well.

Stoller's Motion to Reconsider does not establish any manifest error of law or fact associated with this Court's denial of his motion to intervene. Accordingly, Stoller's motion to reconsider is denied.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GOOGLE INC.,)	
	)	Civil Action No. 07 CV 385
Plaintiff,)	
	)	Hon. Virginia M. Kendall
vs.)	
	)	Date: March 19, 2007
CENTRAL MFG. INC. a/k/a CENTRAL	)	Time: 9 a.m.
MFG. CO., a/k/a CENTRAL MFG. CO.)	
(INC.), a/k/a CENTRAL)	
MANUFACTURING COMPANY, INC.)	
and a/k/a CENTRAL MFG. CO. OF)	
ILLINOIS; and STEALTH INDUSTRIES,)	
INC. a/k/a RENTAMARK and a/k/a)	
RENTAMARK.COM,)	
)	
Defendants.)	

**OPPOSITION TO MOTION OF NON-PARTY LEO STOLLER FOR PERMISSION TO
APPEAL IN FORMA PAUPERIS**

Plaintiff Google Inc. ("Google"), by its attorneys, respectfully submits this Opposition to the Motion of Non-Party Leo Stoller for Permission to Appeal in Forma Pauperis.

Mr. Stoller's motion fails to meet the requirements for permission to appeal in forma pauperis. Indeed, his alleged (un-notarized) "affidavit" here is virtually identical to the "affidavit" he submitted in the *Pure Fishing* litigation and that Judge Lindberg found was legally insufficient. In denying Mr. Stoller's in forma pauperis motion in that case, Judge Lindberg ruled:

Mr. Stoller failed to file the required "affidavit accompanying motion for permission to appeal in forma pauperis," copies of which are available in the clerk's office for the Seventh Circuit Court of Appeals. Mr. Stoller did attach an affidavit in support of his motion. However, the affidavit Mr. Stoller created does not answer many of the questions contained in the appellate court's form affidavit. In his affidavit, Mr. Stoller states that he "has no assets which have not been made part of the Chapter 7 bankruptcy," but fails to specifically identify any of his assets. Mr. Stoller also fails to address whether he has any current sources of money and/or income. The information Mr. Stoller provided to the court is incomplete at best, and quite possibly misleading and/or false. In light of the incomplete nature of Mr. Stoller's affidavit and his history of attempting to

mislead the court in this case and the bankruptcy court in *In re Leo Stoller*, 05 B 64075 (Schmetterer, J.), the motion for permission to appeal in forma pauperis is denied.¹

The same defects are present in Mr. Stoller's virtually identical "affidavit" in the present action. As in *Pure Fishing*, his "affidavit" here fails to specifically identify any of his assets. It also, again, fails to state whether he has any current sources of money and/or income. Because his "affidavit" is deficient for the reasons found in *Pure Fishing*, his motion here likewise should be denied.

Although this alone warrants rejection of Mr. Stoller's motion, there is ample reason to believe the omissions in his "affidavit" are intentional and that it is materially false. First, only recently, Mr. Stoller represented to the Bankruptcy Court that he had assets enough that were not part of the bankruptcy estate to pay for a lawyer.² Second, in a recent case before the Seventh Circuit, Mr. Stoller in fact retained a lawyer to represent him.³ Indeed, in the *Pure Fishing* case, after Judge Lindberg denied Mr. Stoller's in forma pauperis motion as noted above, Mr. Stoller suddenly found the wherewithal to pay the required filing fee for his appeal.⁴ Third, the Bankruptcy Court found in connection with its decision to convert Mr. Stoller's bankruptcy from Chapter 13 to Chapter 7 that there were in excess of \$150,000 in monies that had gone to Mr. Stoller that were not accounted for.⁵ As this Court is aware, Mr. Stoller also has refused in his bankruptcy on Fifth Amendment grounds to answer questions about his current income and finances,⁶ which gives rise to an inference that he in fact has undisclosed assets.⁷ In short, while

¹ Judge Lindberg's December 8, 2006 Order in *Pure Fishing* is attached hereto as Exhibit A to the Declaration of Michael T. Zeller, dated March 16, 2007 and filed concurrently herewith ("Zeller Dec."). Mr. Stoller's denied in forma pauperis motion in *Pure Fishing* -- with his supporting "affidavit" that is substantively identical to his affidavit in the present case -- is attached as Exhibit B to the Zeller Dec. Judge Lindberg's denials of Mr. Stoller's two subsequent, repetitive in forma pauperis motions in *Pure Fishing*, are attached as Exhibits C and D to the Zeller Dec.

² Zeller Dec., Exh. E at page 1.

³ Zeller Dec., Exh. F, at Docket Entry for 2/7/07.

⁴ Zeller Dec., Exh. F at Docket Entry for 1/10/07.

⁵ E.g., Zeller Dec., Exh. G at Findings of Fact Nos. 11, 13-19, 20-22, 23-24, 38, 42-43, 53, 61, 74-80, 109-110, 117.

⁶ Zeller Dec., Exh. H at p. 9 (refusing to answer question about receipt of \$20,000 in connection with payment of legal fees), p. 10 (refusing to answer question about income) & p. 11 (same); see also id., Exh. G, at pages 24-25 (Bankruptcy Court's determinations that Leo Stoller's financial disclosures to the Court "are replete with false statements, misleading information, and omissions of material facts.").

claiming in this Court with an insufficient "affidavit" that he is too impoverished to pay even the required filing fee for an appeal, he has refused to disclose his assets or even answer questions about those assets in the Bankruptcy Court. Such gaming of the system should not be allowed.

Finally, the parties note that Mr. Stoller's motion here violates the Court's notice requirements under Local Rule 5.3, since it was allegedly served by mail on March 15, 2007 and noticed for presentment on less than the required five Court days' notice for mail service. Mr. Stoller is plainly aware of the notice requirements, given that Judge Lindberg previously denied motions by him in *Pure Fishing* for violating this very rule.⁸ Nor is this the first of Mr. Stoller's procedural irregularities. The parties, for example, were not served prior to the February 20, 2007 hearing with Mr. Stoller's two filings dated February 15, 2007 and February 16, 2007, and in fact have not been served with those pleadings even as of today. Moreover, because Mr. Stoller did not file them electronically with the Court, they did not show up on PACER until after the February 20, 2007 hearing, and the parties were unaware that Mr. Stoller had made these filing until after the February 20, 2007 hearing. Other Courts have found in the past as well that Mr. Stoller engaged in irregular practices that are apparently designed to take unfair advantage.⁹

⁷ See Court's Memorandum Opinion and Order, dated March 12, 2007, at page 4 n.1 (citing authorities).

⁸ Zeller Dec., Exh. I.

⁹ See, e.g., *S. Indus. Inc. v. Lamb-Weston Inc.*, 45 U.S.P.Q.2d 1293, 1295 (T.T.A.B. 1997) (finding Stoller had used "fraudulent and incorrect" dates on certificates of service in Trademark Trial and Appeal Board proceedings); *Central Mfg. Co. v. Premium Prods., Inc.*, No. 91159950, Order of Sept. 29, 2004, at 4-7 (T.T.A.B.) (finding Stoller had engaged in "bad faith" conduct in service of papers and noting "several" other TTAB Orders to the same effect) (copy attached as Exh. J to Zeller Dec.).

Google respectfully requests that Mr. Stoller's motion be denied.

DATED: March 16, 2007

Respectfully submitted,

GOOGLE INC.

By: s/ William J. Barrett

One of Its Attorneys

Michael T. Zeller (ARDC No. 6226433)
QUINN EMANUEL URQUHART OLIVER & HEDGES, LLP
865 South Figueroa Street, 10th Floor
Los Angeles, California 90017
(213) 443-3000/(213) 443-3100 (fax)

William J. Barrett (ARDC No. 6206424)
BARACK, FERRAZZANO, KIRSCHBAUM,
PERLMAN & NAGELBERG, LLP
333 West Wacker Drive, Suite 2700
Chicago, Illinois 60606
(312) 629 5170/(312) 984-3150 (fax)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GOOGLE INC.,	)	Civil Action No. 07 CV 385
Plaintiff,)	
vs.	)	Hon. Virginia M. Kendall
	)	Hearing Date: March 19, 2007
CENTRAL MFG. INC. a/k/a CENTRAL	)	Hearing Time: 9 a.m.
MFG. CO., a/k/a CENTRAL MFG. CO.)	
(INC.), a/k/a CENTRAL)	
MANUFACTURING COMPANY, INC.)	
and a/k/a CENTRAL MFG. CO. OF)	
ILLINOIS; and STEALTH INDUSTRIES,)	
INC. a/k/a RENTAMARK and a/k/a)	
RENTAMARK.COM,)	
Defendants.)	

DECLARATION OF MICHAEL T. ZELLER

I, Michael T. Zeller, declare as follows:

1. I am a member of the bar of the State of Illinois, New York and California and a partner of Quinn Emanuel Urquhart Oliver & Hedges, LLP, attorneys for plaintiff Google Inc. ("Google"). I make this declaration of personal, firsthand knowledge, and if called and sworn as a witness, I could and would testify competently thereto.
2. Attached hereto as Exhibit A is a true and correct copy of Judge Lindberg's Order dated December 8, 2006 denying Leo Stoller's in forma pauperis motion in Central Mfg. Co. v. Pure Fishing, Inc., No. 05 C 725.
3. Attached hereto as Exhibit B is a true and correct copy of Leo Stoller's Motion for Permission to Appeal in Forma Pauperis and Motion to Consolidate in the Pure Fishing matter.
4. Attached hereto as Exhibit C is a true and correct copy of Judge Lindberg's Order dated December 15, 2006 in the Pure Fishing matter.
5. Attached hereto as Exhibit D is a true and correct copy of Judge Lindberg's Order dated January 7, 2007 in the Pure Fishing matter.

6. Attached hereto as Exhibit E are true and correct excerpts from Leo Stoller's Motion for Permission to Retain Counsel, filed in his bankruptcy action on February 7, 2007. The Bankruptcy Court subsequently denied Mr. Stoller's motion.

7. Attached hereto as Exhibit F is a true and correct copy of the Docket Sheet for the Seventh Circuit appeal in the Pure Fishing matter. These pages were printed from PACER on March 16, 2007.

8. Attached hereto as Exhibit G is a true and correct copy of the Bankruptcy Court's Findings of Fact and Conclusions of Law on Motion of Pure Fishing to Convert to Chapter 7, dated September 26, 2006.

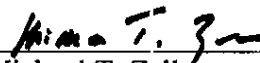
9. Attached hereto as Exhibit H is a true and correct copy of the Transcript of Proceeding before the Chapter 7 Trustee Richard Fogel, taken on October 20, 2006.

10. Attached hereto as Exhibit I is a true and correct copy of Judge Lindberg's Order dated December 12, 2006 in the Pure Fishing matter.

11. Attached hereto as Exhibit J is a true and correct copy of the Trademark Trial and Appeal Board's decision in Central Mfg. Co. v. Premium Products, Inc., dated September 29, 2004.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on March 16, 2007, at Los Angeles, California.



Michael T. Zeller

Order Form (01/2004)

United States District Court, Northern District of Illinois

AE

Name of Assigned Judge or Magistrate Judge	George W. Lindberg	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	05 C 725	DATE	12/8/2006
CASE TITLE	Central Mfg. Co., et al. v. Pure Fishing, Inc., et al		

DOCKET ENTRY TEXT

Mr. Stoller's motion for permission to appeal in forma pauperis [248] is denied.

[For further details see text below.]

Docketing to mail notices.

STATEMENT

Mr. Stoller improperly filed a motion for permission to appeal in forma pauperis with the Seventh Circuit Court of Appeals on November 22, 2006. Thereafter, the appellate court transferred the motion to this court for a ruling. The motion for permission to appeal in forma pauperis is denied.

Mr. Stoller failed to file the required "affidavit accompanying motion for permission to appeal in forma pauperis," copies of which are available in the clerk's office for the Seventh Circuit Court of Appeals. Mr. Stoller did attach an affidavit in support of his motion. However, the affidavit Mr. Stoller created does not answer many of the questions contained in the appellate court's form affidavit. In his affidavit, Mr. Stoller states that he "has no assets which have not been made part of the Chapter 7 bankruptcy," but fails to specifically identify any of his assets. Mr. Stoller also fails to address whether he has any current sources of money and/or income. The information Mr. Stoller provided to the court is incomplete at best, and quite possibly misleading and/or false. In light of the incomplete nature of Mr. Stoller's affidavit and his history of attempting to mislead the court in this case and the bankruptcy court in *In re Leo Stoller*, 05 B 64075 (Schmetterer, J.), the motion for permission to appeal in forma pauperis is denied.

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

Appeal No. 06-3792

LEO D. STOLLER,

Plaintiff-Appellant,

v.

PURE FISHING, INC., et al.,

Defendants-Appellees.

)
)
) Appeal from the U.S. District
) Court for the Northern District
) Eastern Division
) Case No: 05-CV-00725
) Honorable George W. Lindberg
)
)
)

CLERK
SANDRAGNIELLO

APR 21 2006 SMP

MOTION FOR PERMISSION TO APPEAL IN FORMA PAUPERIS
and MOTION TO CONSOLIDATE

NOW COMES the Appellant, Leo Stoller, who is currently in Chapter 7 bankruptcy. Case No: 05-B-64075. All of the assets of the Appellant are in the custody of the Trustee. The Appellant has no funds in any bank account. The Appellant has no income. The Appellant is unable to pay the Appeal fee and is seeking permission to appeal *in forma pauperis*. Leo Stoller requests that the new Notice of Appeal attached hereto be consolidated with Appeal No. 06-3792 for judicial economy in that it involves the same parties and the same issues.

My issues on appeal are:

The District Court erred in granting Defendants/Counter-Plaintiffs' request to have Leo Stoller file a bond in the amount of \$5,000 to secure Defendants' costs on appeal on the grounds that Leo Stoller was barred from filing an appeal due to his Chapter 7 bankruptcy filing.

Appellant submits an Affidavit in support of this motion, attached hereto.

WHEREFORE, the Appellant prays that the Court grant Appellant's Motion for Permission to Appeal Informa Pauperis.



Leo Stoller
7115 W. North Avenue
Oak Park, Illinois 60302
(312) 545-4554

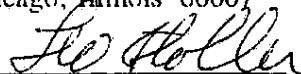
Email: ldms4@hotmail.com

Date: December 21, 2006

Certificate of Mailing

I hereby certify that the foregoing is being hand-delivered to the following address:

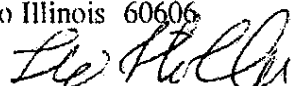
Clerk of the Court
United States District Court
219 S. Dearborn
Chicago, Illinois 60607


Leo Stoller
Date: December 21, 2006

Certificate of Service

I hereby certify that the foregoing is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to:

Timothy C. Meece
BANNER & WITCOFF, LTD.
10 South Wacker Drive, Suite 3000
Chicago Illinois 60606


Leo Stoller
Date: 12-21-06

7. During the pendancy of my divorce and my Chapter 7 bankruptcy, I have been living with my relatives, and my relatives have allowed me to stay in their homes.

Consequently, I have nominal expenses.

8. I do not expect any major changes in my financial situation for the next twelve months.

9. I have not paid any attorney any money for services in connection with this case, including completion of this affidavit.

10. I have not paid any one other than an attorney any money for services in connection with this case, including the completion of this affidavit.

11. My social security number is 327-38-7972. My age is 60 years old.



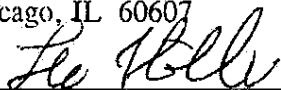
Leo Stoller
7115 W. North Avenue, #272
Oak Park, Illinois 60302
(312) 545-4554
Email: ldms4@hotmail.com

Date: December 21, 2006

Certificate of Mailing

I hereby certify that the foregoing is being hand-delivered to the following address:

Clerk of the Circuit Court
United States District Court
219 N. Dearborn
Chicago, IL 60607



Leo Stoller

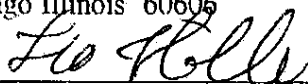
Date: December 21, 2006

Certificate of Service

I hereby certify that the foregoing is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to:

Richard M. Fogel, Trustee
Janice A. Alwin, Esq.
Counsel for Trustee
Shaw, Gussis, Fishman, Glantz,
Wolfson & Tow
321 N. Clark Street, Suite 800
Chicago, Illinois 60610

Timothy C. Meece
BANNER & WITCOFF, LTD.
10 South Wacker Drive, Suite 3000
Chicago Illinois 60606



Leo Stoller

Date: 12-21-06

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LEO STOLLER, et. al.,)	
)	
Plaintiffs,)	
v.)	
	)	Case No 1:05-CV-00725
PURE FISHING, INC., et al.,)	
	)	Honorable George W. Lindberg
Defendants,)	
)	

NOTICE OF APPEAL

NOW COMES Leo Stoller and files a Notice of Appeal of the attached order entered by Judge Lindberg on December 15, 2006 in the above-captioned case.

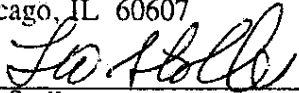


Leo Stoller
7115 W. North Avenue
Oak Park, Illincis 60302
(312) 545-4554
Email: ldms4@hotmail.com

Certificate of Mailing

I hereby certify that the foregoing is being hand-delivered to the following address:

Clerk of the Court
United States District Court
Northern District of Illinois
219 S. Dearborn
Chicago, IL 60607



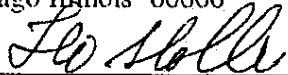
Leo Stoller

Date: December 21, 2006

Certificate of Service

I hereby certify that the foregoing is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to:

Timothy C. Meece
BANNER & WITCOFF, LTD.
10 South Wacker Drive, Suite 3000
Chicago Illinois 60606



Leo Stoller

Date: December 21, 2006

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 2.5
Eastern Division**

Central Mfg. Co., et al.

Plaintiff,

v.

Case No.: 1:05-cv-00725

Honorable George W. Lindberg

Pure Fishing, Inc., et al.

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Friday, December 15, 2006:

MINUTE entry before Judge George W. Lindberg : Mr. Stoller's motion to suspend the enforcement of final judgment [268] is denied. Mr. Stoller's motion from [sic] relief from order and/or motion for amendment of judgment [259] is denied. Mr. Stoller's motion for permission to appeal in forma pauperis [266] is denied. The motion for permission to appeal in forma pauperis that Mr. Stoller filed on 12/14/06 appears almost identical to the motion for permission to appeal in forma pauperis that the court denied on 12/8/06. Therefore, the motion filed on 12/14/06 is denied for the same reasons stated in the court's 12/8/06 minute order [264]. No court appearance required on 12/20/2006. Mailed notice(slb,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

Order Form (01/2005)

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	George W. Lindberg	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	05 C 725	DATE	1/10/2007
CASE TITLE	Central Mfg. Co., et al. v. Pure Fishing, Inc., et al.		

DOCKET ENTRY TEXT

The motion for permission to appeal in forma pauperis that Mr. Stoller filed on 1/4/07 appears almost identical to the two other motions for permission to appeal in forma pauperis that the court denied on 12/8/06 and 12/15/06, respectively. Therefore, the motion filed on 1/4/07 is denied for the same reasons stated in the court's 12/8/06 and 12/15/06 minute orders. Further, Mr. Stoller is ordered to stop filing redundant motions. If Mr. Stoller violates this order and files another motion for leave to appeal in forma pauperis, he will be sanctioned.

Docketing to mail notices.

	Courtroom Deputy Initials:	slb
--	-------------------------------	-----

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In Re:	)	Chapter 7
	)	Case No: 05 B 64075
LEO STOLLER,	)	Hon. Jack B. Schmetterer
Debtor.)	

FILED
UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
FEB 07 2007

MOTION FOR PERMISSION TO RETAIN COUNSEL

KENNETH S. GARDNER, CLERK
PS REP. - AJ

NOW COMES Leo Stoller and requests permission to retain counsel to represent Stoller's corporations, CENTRAL MFG. CO. and STEALTH INDUSTRIES, INC. in Case No: 07-cv-385 filed by Google, Inc.

This Court lifted the automatic stay on January 18, 2007, allowing Google, Inc. to sue Leo Stoller and his companies for civil RICO in the District Court. See attached true and correct copy of the Court's order.

The Trustee, Richard Fogel, stated in open court, that Google was not seeking any monetary damages against Stoller's corporations. The Court was led to belief that Google was not seeking monetary damages against Stoller's corporations prior to lifting the stay. The Trustee has refused to defend this RICO action against Stoller's corporations. The Trustee has refused to allow Stoller the right to retain counsel to defend his corporations in this and other matters, notwithstanding the fact that no funds from Stoller's Estate would be used to finance the attorneys who are required to represent Stoller's corporations for the benefit of Stoller's Estate and its legitimate creditors.

The Court on numerous occasions, on the record, has admonished the Trustee for his conduct, evidencing an abandonment of the Debtor's intellectual property and corporate assets by the Trustee's failure to defend those assets in litigation. For example, Leo Stoller, prior to the appointment of the Trustee, had only \$69,000 in claims against his Estate. Since the appointment of Richard Fogel, the Trustee, in September of 2006, the Debtor now has over \$2,300,000.00 in claims against the Debtor's Estate, as a direct result of the Trustee's failure

to defend Stoller's corporations. The Trustee has abused his fiduciary duty to the Estate of Leo Stoller by entering into a consent judgment of \$950,000.00 with Pure Fishing, Inc. rather than defend the action that Pure Fishing had pending against Leo Stoller and his corporations. In addition, the Trustee has acknowledged to the Debtor that Pure Fishing had a "duplicative claim" of over \$750,000.00 against the Debtor. The Trustee has taken no action to remove that duplicative claim from the claims registry of the Debtor.

The only conclusion that can be drawn which this Court has already acknowledged is that the Trustee has abandoned the intellectual property and the corporate assets of the Debtor. The Debtor is asking this Court here and now to declare that the Trustee has abandoned the Debtor's corporations and any intellectual property owned by them.

The Debtor is asking this Court permission for Leo Stoller to retain counsel to represent and defend his corporations in the civil RICO action filed by Google, Inc. Google cleverly sought to lift the stay in order to sue Leo Stoller and his corporations. However, Google did not sue *Leo Stoller*, only his corporations. Google knowingly and willfully avoided suing Leo Stoller in Google's civil RICO action because Google knows that the Trustee, Richard Fogel, will not represent Leo Stoller's corporations and Google will obtain a default judgment in a civil RICO action which is the most severe judgment that can be granted against an entity other than a criminal charge. The Court should not allow this abuse of the bankruptcy court system to go uncorrected. Leo Stoller should have a right to defend himself and/or his corporations against Google, Inc. in view of the fact that the Trustee has abandoned all rights in and to Stoller's corporations and their assets.

Prior to bringing this motion, Stoller has made a good faith to obtain permission from Richard Fogel for Stoller to retain counsel to represent Stoller's corporations. Mr. Fogel stated in an email dated February 6, 2007, "... I will not give you any carte blanche authority to do anything in connection with the pending litigation." Mr. Fogel has said that under certain limited conditions, he may allow an attorney to represent my companies in the case at bar if they restrict their representation to not upsetting any agreements that the Trustee has reached with Google, Inc.

Leo Stoller has attempted to talk with counsel regarding representing his corporations against Google's civil RICO action and there is no attorney that is willing to take Stoller's case with the prospective lawyers' hands tied behind their backs and restricted.

SUMMARY

It is obvious from the record that this Trustee has abandoned Stoller's corporations and corporate assets because he has failed and/or refused to defend them. In addition, as a direct result of the Trustee's conduct in this case, the Trustee has increased the Debtor's claims to over \$2,000,000.00. Claims which did not exist prior to the appointment of Richard Fogel. The Trustee has refused to investigate the claims and has objected to the Debtor's written discovery which was sent to the claimants in order to justify the claims in order to settle this case amicably. The Debtor has offered the Trustee over \$100,000.00 to settle the bankruptcy estate with the legitimate creditors and to pay the administrative costs of the Debtor's Estate. As a result of the Trustee's failure to verify the legitimate claims from the illegitimate claims, the Trustee has made it impossible for the Debtor to ascertain its legitimate creditors from its illegitimate creditors. It is obvious that the Trustee has abandoned the corporations and the corporate assets of the Debtor.

The Debtor is requesting that this Court declare that the Trustee has abandoned the Debtor's corporations and allow those assets to be defaulted back to the Debtor. In the alternative, the Debtor is requesting permission from this Court to obtain counsel to represent Stoller's corporations in the Google Inc. v. Central Co., et al. in the civil RICO action.

WHEREFORE, the Debtor prays that this Court grant permission to the Debtor to retain counsel to represent the Debtor's corporations in the Google civil RICO action, Case No. 07-cv-385. Further, the Debtor is requesting that this Court declare that the Trustee has abandoned the corporations of the Debtor and that those said corporations should be defaulted back to the Debtor as a result of the abandonment.

Leo Stoller

Leo Stoller
7115 W. North Avenue
Oak Park, Illinois 60302
(312) 545-4554
Email: ldms4@hotmail.com

Date: February 7, 2007

Certificate of Mailing

I hereby certify that the foregoing is being hand-delivered to the following address:

Clerk of the Court
United States Bankruptcy Court
219 N. Dearborn
Chicago, IL 60607

Leo Stoller

Leo Stoller
Date: February 7, 2007

Certificate of Service

I hereby certify that the foregoing is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to:

Richard M. Fogel, Trustee
Janice A. Alwin, Esq.
Counsel for Trustee
Shaw, Gussis, Fishman, Glantz,
Wolfson & Tow
321 N. Clark Street, Suite 800
Chicago, Illinois 60610

William J. Factor
Seyfarth & Shaw, LLP
55 E. Monroe Street, Suite 4200
Chicago, Illinois 60603

Michael T. Zeller
Quinn, Emanuel, et al.
865 S. Figueroa Street, 3rd Floor
Los Angeles, California 90017

Leo Stoller

Leo Stoller
Date: 2-7-07

From : Rick Fogel <rfogel@shawgussis.com>
Sent : Tuesday, February 6, 2007 9:46 AM
To : "L Lee" <ldms4@hotmail.com>
CC : "Janice Alwin" <jalwin@shawgussis.com>
Subject : RE: Attorney to Represent Central Mfg. Co. in Google Rico Case

Mr. Stoller:

Based on the information you have been posting on your blog, it does not appear as if you are making any effort to resolve your issues with Google in an amicable way. If you have an attorney that is willing to represent your companies, I will discuss the matter with him or her. I will not give you any carte blanche authority to do anything in connection with the pending litigation.

Richard M. Fogel
Shaw Gussis Fishman Glantz Wolfson & Towbin LLC
321 N. Clark Street, Suite 800
Chicago, IL 60610
Direct dial: (312) 276-1334
Direct fax: (312) 275-0578

-----Original Message-----

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General Docket

US Court of Appeals for the Seventh Circuit

Court of Appeals Docket #: 06-3792
 Nsuit: 3840 Trademark-US Defendant
 Stoller, Leo v. Pure Fishing Inc, et al
 Appeal from: United States District Court

Filed: 10/17/06

 Lower court information:

District: 0752-1 : 05 C 725
 Ordering Judge: George W. Lindberg, Judge
 Court Reporter: Cheryl Young, Court Reporter
 Date Filed: 2/4/05
 Date order/judgment: 10/4/06
 Date NOA filed: 10/16/06

 Fee status: paid-----
 Prior cases:

None

Current cases:

Related:	Lead	Member	Start	End
	06- 3792	06- 4057	11/16/06	1/10/07
	06- 3792	06- 4385	12/22/06	1/10/07
	06- 4057	06- 4385	1/10/07	

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 06-3792 Stoller, Leo v. Pure Fishing Inc, et al

LEO D. STOLLER
 Plaintiff - Appellant

Martin Tiersky
 FAX 773/474-7165
 773/465-1497
 [COR LD NTC ret]
 4032 Lunt Avenue
 Lincolnwood, IL 60712

v.

PURE FISHING, INCORPORATED, an
 Iowa Corporation doing
 business as BERKLEY
 Defendant - Appellee

Timothy C. Meece
 FAX 312/463-5001
 312/463-5000
 Suite 3000
 [COR LD NTC ret]
 BANNER & WITCOFF
 Ten S. Wacker Drive
 Chicago, IL 60606
 USA

FISHING SPIRIT, INCORPORATED, Timothy C. Meece
a Wisconsin Corporation (See above)
Defendant - Appellee [COR LD NTC ret]

FISHUSA INCORPORATED, doing Timothy C. Meece
business as FISHUSA.COM (See above)
Defendant - Appellee [COR LD NTC ret]

Docket as of March 14, 2007 11:01 pm Page 2

06-3792 Stoller, Leo v. Pure Fishing Inc, et al

LEO D. STOLLER,
Plaintiff - Appellant
v.

PURE FISHING, INCORPORATED, an Iowa Corporation doing
business as BERKLEY, FISHING SPIRIT, INCORPORATED, a
Wisconsin Corporation and FISHUSA INCORPORATED, doing
business as FISHUSA.COM,
Defendants - Appellees

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06-3792 Stoller, Leo v. Pure Fishing Inc, et al

10/17/06 Private civil case docketed. [06-3792] [2036550-1]
Transcript information sheet due 10/27/06. Appellant's
brief due 11/27/06 for Leo D. Stoller. Docketing Statement
due 10/23/06. (amyd) [06-3792]

10/17/06 [06-3792] ROA from No. Dist. of Il., E. Div. due 11/6/06.
(amyd) [06-3792]

10/19/06 ORDER: Appellant Leo D. Stoller Appellee Pure Fishing Inc,
Appellee Fishing Spirit Inc, Appellee Fishusa Incorporated
shall file a brief memorandum stating why this appeal
should not be dismissed for lack of jurisdiction.
[2036550-1] DW [06-3792] [2037141-1] Briefing is SUSPENDED
pending further court order. (See order for further
details) Jurisdictional memorandum cue 11/1/06 for Leo D.
Stoller, for Fishusa Incorporated, for Fishing Spirit Inc,
for Pure Fishing Inc. (mank) [06-3792]

10/24/06 Disclosure Statement filed by Timothy C. Meece for Appellee
Fishusa Incorporated, Appellee Fishing Spirit Inc, Appellee
Pure Fishing Inc. [06-3792] [2036550-1] (hudk)
[06-3792]

10/30/06 Disclosure Statement filed by Leo D. Stoller for Appellant
Leo D. Stoller. [06-3792] [2036550-1] (hudk)
[06-3792]

10/30/06 Appearance form filed by attorney(s) Leo D. Stoller for Appellant Leo D. Stoller. [06-3792] [2036550-1] (hudk) [06-3792]

10/30/06 Filed prose motion by Appellant Leo D. Stoller to extend time to file jurisdictional memorandum. [2040680-1] [06-3792] (hudk) [06-3792]

10/31/06 ORDER issued GRANTING motion to extend time to file jurisdictional memorandum to the extent that the [2040680-1] CMD [06-3792] Jurisdictional memorandum due 11/17/06 for Leo D. Stoller, for Fishusa Incorporated, for Fishing Spirit Inc, for Pure Fishing Inc. (hudk) [06-3792]

10/31/06 Filed Appellee Pure Fishing Inc, Appellee Fishing Spirit Inc, Appellee Fishusa Incorporated jurisdictional memorandum. [06-3792] [2041204-1] (mank) [06-3792]

11/3/06 ORDER: Appellant is directed to file the overdue Docketing Statement within 14 days from the date of this Rule to Show Cause. [2036550-1] JIR [06-3792] Docketing Statement response due 11/17/06 for Leo D. Stoller. (josh) [06-3792]

11/9/06 Filed Appellant Leo D. Stoller docketing statement. [06-3792] [2044682-1] (5) [06-3792]

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06-3792 Stoller, Leo v. Pure Fishing Inc, et al

11/14/06 Filed Appellant Leo D. Stoller docketing statement. [06-3792] [2045656-1] (5) [06-3792]

11/14/06 Filed prose motion by Appellant Leo D. Stoller to suspend enforcement of final judgment. [06-3792] (hudk) [06-3792]

11/20/06 Filed prose motion by Appellant Leo D. Stoller in 06-3792 to consolidate cases. [2047644-1] [06-3792] (hudk) [06-3792]

11/21/06 Filed Appellee Pure Fishing Inc in 06-3792, Appellee Fishing Spirit Inc in 06-3792, Appellee Fishusa Incorporated in 06-3792 opposition to Appellant Leo D. Stoller in 06-3792 motion to suspend enforcement of final judgment. [06-3792] [2048162-1] (hudk) [06-3792]

12/8/06 Original record on appeal filed. Contents of record: 4 vol. pleadings; 3 vol. transcripts; 23 vol. loose pleadings. [06-4057] [2053073-1] (darr) [06-4057]

12/12/06 ORDER re: 1. Motion to suspend the enforcement of final judgment. 2. Opposition to motion to suspend enforcement of

final judgment. Pursuant to Fed. R. App. P. 8(a), a motion for stay of a judgment or order of the district court pending appeal "must ordinarily be made in the first instance in the district court." Accordingly, #2 is DENIED without prejudice to renewal after presentment to the district court. [2045721-1] GMM [06-3792] (hudk) [06-3792]

12/13/06 ORDER issued AMENDING order of 12/12/06 to reflect that #1 (Motion to suspend the enforcement of final judgment) is DENIED. [2047644-1] GMM [06-3792] (hudk) [06-3792]

12/13/06 ORDER: Briefing will proceed as follows: [2047644-1] DW [06-3792] 1. Appellant's brief due 1/17/07 for Leo D. Stoller. 2. Appellee's brief due 2/16/07 for Fishusa Incorporated, for Fishing Spirit Inc, for Pure Fishing Inc. 3. Appellant's reply brief due 3/2/07 for Leo D. Stoller. The clerk shall distribute, along with the briefs in this case, copies of the court's order of 10/19/06, the appellees' Jurisdictional Memorandum filed on 10/31/06 and the appellant's Jurisdictional Statement filed on 11/14/06. (hudk) [06-3792]

12/13/06 ORDER issued DENYING motion to consolidate cases. [2047644-1] DW [06-3792] (hudk) [06-3792]

12/21/06 Filed prose motion by Appellant Leo D. Stoller in 06-3792 to suspend enforcement of final judgment. [2058270-1] [06-3792] (hudk) [06-3792]

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06-3792 Stoller, Leo v. Pure Fishing Inc, et al

12/21/06 Filed prose motion by Appellant Leo D. Stoller in 06-3792 to proceed on appeal in forma pauperis [2058273-1] and, to consolidate cases. [2058273-2] [06-3792] (hudk) [06-3792]

12/29/06 ORDER issued DENYING motion to consolidate cases. [2058273-2] DW [06-3792] (hudk) [06-3792]

1/3/07 Filed Appellee Pure Fishing Inc in 06-3792, Appellee Fishing Spirit Inc in 06-3792, Appellee Fishusa Incorporated in 06-3792 opposition to Appellant Leo D. Stoller in 06-3792 motion to suspend enforcement of final judgment. [2061114-1] [06-3792] [2061114-1] (hudk) [06-3792]

1/3/07 Filed Appellee Pure Fishing Inc in 06-3792, Appellee Fishing Spirit Inc in 06-3792, Appellee Fishusa Incorporated in 06-3792 opposition to Appellant Leo D. Stoller in 06-3792 motion to proceed on appeal in forma pauperis. [2061116-1] [06-3792] [2061116-1] (hudk) [06-3792]

1/9/07 Filed Appellant Leo D. Stoller in 05-3792 response in opposition to Appellee Pure Fishing Inc in 06-3792, Appellee Fishing Spirit Inc in 06-3792, Appellee Fishusa Incorporated in 06-3792 opposition to motion to suspend enforcement of final judgment. [06-3792] [2058595-1] (hudk) [06-3792]

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06-3792 Stoller, Leo v. Pure Fishing Inc, et al

1/10/07 ORDER re: 1. Motion to suspend the enforcement of final judgment. 2. Motion for permission to appeal in forma pauperis. 3. Appellees' opposition to appellant's motion to suspend enforcement of final judgment. 4. Appellees' opposition to appellant's motion for leave to appeal in forma pauperis. 5. Motion to consolidate. 6. Reply to opposition to motion to suspend enforcement of final judgment. Appellant filed three separate notices of appeal from the same district court case. The first notice of appeal, number 06-3792, challenges the merits of the district court's final judgment. The second notice of appeal, number 06-4057, challenged the November 13, 2006, order of the district court imposing an appeal bond. It was unnecessary for appellant to file a separate notice of appeal to challenge this order; the court construes this notice of appeal as a motion to suspend enforcement of the district court's November 13, 2006, order. The third notice of appeal, number 06-4385, challenged the district court's order that denied appellant's motion to suspend the judgment pending appeal. Appellant correctly challenged the district court's order by motion in appeal number 06-3792, and thus it was unnecessary to file a new notice of appeal. The appellant's requests to suspend the enforcement of the final judgment (#1) and to stay the district court's order imposing an appeal bond are DENIED. A review of this court's docket indicates that the appellant paid the docketing fee for appeal no. 06-3792. Therefore, the motion to proceed on appeal in forma pauperis is DENIED as unnecessary. This order resolves appeal number 06-4057 and number 06-4385. Accordingly, the motion to consolidate (#5) is DENIED as moot. NOTE: This order issued as a final order in appeal nos. 06-4057 and 06-4385. [2058270-1] [2058273-1] GMM [06-3792] (hudk) [06-3792]

1/11/07 Filed Appellant Leo D. Stoller reply to Appellee Pure Fishing Inc, Appellee Fishing Spirit Inc, Appellee Fishusa Incorporated opposition to appellant's motion for leave to appeal in forma pauperis. [06-3792] [2036550-1] (hudk) [06-3792]

1/12/07 ORDER re: Appellant's reply to appellees' opposition to appellant's motion for leave to proceed on appeal in forma pauperis. In light of this court's order on 1/10/07, the reply is filed without action. GMM [06-3792] (hudk) [06-3792]

1/24/07 Filed motion by Appellee Pure Fishing Inc, Appellee Fishing Spirit Inc, Appellee Fishusa Incorporated to dismiss case. [2068447-1] [06-3792] (juli) [06-3792]

1/30/07 Filed Appellant Leo D. Stoller objection to Appellee Pure Fishing Inc motion to dismiss case. [2070347-1] [06-3792] [2070347-1] (hudk) [06-3792]

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06-3792 Stoller, Leo v. Pure Fishing Inc, et al

2/2/07 Record transferred from case 06-4087, 06-4385 to case 06-3792. (Contents transferred: 5 vol. pleadings; 23 vol. loose pleadings; 3 vol. transcripts.) [06-4057, 06-4385, 06-3792] [0-0] (cove) [06-3792 06-4057 06-4385]

2/2/07 Filed Appellee Pure Fishing Inc's reply to Appellant Leo D. Stoller's opposition to PFI's motion to dismiss. [06-3792] [2036550-1] (juli) [06-3792]

2/2/07 Filed Appellee Pure Fishing Inc, Appellee Fishing Spirit Inc, Appellee Fishusa Incorporated opposition to Appellant Leo D. Stoller motion to extend time to file appellant's brief. [2071691-1] [06-3792] [2071691-1] (juli) [06-3792]

2/6/07 Filed Appellant Leo D. Stoller reply to objection to motion for extension of time. [06-3792] [2036550-1] (juli) [06-3792]

[2/7/07 Added attorney Martin Tiersky per disclosure statement. Disclosure statement filed for Appellant Leo D. Stoller by Martin Tiersky. [06-3792] [2036550-1] (kell) [06-3792]]

2/7/07 Filed motion by Appellant Leo D. Stoller to strike reply in support of motion to dismiss appeal. [2073017-1] [06-3792] (kell) [06-3792]

2/12/07 ORDER filed DENYING appellant's request for an extension of time and DENYING motion to strike reply in support of motion to dismiss appeal. The Motion to Dismiss Appeal is GRANTED and the appeal is DISMISSED for want of prosecution. [2073017-1], [2068447-1] Circuit Judge Richard A. Posner, Circuit Judge Daniel A. Manion, Circuit Judge Diane P. Wood. [06-3792] [2068447-1] (juli) [06-3792]

2/22/07 Filed motion by Appellant Leo D. Stoller for reconsideration of final order. [2077548-1] [06-3792] (amyd) [06-3792]

2/28/07 Filed Appellee Pure Fishing Inc, Appellee Fishing Spirit Inc, Appellee Fishusa Incorporated response in opposition to Appellant Leo D. Stoller motion to reconsider dismissal.

[2079878-1] [06-3792] [2079878-1] (juli) [06-3792]

3/7/07 ORDER issued DENYING motion for reconsideration of final order. [2077548-1] GMM [06-3792] (juli) [06-3792]

3/8/07 MANDATE ISSUED AND ENTIRE RECORD RETURNED. (Contents returned: 5 vol. pleadings; 23 vol. loose pleadings; 3 vol. transcripts.) [06-3792] [2036550-1] (cove) [06-3792]

3/13/07 Filed motion by Appellant Leo D. Stoller to withdraw the mandate. [2083905-1] [06-3792] (hudk) [06-3792]

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PACER Service Center			
Transaction Receipt			
03/16/2007 18:01:49			
PACER Login:	qe0002	Client Code:	7209
Description:	dkt report	Case Number:	06-3792
Billable Pages:	9	Cost:	0.72

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:	)	Case No. 05 B 64075
	)	Chapter 13
LEO STOLLER,)	
	)	Honorable Jack B. Schmetterer
Debtor.)	
)	

**FINDINGS OF FACT AND CONCLUSIONS OF LAW ON
MOTION OF PURE FISHING TO CONVERT TO CHAPTER 7**

INTRODUCTION

This case was filed voluntarily under Chapter 13 of the Bankruptcy Code by Leo Stoller ("Debtor" or "Stoller"). A creditor Pure Fishing, Inc. ("Pure Fishing" or "Movant") moved to convert this case to one under Chapter 7. This became a contested proceeding under Rule 9014 Fed.R.Bank.P. Following evidence hearing before the court, both sides rested and final argument of counsel was heard on August 31, 2006.

Following argument, decision was announced from the bench that the case would be converted to one under Chapter 7. It was then stated that written Findings of Fact and Conclusions of Law would be entered to explain that decision in detail, but there were two reasons stated on the record each of which warranted conversion. First, the Debtor who was actively engaged in business for many years lacked business books and records from which his financial condition and income could be ascertained so as to determine whether his Chapter 13 Plan for payments to the Chapter 13 Trustee was proposed in good faith. Second, Debtor deeded title in valuable real estate to a family member shortly before filing in bankruptcy and did so without apparent consideration. The circumstances of that property transfer raised serious questions as to whether it should or could be attacked as a fraud on creditors or otherwise, an issue that should be investigated by a Chapter 7 Trustee.

An order converting this case to Chapter 7 was entered September 1, 2006, effective nunc pro tunc August 31, 2006, when decision was announced. The Court now makes and orders entry of these Findings of Fact and Conclusions of Law as further and more complete reasons for the order of conversion.

NOTICE OF APPEAL

Notice of Appeal for the Order was filed on September 11, 2006. While a trial court judge cannot enter substantive orders after filing of appeal notice, under circumstances where Findings and Conclusions are in preparation when Notice of Appeal is filed, the Appeal does not prevent the filing of Findings and Conclusions so as to aid the reviewing court in understanding detailed reasons for the ruling. See Reinstine v. Rosenfield, et al., 111 F.2d 892, 894 (7th Cir. 1940); Aoude v. Mobile Oil Corp., 862 F.2d 890, 895 (1st Cir. 1988); Evans v. Lockheed-Georgia Co., No. C82-657A, 1983 WL 562, at *2 (N.D. Ga. July 27, 1983). Courts have recognized that entry of Findings and Conclusions to support an order or judgment is permissible even after Notice of Appeal has been filed because that will expedite rather than interfere with the appellate process. In re Continental Airlines Corp., 60 B.R. 466, 470 (Bankr. S.D. Tex. 1986) (citing Gibbs v. Buck, 307 U.S. 66, 59 S.Ct. 725, 83 L.Ed. 1111 (1939) and Johnson v. Heyd, 415 F.2d 1005 (5th Cir. 1969)).

JURISDICTION AND VENUE

On December 20, 2005, Debtor filed a voluntary petition for relief under chapter 13 of the Bankruptcy Code (the "Petition").

Jurisdiction of this matter lies under 28 U.S.C. §§ 1334(a) and (b) and 157(a).

The Motion to Convert is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(G).

Venue of this case and of the Motion to Convert is proper in this Judicial District pursuant to 28 U.S.C. §§ 1408 and 1409.

FINDINGS OF FACT

1. Pure Fishing is an Iowa corporation with its primary place of business at 1900 18th Street, Spirit Lake, Iowa. Pure Fishing is a counterclaim plaintiff in the pending case captioned Central Mfg. Co. v. Pure Fishing, Inc., Case No. 05 C 7255 (N.D. Ill.).

2. Debtor is an individual, a resident of the state of Illinois, and a counterclaim defendant in the Pure Fishing case along with various of his corporate entities and proprietorships. On his bankruptcy Schedules he stated as his home address a United States Post Office -- not a postal box number, just the post office. A Court's notice to Debtor was returned as undeliverable.

3. When Debtor filed his Chapter 13 Petition, he failed to disclose that he filed for bankruptcy on March 23, 1998, in the Northern District of Illinois, Case No. 98-03288. Debtor subsequently filed an amendment to disclose that bankruptcy. (Stip. No. 37.) Debtor also did not disclose that he filed for chapter 13 relief on March 1, 1985 in the United States Bankruptcy Court for the Northern District of Illinois. (See PACER Docket, Case No. 85-02729).

4. Debtor represents that he "has been in the business of litigation since 1968, every day to the current date" (Ex. 7 at pp. 9-10) and that he "is the nation's most renowned Intellectual Property Entrepreneur with over 30 years in the fields of trademarks, licensing and enforcement, expert witness testimony, trademark valuation expert and legal ethics expert." (Ex. 8 at p. 1.) He advertises services that include trademark valuations, legal research, brief writing, and appeals. (Ex. 8 at p. 2.)¹

5. Debtor is not a lawyer. (Resp. to Req. for Admis. 12; Ex. 77.)

6. Debtor has represented that the stated monthly income in his Petition is based on "Royalty income received by corporations owned by Debtor and passed through to him." (Resp. to Interrog. No. 10; Ex. 76.)

¹ Pages numbers referenced for an exhibit generally refer to the pagination added at the bottom of each page for an exhibit that did not already bear a page number. Page numbers for deposition transcripts refer to the deposition page by the designation "Ex. XX at Dep. p. YY."

7. Debtor has admitted that he does not receive W-2 tax and wage statements from regular employment. (Resp. to Req. for Admis. 68; Ex. 77.)

8. Debtor has admitted that he has not filed a tax return for 2005, nor any quarterly estimated payments for that year, and has no documents related to his 2005 taxes, such as a K-1 statement. (Resp. to Doc. Req. No. 5, Ex. 78.)

9. For his business described herein, Debtor did not maintain books, ledgers of account, or records of his income and expenses in any coherent form and had nothing from which creditors or the Trustee might readily be able to ascertain his financial condition.

**I. Debtor Has Failed To Disclose Material Assets
And Asset Transfers In His Bankruptcy Schedules**

**A. Debtor Failed to Disclose Asset Transfers
of Interest in 1212 N. Lathrop Land Trust**

10. Debtor received an interest in Land Trust No. 03-1-8199 (Midwest Bank and Trust Company) (the "Land Trust") for real property located at 1212 North Lathrop, River Forest, Illinois (PIN 15-01-113-041-0000) (the "Property") upon the death of Bertha Stoller on March 14, 2005. (Resp. to Req. for Admis. 55; Ex. 77; Stip., No. 5.)

11. In March 2005, the Debtor's beneficial interest in the Land Trust was worth at least about \$340,000. (Stip. No. 6.)

12. On March 15, 2005, Debtor assigned his beneficial interest in the Land Trust to his daughter, Julia Bishop, but retained a right of reversion and direction. (Stip. No. 7; Ex. 3 at p. 2.)

13. Debtor failed to disclose the Land Trust as a property that he holds or controls. (Ex. 1 at p. 11, Question 14.)

14. In Debtor's Statement of Financial Affairs, Question No. 10 ("Other Transfers") asked for a list of all other property, other than in the ordinary course of the business or financial affairs of the debtor, that was transferred either absolutely or as security within two years

preceding the commencement of this case. Debtor's answer to this question was "none." (Ex. 1 at p. 11.)

15. The assignment by Debtor of an interest in the Land Trust on March 15, 2005 was for no consideration. (Stip. No. 8; Ex. 77 Resp. to Req. for Admis. 57.)

16. Debtor executed a document on April 5, 2005, directing the execution of a mortgage for \$30,000 on Land Trust No. 03-1-8199 for the land trust at 1212 N. Lathrop, River Forest, IL (PIN 15-01-113-041-0000). (Stip. No. 17; Ex. 77 Resp. to Req. for Admis. 58; Ex. 3 at p. 19.)

17. Debtor directed the execution of another mortgage for \$99,000 for the Land Trust in documents dated within one year before Petition Date. (Stip. No. 18; Ex. 3 at p. 35.)

18. In both instances, checks for the proceeds of the mortgages were made out to "Leo Stoller," acknowledged as received shortly before filing the Petition, and deposited by Debtor into the Central Manufacturing Company, Inc." checking account where, it became commingled with other funds deposited therein. (Ex. 3 at pp. 35, 324, and 377.)

19. Receipt of the mortgage proceeds and his payments on the mortgage debt were not disclosed in Debtor's Schedules. (Ex. 1.)

B. Debtor did not disclose rental income derived from the house at 1212 North Lathrop, River Forest, Illinois in his bankruptcy Schedules when he had an obligation to do so

20. Debtor has been leasing to Shelye Pechulis the house at 1212 North Lathrop, River Forest, Illinois (PIN 15-01-113-041-0000) since about June 2005 for \$2250 per month. (Stip. No. 21.)

21. The rent checks issued by Ms. Pechulis were made out to Sentra Industries and deposited in the Sentra Industries, Inc. checking account. (Ex. 5 at pp. 8, 11, 14 and 367.) Following those deposits, checks were drawn on the Sentra Industries, Inc. checking account for deposit into the Central Manufacturing Company, Inc. checking account (Ex. 5 at pp. 8-10, 14-

15, 282 and 291) as well as checks for "cash" and payments to the law firm of Grund & Leavitt for legal fees associated with Debtor's divorce proceedings. (Ex. 5 at 9, 10, 14, and 15.)

22. Debtor had an obligation to disclose, but did not disclose, the rental income in his bankruptcy Schedules. (Stip. No. 23; See also Ex. 1 at p.7., Question 2 ("Income other than from employment or operation of a business"); and Ex. 1 at p. 27, Schedule G.)

C. Debtor receives income from the operation of a number of companies but failed to disclose said income in his bankruptcy Schedules and failed to disclose his interests in said companies

23. Debtor receives income from the operation of a number of proprietorships, unincorporated associations, and incorporated entities. (Stip. No. 24.)

24. Debtor had an obligation to disclose, but did not disclose, his interests in the unincorporated associations, proprietorships, and incorporated entities. (Stip. No. 25.)

25. Checks made out to the unincorporated associations have been deposited to the Central Manufacturing Company, Inc. account. (Stip. No. 26; Ex. 6.)

D. Income From Debtor's Proprietorships Were Required To Be Disclosed In The Bankruptcy Schedules

26. Central Manufacturing Company, Inc. conducts business as "Rentamark." (Ex. 76, Answer to Interrog. No. 1.)

27. Debtor admits that Rentamark is a proprietorship. (Ex. 77, Answer to Req. for Admis. No. 16.)

28. "Central Manufacturing Company, Inc." is a name that debtor uses to conduct his personal business. (Stip. No. 13.)

29. Debtor has admitted that the only records for his business entities are notations on check stubs for his commercial checkbook. (Stip. No. 64.)

30. Debtor has represented in Response to Interrogatory No. 9 (Ex. 76), that the following entities are assumed names for Central Manufacturing Company, Inc.:

Central Mfg. Inc.
Rentamark
USA Sports Network Association

The American Association of Premium Incentive, Travel Suppliers & Agents
The National Veterinarian Service Association
The American Recreational Tennis Association
The American Recreational Golf Association
The National Association of Traveling Nurses
The American Sports Association
The U.S. Hardware Industry Association
The National Physician's Association
The National Secretarial Association
The National Optometry Association
The National Accounting Association
Americans for the Enforcement of Intellectual Property Rights
The American Society of Podiatrists & Chiropractors
Medical Associations
The National Association of Dentistry
The National Association of Alternative Medicine

Debtor testified that he used these names as internet sites to attract business inquiry for his services in obtaining information for a fee. He did not keep records of income from these sources.

E. Central Manufacturing Company, Inc.

31. Central Manufacturing Company, Inc. is not a corporate entity formed under the laws of Illinois or Delaware, or registered with the State of Illinois as a foreign corporation under that name. (Stip. No. 13.)

32. Instead, Central Manufacturing Company, Inc. is a proprietorship that the Debtor uses for personal business. (Stip. No. 14.)

33. Debtor has sole signatory authority for bank accounts in the name of "Central Manufacturing Company, Inc." (Stip. No. 15.)

34. First Security Bank savings account No. 104232 opened on Feb 4, 2005 is in the name of Central Manufacturing Company, Inc. d/b/a Rentamark c/o Leo Stoller. (Ex. 5 at p. 1.)

35. The alleged FEIN associated with this account was represented by Debtor to be No. 36-0637000. (Ex. 5 at p. 1.) Debtor has provided no proof that there is a legitimate FEIN that has been assigned by the U.S. Internal Revenue Service for Central Manufacturing Company, Inc. as a Delaware or Illinois corporation associated with Debtor.

36. "Central Manufacturing Company, Inc." maintains checking Account No. 00-60645-0 at First Security Trust & Savings Bank, Elmwood, Park, Illinois. The account is in the name of Central Manufacturing Company, Inc. d/b/a Rentamark c/o Leo Stoller. (Ex. 5 at p. 17.)

37. Debtor deposited checks made out to a variety of other assumed named proprietorships and corporations into the "Central Manufacturing Company, Inc." checking account, thereby commingling them. (Ex. 6 ¶ 3.a.)

38. Debtor withdraws substantial sums of cash from the "Central Manufacturing Company, Inc." checking account. (Ex. 5 at p. 49.)

39. Debtor did not have a personal bank account until weeks before filing the Petition, when he opened an account in his name with Bank of America. (Ex. 79.)

40. Debtor has not listed any bank account that was in his name for the last three years. (Ex. 76 Resp. to Interrog. 2.)

41. Funds deposited into in the "Central Manufacturing Company, Inc." checking account were and are Debtor's personal property. (Stip. No. 16.)

42. During 2004, Debtor withdrew over \$37,000 in cash from the account in the name of "Central Manufacturing Company, Inc." (Ex. 6, ¶ 3.e.)

43. During 2005, Debtor withdrew over \$44,800 in cash from the account in the name of "Central Manufacturing Company, Inc." (Ex. 6, ¶ 3.f.)

44. Debtor causes checks to be drafted from the Central Manufacturing Company, Inc. checking account to First Security Bank and Trust to pay off the mortgage loans secured by the 1212 N. Lathrop property. (Ex. 5 at p. 95.)

45. Central Manufacturing Company, Inc. is not a signatory on the Notes (Ex. 3 at pp. 32 and 49) and has no property interest in 1212 N. Lathrop or the land trust associated therewith. (Ex. 3 at p. 2).

F. Sentra Industries, Inc.

46. Debtor is the CEO, President, and sole shareholder of the corporation Sentra Industries, Inc. ("Sentra"). (Stip. No. 9.)

47. Sentra maintains checking Account No. 607-187, at First Security Trust and Savings Bank, Elmwood, Park, Illinois (the "Sentra Account"). (Stip. No. 10; Ex. 5 at p. 5.)

48. Debtor has sole signatory authority for the Sentra Account. (Stip. No. 11; Ex. 5 at p. 5.)

49. Debtor uses the Sentra Account as a vehicle to transfer funds, such as rent checks for the 1212 N. Lathrop property (Ex. 5 at pp. 14 and 367), to cash (Ex. 5 at p. 15 Check No. 1009), to his divorce attorneys (Ex. 5 at p. 15 Check No. 1008), and into his proprietorship (Ex. 5 at p. 15 Check No. 1011).

50. Funds are moved between the Sentra Account and an account to Central Manufacturing Company, Inc. without apparent pattern or regular practice. (Ex. 5 at pp. 9, 15.)

51. During the period of June 18, 2005 through August 31, 2005 Debtor withdrew approximately \$2,300 in cash and transferred \$4,000 to the account of Central Manufacturing Company, Inc. (Ex. 5 at pp. 9, 10, 15 and 291.)

52. Quarterly checks from Ms. Shelye Pechulis for rent associated with the 1212 N. Lathrop property are deposited into the Sentra Industries, Inc. checking account, where the funds become commingled with other funds found therein. (Ex. 5 at pp. 11, 16.)

[53. Debtor withdraws substantial sums of cash from the Sentra Industries, Inc. account. (Ex. 5 at pp. 9-10, 15.)]

54. Debtor admitted that he allocated revenue from his trademark operation between the Rentamark entity and S Industries, Inc., based solely on the tax considerations associated with the allocation. (Resp. to Req. for Admis. 17; Ex. 77.)

G. Central Mfg. Co.

55. "Central Mfg. Co." ("CMC") is an unregistered company name assumed for the Debtor. Its business operates out of an office located on 7622 West Belmont Avenue, Chicago, Illinois. Central Mfg. Co. is not a corporation that has been organized under the laws of any state. (Stip. No. 39, 41.)

56. Central Mfg. Co. is a d/b/a name used for Debtor's personal business activities. (Ex. 77 Resp. to Req. for Admis. 2; Ex. 35, 41, 42, 53.)

57. Illinois also does not recognize Central Mfg. Co. as an assumed business name for any corporation associated with Debtor. (Ex. 43.)

58. There is no Stoller company or entity that is authorized to do business under the name of "Central Mfg. Co.," only an entity under the different name of "Central Mfg. Co. of Illinois." (Ex. 77 Resp. to Req. for Admis. 5; Ex. 46.)

59. Debtor has not disclosed income from Central Mfg. Co. in his Schedules. (Ex. 1.)

60. Debtor has acknowledged that funds in an account under the name of "Central MFG" are his personal assets. This acknowledgment was made in the disclosures provided by the Debtor in connection with his divorce proceeding (Reich v. Stoller, No. 05 D 007216 (Cook County, Ill.)). (Ex. 17 at p. 5.)

61. Debtor signed responses to interrogatories in Central Mfg. Co. v. HEPA Corporation, Opp. No. 91152243 representing that Central Mfg. Co. had yearly annual sales under the STEALTH brand in 2003 and 2004 of \$1,347,691 and \$1,587,453, respectively with advertising expenses for those years of \$87,701.80 and "\$97,348,997" [sic]. (Ex. 77 Resp. to Req. for Admis. 50.)

62. Debtor deposits checks made out to Central Mfg. Co. into the "Central Manufacturing Company, Inc." checking account, where the funds become commingled with funds from other sources deposited therein. (Ex. 5 at p. 41; Ex. 6.)

H. Central Mfg. Inc.

63. Central Mfg. Inc. is registered in Delaware as a corporate entity. Debtor is its president and sole officer. Like his other entities, Central Mfg. Inc. shares the same office address as Central Mfg. Co., Inc. (Stip. No. 40; Ex. 13 at Dep. p. 157.)

64. Central Mfg. Inc. became registered with Illinois as a foreign corporation in 2005 with only the assumed name of "Central Mfg. Co. of Illinois." (Ex. 77 Resp. to Req. for Admis. 5; Ex. 46.)

65. Debtor admits that he has not filed a tax return for Central Mfg. Inc. since at least 2003. (Rcsp. to Doc. Req. 6, Ex. 78.)

66. Debtor deposits checks made out to Central Mfg. Inc. into the Central Manufacturing Company, Inc. checking account, where the funds become commingled with funds from other sources deposited therein. (Ex. 5 at p. 86.)

I. Rentamark

67. Debtor publishes a weblog at <http://rentmark.blogspot.com> where he offers his services to others and publishes various articles. (Ex. 77 Resp. to Req. for Admis. 14, 19; Ex. 7.)

68. On May 30, 2006 Debtor held himself out on his weblog to be "the nation's most renowned Intellectual Property Entrepreneur with over 30 years in the field of trademarks, licensing and enforcement, expert witness testimony, trademark valuation Expert and legal ethics expert." (Ex. 7 at p. 1.)

69. Also on May 30, 2006 Debtor was representing that "Rentamark is in the business of buying, selling and licensing trademarks, trademark valuations, expert witness testimony, trademark litigation support services, including legal research, drafting pleadings, appeals etc." (Ex. 7 at p. 2.)

70. Debtor has admitted that he uses the Rentamark (also spelled Rent-A-Mark) entity as a proprietorship for his personal activities. (Ex. 77 Resp. to Req. for Admis. 16; Ex. 26 at Dep. pp. 129 and 160; Ex. 38 at Dep. pp. 30-31; Ex. 40.)

71. Debtor has also testified that he uses the Rentamark name as an assumed name for Central Mfg. Inc. (Ex. 39 at Dep. pp. 60-61.)

72. Debtor has also responded in his sworn response to Interrogatory No. 1 (Ex. 76) that Rentamark is an assumed name for Central Manufacturing Company, Inc. (Resp. to Interrog. No. 1; Ex. 76.)

73. Debtor deposits checks made out to "Rentamark.com" and "Rent-A-Mark" into the Central Manufacturing Company, Inc. checking account where it becomes commingled with other funds. (Ex. 5 at pp. 39, 42, 119, 156-58; Ex. 6.)

J. U.S. Hardware Industry Association

74. Debtor receives checks from Freightquote.com, Inc. from time to time which are made payable to the order of "U.S. Hardware Industry Assn." (Ex. 5 at p. 87.)

75. These checks are deposited into the checking account of "Central Manufacturing Company, Inc." and commingled with funds from other sources found therein. (Ex. 5 at p. 87.)

76. Debtor did not produce records from which it can be determined whether he reported in his bankruptcy Schedules the income from U.S. Hardware Industry Assn, which is an unregistered and unincorporated entity.

K. National Association of Traveling Nurses

77. Debtor receives checks from time to time which are made payable to "Natl Assn of Traveling Nurses." These checks are deposited into the checking account of "Central Manufacturing Company, Inc." and commingled with the funds from other sources found therein. (Ex. 5 at pp. 24, 136, 161; Ex. 6.)

78. Debtor did not produce records from which it can be determined whether he reported the said income in his Schedules.

L. American Sports Association

79. Debtor receives checks from an entity known as Freightquote.com, Inc. from time to time, which are made payable to "American Sports Assn." These checks are deposited into the checking account of "Central Manufacturing Company, Inc." and commingled with the funds from other sources found therein. (Ex. 5 pp. 87, 161; Ex. 6.)

80. Debtor did not maintain records from which it can be determined whether he reported this income in his Schedules.

81. No person other than Debtor is involved in running "American Sports Association." (Ex. 13 at Dep. p. 325.)

M. Other Entities

82. Debtor receives checks from time to time made payable to "Havoc Brand Products and Services." These checks are deposited into the checking account of "Central Manufacturing Company, Inc." and commingled with the funds from other sources found deposited therein. (Ex. 5 at pp. 52, 148; Ex. 6.)

83. Debtor receives checks made payable to "Stealth Brand Products and Services" and deposits them into the "Central Manufacturing Company, Inc." checking account where the funds become commingled with funds from other sources deposited therein. (Ex. 5 at pp. 43, 148; Ex. 6.)

84. Debtor deposits checks made payable to "Stcalth" and deposits them into the "Central Manufacturing Company, Inc." checking account where the funds become commingled with funds from other sources deposited therein. (Ex. 5 at pp. 93, 137, 145; Ex. 6.)

85. Debtor deposits checks made payable to "American Society of Podiatrists" and deposits them into the "Central Manufacturing Company, Inc." checking account where the funds become commingled with funds from other sources deposited therein. (Ex. 5 at p. 98; Ex. 6.)

86. Debtor has also sent letters to others representing himself to be the President of "Stealth" (Ex. 27), doing business as the proprietorship "Air Frame" (Ex. 28), and doing business as the proprietorship "Aerospace" (Ex. 30).

87. Debtor has filed pleadings that identify Sentra Sporting USA Co. as his proprietorship. (Ex. 37)

88. Debtor has acknowledged that he founded organizations called "Americans for the Enforcement of Attorney Ethics" and "Americans for the Enforcement of Judicial Ethics." He uses his website for these organizations to teach others how to file disciplinary complaints against attorneys and judges. (Ex. 51 at Dep. pp. 98-99.)

89. Debtor refused to answer when asked if these ethics organizations were really just another name for himself. (Ex. 51 at Dep. p. 100.)

90. In 2003, Debtor and his proprietorships "Give a Gift Online," "American Conservation Society," and "Association Network Management" were named in a Consent Decree with the Illinois Attorney General. (Ex. 54.)

91. None of these proprietorships has been disclosed in Debtor's Schedules, and there are no records showing Debtor's income therefrom.

II. Debtor And His Businesses Are Indistinguishable

92. Debtor makes all pertinent decisions for the assumed name entities through which he operates. (Ex. 13 at pp. 6-7.)

93. Debtor testified that he is "the actual controlling entity of where the marks go, quality and control, what entity they – what I choose to put them in." (Ex. 13 at Dep. pp. 23-24.)

94. All of the business entities owned and operated by Debtor have the same office address. (Ex. 13 at Dep. p. 157.)

95. Debtor's corporations do not keep regular corporate books and records of finances. (Ex. 13 at Dep. pp. 163-64, 172-73, 176; Stip. Nos. 63-65, 67; Ex. 78 Resp. to Req. 11.)

96. Funds of Debtor's corporations are commingled with funds from other corporations, proprietorships, and with Debtor's personal funds. (Ex. 6; Stip. Nos. 14 and 16.)

97. Debtor's corporations have not filed tax returns since at least 2003. (Ex. 78 Resp. to Req. No. 6.)

98. Debtor's corporations have not issued W-2 statements. (Ex. 78 Resp. to Req. No. 10; Ex. 16 at p. 2.) Debtor has, however, testified that he has three "employces". (Ex. 13 at pp. 13-14.)

99. Debtor has also testified (at his 341 Meeting) that he uses three "independent contractors" in his office, but represents that there are no documents that reflect any payment of money, funds, or other valuable asset to these individuals. (Ex. 78 Resp. to Doc. Req. No. 10.)

100. Debtor produced no records that his corporations pay, or have paid, dividends. (Ex. 78 Resp. to Req. No. 10.)

101. Debtor described his corporations as having a negative value. (Ex. 16 at pp. 2 and 4.)

102. All stock issued by Debtor's corporations, 1000 shares at issue value of \$1.00 each, are owned by Debtor. (Ex. 1 at p. 17.)

103. Debtor's corporations have no officers other than Debtor. (Stip. No. 40; Ex. 1 at p. 17.)

104. Debtor refers to the assets of his companies and corporations as his personal assets. (Ex. 13 at Dep. pp. 328-29.)

105. Debtor directs licensing revenue between his corporations and his proprietorships based on tax considerations. (Ex. 26 at Dep p. 130-31; Ex. 77 Resp. to Req. for Admis.17.)

106. Debtor deposits checks made out to "Leo D. Stoller" into the "Central Manufacturing Company, Inc." checking account where the funds become commingled with funds from other sources deposited therein. (Ex. 5 at p. 99, 161, 174.)

107. Debtor uses the "Central Manufacturing Company, Inc." checking account as a common account for his personal, proprietorship, and corporate funds where all funds are commingled without associated financial books or records to distinguish funds among the entities. (Ex. 6; Stip. Nos. 63-64.)

108. None of the checks deposited to the "Central Manufacturing Company, Inc." checking account no. 606-450 are made out to the named account holder. The list of payees for checks deposited to this account include about 20 different persons and entities. (Ex. 6.)

**III. Debtor's Schedules Are Replete
With Omissions and Misleading Disclosures**

A. Undisclosed Interests in Other Real Estate

109. In 2005, Debtor has asserted some ownership interests in three residences located in Elmwood Park, Illinois in connection with the divorce proceeding Reich v. Stoller, No. 05 D 007216 (Cook County, Ill.). (Resp. to Req. for Admis. 61; Ex. 77.)

110. Debtor has not disclosed ownership interests in any of these properties in his Schedules. (Ex. 1)

B. Inaccurate Balance in His Personal Bank Account

111. Debtor's Bank of America accounts were opened shortly before filing of his Bankruptcy Petition. (Ex. 79 at p. 7.)

112. In response to Interrogatory No. 2, Debtor did not identify any other bank account in his name, whether closed or open. He identified only accounts in the names of Central Manufacturing Company, Inc. and Sentra Industries, Inc. (Ex. 76 Resp. to Interrog. No. 2.)

113. On the date of the Petition filing, the balance in Debtor's Bank of America account was \$3,255.00, rather than \$200.00 as represented in Schedule B. (Ex. 1 and 79 at p. 9.)

114. Debtor's Bank of America account has been used for business purposes, including the payment of certain fees to the State of Delaware for the benefit of Debtor's corporations. (Ex. 79 at p. 18.)

C. Inconsistent and Unreliable Representations of Income

115. Debtor has represented his stated income in the Response to Marital Interrogatories made in connection with the divorce proceeding Reich v. Stoller, No. 05 D 007216 (Cook County, Ill.) to be approximately \$4,500 per year for the past three years. (Ex. 77 Resp. to Req. for Admis. 48; Ex. 16 at p. 3.)

116. Debtor wrote a facsimile transmission dated November 22, 2005 in which he represented that his businesses take in only about \$100,000 per year. (Ex. 77 Resp. to Req. for Admis. 51; Ex. 18.)

117. Debtor has represented to this Court in "Debtor's Response to Motion to Convert to Chapter 7 and for Immediate Appointment of Trustee," on page 7 thereof, that the gross income from Central Mfg. Co. is around \$200,000 per year. (Ex. 77 Resp. to Req. for Admis. 52.)

118. Debtor has admitted that he does not receive W-2 tax and wage statements from regular employment. (Ex. 77 Resp. to Req. for Admis. 68.)

119. Debtor has represented that he has not filed a tax return for 2005, no quarterly estimated payments, and has no documents related to his 2005 taxes, c.g., a K-1 statement. (Ex. 78 Resp. to Doc. Req. No. 5.)

120. Debtor's tax return for 2001 showed an adjusted gross income of (-\$2,522) on business income of \$9,875. (Ex. 14 at pp. 2-7.)

121. Debtor's tax return for 2002 showed an adjusted gross income of (-\$2,844) on business income of \$12,675. (Ex. 14 at pp. 8-15.)

122. Debtor's tax return for 2003 showed an adjusted gross income of (-\$3,690) on business income of \$12,875. (Ex. 14 at pp. 16-23.)

123. Debtor's tax return for 2004 showed an adjusted gross income of (-\$4,550) on business income of \$7,600. (Ex. 14 at pp. 22-29.)

124. Debtor's 2001-2004 tax returns were all filed in November or December of 2005. (Ex. 14.)

125. Debtor has not filed tax returns for any company, corporation, association, or proprietorship for 2003, 2004, or 2005. (Ex. 78 Resp. to Doc. Req. No. 6.)

126. The company income and advertising expenses presented in Debtor's income tax returns for 2001-2003 do not correlate with the income and advertising expenses described by Debtor in sworn interrogatory responses. (Compare Ex. 14 with Ex. 15 at pp. 2-3 and Ex. 77 Resp. to Req. for Admis. 50.)

D. Undisclosed Trademark Rights and Claims for Trademark Infringement

127. In response to an Order by Judge Coar in Central Mfg. Co. v. George Brett, Case No. 04 C 3049 (N.D. Ill.), Debtor was required to identify to the court and certify his interests in any trademark rights. On March 22, 2006, Debtor identified ownership rights in the goodwill represented by two trademark registrations, US Trademark Registration Nos. 2107047 (MERCHANT OF VENICE for restaurant services) and 1765833 (STRADIVARIUS for stationery and pens). (Ex. 10-11.)

128. Debtor did not disclose in his bankruptcy Schedules his ownership of these two registrations, the business goodwill underlying each, or the business assets associated with each. (Ex. 1.)

129. Debtor has previously testified that he "holds rights to the mark STEALTH." (Ex. 13 at p. 5.) However, no such rights were identified in Debtor's Schedules. (Ex. 1.)

130. Debtor is a named party in more than one current trademark opposition proceeding or appeal in which he alleges a personal interest in one or more valuable trademark rights, yet none of these pending proceedings were identified in the Petition or Schedules. (Ex. 58.)

131. In a letter dated November 29, 2005, Debtor asserted that he has done business under the name GOOGLE since 1981, with an aggressive licensing program. Debtor has levied

allegations against Google, Inc. that suggest a potential claim of trademark infringement against this well known search engine company. Debtor has offered to settle the matter for \$150,000. (Ex. 23.) His potential claim under the name of that entity was not disclosed in his Schedules. (Ex. 1.)

132. In a letter dated September 8, 2005, Debtor provided an entity called Loveland Products with a second notice accusing that company of infringement of an undesignated trademark right for STEALTH. Debtor executed the document as "President." The letterhead identifies an entity called STEALTH. (Ex. 27.) Debtor ultimately filed, and still has pending, an opposition against Loveland Products. (Ex. 59.) Debtor did not disclose any of the information contained herein in his Schedules. (Ex. 1.)

133. Debtor prevailed in a trademark opposition against York International Corporation (Opp. No. 121,420), for use of the mark STEALTH on air conditioners. Debtor asserted, and prevailed, on assertions and submitted proofs of rights in use of that trademark on sales of "fans, air coolers and air conditioners." (Ex. 34, 64.) Debtor has not listed any income nor profits from sales of fans, air coolers, or air conditioners in his Schedules. (Ex. 1.)

134. Debtor submitted an assignment document as an attachment to a pleading in which he asserted that the assignment of trademark rights from S Industries, Inc. to "Leo Stoller d/b/a Central Mfg" gave him standing to oppose certain registrations. (Ex. 53 at pp. 8-9 and 11-16.) Debtor has not disclosed in his Schedules his ownership interest in the trademarks associated with this assignment, the goodwill of the business associated by such trademarks, or the business profits upon which such goodwill must be based. (Ex. 1.)

IV. Debtor Has Failed To Disclose Accurately His Pre-Petition Transfers And Liabilities In His Bankruptcy Schedules

135. Debtor failed to list at least four additional creditors -- First Security Trust, IRS Tax Lien, Benjamin, Berneman & Brom, LLC and Querrey & Harrow in his Schedules. The latter three creditors were identified in Debtor's Disclosure Statement in his divorce proceeding as holding approximately \$60,000 in claims. (Ex. 17 at p. 4.)

136. Additionally, Benjamin, Berneman & Brom filed a proof of claim in this case seeking \$20,826. Querrey & Harrow filed a proof of claim seeking \$25,382.40.

137. Debtor has caused checks from the Central Manufacturing Company, Inc. checking account to be made payable to "Household Credit Services" for account no. 5489 5551 0377 4933 0300 8311. (Ex. 5 at pp. 59, 168.) Debtor has not listed this credit account or his liability associated therewith in his Schedules. (Ex. 1.)

**V. Debtor Does Not Have A Regular
Ascertainable Source Of Income to Fund a Plan**

138. Debtor represented that there is a negative value in Stealth Industries, Central Mfg. Co., and Sentra Industries, Inc. (Stip. No. 32.)

139. Debtor has admitted that he does not receive W-2 tax and wage statements from regular employment. (Ex. 77 Resp. to Req. for Admis. 68.)

140. Debtor obtains his income from trafficking in trademarks. (Stip. No. 42.)

141. The income of debtor is based on false assertions of trademark infringement and/or harm due to registration of the challenged party's trademark application. (Stip. No. 47.)

142. Debtor admitted that he has been sanctioned previously by the United States Trademark Trial and Appeals Board for misconduct during administrative opposition proceedings (Ex. 77 Resp. to Req. for Admis. 35) and is currently under a sanction order by the Commissioner of the U.S. Patent and Trademark Office that restricts certain activities of Debtor for two years and permanently restricts other activities. (Stip. No. 48.) The sanction Order is found in Exhibit 72.

143. Debtor's admitted income is claimed by him to be based on income from the trademark license fees, trademark license royalties, or settlements on trademark infringement claims collected by his businesses. (Resp. to Interrog. No. 8; Ex. 76.) The rest of his income from various businesses is undocumented and not ascertainable.

144. Given Debtor's record in his effort to enforce claims for trademark infringement to generate most of his income, his expectations of regular future income are doubtful. In

Central Mfg. Co. v. Pure Fishing, Inc., No. 05 C 725, 2005 WL 3090988, *1 (N.D. Ill. Nov. 16, 2005), Judge Lindberg found that the Debtor was abusing the judicial system by filing spurious and vexatious litigation. In this respect, he concluded that:

Mr. Stoller, a non-lawyer, has earned a reputation for initiating spurious and vexatious federal litigation. See e.g. Central Mfg. Co. et al. v. Brett, 2005 WL 2445898 (N.D. Ill. Sept. 30, 2005) (Coar, J.) (“Stoller appears to be running an industry that produces often spurious, vexatious, and harassing federal litigation.”); S. Indus. Inc. v. Stone Age Equip., Inc., 12 F. Supp.2d 796 (N.D.Ill.1998) (Castillo, J.) (Stoller initiates “litigation lacking in merit and approaching harassment.”); S. Indus. Inc. v. Hobbico, Inc., 940 F. Supp. 210, 211 (N.D. Ill.1996) (Shadur, J.) (Stoller “appears to have entered into a new industry—that of instituting federal litigation.”). Additionally, Mr. Stoller or his entities have been ordered to pay their opponent’s attorneys’ fees in at least seven reported cases. See e.g. Central Mfg. Co. et al. v. Brett, 2005 WL 2445898 (N.D.Ill. Sept. 30, 2005) (Coar, J.); S Indus., Inc. v. Ecolab Inc., 1999 WL 162785 (N.D.Ill. Mar. 16, 1999) (Gottschall, J.); S Indus., Inc. v. Stone Age Equip., Inc., 12 F. Supp.2d 796, 798-99, 819-20 (N.D. Ill.1998) (Castillo, J.); S Indus., Inc. v. Centra 2000, Inc., 1998 WL 157067 (N.D. Ill. Mar.31, 1998) (Lindberg, J.), *aff’d by* 249 F.3d 625, 627-29 (7th Cir.2001); S Indus., Inc. v. Diamond Multimedia Sys., Inc., 991 F. Supp. 1012 (N.D. Ill.1998) (Andersen, J.); S Indus., Inc. v. Diamond Multimedia Sys., Inc., 17 F. Supp.2d 775 (N.D. Ill.1998) (Andersen, J.); S Indus., Inc. v. Diamond Multimedia Sys., Inc., 1998 WL 641347 (N.D.Ill. Sept. 10, 1998) (Andersen, J.); S Indus., Inc. v. Kimberly-Clark Corp., 1996 WL 388427 (N.D.Ill. July 9, 1996) (Shadur, J.); S Indus., Inc. v. Hobbico, Inc., 940 F. Supp. 210, 212 (N.D. Ill.1996) (Shadur, J.).

Judge Lindberg concluded “[i]n keeping with Mr. Stoller’s reputation, his actions in the instant litigation have been vexatious and sanctionable.” Central Mfg. Co. v. Pure Fishing, Inc., No. 05 C 725, 2005 WL 3090988, *1 (N.D. Ill. Nov. 16, 2005).

VI. Debtor Does Not Maintain Financial Books Or Records That Would Allow Accurate Evaluation Of Debtor’s Assets

145. Debtor does not keep or maintain financial books or records for his business or his entities. (Stip. No. 63.) The only records for his business entities are notations on check stubs for his commercial checkbook. (Stip. No. 64.) These were not produced in response to discovery. (Ex. 78 Resp. to Doc. Req. No. 2.)

146. Debtor’s business and business entities do not have formal end of year audited financial reports for calendar years 2003-2005. (Stip. No. 65.)

147. Debtor has not filed tax returns for any company, corporation, association, or proprietorship for 2003, 2004 or 2005. (Ex. 78 Resp. to Doc. Req. No. 6.)

148. In his current Statement of Financial Affairs, Debtor listed Russell Stoller as the custodian of his records. (Ex. 1.) Debtor has admitted that Russell Stoller died in 2003. (Ex. 77 Resp. to Req. for Admis. 53; Ex. 24; Stip., Nos. 33 to 35.) Debtor has admitted that he knew Russell Stoller was dead when the Petition was filed. (Ex. 77 Resp. to Req. for Admis. 54.)

149. Debtor admitted that his businesses do not use a computer-based accounting system. (Ex. 77 Resp. to Req. for Admis. 25.) Debtor also admitted that his businesses do not have audited year-end financial statements for 2002-2005 (Ex. 77 Resp. to Req. for Admis. 27) and that he has no business financial statements of any kind for 2003 to date. (Ex. 78 Resp. to Doc. Req. No. 11; Stip. Nos. 63 to 67.)

150. Debtor represents that he has no general ledger or equivalent financial books for any of his businesses for years 2003 to date. (Resp. to Doc. Req. No. 11; Stip. Nos. 63 to 67.)

151. Debtor admitted that his businesses do not use an accountant to prepare tax returns. (Ex. 77 Resp. to Req. for Admis. 28.) Debtor admitted that he uses a manual accounting system and prepares any tax returns for his businesses himself. (Resp. to Req. for Admis. 26, 29; Stip. No. 66.)

152. Debtor admitted that the stated value of his shares of stock in his companies is not based on an audited report by a CPA or certified auditor. (Ex. 77 Resp. to Req. for Admis. 30.)

153. Debtor represented that he has no canceled checks, check stubs, bank statements, ledgers, or correspondence showing disbursements and receipts for the last three years (Ex. 78 Resp. to Doc. Req. No. 2) or documents that reflect the sales or income for any of his businesses. (Ex. 78 Resp. to Doc. Req. No. 9.)

154. Debtor previously testified on February 8, 2005, that he tracked income for his businesses by checkbook stubs and mental recall. (Ex. 13 at Dep. pp. 163-64.) This was

basically the same record-keeping system used by him since January 1989. (Ex. 13 at Dep. pp. 172, 176.)

VII. Other Findings Not Necessary

155. In the light of the foregoing Findings, it is unnecessary to deal with the many assertions by Movant that Debtor personally abused other legal proceedings for improper purposes.

156. Additional facts set forth in the Conclusions of Law will stand as additional Findings of Fact.

CONCLUSIONS OF LAW

I. A Petition Filed In Bad Faith Should Be Converted To Chapter 7

Section 1307(c) of the Bankruptcy Code provides that a court may convert a Chapter 13 proceeding to a Chapter 7 proceeding "for cause." 11 U.S.C. § 1307(c).²

"Cause" can include filing a petition in bad faith. See, e.g., In re Smith, 848 F.2d 813, 816 n. 3 (7th Cir. 1988); In re Johnson, 228 B.R. 663 (Bankr. N.D. Ill. 1999).

² Section 1307(c) provides as follows:

- (c) Except as provided in subsection (c) of this section, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including--
- (1) unreasonable delay by the debtor that is prejudicial to creditors;
 - (2) nonpayment of any fees and charges required under chapter 123 of title 28;
 - (3) failure to file a plan timely under section 1321 of this title;
 - (4) failure to commence making timely payments under section 1326 of this title;
 - (5) denial of confirmation of a plan under section 1325 of this title and denial of a request made for additional time for filing another plan or a modification of a plan;
 - (6) material default by the debtor with respect to a term of a confirmed plan;
 - (7) revocation of the order of confirmation under section 1330 of this title, and denial of confirmation of a modified plan under section 1329 of this title;
 - (8) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan other than completion of payments under the plan;
 - (9) only on request of the United States trustee, failure of the debtor to file, within fifteen days, or such additional time as the court may allow, after the filing of the petition commencing such case, the information required by paragraph (1) of section 521;
 - (10) only on request of the United States trustee, failure to timely file the information required by paragraph (2) of section 521; or
 - (11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.

Under Seventh Circuit authority, several factors should be considered when deciding whether a chapter 13 petition was filed in bad faith, including:

- a. the nondischargeability of the debt;
- b. the time of the filing of the petition;
- c. how the debt arose;
- d. the debtor's motive for filing the petition;
- e. how the debtor's actions affected creditors;
- f. the debtor's treatment of creditors both before and after the petition was filed;
- g. whether the debtor has been forthcoming with the bankruptcy court and the creditors.

In re Sidebottom, 430 F.3d 893, 899 (7th Cir. 2005); In re Love, 957 F.2d 1350, 1359 (7th Cir. 1992) (same).

Furthermore, in evaluating whether a petition was filed in good faith, the inquiry looks at both subjective and objective criteria. In short, "the good faith inquiry is both subjective and objective. That is, both objective evidence of a fundamentally unfair result and subjective evidence that a debtor filed a petition for a fundamentally unfair purpose that was not in line with the spirit of the Bankruptcy Code are relevant to the good faith inquiry." Love, 957 F.2d at 1357.

Finally, a debtor's pre-petition conduct may sometimes be relevant to the bad faith inquiry. Id. at 1359 ("[T]he bankruptcy court did not err in determining that this prepetition activity was relevant to Love's motives at the time he filed the Chapter 13 petition, as is the Debtor's truthfulness and frankness in helping to piece together pertinent financial matters.").

II. The Debtor's Bad Faith Is Evident From His Lack Of Candor And His Failure To Maintain Books And Records

The Debtor has not been forthcoming with the Court and creditors by any standard. Indeed, he has not maintained any financial records which would allow the Court, the Chapter 13 Trustee or creditors to understand and assemble his financial status and his ability to pay under a Chapter 13 Plan. Parties have no way of verifying whether the Debtor's income vastly exceeds

his liabilities, or whether his ability to pay even the total sum of \$14,000 proposed by Debtor under his Chapter 13 Plan is non-existent or inadequate.

Instead, the Debtor admitted that he does not maintain financial records on such matters. He does not have pay stubs, nor does he have financial statements for his businesses. This lack of candor and records by itself justifies a bad faith finding and conversion to Chapter 7. In re Alt, 305 F.3d 413, 421 (6th Cir. 2002) (dismissing case, in part, based upon debtor's failure to provide proper information about financial matters; concluding: Chapter 13 requires the debtor to be honest, forthcoming, truthful, and frank. Whether the debtor has been forthcoming with the bankruptcy court and the creditors is properly considered in deciding whether dismissal for lack of good faith is appropriate. (See Love, 957 F.2d at 1357).

The Debtor's lack of candor also is evident from his Bankruptcy Petition, Schedules and Statement of Financial Affairs. These documents are replete with false statements, misleading information, and omissions of material facts. The Debtor: (i) failed to identify various proprietorships, alter-ego corporations and personal aliases under which he conducts business; (ii) failed to disclose income, including, at a minimum, the rental income received from the Property; (iii) failed to disclose interests in residential properties; (iv) provided inaccurate information such as his place of residence and that his deceased father was at time of his bankruptcy filing the custodian of his corporate records; (v) failed initially to disclose his prior bankruptcy; (vi) failed to identify the transfer of the Property to his daughter within a year of the Petition Date; and (vii) failed to identify certain creditors in his Schedules.

The Debtor's disregard for his obligations under Bankruptcy Chapter 13 provide an independent basis to conclude that this case was filed in bad faith and should be converted. Sidebottom, 430 F.3d at 899; Love, 957 F.2d at 1350; see also In re Henson, 289 B.R. 741, 752 (Bankr. N.D. Cal. 2003) ("However, it is not necessary to find that Debtor filed bankruptcy in bad faith in order to conclude that cause exists to remove this case from Chapter 13, because Debtor has shown that he is not capable of performing as a Chapter 13 Debtor. Debtor has not

provided reliable information about his financial condition, he will not make himself available to do so in future ... Cause therefore exists for concluding that this bankruptcy case cannot remain in Chapter 13.”).

III. The Debtor’s Bad Faith Is Evident From The Fact That He Would Be Denied A General Discharge In A Chapter 7 Proceeding Due To His Failure To Maintain Records And Perhaps Due To Other Conduct

The Debtor’s failure to maintain adequate records regarding his sole proprietorships, his business enterprises and his own personal finances unrelated to the operation of a business also merits a finding of bad faith because of the nexus between that conduct and a Chapter 7 discharge. Simply, the Debtor would be denied a discharge under Chapter 7 due to his failure to maintain adequate records and, under Seventh Circuit precedent, that fact helps establish the Debtor’s bad faith in filing for Chapter 13 relief. *Id.* at 1359 (7th Cir. 1992) (“[T]his court stated in Schaitz that ‘the requirement of good faith should not be interpreted to permit ‘manipulation of the statute [Chapter 13] by debtors who default on obligations grounded in dishonesty and who subsequently seek refuge in Chapter 13 in order to avoid, at minimal cost, a nondischargeable debt.’”).³

Here, the undisputed fact that the Debtor failed to maintain adequate books and records from which his financial condition or business transactions might be ascertained provides possible grounds to consider denial of his discharge under Section 727(a)(3).⁴

³ Although the Loye case dealt with a nondischargeable obligation under Section 523, there is no reason its analysis would not apply with equal force, if not greater, to a denial of discharge proceeding under Section 727.

⁴ Section 727(a)(3) provides that “[t]he court shall grant the debtor a discharge, unless (3) the debtor has concealed, destroyed, mutilated, falsified, or failed to keep or preserve any recorded information, including books, documents, records, and papers, from which the debtor’s financial condition or business transactions might be ascertained, unless such act or failure to act was justified under all of the circumstances of the case

Furthermore, the Debtor's transfer of his interest in the house at 1212 North Lathrop within a year of bankruptcy to his daughter for no consideration and failure to disclose that in his bankruptcy filings also provides an independent bad faith basis for considering conversion. Investigation is warranted into that transaction and any grounds that might exist to set it aside. A Chapter 7 Trustee will usually be staffed and equipped for inquiry and litigation into such matters, while the Chapter 13 Standing Trustee is not.

IV. This Case Should Be Converted Because Debtor Failed To Disclose The Existence Of Unincorporated Businesses He Owns

"Debtors have an absolute duty to report whatever interests they hold in property, even if they believe their assets are worthless or are unavailable to the bankruptcy estate." In re Yonikus, 974 F.2d 901, 904 (7th Cir. 1992). Debtors also have a duty to maintain adequate records in order to enable creditors and other interested parties to ascertain the debtor's true financial condition.

A Chapter 13 case should be converted to chapter 7 when, like here, the debtor fails to disclose his interests in unincorporated businesses associations or fails to maintain adequate records. In re Buchanan, 225 B.R. 672, 674 (Bankr. D. Minn. 1998) aff'd, Buchanan v. U.S., No. 98-2291, 1999 WL 314819 (D. Minn. Apr 2, 1999) (case converted to chapter 7, in part, because debtor failed to disclose his interests in sole proprietorships and other businesses: "Right from the beginning, on the first page of his petition the debtor failed to disclose trade names he used in the prior six years. Under the required heading "ALL OTHER NAMES used by the debtor in the last 6 years (Include [] trade names)", the debtor listed "none" when, in fact, he operated at least six sole proprietorships during that period of time, including Health Personnel, Silver Lining Assisted Lifestyles, Monroe Electronics, United Publishing, Monroe Underwater, and Covenant PCA Services."); In re Henson, 289 B.R. 741, 752 (Bankr. N.D. Cal. 2003) ("However, it is not necessary to find that Debtor filed bankruptcy in bad faith in order to conclude that cause exists to remove this case from Chapter 13, because Debtor has shown that he is not capable of

performing as a Chapter 13 Debtor. Debtor has not provided reliable information about his financial condition, he will not make himself available to do so in future, and Lucas has been unable to do so in Debtor's absence. Cause therefore exists for concluding that this bankruptcy case cannot remain in Chapter 13."); In re Fonke, 310 B.R. 809, 817 (Bankr. S.D. Tex. 2004) (Chapter 13 case converted to Chapter 7 case where "Debtor failed to disclose all of his assets on his Schedules, including certain leases, "memberships", farming equipment, livestock, as well as property that he himself judged to be his wife's separate property.").

Nor can the Debtor succeed in arguing that he had no obligation to disclose his interests in various unincorporated businesses ventures. Under Illinois law it is well-settled that an unincorporated business is an asset of the responsible individual and the liabilities of that business also are that same person's liabilities. Corporations are creatures of statute. The corporate entity cannot exist without the authority of law and compliance with the procedures to establish a cognizable corporation that shields personal liability. Stroh v. Blackhawk Holding Corp., 48 Ill. 2d 471, 474 (Ill. 1971) ("A corporation is a creature of statute. It is a legal entity which owes its existence to the fiat of law.").

Thus, use of an assumed name without compliance with the applicable corporate formation laws or assumed name laws creates a sole proprietorship, not a separate legal entity. See Hoskins Chevrolet, Inc. v. Hochberg, 294 Ill. App. 3d 550, 555 (Ill. App. 1998) (finding personal liability by the defendant for improper use of an alleged assumed name, the Court noted that "[t]he Business Corporations Act . . . permits a corporation to elect to adopt an assumed name provided that certain procedures are followed. . . . Where those procedures are not followed, the corporation is required to conduct business under its corporate name. . . . The use of an assumed name without complying with the Act or disclosing the corporate name neither creates a legal entity nor does it inform creditors of the existence of the parent corporation."); Vernon v. Schuster, 179 Ill.2d 338, 347-48 (Ill. 1997); Regency Financial Corp. v. Meziere, No. 90 C 428, 1990 WL 103247, at *3 (N.D. Ill. July 16, 1990) ("Where business is conducted under an

assumed name there must be some underlying entity and the Illinois Assumed Business Name Act requires the entity to file with the State both the identity of the actual entity and its assumed name.”).

V. It Has Not Been Established That The Debtor Does Not Qualify For Relief Under Chapter 13

Section 109(e) of the Bankruptcy Code provides that “only an individual with regular income that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than \$307,675 . . . may be a debtor under chapter 13 of this title.” 11 U.S.C.

§ 109(e). Accordingly, in order to qualify for Chapter 13 relief, a debtor must not have debts in excess of the threshold amount *and* the debtor must have a regular income. If a debtor has debts that exceed the threshold amount, the case should be converted.

In this case, Pure claims that Debtor’s debts exceed the statutory maximum of \$307,675.

In determining whether a debtor meets the requirements of section 109(e), the Court may look beyond the debtor’s Schedules to the complaints and judgments in the lawsuits from which the debts arise.

Simply because a debt is disputed does not exempt it from being included in the Section 109(e) calculation. *In re Knight*, 55 F.3d 231, 234 (7th Cir. 1995) (“[I]n light of the virtual synonymy of “debt” and “claim,” therefore, we conclude that a disputed claim is a debt to be included when calculating the § 109(e) requirements”); *In re Nicholes*, 184 B.R. 82, 87 (B.A.P. 9th Cir. 1995).

Additionally, even a debt that has not been formally liquidated can disqualify a debtor for Chapter 13 relief. Instead, “[i]f the amount of a claim has been ascertained or can readily be calculated, it is liquidated—whether contested or not.” *Knight*, 55 F.3d at 235 (emphasis supplied).

Pure argues that the Debtor is liable for amounts expended by Pure Fishing in litigating before Judge Lindberg and argues that this liability exceeds \$400,000. However, no such claim was liquidated before Judge Lindberg and no such claim was even filed in this bankruptcy case.

Debtor's Schedules admitted to debts totalling \$183,000 and unsecured claims totalling \$46,526.71 have been filed. Those debts do not exceed the maximum.

VI. Converting This Case Would Best Serve The Interests Of Creditors

Converting this case to a Chapter 7 case also would best serve the interests of creditors.

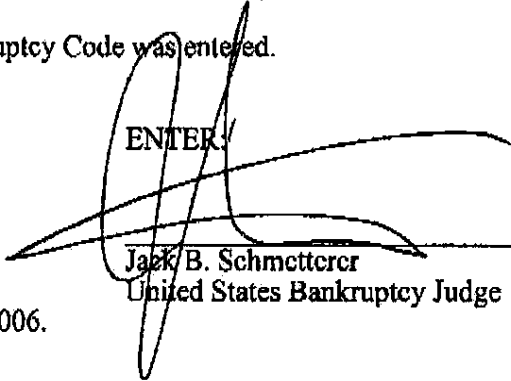
Creditors are likely to recover more in a Chapter 7 case than they will under the Debtor's proposed Chapter 13 plan which proposes to pay approximately \$14,000 to creditors. The Chapter 7 trustee will be able to investigate the Debtor's tangled financial affairs and schedule omissions, and also pursue a possible fraudulent transfer to ensure an equitable distribution to creditors. See In re Eatman, 182 B.R. 386, 394 (Bankr. S.D.N.Y. 1995) (converting case to Chapter 7 served best interests of creditors and estate where schedules were riddled with inaccuracies and omissions, where Chapter 7 trustee can investigate the debtor's financial affairs and bring appropriate actions to recover property, and if necessary object to debtor's discharge where the debtor may have disposed of or concealed assets).

Also, once this case is converted to Chapter 7, the Trustee may, upon investigating Debtor's false statements and lack of records, contend that Debtor should be denied a discharge.

CONCLUSION

Wherefore, and based both on statements from the bench following final argument and the foregoing detailed Findings of Fact and Conclusions of Law, the Order for Conversion of this case to one under Chapter 7 of the Bankruptcy Code was entered.

Entered this 26 th day of September 2006.

ENTERED

Jack B. Schmetterer
United States Bankruptcy Judge

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Leo Stoller,	)	05 B 64075
	)	Chicago, Illinois
	)	1:00 p.m.
Debtor.	)	October 20, 2006

TRANSCRIPT OF PROCEEDINGS BEFORE THE
CHAPTER 7 TRUSTEE RICHARD FOGEL

APPEARANCES:

For Debtor:	Mr. Richard Golding;
For Pure Fishing:	Mr. Wm. Factor;
For U.S. Trustee:	Mr. David Gucwa;

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2

1 MR. FOGEL: This is the continued 341
2 meeting in the converted Chapter 13 case of Leo
3 Stoller, S-t-o-l-l-e-r, 05 B 64075. My name is
4 Richard Fogel. I am the case trustee for the Stoller
5 estate. To my right is Janice Alwin, one of my
6 counsel.

7 Counsel for debtor, would you please
8 state your name?

9 MR. GOLDING: Richard Golding.

10 MR. FOGEL: Who else appears, please?

11 MR. FACTOR: William Factor on behalf
12 of creditor Pure Fishing.

13 MR. FOGEL: Sir?

14 MR. GUCWA: David Gucwa on behalf of
15 the U.S. Trustee's office.

16 MR. FOGEL: Sir?

17 THIRD SPEAKER: (Unintelligible) for
18 creditor.

19 MR. FOGEL: Very good.

20 Sir, would you state your name?

21 MR. STOLLER: Leo Stoller.

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22 MR. FOGEL: Do you have a photo I.D.?

23 MR. STOLLER: No, I don't.

24 MR. FOGEL: Do you have proof of your
25 social security number?

3

1 MR. STOLLER: I do.

2 MR. FOGEL: May I see it?

3 MR. STOLLER: I don't have it with me.

4 MR. FOGEL: Mr. Golding, does your
5 client know that he has to provide a photo I.D. and
6 proof of his social security number?

7 MR. GOLDING: I did not remind him.

8 MR. STOLLER: I can get that for you.

9 MR. FOGEL: I will proceed on the
10 representation that the debtor will provide the
11 information to counsel, and I know counsel will
12 forward it on to me. So that would be a photo I.D.
13 and social security number.

14 (Witness sworn.)

15 LEO STOLLER, WITNESS, SWORN

16 EXAMINATION

17 BY MR. FOGEL:

18 Q Mr. Stoller, did you file a Chapter 13
19 bankruptcy case on December 20th of 2005?

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20 A Upon the advice of my attorney I'm taking
21 the Fifth Amendment to all questions that are being
22 asked.

23 Q Mr. Stoller, I show you a declaration
24 regarding electronic filing. Is that your signature?

25 A Upon the advice of my attorney I'm taking

4

1 the Fifth Amendment to all questions that are being
2 asked.

3 MR. GOLDING: The debtor will take the
4 Fifth Amendment as to any and all questions that are
5 presented other than for his name and address.

6 For the record, there -- any further
7 questions will be answered the same way. And that is
8 the result of certain statements that have been made
9 to counsel for the debtor in this case.

10 BY MR. FOGEL:

11 Q Mr. Stoller, have you turned over to me any
12 and all recorded information including books,
13 documents, records and papers that you have relating
14 to property of the estate?

15 A I decline to answer that question on the
16 grounds of the Fifth Amendment.

17 MR. FOGEL: Mr. Golding, have you

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18 discussed with your client the fact that under
19 Section 521(4) of the Bankruptcy Code the debtor
20 shall provide the items I just requested information
21 about whether or not immunity is granted under
22 Section 344?

23 MR. GOLDING: Yes.

24 MR. FOGEL: And he is still not going
25 to answer the question?

5

1 MR. GOLDING: He's not going to answer
2 the question. He may provide the information, but
3 he's not going to answer the question.

4 BY MR. FOGEL:

5 Q Mr. Stoller, do you have any recorded
6 information including books, documents, records and
7 papers?

8 A I'm going to decline to answer the question
9 on the grounds of the Fifth Amendment.

10 Q Mr. Stoller, on your schedules you
11 indicated that you were a shareholder and in other
12 documents you have indicated you were an officer of
13 certain corporate entities. Do you have any
14 corporate records regarding any of those entities?

15 A I'm going to decline to answer that

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16 question on the advice of counsel based on my Fifth
17 Amendment rights.

18 MR. FOGEL: Mr. Golding, have you
19 discussed the case of Braswell versus the United
20 States --

21 MR. GOLDING: I have not.

22 MR. FOGEL: -- with your client?

23 MR. GOLDING: I have not.

24 MR. FOGEL: In case you have
25 forgotten, the cite is 487 U.S. 99, in which an

6

1 individual who has corporate records must produce,
2 cannot resist a subpoena on the ground that the act
3 of production would be incriminating.

4 MR. GOLDING: Did you subpoena any
5 documents?

6 MR. FOGEL: I don't have to because
7 the debtor has a duty under 521 to produce the
8 documents.

9 MR. GOLDING: Well --

10 MR. FOGEL: I'm just bringing this to
11 your attention, sir.

12 MR. GOLDING: You're citing a case and
13 telling me it provides that pursuant to a subpoena.

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14 You didn't subpoena him, so I'm not sure if there's a
15 relevance to the case.

16 MR. FOGEL: You're probably right.

17 MR. GOLDING: But do you want to give
18 me the cite again?

19 MR. FOGEL: No. I will give it to you
20 later.

21 BY MR. FOGEL:

22 Q Mr. Stoller, what domain names do you own?

23 A I'm going to decline to answer that
24 question on the advice of counsel and my Fifth
25 Amendment rights.

7

1 Q Mr. Stoller, do you have any licenses with
2 any entities by the names either Epsco (phonetic)
3 Lindy-Little Joe, Jas. D. Easton, Inc., MD
4 Manufacturing, Inc.?

5 A I'm going to decline to answer that
6 question on my Fifth Amendment rights and upon the
7 advice of counsel.

8 Q Mr. Stoller, do you own any real estate?

9 A I decline to answer that question on my
10 Fifth Amendment rights.

11 Q Mr. Stoller, when you filed your bankruptcy

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12 petition in December of '05, you indicated a bank
13 account at Bank of America. Do you know the account
14 number?

15 A I'm going to decline to answer that
16 question on my Fifth Amendment rights.

17 Q Mr. Stoller, in your schedules you have
18 identified five corporate entities that you claim to
19 be the sole shareholder of. Do you have proof of
20 ownership of any of those companies?

21 A I'm going to decline to answer that
22 question on my Fifth Amendment rights.

23 Q Mr. Stoller, you have indicated that you
24 had trademarks worth \$36,000 on the day you filed
25 your bankruptcy case. Do you have any documentation

1 relating to those trademarks?

2 A I decline to answer that question on my
3 Fifth Amendment rights.

4 MR. GOLDING: You know, there really
5 is no need to continue to ask all the questions. He
6 will answer it the same way. We will stipulate that
7 you will ask all the questions and that he will
8 answer by exercising his Fifth Amendment rights to
9 any and all questions other than his name and

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10 address.

11 He's doing so because it has been
12 suggested that this matter would be referred to the
13 United States Attorney's office by the trustee. So
14 there is really no need for us to go through the sham
15 of having to actually ask each question and not -- we
16 will stipulate that you will ask all the questions
17 and that the debtor will respond accordingly.

18 MR. FOGEL: I expected that you would
19 say that, sir, but not all of the questions that I am
20 asking have answers that might lead to incriminating
21 statements. And, therefore, you cannot take a
22 blanket assertion of the Fifth Amendment. You must
23 assert it in response to every question I ask, and
24 then we can later determine which are proper
25 assertions and which are improper assertions, if any
9

1 of them are improper.

2 I'm sorry, I've been instructed to do
3 it the way I'm doing it.

4 MR. GOLDING: Okay.

5 MR. FOGEL: I appreciate that. Thank
6 you.

7 BY MR. FOGEL:

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8 Q Mr. Stoller, how many bank accounts besides
9 Bank of America do you have?

10 A I decline to answer that question on the
11 grounds of my Fifth Amendment rights.

12 Q Have you made any payments to legal counsel
13 since your Chapter 13 case was filed?

14 A I'm going to decline to answer that
15 question on the grounds of my Fifth Amendment rights.

16 Q Did you receive \$20,000 from your
17 soon-to-be ex-wife's estate in connection with
18 payment of legal fees?

19 A I'm going to decline to answer that
20 question on the grounds of my Fifth Amendment rights.

21 Q Do you have any credit cards?

22 A I'm going to decline to answer that
23 question based on the grounds of my Fifth Amendment
24 rights.

25 Q Where are you currently living?

10

1 A My address is 7815 Westwood Drive.

2 Q In Chicago, Illinois?

3 A Elmwood Park.

4 Q Is that a house or an apartment?

5 A House.

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6 Q Do you have any ownership interest in it?

7 A No.

8 Q Who does?

9 A My wife.

10 Q What's your wife's name?

11 A Nancy Reich, R-e-i-c-h.

┌ 12 Q Have you received any income from any ┐
13 advertisers on the Rentamark web site in the last six
14 months?

15 A I'm going to decline to answer that
└ 16 question on the grounds of my Fifth Amendment rights. ┘

17 Q Have you sold any address lists to any
18 third parties since the commencement of your
19 bankruptcy case?

20 A I decline to answer that question on the
21 grounds of my Fifth Amendment rights.

22 Q Have you ever owned or operated a business
23 that provided goods or services to any clients,
24 customers or third parties?

25 A I decline to answer that question on the
11
1 grounds of my Fifth Amendment rights.

2 Q Do you have any employees?

3 A I decline to answer that question on the

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4 grounds of my Fifth Amendment rights.

5 Q What's your current source of income? 7

6 A I'm going to decline to answer that
7 question on the grounds of my Fifth Amendment rights. 7

8 Q Where are the computers that you used to
9 use when you were in business on Belmont?

10 A I decline to answer that question on the
11 grounds of my Fifth Amendment rights.

12 Q Where's the checkbook for the checking
13 account at First Security Bank in the name of Chemico
14 (phonetic) Manufacturing Company, Inc.

15 A I have no idea. I'm going to decline to
16 answer that question on the grounds of my Fifth
17 Amendment rights.

18 Q What issues are you appealing from in the
19 Pure Fishing case before Judge Lindberg?

20 A I'm going to decline to answer that
21 question on the grounds of my Fifth Amendment rights.

22 Q When was the last time you were at 1212
23 North Lathrop Street?

24 A I decline to answer that question on the
25 grounds of my Fifth Amendment rights.

12

1 Q How did you feel last week when you found

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2 out that I stopped the sale of that property?

3 A I'm going to decline to answer on the
4 grounds of my Fifth Amendment rights.

5 MR. FOGEL: Mr. Factor, do you have
6 any questions?

7 MR. FACTOR: Yes.

8 EXAMINATION

9 BY MR. FACTOR:

10 Q Mr. Stoller, have you committed any
11 bankruptcy fraud in the last year?

12 A I will decline to answer that question on
13 the grounds of my Fifth Amendment rights.

14 Q Mr. Stoller, is the information in your
15 bankruptcy schedules accurate?

16 A I'm going to decline to answer that
17 question on the grounds of my Fifth Amendment rights.

18 Q Mr. Stoller, did you conceal your interest
19 in the 1212 North Lathrop property in River Forest?

20 A I will decline to answer that question on
21 the grounds of my Fifth Amendment rights.

22 Q Mr. Stoller, the information about income
23 that you reported in the bankruptcy schedules, is
24 that correct?

25 A I'm going to decline to answer that

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13

1 question on the grounds of my Fifth Amendment rights.

2 Q Mr. Stoller, have you disclosed all the
3 interests in properties that you held as of the date
4 you filed for Chapter 13?

5 MR. GOLDING: The trustee asked that
6 question. It's already been responded to by the
7 exercise of his Fifth Amendment rights.

8 BY MR. FACTOR:

9 Q Mr. Stoller, is it accurate to say that you
10 engaged in trademark trafficking?

11 A I'm going to decline to answer that
12 question on the grounds of my Fifth Amendment rights.

13 Q Mr. Stoller, it's true, is it not, that you
14 do not have any interest in the Stealth trademark?

15 A I'm going to decline to answer that
16 question on the grounds of my Fifth Amendment rights.

17 Q Mr. Stoller, it's true, is it not, that no
18 company that you have an interest in has any rights
19 in the Stealth trademark?

20 MR. GOLDING: I'm going to object to
21 the continuing line of questions that ask for legal
22 conclusions. I'm letting it go, you know, a little
23 bit here, but all these questions are objectionable

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24 anyhow; they require a legal conclusion. The witness
25 is here and he would testify as to facts and not as

14

1 to legal conclusions.

2 Do you have any other questions?

3 MR. FACTOR: You're instructing him
4 not to answer?

5 MR. GOLDING: I am.

6 BY MR. FACTOR:

7 Q Mr. Stoller, it is true, is it not, that
8 you have manufactured claims of ownership of
9 trademarks in order to extort money from businesses?

10 A I'm going to decline to answer that
11 question on the grounds of my Fifth Amendment rights.

12 MR. FACTOR: I have no other questions
13 at this time.

14 MR. GUCWA: No questions.

15 MR. FOGEL: Mr. Golding, before we
16 conclude for the day, have you discussed with the
17 debtor his obligations under Rule 1019 to file a
18 final report?

19 MR. GOLDING: I have not, but I don't
20 know if Mr. Kaplan has. But I will.

21 MR. FOGEL: Mr. Kaplan has filed a

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22 motion to withdraw is my understanding.

23 MR. GOLDING: I'm aware of that, but I
24 don't know if --

25 MR. FOGEL: Are you planning to file a
15

1 motion to withdraw as well or are you planning to
2 represent the debtor?

3 MR. GOLDING: It's under
4 consideration.

5 MR. FOGEL: I will continue the
6 meeting today for four weeks. I don't know if anyone
7 has a calendar.

8 MR. GOLDING: I do.

9 MR. FOGEL: I will continue the
10 meeting to November 17th at 1:00 o'clock to see how
11 certain other matters play out in connection with
12 this case.

13 Please get me a copy of his photo I.D.
14 and proof of his social security number at your
15 convenience.

16 Please file the report under
17 1019(5)(b) at your earliest convenience. Thank you
18 for attending.

19 MR. GOLDING: Thank you, Mr. Fogel.

Oct 19 Section 341 mtg.txt

20 (Which were all the proceedings had in
21 the above-entitled cause, October 20,
22 2006, 1:00 p.m.)

23 I, JACKLEEN DE FINI, CSR, RPR, DO HEREBY
24 CERTIFY THAT THE FOREGOING IS A TRUE AND
25 ACCURATE TRANSCRIPT OF THE AUDIO TAPED
PROCEEDINGS HAD IN THE ABOVE- ENTITLED CAUSE.

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 2.5
Eastern Division**

Central Mfg. Co., et al.

Plaintiff,

v.

Case No.: 1:05-cv-00725

Honorable George W. Lindberg

Pure Fishing, Inc., et al.

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Tuesday, December 12, 2006:

MINUTE entry before Judge George W. Lindberg :Mr. Stoller's motion to object to the agreed Rule 54.3(a) joint statement [256] will not be heard on 12/13/06 because Mr. Stoller failed to comply with the court's three-day notice requirement for the presentment of all motions. Further, the motion to object to the agreed Rule 54.3(a) joint statement [256] is denied as moot because the court entered the agreed order before it received the instant motion. Mailed notice(slb,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3514

Kuhlke

Mailed: September 29, 2004

Opposition No. 91159950

Central Mfg. Co.

v.

Premium Products, Inc.

Before Hanak, Bucher and Bottorff, Administrative Trademark Judges.

By the Board:

On July 27, 2004, the Board suspended proceedings pending disposition of several motions including opposer's motion for summary judgment. This case now comes up for consideration of the following motions: (1) opposer's motion (filed April 30, 2004) to strike applicant's affirmative defenses; (2) applicant's motion (filed May 4, 2004) to strike certain paragraphs from the notice of opposition; (3) applicant's motion (filed May 4, 2004) for protective order concerning filing and service of motions and other papers before the Board; (4) opposer's motion (filed June 7, 2004) for sanctions under Fed. R. Civ. P. 11; and (5) applicant's motion (filed July 13, 2004) for discovery under Fed. R. Civ. P. 56(f).

IT IS HEREBY ORDERED:

Opposition No. 91159950

(1) Opposer's motion to strike applicant's affirmative defenses is denied as to paragraphs nos. 1, 2 and 4 and granted, in part, as to paragraph no. 3.¹

Fed. R. Civ. P. 12(f) provides for the striking from a pleading of any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. However, motions to strike are not favored, and matter will not be stricken unless it clearly has no bearing upon the issues in the case. See *Leon Shaffer Golnick Advertising, Inc. v. William G. Pendill Marketing Co., Inc.*, 177 USPQ 401 (TTAB 1973).

Paragraphs nos. 1, 2 and 4 are sufficient inasmuch as they serve to amplify the denials in the answer and/or apprise opposer with greater particularity of the position which applicant is taking in the defense of its right to registration.

Paragraph no. 3 reads as follows:

Opposer's opposition to PREMIUM's use and registration of the mark "GROUND ZERO STEALTH" is barred by the doctrines of waiver, estoppel, acquiescence, ratification, laches and, concerning applications identified in the Notice of Opposition, abandonment.

Opposer argues that "abandonment" should be stricken because it "represents a collateral attack on opposer's said marks." In response, applicant argues that although the Board does not permit "an attack on a registration" absent a

¹ Applicant's amended answer filed on May 4, 2004 as a matter of course under Fed. R. Civ. P. 15(a) is noted. The motion to strike has been considered in the context of the amended answer.

Opposition No. 91159950

counterclaim, this "does not apply where the opposer attempts to assert a mark that is only the subject of a pending application rather than a registration."

While this may not be a collateral attack on a registration, the "affirmative defense" of abandonment is not supported by sufficient allegations (e.g., no allegation that pleaded applications have been abandoned).² In the event this defense is anticipating any future possible abandonment of pleaded applications, such an allegation would be premature and not appropriate. In view thereof, the clause "and, concerning applications identified in the Notice of Opposition, abandonment" of paragraph no. 3 of the affirmative defenses in the amended answer is hereby stricken.

Applicant is allowed until **THIRTY DAYS** from the mailing date of this order to file an amended answer which cures the deficiencies in paragraph no. 3 of the affirmative defenses, failing which proceedings will go forward with applicant's amended answer in accordance with this order.

(2) Applicant's motion to strike certain paragraphs from opposer's notice of opposition is denied as untimely, Fed.

² With regard to the defenses of waiver, estoppel, acquiescence, ratification and laches, applicant is advised that laches and acquiescence are generally not available as defenses in an opposition proceeding. See *National Cable Television Ass'n v. American Cinema Editors, Inc.*, 937 F.2d 1572, 19 USPQ2d 1424 (Fed. Cir. 1991); and *DAK Industries, Inc. v. Daiichi Kosho Co.*, 25 USPQ2d 1622 (TTAB 1992).

Opposition No. 91159950

R. Civ. P. 12(f), and the Board declines, on its own initiative, to strike matter from the notice of opposition.³ TBMP § 506.02 (2d ed. rev. 2004).

[(3) Applicant's motion for protective order concerning filing and service of motions is granted for the reasons set forth below. 7

In support of its motion, applicant states that opposer's mailings do not include a postmark, which should appear in the postage meter stamp. Applicant further states, that it is against postal regulations to mail an envelope without a date postmarked thereon, quoting the U.S. Postal Services' Domestic Mail Manual wherein it states that the date of mailing must be included on a printed postage meter stamp. Applicant states that according to "officials of the U.S. Postal Service...it is apparent that the envelope in question was deposited in an outside mailbox where it would not be entered into the computer system of the Postal Service," and as such could not be tracked on their web site. Applicant is concerned that "[g]iven Mr. Stoller's [opposer's representative] long documented history

³ Moreover, a cursory review of the disputed paragraphs when taken in the context of all the allegations in the notice of opposition appear to set forth a claim of fraud in the procurement of a registration. See *Hank Thorp, Inc. v. Minilite, Inc.*, 474 F.Supp. 228, 205 USPQ 598 (D.Del. 1979); *Ohio State University v. Ohio University*, 51 USPQ2d 1289, 1999 (TTAB 1999). See also See McCarthy, J. Thomas, McCarthy on Trademarks and Unfair Competition, §§31:71 and 31:73 (4th ed. 2004).

Opposition No. 91159950

before the Board," opposer's ability to serve filings without a mailing date postmark on the envelope could result in prejudice to applicant by, for example, shortening a deadline for response to a motion. Applicant has submitted several Board orders from several cases where Mr. Stoller was the representative for parties that have been sanctioned due to improprieties with mailings, a copy of the Domestic Mail Manual of the U.S. Postal Service, and copies of the envelopes in which opposer's filings were mailed.

In response, opposer does not dispute that there is no postmark on the envelope or that a mailing date is required to be stamped on the envelope in the meter stamp, nor does opposer dispute that it deposited the envelope in an outside mailbox, thus circumventing entry into the Postal Service computer system. Rather, opposer argues that applicant has not been harmed, yet, as evidenced by the date of receipt on the return certificate signed by applicant and states that in the two instances cited by applicant opposer mailed the documents on the "date of certification." Attached to opposer's response are copies of the postmarked return receipts for the certified mailings showing when applicant received the mailings but, notably, not when opposer mailed them.

The Board first notes that the motion for protective order is more in the nature of a motion for sanctions and the Board grants this motion both under the provisions governing protective orders and under its inherent authority

Opposition No. 91159950

to sanction bad-faith conduct and control the conduct of parties in proceedings. Trademark Rule 2.120(f); Fed. R. Civ. P. 26(c); *Central Mfg. Inc. v. Third Millenium Technology, Inc.*, 61 USPQ2d 1210 (TTAB 2001). See also *Chambers v. NASCO, Inc.*, 501 U.S. 32, 111 S.Ct. 2123, rehearing denied, 501 U.S. 1269, 112 S.Ct. 12 (1991).

In another proceeding involving Mr. Stoller, opposer's representative, the Board found that a certificate of mailing and certificate of service submitted by Mr. Stoller's former company, S. Industries, was fraudulent. *S. Industries Inc. v. Lamb-Weston Inc.*, 45 USPQ2d 1293 (TTAB 1997). The Board made this determination based on the evidence presented which included the envelope containing plaintiff's filings that had a postage meter stamp date of July 9, 1997, rather than the certificate of mailing date of July 3, 1997.

Here, it appears from the record that opposer has found a way to circumvent this fate by simply omitting the postage meter stamp date and avoiding the postage cancellation date. Applicant's allegations regarding the omission of a postmark, or date of mailing on the envelope in apparent violation of Postal Service regulations stand unrebutted. The Board is hard pressed to think of a more egregious act of bad faith than flouting the United States Postal Service regulations. Opposer's contention that applicant has not been harmed because it timely received these filings is not correct. Applicant and the judicial process have been

Opposition No. 91159950

harmd inasmuch as opposer has made it impossible to verify the certificate of mailing statements by somehow omitting the date of mailing from its envelopes and in so doing may have violated U.S. Postal regulations during the course of this proceeding.

In view thereof, the Board grants the motion for protective order to the extent that opposer is hereby ordered to obtain a postmark from a postal official at a U.S. Post Office for all further correspondence to applicant and to the Board in this proceeding. The Board declines at this time to impose the other requirements requested by applicant.

(4) Opposer's motion for sanctions under Fed. R. Civ. P. 11 is denied.

By its motion, opposer contends that applicant's motion for a protective order filed on May 4, 2004 is frivolous and requests that the Board enter judgment against applicant. Inasmuch as the Board has now granted that motion, it is, as a matter of law, not frivolous.

(5) Applicant's motion for discovery under Fed. R. Civ. P. 56(f) and imposition of the Board's standard protective agreement is granted.

Opposer has filed a motion for summary judgment on its claim of likelihood of confusion under Section 2(d) of the Trademark Act. In the notice of opposition, opposer alleged

Opposition No. 91159950

prior common law use and pleaded several registrations and applications. Opposer relies on these pleaded marks in its motion for summary judgment.

In support of its motion for discovery, applicant states that prior to the filing of the motion for summary judgment, applicant served opposer with discovery requests but opposer's responses were inadequate. Specifically, applicant seeks discovery "to determine whether opposer owns the trademark rights opposer claims to hold in this opposition proceeding or whether, alternatively, any rights that opposer might have held are abandoned." Further, applicant states that "[t]his information will permit applicant to determine whether an issue of fact exists as to the validity of some or all of the registrations, asserted by opposer in this opposition proceeding, that would preclude entry of summary judgment" and that "[a]pplicant will seek cancellation of any and all of opposer's marks for which opposer fails to meet their burden concerning use and validity." In addition, applicant seeks discovery on the *du Pont* factors with regard to the likelihood of confusion analysis.

Applicant has requested that the Board: (1) impose its standard protective agreement to facilitate the exchange of confidential material; (2) order opposer to provide complete and proper responses to interrogatories nos. 1, 2, 3, 5, 6, 7, 8, 10, 15 and 17 under oath; (3) order opposer to provide documents in response to document requests nos. 1, 3 and 4;

Opposition No. 91159950

(4) order opposer to respond to applicant's second set of interrogatories under oath; and (5) order Mr. Leo Stoller to attend a deposition at a date, time and place agreed to between the parties after applicant receives the requested discovery.

In opposition to the motion, opposer argues that applicant's request "fail[s] to identify with particularity the information that the applicant claims it must have prior to respond [sic] to opposer's motion for summary judgment." Further, opposer argues that opposer's "ownership of the marks asserted in the opposition is not an issue in this case." Finally, opposer states that it has fully responded to the requests and many of the requests are "irrelevant to applicant's ability to file its response to opposer's motion for summary judgment."

A party that believes that it cannot effectively oppose a motion for summary judgment without first taking discovery may file a request with the Board for time to take the needed discovery. TBMP § 528.06. The motion should set forth with specificity the areas of inquiry needed to obtain the information necessary to enable a party to respond to the motion for summary judgment. *Id.* If a party has demonstrated a need for discovery which is reasonably directed to facts essential to its opposition to the motion, discovery will be permitted. See *Opryland USA Inc. v. The Great American Music Show Inc.*, 970 F.2d 847, 23 USPQ2d 1471 (Fed. Cir. 1992). This is especially true if the

Opposition No. 91159950

information sought is largely within the control of the party moving for summary judgment. See *Orion Group Inc. v. Orion Insurance Co. P.L.C.*, 12 USPQ2d 1923 (TTAB 1989). Finally, a party may seek information on any matter which might serve as the basis for an additional claim, defense, or counterclaim. See *J.B. Williams Co. v. Pepsodent G.m.b.H.*, 188 USPQ 577, 579 (TTAB 1975) (information concerning possible abandonment, if revealed, may provide basis for counterclaim). TBMP § 402.01. Although a party may not defend against a motion for summary judgment by asserting the existence of genuine issues of material fact as to an unpleaded claim or defense, a party may move to amend its pleading to allege the matter at the time it responds to the motion for summary judgment. TBMP § 528.07(b).

Notwithstanding opposer's objections, applicant has set forth with specificity the areas of inquiry needed to obtain the information necessary to enable it to respond to the motion for summary judgment. Applicant has requested supplemental responses to specific discovery requests that address the issues of opposer's ownership and validity of the pleaded marks and certain *du Pont* factors in the likelihood of confusion analysis. Applicant has shown that opposer's responses to applicant's first set of discovery requests are inadequate and require supplementation, and that opposer has not yet responded to applicant's second set of interrogatories which are relevant to the motion for

Opposition No. 91159950

summary judgment. In addition, the Board notes that applicant has not yet had an opportunity to depose opposer on the validity and ownership of the pleaded marks. Therefore, it would be inappropriate to decide the motion for summary judgment without allowing applicant to receive relevant discovery. See *Opryland USA Inc. v. The Great American Music Show Inc.*, 23 USPQ2d 1471 (Fed. Cir. 1992) citing *Celotex v. Catrett*, 106 S. Ct. 2548 (1986) and *Dunkin' Donuts of America Inc. v. Metallurgical Exoproducts Corp.*, 6 USPQ2d 1026 (Fed. Cir. 1988).

Accordingly, the Board hereby imposes its standard protective agreement forwarded herewith. Opposer is allowed until **TWENTY FIVE DAYS** from the mailing date of this order to serve complete responses to: (1) interrogatories nos. 1,⁴ 2, 3⁵ 5, 6, 7, 8, 10, 15 and 17 in the first set of interrogatories, under oath; (2) document requests nos. 1, 3 and 4; and (3) interrogatories nos. 1 and 2 in the second set of interrogatories, under oath. Further, applicant is

⁴ In particular, applicant has requested supplementation to opposer's response to interrogatory no. 1 inasmuch as the response is not supported by the Trademark Office records. This interrogatory is related to interrogatory no. 16 wherein applicant requests information regarding any possible assignments involving the pleaded marks. Opposer objected to interrogatory no. 16 as irrelevant and burdensome. The Board notes that these objections are not proper inasmuch as opposer has pleaded these marks and applicant is allowed to seek discovery regarding these marks. TBMP § 402.01.

⁵ Information regarding licensees and license agreements is discoverable. TBMP § 414(10). See *Johnston Pump/General Valve Inc. v. Chromalloy American Corp.*, 10 USPQ2d 1671, 1675 (TTAB 1988); *American College of Oral & Maxillofacial Surgeons*, 201 USPQ 531, 533 (TTAB 1979).

Opposition No. 91159950

allowed **FORTY DAYS** from the mailing date of this order to notice and take the deposition of Mr. Leo Stoller on the issues of the validity and ownership of the marks asserted by opposer, and the alleged likelihood of confusion between those marks and applicant's mark. Applicant is allowed until **SIXTY FIVE DAYS** from the mailing date of this order to file its response to the motion for summary judgment.

Proceedings herein remain suspended pending disposition of opposer's motion for summary judgment in accordance with the Board's July 27, 2004 order.

Opposer is advised that proceedings will not be suspended with regard to these discovery obligations, notwithstanding any possible request for reconsideration or petition to the Commissioner. *Opticians Ass'n of America v. Independent Opticians of America Inc.*, 734 F. Supp. 1171, 14 USPQ2d 2021 (D.N.J. 1990), *rev'd on other grounds*, 920 F.2d 187, 17 USPQ2d 1117 (3d Cir. 1990).

* * *

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GOOGLE INC.,)	
	)	Civil Action No. 07 CV 385
Plaintiff,)	
	)	Hon. Virginia M. Kendall
vs.)	
	)	Date: March 19, 2007
CENTRAL MFG. INC. a/k/a CENTRAL	)	Time: 9 a.m.
MFG. CO., a/k/a CENTRAL MFG. CO.)	
(INC.), a/k/a CENTRAL)	
MANUFACTURING COMPANY, INC.)	
and a/k/a CENTRAL MFG. CO. OF)	
ILLINOIS; and STEALTH INDUSTRIES,)	
INC. a/k/a RENTAMARK and a/k/a)	
RENTAMARK.COM,)	
)	
Defendants.)	

NOTICE OF FILING

To: See attached Service List

PLEASE TAKE NOTICE that on March 16, 2007, we filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, Chicago, Illinois, via the Court's CM/ECF system, **DECLARATION OF MICHAEL T. ZELLER**, a copy of which is hereby served upon you.

DATED: March 16, 2007

GOOGLE INC.

By /s/ William J. Barrett
William J. Barrett (ARDC No. 6206424)
BARACK, FERRAZZANO, KIRSCHBAUM,
PERLMAN & NAGELBERG, LLP
333 West Wacker Drive, Suite 2700
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(312) 629 5170

Michael T. Zeller (ARDC No. 6226433)
QUINN EMANUEL URQUHART OLIVER
& HEDGES, LLP
865 South Figueroa Street, Tenth Floor
Los Angeles, California 90017
(213) 443 3000

Attorneys for Google Inc.

CERTIFICATE OF SERVICE

I, William J. Barrett, certify that on March 16, 2007, I caused to be served on the parties on the following Service List, via electronic mail, a copy of the foregoing **NOTICE OF FILING** and **DECLARATION OF MICHAEL T. ZELLER**.

/s/ William J. Barrett

William J. Barrett

SERVICE LIST

Mr. Leo Stoller
7115 W. North Ave., #272
Oak Park, IL 60302
Email: ldms4@hotmail.com

Richard M. Fogel
Janice Alwin
Shaw Gussis Fishman Glantz Wolfson & Towbin LLC
321 N. Clark St., Suite 800
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Email: jalwin@shawgussis.com; rfogel@shawgussis.com; rfogel@ecf.epiqsystems.com

ef

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Virginia M. Kendall	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	07 C 385	DATE	3/15/2007
CASE TITLE	Google Inc. Vs. Central Mfg. Inc., et al.		

DOCKET ENTRY TEXT

Joint Motion for Entry of Stipulated Permanent Injunction and Final Judgment [23] is granted. Enter Permanent Injunction and Final Judgment as to Defendants Central Mfg. Inc. and Stealth Industries, Inc.

■ [For further detail see separate order(s).]

Docketing to mail notices.

2007 MAR 15 11 17 AM
U.S. DISTRICT COURT

Courtroom Deputy Initials:	GR
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GOOGLE INC.,)	
	)	Civil Action No. 07 CV 385
Plaintiff,)	
	)	Hon. Virginia M. Kendall
vs.)	
	)	Hearing Date: February 20, 2007
CENTRAL MFG. INC. a/k/a CENTRAL	)	Hearing Time: 9 a.m.
MFG. CO., a/k/a CENTRAL MFG. CO.)	
(INC.), a/k/a CENTRAL)	
MANUFACTURING COMPANY, INC.)	
and a/k/a CENTRAL MFG. CO. OF)	
ILLINOIS; and STEALTH INDUSTRIES,)	
INC. a/k/a RENTAMARK and a/k/a)	
RENTAMARK.COM,)	
)	
Defendants.)	

PERMANENT INJUNCTION AND FINAL JUDGMENT AS TO
DEFENDANTS CENTRAL MFG. INC. AND STEALTH INDUSTRIES, INC.

This Permanent Injunction and Final Judgment is entered into, on the one hand, by Plaintiff Google Inc. ("Google") and, on the other hand, by Defendant Central Mfg. Inc., also known without limitation as Central Mfg. Co., Central Mfg. Co. (Inc.), Central Manufacturing Company, Inc. and/or Central Mfg. Co. of Illinois (collectively, "Central Mfg."), and Defendant Stealth Industries, Inc., also known without limitation as Rentarnark and/or Rentarnark.com ("Stealth") (collectively, Central Mfg. and Stealth are the "Entity Defendants"). The parties, by and through their undersigned counsel of record having stipulated to the entry of the following Stipulated Permanent Injunction and Final Judgment, and good cause appearing for the entry thereof:

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338, 18 U.S.C. § 1964(c) and principles of supplemental jurisdiction under 28 U.S.C. § 1367(a), as well as personal jurisdiction over the Entity Defendants.

2. The Entity Defendants have been duly served with the summons and Complaint in this matter.

3. By Order dated October 5, 2006, the United States Bankruptcy Court for the Northern District of Illinois, the Honorable Jack B. Schmetterer presiding, duly granted Richard M. Fogel, not individually but as Chapter 7 Trustee of the bankruptcy estate of Leo Stoller (the "Trustee"), all right and authority to act on behalf of the Entity Defendants in connection with the matters that are the subject of this Stipulated Permanent Injunction and Final Judgment. By Order dated December 5, 2006, the United States Bankruptcy Court for the Northern District of Illinois, the Honorable Jack B. Schmetterer presiding, granted the Trustee's motion modifying the automatic stay and approving a Settlement Agreement by and between Google and the Entity Defendants, through the Trustee in his capacity as sole shareholder of the Entity Defendants, that included the terms of this Permanent Injunction and Final Judgment.

4. Judgment is hereby entered in favor of Plaintiff Google, and against each of the Entity Defendants, on Plaintiff Google's claims for false advertising in violation of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B), for violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961 *et seq.* and for unfair competition.

5. The Entity Defendants admit each and every fact alleged in the Complaint. Without limiting the generality of the foregoing, each of the Entity Defendants admits and represents:

(a) None of the Entity Defendants has any right, title or interest of any kind in the GOOGLE mark or in any mark, trade name or designation that is confusingly similar to or dilutes the GOOGLE mark;

(b) None of the Entity Defendants has any right or lawful ability to license, or offer for licensing, the GOOGLE mark, or any mark or designation that is confusingly similar to or dilutes the GOOGLE mark, in connection with any goods, services or commercial activities; and

(c) None of the Entity Defendants has any right or lawful ability to hold themselves out as or to identify themselves as any business entity of any kind using, in whole or in part and regardless of what other terms may be included, the GOOGLE mark, or any mark or designation that is confusingly similar to or dilutes, the GOOGLE mark, including without limitation any of the following: "GOOGLE," "GOOGLE™ BRAND TRADEMARK LICENSING," "GOOGLE LICENSING" and/or "GOOGLE BRAND PRODUCTS & SERVICES."

6. Each of the Entity Defendants, as well as their officers, directors, principals, agents, servants, employees, successors, assigns, parents, subsidiaries and affiliates and all those acting on their behalf or in concert or participation with them, shall be and hereby is, effective immediately, permanently enjoined from engaging in any of the following acts:

(a) claiming in any advertising, promotion or other materials, including without limitation on any web site, any right, title or interest in GOOGLE, whether in whole or in part and regardless of what other terms may be included, or in any mark, trade name, term, word or designation that is confusingly similar to or dilutes the GOOGLE mark;

(b) instituting, filing or maintaining, or threatening to institute, file or maintain, any application, registration, suit, action, proceeding or any other matter with any Court, with the United States Trademark Office, with the United States Trademark Trial and Appeal Board or with any other judicial or administrative body that asserts any right, title or interest in GOOGLE, whether in whole or in part and regardless of what other terms may be included, or in any mark, trade name, term, word or designation that is confusingly similar to or dilutes the GOOGLE mark;

(c) holding themselves out as or identifying themselves in any manner as any business entity of any kind using, whether in whole or in part and regardless of what other terms

may be included, the GOOGLE mark or any mark, trade name, term, word or designation that is confusingly similar to or dilutes the GOOGLE mark, including without limitation any of the following: "GOOGLE," "GOOGLE™ BRAND TRADEMARK LICENSING," "GOOGLE LICENSING" and/or "GOOGLE BRAND PRODUCTS & SERVICES";

(d) licensing, offering to license, assigning or offering to assign or claiming the ability to license or assign any mark, term, word or designation that embodies, incorporates or uses, in whole or in part and regardless of what other terms may be included, the GOOGLE mark or any mark or designation that is confusingly similar to or dilutes the GOOGLE mark;

(e) interfering with, including without limitation by demanding in any manner any payment or other consideration of any kind for, Plaintiff's use, whether past, current or future, of any mark, name or designation embodying, incorporating or using GOOGLE, whether in whole or in part and regardless of what other terms may be included;

(f) using the GOOGLE mark, whether in whole or in part and regardless of what other terms may be included, or any mark, trade name, term, word or designation that is confusingly similar to or dilutes the GOOGLE mark, in connection with the sale, offering for sale, licensing, offering for license, importation, transfer, distribution, display, marketing, advertisement or promotion of any goods, services or commercial activity of any Defendant;

(g) engaging in acts of unfair competition or passing off with respect to Plaintiff Google;

(h) assisting, aiding or abetting any other person or entity in engaging in or performing any of the activities referred to in subparagraphs (a) through (g) above.

7. Each party to this Permanent Injunction and Final Judgment shall bear its respective attorney's fees, costs and expenses incurred in this action; provided, however, that in any proceeding or on any motion to interpret and/or enforce this Permanent Injunction and Final Judgment the prevailing party shall be entitled to an award of reasonable attorney's fees and expenses, including any expert fees.

8. The Entity Defendants hereby waive any further findings of fact and conclusions of law in connection with this Permanent Injunction and Final Judgment and all right to appeal therefrom. It is the intention of the parties hereto that this Permanent Injunction and Final Judgment be afforded full collateral estoppel and res judicata effect as against the Entity Defendants and shall be enforceable as such. The Entity Defendants further hereby waive in this

proceeding, including without limitation in any proceedings brought to enforce and/or interpret this Permanent Injunction and Final Judgment, and in any future proceedings between the parties any and all defenses and/or claims that could have been asserted by the Entity Defendants against Plaintiff, including without limitation any and all defenses, claims or contentions that Plaintiff's GOOGLE mark is invalid and/or unenforceable and/or that any person or entity other than Plaintiff has superior rights to the GOOGLE mark. Without limiting the generality of the foregoing, in the event that Plaintiff brings any proceeding to enforce this Permanent Injunction and Final Judgment, no Entity Defendant shall be entitled to assert, and each Entity Defendant hereby waives any right to assert, any defense or contention other than that he or it has complied or substantially complied in good faith with the terms of this Permanent Injunction and Final Judgment.

9. Nothing in this Judgment is intended to waive, limit or modify in any manner, and shall not be construed to waive, limit or modify, Google's claims, rights or remedies against Leo Stoller, including without limitation for his acts and/or omissions as an officer, director, shareholder, representative or agent of Defendants, or other person or entity other than Central Mfg. and Stealth in connection with this action or otherwise.

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10. This Court shall retain jurisdiction for the purposes of enforcing and/or interpreting this Permanent Injunction and Final Judgment to determine any issues which may arise concerning this Permanent Injunction and Final Judgment.

IT IS SO STIPULATED.

DATED: Feb. 13, 2007

GOOGLE INC.

By: Michael T. Zeller
One of Its Attorneys

Michael T. Zeller (ARDC No. 6226433)
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Tel.: (312) 629-5170/Fax: (312) 984-3150

DATED: 2/13, 2007

CENTRAL MFG. INC. and STEALTH
INDUSTRIES, INC., by and through Richard M.
Fogel, not individually but as Chapter 7 Trustee
acting as their Sole Shareholder

By: [Signature]
One of The Trustee's Attorneys

Janice Alwin (ARDC No. 6277043)
SHAW GUSSIS FISHMAN GLANTZ WOLFSON
& TOWBIN LLC
321 N. Clark Street, Suite 800
Chicago, Illinois 60610
Tel.: (312) 276-1323/Fax: (312) 275-0571

IT IS SO ORDERED.

DATED: 3-15, 2007

[Signature]
Hon. Virginia M. Kendall
United States District Judge