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
10/02/2009	130	3	MOTION for Leave to Appear Pro Hac Vice Filing fee $ 50, receipt number 07520000000004155494. (Cyrluk, Jonathan) (Entered: 10/02/2009)
10/06/2009	131	5	MINUTE entry before the Honorable Virginia M. Kendall:Motion by Jonathan Cyrluk to file the appearance of Lance Johnson as appear pro hac vice 130 is granted. Mailed notice (jms,) (Entered: 10/06/2009)
10/07/2009	132	6	RESPONSE by Leo Stoller to MOTION Google Inc for judgment *and entry of stipulated permanent injunction* 123 ;Notice. (vcf,) (Entered: 10/09/2009)
10/13/2009	133	37	MINUTE entry before the Honorable Virginia M. Kendall:Motion hearing held regarding motion for judgment 123 . Court will issue an order shortly. Advised in opn court (jms,) (Entered: 10/16/2009)
10/16/2009	134	38	MINUTE entry before the Honorable Virginia M. Kendall:Stollers motion for reconsideration 111 is denied.Mailed notice (jms,) (Entered: 10/16/2009)
10/16/2009	135	42	MINUTE entry before the Honorable Virginia M. Kendall:Enter Permanent Injunction and Final judgment. Civil case terminated. Mailed notice (jms,) (Entered: 10/16/2009)
10/16/2009	136	43	PERMANENT INJUNCTION Signed by the Honorable Virginia M. Kendall on 10/16/2009:Mailed notice(jms,) (Entered: 10/16/2009)
10/19/2009	137	49	NOTICE of appeal by Leo Stoller regarding orders 136 , 135 , 134 (ifp) (dj,) (Entered: 10/20/2009)
10/19/2009	138	69	DESIGNATION by Leo Stoller of content of record on appeal. (dj,) (Entered: 10/20/2009)
10/19/2009	139	85	NOTICE of granting in forma pauperis petition by Leo Stoller. (dj,) (Entered: 10/20/2009)
10/23/2009	144	87	RESPONSE by Plaintiff Google Inc to other 139 *Stoller's Purported "Notice of Granting In Forma Pauperis Petition"* (Cyrluk, Jonathan) (Entered: 10/23/2009)

11/09/2009	145	93	NOTICE by Leo Stoller of filing transcripts. (vcf,) (Entered: 11/12/2009)

United States District Court Northern District of Illinois
APPLICATION FOR LEAVE TO APPEAR PRO HAC VICE

Case Title:	Google, Inc. VS. Central Mfg., Inc. and Stealth Industries, Inc.	Plantiff(s) Defendant(s)
Case Number: 07-cv-00385	Judge:	Kendall

I, Lance G. Johnson hereby apply to the Court

under Local Rule 83.14 for permission to appear and participate in the above-entitled action on behalf of

The Society for the Prevention of Trademark Abuse, LLC as successor

in interest to Central Mfg. Inc and Stealth Industries, Inc. by whom I have been retained.

I am a member in good standing and eligible to practice before the following courts:

Title of Court	DateAdmitted
U.S. District Court for the District of Columbia	1996
U.S. District Court for the Eastern District of Virginia	1989
Court of Appeals for the Federal Circuit	1991
Court of Appeals for the Seventh Circuit	2006

I have currently, or within the year preceding the date of this application, made pro hac vice applications to this Court in the following actions:

Case Number	Case Title	Date of Application (Granted or Denied)*

*If denied, please explain:
(Attach additional form if necessary)

Pursuant to Local Rule 83.15(a), applicants who do not have an office within the Northern District of Illinois must designate, at the time of filing their initial notice or pleading, a member of the bar of this Court having an office within this District upon who service of papers may be made.

Has the applicant designated local counsel? **Yes** ☐ **No** ☒ X

If you have not designated local counsel, Local Rule 83.15(b) provides that the designation must be made within thirty (30) days.

Has the applicant ever been:

censured, suspended, disbarred, or otherwise disciplined by any court?	**Yes**		**No**	X
or is the applicant currently the subject of an investigation of the applicant's professional conduct?	**Yes**		**No**	X
transferred to inactive status, voluntarily withdrawn, or resigned from the bar of any court?	**Yes**		**No**	X
denied admission to the bar of any court?	**Yes**		**No**	X
held in contempt of court?	**Yes**		**No**	X

NOTE: If the answer to *any* of the above questions is yes, please attach a brief description of the incident(s) and the applicant's current status before any court, or any agency thereof, where disciplinary sanctions were imposed, or where an investigation or investigations of the applicant's conduct may have been instituted.

I have read the Rules of Professional Conduct for the Northern District of Illinois, effective November 12, 1991 (Local Rules 83.50 through 83.58), and the Standards for Professional Conduct within the Seventh Federal Judicial Circuit, effective December 15, 1992, and will faithfully adhere to them. I declare under penalty of perjury that the foregoing is true and correct.

Oct 1, 2009

Date

s/ Lance G. Johnson

Signature of Applicant

Applicant's Name	Last Name Johnson	First Name Lance		Middle Name/Initial G.
Applicant's Law Firm	Roylance, Abrams, Berdo & Goodman LLP			
Applicant's Address	Street Address 1300 19th Street, NW			Room/Suite Number 600
	City Washington	State DC	ZIP Code 20036	Work Phone Number (202) 659-9076

(The pro hac vice admission fee is $100.00 for cases filed before February 1, 2001, and $50.00 for cases filed on or after that date, and shall be paid to the Clerk. No admission under Rule 83.14 is effective until such time as the fee has been paid.)

(Fee Stamp)

NOTE: Attorneys seeking to appear pro hac vice may wish to consider filing a petition for admission to the general bar of this Court. The fee for admission to the General Bar is $100.00 The fee for pro hac vice admission is $100.00 for cases filed before February 1, 2001, and $50.00 for cases filed on or after that date. Admission to the general bar permits an attorney to practice before this Court. Pro hac vice admission entitles an attorney to appear in a particular case only. Application for such admission must be made in each case; and the admission fee must be paid in each case.

ORDER

IT IS ORDERED that the applicant herein may appear in the above-entitled case.

DATED: _____

_____

United States District Judge

UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois − CM/ECF LIVE, Ver 3.2.3
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, October 6, 2009:

MINUTE entry before the Honorable Virginia M. Kendall:Motion by Jonathan Cyrluk to file the appearance of Lance Johnson as appear pro hac vice [130] is granted. Mailed notice(jms,)

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.

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

GOOGLE, INC.,	)	
	)	
Plaintiff	)	
	)	Case No: 1:07-cv-00385
v.	)	Honorable Virginia J. Kendall
	)	
CENTRAL MFG. INC., et al.,	)	Hearing Date: October 13, 2009
	)	Hearing Time: 9:00 a.m.
Defendants.	)	

FILED

OCT 7 2009 YM
Oct 7, 2009
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

NOTICE OF FILING

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

PLEASE TAKE NOTICE that on the **7th day of October, 2009,** there was filed with the Clerk of the United States District Court **1) Response to Motion For Entry of Stipulated Permanent Injunction and Final Judgment,** a copy of which is attached hereto.

I certify that the foregoing was mailed via first class mail on the 7th **day of October, 2009,** to the parties listed, with the U.S. Postal Service with proper postage prepaid.

Leo Stoller
7115 W. North Avenue #272
Oak Park, Illinois 60302
(312) 545-4554

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

GOOGLE, INC.,

Plaintiff

v.

CENTRAL MFG. INC., et al.,

Defendants.

Leo Stoller, Intervenor

Case No: 1:07-cv-00385

Honorable Virginia J. Kendall

Hearing Date: October 13, 2009
Hearing Time: 9:00 a.m.

RESPONSE TO MOTION FOR ENTRY OF STIPULATED PERMANENT INJUNCTION AND FINAL JUDGMENT

NOW COMES LEO STOLLER, Intervenor, in response to Google's Motion For Entry of Stipulated Permanent Injunction and Final Judgment, and states as follows:

There is no valid agreement between the alleged parties which would result in a complete and final resolution of this action. The agreement tendered by Michael T. Zeller, attorney for Google, Inc., and Lance G. Johnson[1], an attorney with Roylance, Abrams, Berdo & Goodman, LLP., represents a clear fraud on this Court and is void *ab initio.*

[1] Lance G. Johnson is an attorney who represents Pure Fishing, Inc., a previous defendant and counter-plaintiff against Central Mfg. Co. and Leo Stoller. Illinois Bankruptcy Trustee Richard M. Fogel consented to a $900,000 judgment against the estate of Leo Stoller, stating it was good for the estate. Richard M. Fogel agreed to permit Lance G. Johnson to receive over $450,000 in attorneys' fees for his representation of Pure Fishing, Inc. Richard M. Fogel then cut an inside deal with his friend Lance G. Johnson, allegedly selling all the assets and trademarks of Leo Stoller to Lance G. Johnson's "sham" entity, The Society For the Prevention of Trademark Abuse (SPTA). SPTA was formed in August of 1997 for the sole purpose of obtaining the alleged assets of Leo Stoller. SPTA does not buy or sell any goods. At the August 7, 2007 auction of the assets of Leo Stoller, Illinois Bankruptcy Trustee Richard M. Fogel turned down and refused to accept the largest bid for Stoller's alleged assets and accepted a diminutive bid of only $7,500 from Lance Johnson who is the sole member of SPTA. Richard M. Fogel refused to accept a bid of $9,100 from Julia Stoller, Leo

The grounds for Stoller's claim of fraud on this Court is based upon the fact that the Assignment of Stoller's assets drafted by Richard M. Fogel and executed on August 20, 2007, was a "naked" trademark assignment. There is no bankruptcy exception, nor is there any district court exception to how a valid assignment of trademarks must be drafted in order to lawfully assign trademark rights to another party under the Lanham Act[2].

MICHAEL T. ZELLER AND LANCE G. JOHNSON'S CLEAR FRAUD ON THIS COURT

It is also clear and well-settled Illinois law that any attempt to commit "fraud upon the court" vitiates the entire proceeding. The People of the State of Illinois v. Fred E. Sterling, 357 Ill. 354; 192 N.E. 229 (1934). ("The maxim that fraud vitiates every transaction into which it enters applies to judgments as well as to contracts and other transactions."); Allen F. Moore v. Stanley F. Sievers, 336 Ill. 316, 168 N.E. 259 (1929) ("The maxim that fraud vitiates every transaction into which it enters …"); In re Village of Willowbrook, 37 Ill. App. 3d 393 (1962) ("It is axiomatic that fraud vitiates everything.") Dunham v. Dunham, 57 Ill. App. 475 (1894), affirmed 162 Ill. 589 (1896); Skelly Oil Co. v. Universal Oil Products Co, 338 Ill. App. 79, 86 N.E. 2d 875, 883-4 (1949); Thomas Stasel v. The American Home Security Corporation, 362 Ill. 350; 199 N.E. 798 (1935).

A judge is not the court. People v. Zajic, 88 Ill. App. 3d 477, 410 N.E. 2d 626 (1980). A judge is a state judicial officer, paid by the State to act impartially and lawfully. A judge is also an officer of the court, as well as are all attorneys.

Whenever any officer of the court commits fraud during a proceeding in the court, he/she is engaged in "fraud upon the court." In Bulloch v. United States, 763 F. 2d 1115, 1121 (10th Cir.

Stoller's daughter. See the July 24, 2007 and August 7, 2007 official transcripts of the bankruptcy proceeding which were attached to Stoller's Position Brief.

1985), the court stated "Fraud upon the court is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent documents, false statements or perjury ... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function --- thus where the impartial functions of the court have been directly corrupted."

"Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery can not perform in the usual manner its impartial task of adjudging cases that are presented by adjudication." Kenner v. C.I.R., 387 F. 3d 6899 (1968); 7 Moore's Federal Practice, 2d 3d., p. 512, ¶ 60.23. The 7th Circuit further stated "decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

The Illinois Supreme Court has issued court decisions which has defined "fraud" by an attorney.

It should be noted that the definition of fraud applies to everything an attorney may be engaged in, whether in court, in his office, or even at the neighborhood restaurant. The Illinois Attorney Registration and Disciplinary Commission, the official commission involved in the investigation of misconduct of attorneys, has investigated an attorney who was the president of his condominium association and who was charged with fraud by a condominium owner.

Note that the operative phrase is "anything calculated to deceive." It is not required that your attorney did in fact deceive you or the court, only that he engaged in any activity in which you or the court could have been deceived. Further an attorney has a fiduciary duty to his client, a duty which is over and beyond what a non-attorney's duty is to another person.

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[2] Stoller incorporates the arguments contained in his Position Brief as to the illegitimacy of the Fogel August 20, 2007 Assignment to SPTA. Michael T. Zeller and Lance G. Johnson's reliance on a "naked" license to establish

The Illinois Supreme Court has held in In re Eugene Lee Armentrout, Jay Robert Grodner, Charles A. Peterson, Kim Edward Presbrey, William H. Weir, and William John Truemper, Jr., 99 Ill. 2d 242, 75 Ill. Dec. 703, 457 N.E. 2d 1262 (1983) that:

"Fraud encompasses a broad range of human behavior, including" * * * anything calculated to deceive, * * * whether it be by direct falsehood or by innuendo, by speech or by silence, by word of mouth or by look or gesture.'" (Regenold v. Baby Fold, Inc. (1977), 68 Ill. 2d 419, 435, 12 Ill. 492, 503-04; Black's Law Dictionary 594 (5th ed. 1979).) Too, this court has previously disciplined lawyers even though their fraudulent misconduct did not harm [99 Ill. 2d 252] any particular individual. In re Lamberis (1982), 93 Ill. 2d 222, 229, 66 Ill. Dec. 623, 443 N.E. 2d 549."

"The Court has broadly defined fraud as any conduct calculated to deceive, whether it be by direct falsehood or by innuendo, by speech or silence, by word of mouth, by look, or by gesture. Fraud includes the suppression of the truth, as well as the presentation of false information. (In re Witt, (1991) 145 Ill. 2d 380, 583 N.E. 2d 526, 531, 164 Ill. Dec. 610)." See also In re Frederick Edward Strufe, Disciplinary case no. 93 SH 100 where the Court stated that "Fraud has been broadly defined as anything calculated to deceive."

It is clear and well-established Illinois law that any attempt by any officer of the court, whether attorney or judge, to deceive is considered fraud, and when the attempt to deceive occurs in a judicial proceeding, it is "fraud upon the court."

Has Illinois bankruptcy trustee Richard M. Fogel, Michael T. Zeller, Esq. and Lance G. Johnson, Esq. engaged in fraud?" Yes.

There is no bankruptcy exception to the Lanham Act. The August 20, 2007 Assignment that Illinois bankruptcy Richard M. Fogel issued to the SPTA was a naked license or license in gross pursuant to the factual analysis contained in Stoller's Position Brief. Consequently, Michael T.

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standing in this proceeding represents a clear fraud on this Court.

Zeller's and Lance G. Johnson's subsequent Motion For Entry of Stipulated Permanent Injunction and Final Judgment, which was duly executed Zeller and Johnson, is void *ab initio*.

SENIOR JUDGE CHARLES P. KOCORAS FORMERLY RULED THAT STOLLER HAS LEGITIMATE GROUNDS TO BRING NUMEROUS TRADEMARK INFRINGMENT ACTIONS

A common argument made by opponents of companies, like Stoller's ., that own intellectual property and attempt to police and protect that intellectual property, is that they are vexatious litigants and not entitled to enforce their intellectual property rights. Stoller has been involved in over 60 district court actions and has prevailed over 50. In one case involving Genie Garage Door, the defendants made similar arguments that Google's attorneys are making in reference to Stoller's propensity to aggressively assert his trademarks rights in order to protect his intellectual property. Judge Kocoras, who has handled several of Stoller's trademark infringement cases in the past, made the following findings of April 30, 1998:

"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 because S Industries did not provide any credible evidence to establish that consumers were confused by the defendants' use of the name of 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."

Google, Inc.'s attempt at bringing in other cases involving Pure Fishing, Inc., George Brett, and TTAB extensions, have nothing to do with Stoller's underlying contention that the Google trademark is generic and it does not belong on the principal register. See attached true and correct copy of Stoller's Notice of Opposition, Petition for Cancellation and an Amended Petition for Cancellation of the Google trademark.

Google has become generic (it is in the dictionary) and it subject to cancellation, just as the former trademarks ASPIRIN, ESCALATOR and KLEENEX were subject to cancellation. What the Court is being exposed to is nothing more than a ferocious attempt by Google, Inc. to preserve a trademark which no longer deserves Federal Trademark Registration under the Lanham Act.

This Court could merely "google" the term "google is a verb" in any search engine and hundreds of articles appear describing google in its descriptive nature for search engines. There are no federally registered trademarks that are descriptive and have dictionary definitions for the goods and services covered under their federal trademark registrations. Google currently is the sole exception and needs to be removed from the federal trademark register. Google, Inc. has presented an extremely impressive "smoke and mirrors" case to obfuscate and discredit Stoller without ever having to defend the generic nature of their trademark which is indefensible.

It is important to note at the time that Google, Inc. brought its frivolous civil RICO action, Stoller had pending a fully briefed motion for summary judgment pending in the Trademark Trial and Appeal Board which would have disposed of the Google trademark registration. Rather than file a response to Stoller's motion for summary judgment, Google, Inc. directed Michael T. Zeller to file a frivolous smoke and mirrors civil RICO action against Stoller.

No matter what this Court thinks of Stoller's conduct over thirty years of policing and defending trademarks, there is nothing that can distract from the ultimate fact that the Google trademark registration has become generic and should be cancelled.

Consequently, the Court can see where Google, Inc. is motivated to make up an elaborate civil RICO action and attempt to drudge up unrelated cases to excoriate Stoller in order to save the Google trademark from the inevitable cancellation.

RICHARD M. FOGEL'S ASSET PURCHASE AGREEMENT WAS NOT AN ARMS LENGTH TRANSACTION

On page 1 of Google's Motion For Entry of Stipulated Permanent Injunction and Final Judgment, Google, Inc. goes to great lengths to assuage this Court's concerns regarding the Asset Purchase Agreement constructed by Illinois bankruptcy trustee Richard M. Fogel which was not an arms length transaction. See transcripts dated July 24, 2007 and August 20, 2007 attached to Stoller's Postion Brief which is a written record of what amounts to a conspiracy and fraud perpetrated on the bankruptcy court by Richard M. Fogel and Lance G. Johnson.

Google, Inc. states on page 1:

> "[The] Society for the Prevention of Trademark Abuse LLC . . . made the only offer received for the Assets within the time period ordered, which offer was in the amount of $7,500.00."

The above statement is absolutely false. It should have stated that Richard M. Fogel only accepted one inside offer from his friend Lance Johnson for a mere $7,500, when he rejected an offer of $9,100 made by Stoller's daughter, Julia Stoller, because Richard M. Fogel cut an inside deal with Lance Johnson. As previously stated, Richard M. Fogel also cut an inside deal in a fraudulent settlement with Pure Fishing, Inc. that Lance Johnson represented by consented to a $900,000 judgment, $450,000 of which were fees to be paid to Lance Johnson, stating that that was a good settlement for the Stoller estate. In the history of this courthouse, there has never been a fee award of over $450,000 where a responsible opposing party could not have contested at least one dollar of that fee award.

Notwithstanding the fact that Pure Fishing, Inc. was represented by Banner & Witcoff, and Roylance, Abrams, Berdo & Goodman, (Lance G. Johnson), and double billed for every transaction, which would have been disavowed by Judge Grady in his famous Continental decision which established the standards for attorney fee awards for this jurisdiction, Richard M. Fogel, the trustee, did not contest one dime of Lance Johnson's $450,000 fee award. Then, what did Richard M. Fogel do? He goes on to sell all of Stoller's trademark assets to Lance G. Johnson, his friend, for $7,500. However, Michael T. Zeller, Illinois bankruptcy trustee Richard M. Fogel, and Lance G. Johnson, would have this Court believe the Asset Purchase Agreement and the Trademark Assignment dated August 20, 2007, were legitimate transactions.

Stoller would respectfully propose to this Court to ask the following questions to Illinois bankruptcy trustee Richard M. Fogel, in order to determine the voracity of the alleged sale of Stoller's assets to Lance G. Johnson, if the alleged sale was truly an arms length, without collusion, and good faith transaction within the meaning of the Bankruptcy Code?

1) Mr. Fogel, did you agree as bankruptcy trustee for Leo Stoller to consent to a fee award obligating Stoller's estate to pay Lance Johnson over $400,000 for attorneys' fees in the Pure Fishing case.

2) Mr. Fogel, as trustee for Stoller's estate, did you contest any of the fees that Lance Johnson listed as attorneys' fees in the Pure Fishing case?

3) Did Stoller's daughter, Julia Bishop, make an offer to purchase the assets of her father at the bankruptcy sale of over $9,000?

4) Did you, Mr. Fogel, refuse to accept the highest bid at Leo Stoller's bankruptcy auction in order to sell Stoller's assets to Lance Johnson (SPTA)?

5) In the August 20, 2007 Assignment of Stoller's assets to SPTA, did you include the language "known and unknown trademarks"?

(The following questions this Court should direct to Google's attorney, Michael T. Zeller, a trademark expert).

1) Mr. Zeller, can you define what a "naked" trademark license is?

2) Mr. Zeller, can you define for this Court what a "license in gross" is?

3) Isn't it a fact, Mr. Zeller, that a "naked" license does not confer any legal or valid trademark rights on the receiving party?

4) Isn't it a fact, Mr. Zeller, that a license in gross does not confer any legal or valid trademark rights on the receiving party?

5) Mr. Zeller, in examining the August 20, 2007 Assignment to SPTA, is not that a "naked" trademark license based on your own definition of a "naked" license and/or license in gross?

The answers to these questions will demonstrate to this Court that there was no valid trademark assignment of Stoller's assets to SPTA on August 20, 2007. That SPTA has no standing in this proceeding as a result thereof, and no right to enter into any agreed final judgment with Google, Inc. to resolve this matter.

The consent decree that this Court is being requested to enter into represents a clear fraud and abuse by the attorneys Michael T. Zeller, Lance G. Johnson, and Illinois bankruptcy trustee Richard M. Fogel. There is no injunctive relief that is warranted. This Court should disqualify Michael T. Zeller from representing Google, Inc. on the grounds that Mr. Zeller has relied upon a "naked" license, which he is well aware of, that did not transfer any legitimate trademark rights or corporate assets to SPTA, yet Mr. Zeller knowingly and willingly seeks to have a permanent injunction entered into based upon a foundation made of sand.

Lastly, Google, Inc.'s statement that "Under these circumstances, the injunction will help avoid a repetition of Defendants' long-standing pattern of misconduct in the future, including by ensuring that no would-be claimant can attempt to argue that it has rights derived from Defendants", is disingenuous and supports the undeniable fact that Leo Stoller has a right to intervene in this case, and/or should be allowed permissive intervention.

Stoller poses the following question to this Court. "How could the injunction against two corporations, which Lance Johnson claims no longer exist, could have any affect on the Defendants' alleged long-standing pattern of misconduct in the future, including by ensuring that no would-be claimant can attempt to argue that it has rights derived from Defendants"?

If the permanent injunction is addressed to non-existent corporate entities, how could that deter any alleged misconduct in the future? Would it not be more appropriate, in arguendo, accepting Plaintiff's arguments, that if, in fact, the Defendants have engaged in such an egregious

pattern of conduct, that Leo Stoller should be enjoined from any future misconduct? Enjoining "shell" corporations from engaging in any future misconduct is non-sensical and will not give the Plaintiff's the ultimate relief they are seeking. Plaintiff's own argument cries out for Stoller to be included as a party and to allow this proceeding to be litigated fully on the merits to determine which party should prevail.

WHEREFORE, Stoller requests that this Court deny Google, Inc.'s Motion For Entry of Stipulated Permanent Injunction and Final Judgment. Stoller also requests that this Court grant leave to Stoller to file this response and to grant Stoller the right to intervene as a matter of right and/or permissive intervention. Lastly, Stoller requests that this Court issue an order disqualifying the law firm of Quinn Emmanuel and/or Michael T. Zeller from representing Google, Inc. in this matter for perpetrating a fraud on this Court.

Respectfully submitted,

Leo Stoller, *Intervenor*
7115 W. North Avenue #272
Oak Park, Illinois 60302
(312) 545-4554
www.rentamark.net

C:\My Documents\Google, Inc\0385___responsetostipulatedinjunction___doc.rtf

(Reserved for use by the Court)

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

CHARLES P. KOCORAS
U.S. District Court Judge

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CENTRAL MFG. CO. (INC.),
(a Delaware Corporation)
P.O. Box 35189
Chicago, Illinois 60707-0189

Opposer,

v.

GOOGLE, INC.
(a Delaware corporation)
1600 Amphitheatre Parkway
Building 41
Mountain View, CA 94043

Applicant.

/

TTAB/FEE
(IN TRIPLICATE)

Trademark:	**GOOGLE**
Application SN:	76-314,811
Int. Class No:	28
Filed:	September 18, 2001
Published:	November 1, 2005

NOTICE OF OPPOSITION

1. In the matter of first use Application SN: 76-314,811, for the mark **GOOGLE**, in International Class 28 for **toys and sporting equipment, namely plastic exercise balls**, the Opposer states as follows:

2. The Opposer has standing and has filed a valid intent to use application for the mark **GOOGLE** in International Class 28 for **sporting goods**.

3. The Opposer sent correspondence to Google, Inc. on *November 29, 2005*. A true and correct copy is attached hereto.

4. The Opposer sent correspondence to Applicant's counsel, **Michael T. Zeller, Esq.** on *January 26, 2006* and *January 29, 2006*. Applicant's counsel responded to Opposer's correspondence on *January 26, 2006*, *January 27, 2006* and *February 17, 2006*. See true and correct copies attached hereto.

5. The trademark proposed for registration by the Applicant, namely **GOOGLE**, is applied to similar goods as those sold by Opposer and so nearly resemble the Opposer's mark

as to be likely to confuse therewith and mistake therefore.

6. The Applicant's mark **GOOGLE** is identical to Opposer's *GOOGLE* mark so as to cause confusion and lead to deception as to the origin of Applicant's goods bearing the Applicant's mark.

7. If the Applicant is permitted to use and register **GOOGLE** for its goods, as specified in the application herein opposed, confusion in trade resulting in damage and injury to the Opposer would be caused and would result by reason of the similarity between the Applicant's mark and the Opposer's mark. Persons familiar with Opposer's mark *GOOGLE* would be likely to buy Applicant's goods as and for a service sold by the Opposer. Any such confusion in trade inevitably would result in loss of sales to the Opposer. Furthermore, any defect, objection or fault found with Applicant's goods marketed under its **GOOGLE** mark would necessarily reflect upon and seriously injure the reputation which the Opposer has established for its products merchandised under its *GOOGLE* marks for over 20 years.

8. If the Applicant were granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of its mark. Such registration would be a source of damage and injury to the Opposer.

9. The Opposer, located in Chicago, Illinois, believes that it will be damaged by registration of the mark **GOOGLE** shown in Application SN 76-314,811 and hereby opposes same. The Opposer engages in an aggressive licensing program of the mark **GOOGLE**, as well known to the Applicant.

10. The Opposer offers its *GOOGLE* mark to license on a wide variety of collateral merchandise.

11. If the Applicant is permitted to register the mark, and thereby, the *prima facie* exclusive right to use in commerce the mark **GOOGLE** on the goods licensed and sold by the Opposer, confusion is likely to result from any concurrent use of Opposer's mark GOOGLE and that of the Applicant's alleged mark **GOOGLE**, all to the great detriment of Opposer.

12. Purchasers are likely to consider the goods of the Applicant sold under the mark **GOOGLE** as emanating from the Opposer, and purchase such goods as those of the Opposer, resulting in loss of sales to Opposer.

13. Applicant's mark **GOOGLE**, when used on or in connection with the goods and/or services of the Applicant, is merely descriptive or deceptively misdescriptive of the goods.

14. Applicant's mark **GOOGLE**, when used on or in connection with the goods and/or services of the Applicant, is generic.

15. Upon information and belief, said application was obtained fraudulently in that the formal application papers filed by Applicant, under notice of §1001 of Title 18 of the United States Code stated that Applicant had a valid intent to use date. Said statement was false. Said false statement was made with the knowledge and belief that it was false, with the intent to induce authorized agents of the U.S. Patent and Trademark Office to grant said registration in that the Applicant, at the time it filed its said application and declaration were in fact an invalid intent to use date.

16. Upon information and belief, said application was obtained *fraudulently* in that the formal application papers filed by Applicant, under notice of §1001 of Title 18 of the United States Code stated that Applicant had a valid use in commerce when Applicant filed its Trademark application on *September 16, 1999.* Applicant had no valid use in commerce.

17. Upon information and belief, the Applicant has no evidence to establish a valid intent to use in commerce.

18. Upon information and belief, the Applicant has no evidence to establish a valid "use" date in commerce.

19. Applicant's use application was a fraud in that Applicant had no evidence to establish a valid use in commerce.

20. Applicant's said use statement was a false statement and was made with the knowledge and belief that it was *false*, with the intent to induce authorized agents of the U.S. Patent and Trademark Office to grant said registration as well known to the Applicant.

21. Upon information and belief, said statement of use of the mark **GOOGLE** on the services in question, was made by an authorized agent of Applicant with the knowledge and belief that said statements was false. Said false statements were made with the intent to induce authorized agents of the U.S. Patent and Trademark Office to grant said registration.

22. Applicant's mark **GOOGLE** was not applied for according to its correct type[1], as shown in its said application.

23. Applicant mutilated its alleged mark during the 2006 Winter Olympics on the internet, and is not entitled to registration. See a true and correct copy of an exhibit attached hereto.

24. Upon information and belief, the Applicant was not the owner of the mark for which the registration is requested[2].

25. Upon information and belief, applicant's use application was signed with the knowledge that another party had a right to use the mark in commerce on the same or similar goods.

26. Concurrent use of the mark **GOOGLE** by the Applicant and *GOOGLE* by the Opposer may result in irreparable damage to Opposer's Marketing and/or Trademark Licensing Program, reputation and goodwill.

27. If the Applicant is permitted to obtain a registration of the mark **GOOGLE**, a cloud will be placed on Opposer's title in and to its trademark, *GOOGLE*, and on its right to enjoy the free and exclusive use thereof in connection with the sale of its goods and/or services, and on its Trademark Licensing Program, all to the great injury of the Opposer.

28. Upon information and belief, Applicant's use Application was signed with the knowledge that another party had a right to use the mark in commerce.

29. Upon information and belief, the Applicant has abandoned the mark **GOOGLE.**

30. The registration to Applicant of the mark **GOOGLE** shown in the aforesaid application is likely to and will result in financial and other injury and damage to the Opposer in its business and in its enjoyment of its established rights in and to its said mark *GOOGLE*.

---

1. See §108 of the TMEP, page 100-5, Registration As Correct Type of Mark - It is important that a mark be registered according to its correct type, if it is not, the registration may be subject to cancellation. *See National Trailways Bus System v. Trailway Van Lines, Inc.*, 222 F. Supp 143, 139 USPQ 54 (E.D.N.Y. 1963), and 269 F. Supp. 352, 155 USPQ 507 (E.D.N.Y. 1965).

2. See Huang v. Tzu Wei Chen Food Co. Ltd., 849 F.2d 1458, 7 USPQ2d 1335 (Fed. Cir. 1988). See TMEP §§706.01 and 802.06 §1 of the Trademark Act 15 U.S.C. §1051.

WHEREFORE, Opposer prays that the said Application for the trademark **GOOGLE** be denied, that no registration be issued thereon to Applicant, and that this Notice of Opposition be sustained in favor of the Opposer and that Opposer is entitled to judgment.

The Opposer prays for such other and further relief as may be deemed by the Director of Patents and Trademarks to be just and proper.

Enclosed is $300.00.

Respectfully submitted,

_____

Leo Stoller
CENTRAL MFG. CO., Opposer
Trademark & Licensing Dept.
P.O. Box 35189
Chicago, Illinois 60707-0189
773 283-3880 FAX 708 453-0083

Dated: March 1, 2006

DECLARATION

The undersigned, Leo Stoller, declares that he is an individual and Director and President of CENTRAL MFG. CO., a Service Mark Application SN 78/782,064 and trademark and d/b/a for Central Mfg. Inc., A/K/A Central Manufacturing Inc., a Delaware Corporation registered to do business as Central Mfg Co., of Illinois A/K/A Central Manufacturing Co., founded and operated by Leo Stoller as such, is authorized to execute this document on its behalf, that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code. Central Mfg. Co. hold rights and relies upon the attached Federal Trademark Registration numbers herein in support of this Notice of Opposition.

Dated: March 1, 2006

By: _____
Leo Stoller

By: _____
Leo Stoller, President
CENTRAL MFG. CO.

Certificate of Mailing

I hereby certify that the foregoing *Notice of Opposition* is being sent by **Express Mail No: EQ 014137445 US** with the U.S. Postal Service in an Express Mail envelope addressed to:

Box TTAB / FEE
Commissioner of Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

_____
Leo Stoller
Date: March 1, 2006

D:\MARKS40\GOOGLE.OPP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CENTRAL MFG. CO. (INC.),
(a Delaware Corporation)
7115 W. North Avenue #272
Oak Park, Illinois 60302

Petitioner,

v.

GOOGLE, INC.
(a Delaware corporation)
1600 Amphitheatre Parkway
Building 41
Mountain View, CA 94043

Respondent.

/

Trademark:	**GOOGLE**
Registration No:	2,806,075
Int. Class No:	42
Filed:	September 16, 1999
Published:	December 4, 2001

TTAB / FEE
(IN TRIPLICATE)

PETITION FOR CANCELLATION

1. This is a proceeding for cancellation of the United States Trademark Registration No. 2,806,075 brought by CENTRAL MFG. CO, ("Petitioner"). The subject registration is for the purported trademark "Google" (the mark) owned by Respondent, GOOGLE, INC. ("Respondent.").

2. In the matter of Registration No. 2,806,075, for the mark **GOOGLE**, in International Class 42 for **computer services, namely, providing software interfaces available over a network in order to create a personalized on-line information service; extraction and retrieval of information and data mining by means of global computer networks; creating indexes of information, indexes of web sites and indexes of other information sources in connection with global computer networks; providing information from searchable indexes and databases of information, including test, electronic documents, databases, graphics and audio visual information, by means of global computer information networks**, the Petitioner states as follows:

STANDING

3. Pursuant to 37 C.F.R. §2.111(b), the Petitioner asserts that it has standing to file this Petition for Cancellation proceeding because the Petitioner asserts that it will be damaged by the Registration sought to be cancelled. The Petitioner has filed Notice of Opposition number 91170256 to Respondent's pending trademark Application SN: 76-314,811 for the mark GOOGLE.

4. The Petitioner holds Common Law rights in and to the mark GOOGLE for use on sporting goods products and offers the mark GOOGLE for trademark license to third parties. The Petitioner asserts that it will be damaged by registration of the mark GOOGLE. See attached true and correct copies of correspondence from GOOGLE's attorneys to the Petitioner.

GROUNDS FOR CANCELLATION

5. As specifically amended by the Trademark Law Revision Act of 1988, §14 of the Trademark Act provides for the cancellation of a registration of a mark at any time if the mark becomes the generic name for the goods or services, or a portion thereof, for which it is registered ... 15 U.S.C. §1064(3).

6. The Respondent, GOOGLE, INC., is the leading computer internet search engine. The Respondent's mark GOOGLE has become a generic term for the goods and/or services provided by the Respondent. See true and correct copies of dictionary definitions of the GOOGLE mark.

7. Respondent's mark, GOOGLE, is now included in the dictionary.

8. Respondent's GOOGLE mark has become generic term for the goods and/or services covered under the registered mark.

9. Respondent has attempted to perpetrate a fraud on the public by having its representatives contact dictionaries in order to change the lexicon.

10. Respondent's representatives have written letters to companies that print dictionaries and other sources in an attempt to unlawfully persuade the said companies and/or individuals not to use the word GOOGLE as a generic term. Such conduct represents a

knowing and willful fraud perpetrated by the Respondent on the American public in order to change the lexicon which now includes Google as a generic term.

11. Respondent has abandoned its GOOGLE mark through a program of naked licensing.

12. The Respondent has abandoned its GOOGLE mark through a process of mutilation of the GOOGLE mark. See attached true and correct copies of GOOGLE's program for mutilating its Federal Trademark Registration.

13. The Respondent has abandoned its GOOGLE mark through a process of allowing third parties to mutilate its trademark. See attached true and correct copies of third party mutilation.

14. Respondent has abandoned its mark because its mark fails to function as a mark and/or is purely ornamental. See attached true and correct copies of Respondent's depictions of its ornamental mark.

15. The Petitioner licenses and/or offers to license the mark GOOGLE.

16. The Respondent's mark, **GOOGLE**, is likely to cause confusion, mistake or deception in the buying public or cause the public to believe that there is a connection between the parties, or a sponsorship of Respondent's goods by Petitioner.

17. Respondent's mark **GOOGLE**, when used on or in connection with the goods of the Respondent, is descriptive or deceptively misdescriptive of the goods.

18. Upon information and belief, said application was obtained fraudulently in that the formal application papers filed by Respondent, under notice of §1001 of Title 18 of the United States Code stated that Respondent had a valid first use date. Said statement was false. Said false statement was made with the knowledge and belief that it was false, with the intent to induce authorized agents of the U.S. Patent and Trademark Office to grant said registration in that the Respondent, at the time it filed its said application and declaration were in fact an invalid first use date.

19. Upon information and belief, said application was obtained *fraudulently* in that the formal application papers filed by Respondent, under notice of §1001 of Title 18 of the United States Code stated that Respondent had a valid first use in commerce when Respondent

filed its Trademark application on *September 16, 1999*. Respondent had no valid first use in commerce on the date asserted in the said application.

20. Upon information and belief, the Respondent has no evidence to establish a valid first use date.

21. Upon information and belief, the Respondent has no evidence to establish a valid first use in commerce date.

22. Respondent's use application was a fraud in that Respondent had no use on some or all of the said goods listed therein bearing the mark **GOOGLE** on the first use date, as well known to the Respondent.

23. Respondent's said first use statement was a false statement and was made with the knowledge and belief that it was *false*, with the intent to induce authorized agents of the U.S. Patent and Trademark Office to grant said registration as well known to the Respondent.

24. Upon information and belief, said first use of the mark **GOOGLE** on the goods in question, was made by an authorized agent of Respondent with the knowledge and belief that said statements was false. Said false statements were made with the intent to induce authorized agents of the U.S. Patent and Trademark Office to grant said registration.

25. Respondent's mark **GOOGLE** was not applied for according to its correct type[1], as shown in its said application.

26. Upon information and belief, the Respondent was not the owner of the mark for which the registration is requested[2].

27. Upon information and belief, Respondent's first use application was signed with the knowledge that another party had a right to use the mark in commerce on the same or similar goods.

---

1. See §108 of the TMEP, page 100-5, Registration As Correct Type of Mark - It is important that a mark be registered according to its correct type, if it is not, the registration may be subject to cancellation. *See National Trailways Bus System v. Trailway Van Lines, Inc.*, 222 F. Supp 143, 139 USPQ 54 (E.D.N.Y. 1963), and 269 F. Supp. 352, 155 USPQ 507 (E.D.N.Y. 1965).

2. See Huang v. Tzu Wei Chen Food Co. Ltd., 849 F.2d 1458, 7 USPQ2d 1335 (Fed. Cir. 1988). See TMEP §§706.01 and 802.06 §1 of the Trademark Act 15 U.S.C. §1051.

28. Concurrent use of the mark **GOOGLE** by the Respondent and *GOOGLE* by the Petitioner results in irreparable damage to Petitioner's marketing and/or Trademark Licensing Program, reputation and goodwill.

29. Upon information and belief, Respondent's first use application was signed with the knowledge that another party had a right to use the mark in commerce.

30. Respondent's mark **GOOGLE** will likely result in financial injury and damage to the Petitioner in its business and in its enjoyment of its established rights in and to its said mark *GOOGLE*.

WHEREFORE, Petitioner prays that Respondent's Registration No. 2,806,075, for the trademark **GOOGLE** be cancelled, and that this Petition for Cancellation be sustained in favor of the Petitioner and that the Petitioner is entitled to judgment.

Petitioner hereby gives notice under Rule of Practice that after hearing and in any appeal on this cancellation proceeding, it will rely on its large family of *GOOGLE* registrations and applications incorporated herein and all of the goods and services listed and covered thereunder, in support of this Petition for Cancellation.

The Petitioner prays for such other and further relief as may be deemed by the Director of Patents and Trademarks to be just and proper.

Enclosed is $300.00.

Respectfully submitted,

_____

Leo Stoller
CENTRAL MFG. CO., Petitioner
Trademark & Licensing Dept.
7115 W. North Avenue #272
Oak Park, Illinois 60302
(773) 589-0340 FAX: (773) 589-0915

Dated: April 18, 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CENTRAL MFG. CO. (INC.),
(a Delaware Corporation)
7115 W. North Avenue #272
Oak Park, Illinois 60302

Petitioner,

v.

GOOGLE, INC.
(a Delaware corporation)
1600 Amphitheatre Parkway
Building 41
Mountain View, CA 94043

Respondent.

TTAB / NO FEE

Cancellation No:	92045778
Trademark:	**GOOGLE**
Registration No:	2,806,075
Int. Class No:	42
Filed:	September 16, 1999
Published:	December 4, 2001

AMENDED PETITION FOR CANCELLATION

1. This is a proceeding for cancellation of the United States Trademark Registration No. 2,806,075 brought by CENTRAL MFG. CO, ("Petitioner"). The subject registration is for the purported trademark "Google" (the mark) owned by Respondent, GOOGLE, INC. ("Respondent.").

2. In the matter of Registration No. 2,806,075, for the mark **GOOGLE**, in International Class 42 for **computer services, namely, providing software interfaces available over a network in order to create a personalized on-line information service; extraction and retrieval of information and data mining by means of global computer networks; creating indexes of information, indexes of web sites and indexes of other information sources in connection with global computer networks; providing information from searchable indexes and databases of information, including test, electronic documents, databases, graphics and audio visual information, by means of global computer information networks**, the Petitioner states as follows:

STANDING

3. Pursuant to 37 C.F.R. §2.111(b), the Petitioner asserts that it has standing to file this Petition for Cancellation proceeding because the Petitioner asserts that it will be damaged by the Registration sought to be cancelled. The Petitioner has filed Notice of Opposition number 91170256 to Respondent's pending trademark Application SN: 76-314,811 for the mark GOOGLE.

4. The Petitioner has standing and has filed a valid intent to use application, Application SN: 78-905,472, for the mark GOOGLE.

5. The Petitioner holds Common Law rights in and to the mark GOOGLE for use on sporting goods products and offers the mark GOOGLE for trademark license to third parties. The Petitioner asserts that it will be damaged by registration of the mark GOOGLE.

GROUNDS FOR CANCELLATION

6. As specifically amended by the Trademark Law Revision Act of 1988, §14 of the Trademark Act provides for the cancellation of a registration of a mark at any time if the mark becomes the generic name for the goods or services, or a portion thereof, for which it is registered ... 15 U.S.C. §1064(3).

7. The Respondent, GOOGLE, INC., is the leading computer internet search engine. The Respondent's mark GOOGLE has become a generic term for the goods and/or services provided by the Respondent.

8. Respondent's mark, GOOGLE, is now included in the dictionary.

9. Respondent's GOOGLE mark has become generic term for the goods and/or services covered under the registered mark.

10. Respondent has attempted to perpetrate a fraud on the public by having its representatives contact dictionaries in order to change the lexicon.

11. Respondent's representatives have written letters to companies that print dictionaries and other sources in an attempt to unlawfully persuade the said companies and/or individuals not to use the word GOOGLE as a generic term. Such conduct represents a knowing and willful fraud perpetrated by the Respondent on the American public in order to

change the lexicon which now includes Google as a generic term.

12. Respondent has abandoned its GOOGLE mark through a program of naked licensing.

13. The Respondent has abandoned its GOOGLE mark through a process of mutilation of the GOOGLE mark.

14. The Respondent has abandoned its GOOGLE mark through a process of allowing third parties to mutilate its trademark.

15. Respondent has abandoned its mark because its mark fails to function as a mark and/or is purely ornamental.

16. The Petitioner licenses and/or offers to license the mark GOOGLE.

17. The Petitioner has used GOOGLE as a tradename and as a service mark in connection with some of its goods listed in Petitioner's trademark Application SN: 78-905,472.

18. The Petitioner's GOOGLE mark and tradename and the goodwill associated therewith are valuable assets of the Petitioner.

19. The Respondent's mark **GOOGLE** (as shown in Registration No: 2,806,075), and the Petitioner's mark GOOGLE, (as shown in Application SN: 78-905,472) are identical and likely to create confusion or mistake or to deceive the public when applied to similar goods.

20. The Respondent's mark, **GOOGLE**, is likely to cause confusion, mistake or deception in the buying public or cause the public to believe that there is a connection between the parties, or a sponsorship of Respondent's goods by Petitioner.

21. Respondent's mark **GOOGLE**, when used on or in connection with the goods of the Respondent, is descriptive or deceptively misdescriptive of the goods.

22. Upon information and belief, said application was obtained fraudulently in that the formal application papers filed by Respondent, under notice of §1001 of Title 18 of the United States Code stated that Respondent had a valid first use date. Said statement was false. Said false statement was made with the knowledge and belief that it was false, with the intent to induce authorized agents of the U.S. Patent and Trademark Office to grant said registration in that the Respondent, at the time it filed its said application and declaration were in fact an

invalid first use date.

23. Upon information and belief, said application was obtained *fraudulently* in that the formal application papers filed by Respondent, under notice of §1001 of Title 18 of the United States Code stated that Respondent had a valid first use in commerce when Respondent filed its Trademark application on *September 16, 1999*. Respondent had no valid first use in commerce on the date asserted in the said application.

24. Upon information and belief, the Respondent has no evidence to establish a valid first use date.

25. Upon information and belief, the Respondent has no evidence to establish a valid first use in commerce date.

26. Respondent's use application was a fraud in that Respondent had no use on some or all of the said goods listed therein bearing the mark **GOOGLE** on the first use date, as well known to the Respondent.

27. Respondent's said first use statement was a false statement and was made with the knowledge and belief that it was *false*, with the intent to induce authorized agents of the U.S. Patent and Trademark Office to grant said registration as well known to the Respondent.

28. Upon information and belief, said first use of the mark **GOOGLE** on the goods in question, was made by an authorized agent of Respondent with the knowledge and belief that said statements was false. Said false statements were made with the intent to induce authorized agents of the U.S. Patent and Trademark Office to grant said registration.

29. Respondent's mark **GOOGLE** was not applied for according to its correct type[1], as shown in its said application.

30. Upon information and belief, the Respondent was not the owner of the mark for

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1. See §108 of the TMEP, page 100-5, Registration As Correct Type of Mark - It is important that a mark be registered according to its correct type, if it is not, the registration may be subject to cancellation. *See National Trailways Bus System v. Trailway Van Lines, Inc.*, 222 F. Supp 143, 139 USPQ 54 (E.D.N.Y. 1963), and 269 F. Supp. 352, 155 USPQ 507 (E.D.N.Y. 1965).

which the registration is requested[1].

31. Upon information and belief, Respondent's first use application was signed with the knowledge that another party had a right to use the mark in commerce on the same or similar goods.

32. Concurrent use of the mark **GOOGLE** by the Respondent and *GOOGLE* by the Petitioner results in irreparable damage to Petitioner's marketing and/or Trademark Licensing Program, reputation and goodwill.

33. Upon information and belief, Respondent's first use application was signed with the knowledge that another party had a right to use the mark in commerce.

34. Respondent's mark **GOOGLE** will likely result in financial injury and damage to the Petitioner in its business and in its enjoyment of its established rights in and to its said mark *GOOGLE*.

WHEREFORE, Petitioner prays that Respondent's Registration No. 2,806,075, for the trademark **GOOGLE** be cancelled, and that this Petition for Cancellation be sustained in favor of the Petitioner and that the Petitioner is entitled to judgment.

Petitioner hereby gives notice under Rule of Practice that after hearing and in any appeal on this cancellation proceeding, it will rely on its large family of *GOOGLE* registrations and applications incorporated herein and all of the goods and services listed and covered thereunder, in support of this Petition for Cancellation.

The Petitioner prays for such other and further relief as may be deemed by the Director of Patents and Trademarks to be just and proper.

Respectfully submitted,

_____

Leo Stoller
CENTRAL MFG. CO., Petitioner
7115 W. North Avenue #272
Oak Park, Illinois 60302
(773) 589-0340 FAX: (773) 589-0915

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1. See Huang v. Tzu Wei Chen Food Co. Ltd., 849 F.2d 1458, 7 USPQ2d 1335 (Fed. Cir. 1988). See TMEP §§706.01 and 802.06 §1 of the Trademark Act 15 U.S.C. §1051.

Dated: June 13, 2006

DECLARATION

The undersigned, Leo Stoller, declares that he is an individual and Director and President of CENTRAL MFG. CO., a Service Mark Application SN 78/782,064 and trademark and d/b/a for Central Mfg. Inc., a/k/a Central Manufacturing Inc., a Delaware Corporation registered to do business as Central Mfg Co., of Illinois A/K/A Central Manufacturing Co., founded and operated by Leo Stoller as such, is authorized to execute this document on its behalf, that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code. Central Mfg. Co. hold rights and relies upon the attached Federal Trademark Registration numbers herein in support of this Petition for Cancellation.

By: _____
Leo Stoller

By: _____
Leo Stoller, President
CENTRAL MFG. CO.

Date: June 13, 2006

Certificate of On-Line Filing

I hereby certify that the *Amended Petition for Cancellation* is being filed online with the Trademark Trial and Appeal Board:

/Leo Stoller/
Leo Stoller
Date: June 13, 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:

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

Leo Stoller
Date: June 13, 2006

C:\MARKS41\GOOGL2.PTC

UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois − CM/ECF LIVE, Ver 3.2.3
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, October 13, 2009:

MINUTE entry before the Honorable Virginia M. Kendall:Motion hearing held regarding motion for judgment[123]. Court will issue an order shortly. Advised in opn court (jms,)

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	10/16/2009
CASE TITLE	GOOGLE INC vs. CENTRAL MANUFACTURING INC et al		

DOCKET ENTRY TEXT

Stoller's motion for reconsideration is denied.

■[For further details see text below.]

Notices mailed by Judicial staff.

STATEMENT

Before the Court is Leo Stoller's ("Stoller") Motion for Reconsideration of the Court's August 17, 2009 Memorandum Opinion and Order denying his Motion to Intervene. ®. 111.) For the reasons stated, Stoller's Motion for Reconsideration is denied.

Plaintiff Google, Inc. ("Google") filed a civil RICO action against Defendants Central Mfg. Inc. ("Central") a/k/a Central Mf. 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 and a/k/a Rentamark.com (collectively "Defendants") on January 19, 2007, alleging, among other things, that the Defendants and their purported principal, Stoller, are engaged in a scheme of falsely claiming trademark rights for the purpose of attempting to extort money out of legitimate commercial actors. ®. 1.) On February 6, 2007, Stoller filed a Motion to Intervene in this action which the Court denied, finding that Stoller did not have a "direct, significant legally protectable interest" in the suit because he was acting as president of the "corporate" defendants when he undertook the actions described in the Complaint, and that as a result of his bankruptcy case he no longer held a stake in those businesses. ®. 16, R. 38.) Subsequently, the Court approved the settlement agreed to by Google and the Trustee of Stoller's bankruptcy estate and entered the permanent injunction contemplated by that agreement. ®. 57-58.) Stoller appealed both the denial of his motion to intervene and the final judgment in the lawsuit. The Seventh Circuit consolidated Stoller's appeals, vacated the final judgment issued and remanded the case for reconsideration of Stoller's Motion to Intervene. *See Google, Inc. v. Central Mfg. Inc. and Stealth Industries, Inc.*, Nos. 07-1569, 07-1612, 07-1651, 2008 WL 896376, at *5 (7th Cir. 2008). In remanding the case, the Seventh Circuit directed the Court to "resolve in the first instance whether [Central and Rentamark] are entities that are subject to suit, whether and under what circumstances Goolge's suit in its present form can proceed without Stoller if they are not, and whether any of the unlawful conduct Google alleges gave rise to a claim that even involves the Chapter 7 estate." *Id.* After receiving the mandate, the Court reinstated Stoller's Motion to Intervene and permitted him to file a supplemental brief in support of his motion. ®. 93.)

STATEMENT

On August 17, 2009, the Court issued a Memorandum Opinion and Order denying Stoller's Motion to Intervene finding that despite the fact that Central and Rentamark are Stoller's alter egos, Stoller cannot use the doctrine of "piercing the corporate veil" offensively to *defend* a lawsuit. ®. 110, at 7.) The Court noted that piercing the corporate veil is utilized only to protect third parties who have relied on the existence of the separate corporate entity, not for the benefit of the corporation itself or its shareholders. *See id*. After determining that Stoller was not permitted to intervene as a matter of right, per the Seventh Circuit's mandate, the Court ordered the parties to submit position papers on whether Central and Rentamark are entities that are subject to suit, and whether Google's claim arose prior to or after Stoller filed for bankruptcy to determine whether Google's claim even involves the Chapter 7 estate. (R. 110, at 9.) In its position paper, submitted on September 30, 2009, Google notified the Court that The Society for the Prevention of Trademark Abuse, LLC (the "SPTA") acquired all stock and other assets of Central and Rentamark in a bankruptcy auction under the auspices and with the approval of the Bankruptcy Court. ®. 121, at 1.)[1] Therefore, Stoller's Chapter 7 Trustee is no longer Central and Rentamark's representative but instead the entities are now under the ownership and control of the SPTA. ®. 121, at 2; R. 122-2, at 16-60.) On August 20, 2007, the same day that the SPTA acquired ownership of Central and Rentamark, the SPTA, as the new stockholder of the corporate entity Defendants, removed Stoller from "any and all positions, offices and capacities in connection with each of the corporations." ®. 121, at 3; R. 122-2, at 62-63.) Subsequently, on January 29, 2008 and April 24, 2008, the SPTA dissolved Central and Rentamark. ®. 121, at 4; R. 122, Exs., 13, 14.)

Federal Rule of Civil Procedure 59(e) serves the limited function of allowing courts to correct manifest errors of law or fact or consider newly discovered material evidence. *See Bordelon v. Chicago Sch. Reform Bd. Of Trustees*, 233 F.3d 524, 529 (7th Cir. 2000); *see also Oto v. Metropolitan Life Ins. Co.*, 224 F.3d 601, 606 (7th Cir. 2000) (manifest error is the wholesale disregard, misapplication, or failure to recognize controlling precedent). However, Rule 59(e) "does not provide a vehicle for a party to undo its own procedural failures, and it certainly does not allow a party to introduce new evidence or advance legal arguments that could and should have been presented to the district court prior to the judgment." *Moro v. Shell Oil Co.*, 91 F.3d 872, 876 (7th Cir. 1996). Reconsideration is only appropriate when "the Court has patently misunderstood a party or has made a decision outside the adversarial issues presented to the Court by the parties or has made an error not of reasoning but of apprehension." *Bank of Waunakee v. Rochester Cheese Sales, Inc.*, 906 F.2d 1185, 1191 (7th Cir. 1990) (internal quotations omitted). Whether to grant a Rule 59(e) motion "is entrusted to the sound judgment of the district court." *Matter of Prince*, 85 F.3d 314, 324 (7th Cir. 1996).

Stoller's Motion for Reconsideration sets forth no newly discovered material evidence and does not identify any controlling precedent that the Court failed to recognize, misapplied or wholly disregarded. Instead, it reiterates Stoller's previous argument that "Leo Stoller has a protectable interest in this case which the existing parties may not adequately represent Stoller's interests," and goes on to assert that his "reputation" as a "nationally recognized trademark expert" will be permanently damaged if he is not allowed to defend himself in this case. ®. 111, at 3.) Although the Court must construe *pro se* filings liberally, even litigants proceeding without the benefit of counsel must articulate some reason for disturbing the Court's judgment. *See Anderson v. Hardman*, 241 F.3d 544, 545 (7th Cir. 2001). Here, Stoller offers no articulable basis for disturbing the Court's previous ruling denying his Motion to Intervene. Courts have repeatedly held that purported injury to one's reputation is an insufficient interest for intervention of right. *See e.g., People Who Care v. Rockford Bd. of Educ., Sch. Dist. No. 205*, 179 F.R.D. 551, 562 (N.D. Ill. 1998) (effect on "political reputation" not a legally cognizable interest for intervention of right). Furthermore, this argument was available to Stoller when he filed his opening, supplemental and reply brief in support of his Motion to Intervene; he has not set for any newly discovered evidence. Google, however, has submitted new evidence to the Court which further supports the Court's denial of Stoller's Motion to Intervene; Stoller no longer has any interest or ownership in either Central or Rentamark and therefore has no interest related "to the property or the transaction which is the subject of the action." *See*

STATEMENT

Fed.R.Civ.P. 24(a). Accordingly, Stoller has failed to establish that the Court erred as to law or fact or that he has newly discovered material evidence. *See Bordelon*, 233 F.3d at 529. A meritorious motion to reconsider is rare and under Stoller's circumstances should not be granted. *See Bank of Waunakee*, 906 F.2d at 1191. Therefore, Stoller's Motion to Reconsider is denied.

Furthermore, as previously mentioned, since the Seventh Circuit's mandate, the Court has received new material information related to the corporate entity Defendants and Stoller's interest in those Defendants. Therefore, when the Seventh Circuit issued its mandate it did so under a different set of facts and circumstances. Currently, the corporate entity Defendants, Central and Rentamark, are no longer part of Stoller's bankruptcy estate but instead are currently under the control and ownership of the SPTA and the SPTA removed Stoller from "any and all positions, offices, and capacities in connection with each of the corporations." ®. 121.) Therefore, Google's claims against Central and Rentamark no longer involve Stoller's Chapter 7 estate. Furthermore, the circumstances giving rise to the Seventh Circuit's concern as to whether Central and Rentamark are entities that are subject to suit no longer exist because under the ownership and control of the SPTA they are no longer Stoller's alter egos. *See Palen v. Daewoo Motor Co.*, 832 N.E. 2d 173, 185 (Ill. App. Ct. 2005) (suits against legally nonexistent entities renders the suit void *ab initio*). Put another way, after the SPTA acquired all stock and assets in Central and Rentamark, they became corporate entities distinguishable from Stoller and not just trade names through which Stoller conducts business as an individual, making them entities that are subject to suit.[2]

Lastly, in his Motion for Reconsideration Stoller requests that the Court suspend the current action pending his appeal of the denial of his Motion to Intervene if his Motion to Reconsider is denied. ®. 111, at ¶ 10.) Having no right to intervene, however, Stoller has no right to file a motion to suspend ongoing 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.

1. The Court notes that despite the fact that the Bankruptcy Court approved the sale of Central and Rentamark's stocks and assets to the SPTA on August 8, 2007, and all stock and assets in Central and Rentamark were transferred to the SPTA on August 20, 2007, Google did not bring this information to the Court's attention until September 09, 2009, when it made a mere passing reference to the SPTA's acquisition of Central and Rentamark. It was not until September 30, 2009, when it filed its position paper in response to the Court's request for additional information pursuant to the Seventh Circuit's mandate that Google provided the Court with additional information regarding the status of Stoller's bankruptcy proceedings and the transfer of Central's and Rentamark's stocks and assets to the SPTA.

2. The Court notes that Central's and Rentamark's dissolution does not prevent them from being subject to suit in the present action. Under both Illinois and Delaware state law, a corporation can participate in litigation after being dissolved if the litigation was initiated before or within five years or three years, respectively, after dissolution. *See* 805 ILCS 5/12.80 (corporation can sue or be sued on claims brought before and up to five years post-dissolution); 8 Del. C. § 278 (corporation can sue or be sued on claims brought before and up to three years post dissolution.). Here, Google filed its Complaint against Central and Rentamark on January 19, 2007 and the corporate entities were dissolved in January and April 2008, respectively. Therefore, Central and Rentamark, although dissolved are still subject to suit in this case.

UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois − CM/ECF LIVE, Ver 3.2.3
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, October 16, 2009:

MINUTE entry before the Honorable Virginia M. Kendall:Enter Permanent Injunction and Final judgment. Civil case terminated. Mailed notice(jms,)

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; STEALTH INDUSTRIES, INC. a/k/a RENTAMARK and a/k/a RENTAMARK.COM; and LEO D. STOLLER a/k/a LEO REICH, Defendants.	Civil Action No. 07 CV 385 Hon. Virginia M. Kendall

PERMANENT INJUNCTION AND FINAL JUDGMENT AS TO

DEFENDANTS CENTRAL MFG. INC. AND STEALTH INDUSTRIES, INC.

This Stipulated 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. ("Stealth") (collectively, Central Mfg. and Stealth are the "Entity Defendants"). The parties having stipulated to the entry of the following Stipulated Permanent Injunction and Final Judgment, and good cause appearing for the entry thereof:

1. Pursuant to the Assignment attached hereto as Exhibit 1 and as approved by Order of the United States Bankruptcy Court for the Northern District of Illinois, The Society for the Prevention of Trademark Abuse, LLC, a limited liability company organized under the laws of Delaware (hereinafter The Society), has acquired all right, title and interest in the stock and all other assets, including any and all trademark rights, held by the Entity Defendants. The Sale of the Assets to the Purchaser was free and clear of all liens and all other claims whatsoever pursuant to Section 363(f) of the Bankruptcy Code, whether known or unknown, including, but not limited to, liens and claims of any of the Debtor's creditors, vendors, suppliers, employees or lessors, and The Society is not liable in any way (as a successor to the Debtor or otherwise) for any claims that any of the foregoing or any other third party may have against the Debtor or the Assets. Any and all alleged liens and claims on the Assets were transferred, affixed, and attached to the proceeds of the Sale, with the same validity, priority, force, and effect as such liens had been upon such property immediately prior to the Closing. Debtor or any person or entity acting in concert with the debtor were and continue to be enjoined from asserting any right, title, interest or claim in the assets following consummation of the sale by the trustee.

2. Leo Stoller was discharged as an officer or representative in any capacity of the Entity Defendants on August 20, 2007. Lance G. Johnson became the President of the Entity Defendants and oversaw the dissolution of the incorporated Entity Defendants by April 2008. All assets and claims for each of the Entity Defendants have been assigned to The Society. The Society thus stands as a successor in interest to any claims available to any of the Entity Defendants.

3. 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.

4. The Entity Defendants have been duly served with the summons and Complaint in this matter. If service is required in The Society, The Society hereby waives service and acknowledges receipt of the Complaint in this matter.

5. Judgment is hereby entered in favor of Plaintiff Google, and against each of the Entity Defendants and The Society, 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.

6. The Entity Defendants and The Society admit each and every fact alleged in the Complaint. Without limiting the generality of the foregoing, each of the Entity Defendants and The Society admit and represent:

(a) None of the Entity Defendants or The Society has or has had any right, title or interest of any kind in the GOOGLE mark or in any mark, trade name or designation that is confusingly similar or dilutes to the GOOGLE mark;

(b) None of the Entity Defendants or The Society has or has had 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 or The Society has or has had 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."

7. Each of the Entity Defendants and The Society, 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 are, 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, in whole or in part and regardless of what other terms may be included, Plaintiff's GOOGLE mark;

(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.

8. Each party to this Permanent Injunction and Final Judgment shall bear its respective attorney's fees, costs and expenses incurred in this action.

9. The Entity Defendants and The Society 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 The Society and shall be enforceable as such. The Entity Defendants and The Society 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 or The Society 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 or The Society shall be entitled to assert, and each Entity Defendant and The Society 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.

10. 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 against other person or entity other than

Central Mfg. and Stealth in connection with this action or otherwise.

11. 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: September __, 2009

GOOGLE INC.

By:_____
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
Tel.: (213) 443-3000/Fax: (213) 443-3100

DATED: September 22, 2009

CENTRAL MFG. INC., STEALTH INDUSTRIES, INC. and THE SOCIETY FOR THE PREVENTION OF TRADEMARK ABUSE, LLC

By:_____
Lance G. Johnson
Director, The Society for the Prevention of Trademark Abuses, LLC
President, Central Mfg. Inc.
President, Stealth Industries, Inc.
c/o Roylance, Abrams, Berdo & Goodman LLP
1300 19th Street, NW Suite 600
Washington, DC 20036
Tel: (202) 659-9076/Fax: (202) 659-9344

IT IS SO ORDERED.

DATED: October 16, 2009

_____
United States District Judge

44

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

GOOGLE, INC.,	)	
	)	
Appellee/Plaintiff	)	Appeal No: _____
	)	
v.	)	
	)	On appeal from the United States
	)	District Court, Northern District of
	)	Illinois, No. 1:07-cv-0385
CENTRAL MFG. INC., et al.,	)	Honorable Virginia J. Kendall
	)	decisions dated August 17, 2009,
Defendants.	)	and October 16, 2009
	)	
v.	)	
	)	
LEO STOLLER.,	)	
	)	
Intervenor/Appellant.	)	

FILED

OCT 19 2009

Oct 19 2009

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

NOTICE OF APPEAL

NOW COMES Appellant, LEO STOLLER, and files a Notice of Appeal of the attached Memorandum Opinion and Order dated August 17, 2009; order dated October 16, 2009; and Permanent Injunction and Final Judgment to Defendants Central Mfg. Inc. and Stealth Industries, Inc. dated October 16, 2009, entered by the Honorable Carole K. Bellows in the above-captioned case.

Leo Stoller

Leo Stoller, *Appellant*
7115 W. North Avenue #272
Oak Park, Illinois 60302
(312) 545-4554

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

Google, Inc.,	)	
Plaintiff,	)	Case No. 07 C 385
v.	)	
	)	Judge Virginia M. Kendall
Central Mfg. Inc. 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. 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 (the "Bankruptcy Court"), 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 filed a Motion to Intervene in this action on February 6, 2007 arguing that: (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 would not be adequately represented. This Court denied Stoller's Motion, finding that he could not intervene as of right because he had no direct, significant legall interest in the litigation; first, because Stoller's companies had become part of his bankruptcy estate and therefore he held no interest in them, and second, because all his other assertions of right were contradicted by the record. In addition, this Court refused Stoller permissive intervention, noting Stoller's renown as a vexatious litigant and that his intervention would frustrate the parties' efforts to settle the matter. Thereafter, this Court

approved a settlement agreed to by Google and entered a permanent injunction and final judgment. Stoller appealed both the denial of his Motion to Intervene and the final judgment.

The Seventh Circuit vacated the final judgment and remanded Stoller's Motion to Intervene for reconsideration, noting that Stoller's corporations seemed to be mere alter egos of Stoller. Additionally, it directed this Court to consider: 1) whether Central Manufacturing Inc. and Stealth Industries, Inc. are subject to suit, considering that the Bankruptcy Court found that the bankruptcy court "all but declared" that CFI and Stealth were alter egos of Stoller;" and 2) whether the bankruptcy estate and trustee were properly involved in the case. That is, Google had taken the position in the bankruptcy court that this case arose after the bankruptcy estate was created, and if that was the case, it should go to the debtor, rather than to his bankruptcy estate.

After remand, Stoller filed a supplement to his Motion to Intervene, noting the Seventh Circuit's opinion and taking the position that he should be allowed to intervene because his corporations were his alter egos but still were in no way "sham corporations." For the reasons stated below, this Court again denies Stoller's Motion to Intervene.

STANDARD OF REVIEW

Under Rule 24 intervention may be as of right or it may be permissive. *See Heartwood v. U.S. Forest Serv., 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. *See* Fed. R. Civ. P. 24(a);

see also Skokaogon Chippewa Cmty 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. *See United States v. BDO Seidman*, 337 F.3d 802, 808 (7th Cir. 2003). Determinations on motions to intervene are highly fact-specific. *See Reich v. ABC/York-Estes Corp.*, 64 F.3d 316, 321 (7th Cir. 1995) *citing Shea v. Angulo*, 19 F.3d 343, 349 (7th Cir. 1994). This Court must accept as true all non-conclusory allegations in the motion to intervene. *See Id. citing Lake Investors Dev. Group v. Eglidi Dev. Group*, 715 F.2d 1256, 1258 (7th Cir. 1983). A motion to intervene as of right should not be dismissed unless "it appears to an absolute certainty that the intervener is not entitled to relief under any set of facts which could be proved under the complaint." *Id.*

A party seeking to intervene in a case must assert an interest in the action that is a "direct, significant legally protectible" one. *Reich*, 64 F.3d at 322 *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 intervener has an interest in those issues." *Id. citing Am. Nat'l Bank*, 865 F.2d at 147.

STOLLER'S ALLEGATIONS

Stoller alleges in his Motion to Intervene that he is the sole shareholder and sole employee of the Defendants. *See* Mtn. Intervene at 1, 3. In addition, he alleges that it was he personally on behalf of the Defendants who claimed rights to Google's trademark and brought the petition to cancel it. *See Id.* He further alleged that Google had previously petitioned the bankruptcy court to lift the automatic stay of litigation so that it could sue Stoller and that Google itself found that Stoller was an indispensable party to the proposed litigation. *See Id.* at 2. In support of this allegation, he

attached an order from the Bankruptcy Court granting Google's motion for order declaring its proposed suit to be outside the scope of stay or in the alternative, modifying the stay. *See Id.* at 6-7.

In his Motion, Stoller directly references and relies on the factual findings of the Bankruptcy Court in its decision converting Stoller's Chapter 13 bankruptcy proceeding to a Chapter 7 proceeding. There the Bankruptcy Court made detailed factual findings regarding the relationship between Stoller and his various corporations and other entities. *See In re Stoller*, 351 B.R. 605, 611-616 (N.D.Ill. 2006). Specifically, the Bankruptcy Court found that: 1) Stoller made all decisions for the entities; 2) Stoller testified that he was the "actual, controlling entity;" 3) all the entities were operated by Stoller at the same address; 4) the entities did not keep corporate books or records of finances; 5) the entities had no record of dividend payments; 6) Stoller owned all stock in the entities; 7) the entities had no officers other than Stoller; 7) Stoller referred to the entities' assets as his personal assets; and 8) Stoller commingled funds from all of the entities as well as his personal funds in a single bank account. *See Id.* at 616-17. Based on these findings, the Bankruptcy Court found that Stoller and his businesses are "indistinguishable." *See Id.* at 616.

In addition, Google's Complaint takes the position that Stoller was Defendants' principal, used the Defendants to harass other companies, and was responsible for the actions taken against Google. Google asserts that Stoller was the CEO and sole shareholder of the Defendants and that "Stoller conducted the activities complained of in interstate commerce." *See* Cmplt. at 10. Many of their statements implicate one defendant "and Stoller" or allege that a Defendant acted "through Stoller." *See, e.g.*, Cmplt. at 21 (c) ("Stoller initiated numerous proceedings in SI's name"); Cmplt. at 21(e) ("Stoller has obtained . . . the transfer of trademark applications . . .to Defendant Stealth and Defendant Central Mfg."); Cmplt. at 34-36 ("Central Mfg. And Stoller" opposed Google's

trademark application and Stoller signed the related letters and purported settlement agreements). Google attached documents such as various letters signed by Stoller on behalf of Stealth Industries, a July 14, 2006 letter from the Trademark Office to Stoller imposing sanctions against him, and letters to Google regarding their trademark and proposed settlement agreements signed by Stoller, as well as multiple articles about Stoller and several emails sent from Stoller to Google's attorney Michael Zeller to its Complaint.

DISCUSSION

Generally, a corporation is a legal entity separate from its shareholders, directors and officers, but the corporate entity may be disregarded and the corporate veil pierced when the corporation is merely the alter ego of a "governing or dominant personality." *Semande v. Estes*, 871 N.E.2d 268, 271 (Ill.App.Ct. 2007) *citing People v. V & M Indus.*, 700 N.E.2d 746, 751 (Ill.App.Ct. 1998). Put differently, the Court can in some circumstances disregard the corporate form because it is merely a "dummy or sham" for another dominating entity. *See Cosgrove Dist., Inc. v. Haff*, 798 N.E.2d 139, 141 (Ill.App.Ct. 2003) *citing Jacobsen v. Buffalo Rock Shooters Supply, Inc.*, 664 N.E.2d 328, 331 (Ill.App.Ct. 1996). This is essentially what Stoller asks the Court to do here. That is, he argues that his corporations have no existence separate from him and therefore he is the true party of interest in this litigation.

The Court looks to a number of factors in determining whether to disregard the corporate form, including: "failure to issue stock; failure to observe corporate formalities; nonpayment of dividends; insolvency of the debtor corporation; nonfunctioning of the other officers or directors; absence of corporate records; commingling of funds; diversion of assets from the corporation by or to a shareholder; failure to maintain arms-length relationships among related entities; and whether

the corporation is a mere facade for the operation of the dominant shareholders." *Id.* Here, according to Stoller's allegations, he owns all the stock of the corporations and is their only officer. He commingles funding between corporations and with his own money and treats the commingled funds as his personal assets. He observes no formalities - he keeps no records and makes all decisions for the corporations himself. The allegations here, which this Court must take as true, establish that Stoller's corporations are his alter egos. They are mere facades for their dominant, and for that matter only, shareholder, Stoller who uses them to carry on his personal business.

Although Stoller's corporations appear to be shams, Stoller may not intervene as of right. In moving to intervene on the basis that his interests are affected because his alter ego corporations are involved in the suit, Stoller asks this Court to "pierce the corporate veils" to his benefit. This doctrine applies only where an individual uses the corporation as an instrumentality to perpetrate fraud or injustice on a third party. *See In re Rehab. of Centaur Ins. Co.*, 632 N.E.2d 1015, 1018 (Ill. 1994). Piercing the corporate veil is utilized only to protect third parties who have relied on the existence of the separate corporate entity, not for the benefit of the corporation itself or its shareholders. *See Semande*, 871 N.E.2d at 271 *citing Centaur*, 632 N.E.2d at 173; *see also Trossman v. Philipsborn*, 869 N.E.2d 1147, 1174 (Ill.App.Ct. 2007) (*Centaur* not limited to its specific facts but rather rejects the piercing of the corporate veil to benefit shareholders). This is because an individual should not be allowed to adopt the corporate form for his own protection and then disregard it when it is to his advantage to do so. *See Id.* at 271-72 *citing Schenley Distillers Corp. v. United States*, 326 U.S. 432, 437 (1946) (corporate form will not be disregarded where those in control have deliberately adopted it to secure its advantages); *see also Main Bank of Chicago v. Baker*, 427 N.E.2d 94, 102 (Ill. 1981) (same).

Here, Stoller asks this Court to allow him to intervene because his corporations, which have been sued, are his alter egos, indistinguishable from him, and he therefore has a direct interest in the suit. According to Google, Stoller used his corporations as a means by which to harass trademark holders and applicants. Stoller now wishes to intervene in this action against his corporations and therefore asks this Court to pierce the veils of his corporations to his advantage. Such a result would go against the policy justifying piercing the corporate veil, and as such, this Court will not find that Stoller has a direct interest in this suit against his corporations simply because they are arguably his alter egos. *See Semande*, 871 N.E.2d at 272 (corporate veil not pierced to benefit of director in part because director did not stand in the position of an innocent third party creditor).

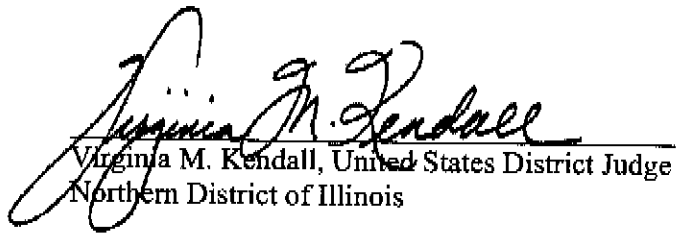
Having found that Stoller has no right to intervene based on his alleged identity with his corporations, this Court returns to its reasoning in its prior opinion. That is, the Defendants are now part of Stoller's Chapter 7 bankruptcy estate. Accordingly, Stoller no longer holds any interest in the Defendants. *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 Coll.*, 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"). Therefore, because Stoller has no right to intervene by piercing the corporate veil that he himself erected and because his ownership interests passed to his bankruptcy

estate, this Court again finds that Stoller has no direct interest in this litigation and therefore denies his Motion to Intervene.

CONCLUSION AND ORDER

For the reasons stated above, Stoller's Motion to Intervene is denied. This does not, however, fully resolve the issues presented to this Court on remand. In its opinion remanding this case, the Seventh Circuit first questioned whether Stoller's corporations are subject to suit absent Stoller's involvement. Second, it noted that causes of action that arise before a debtor files for bankruptcy follow his bankruptcy estate, whereas causes of action that arise after the creation of a bankruptcy estate belong to the debtor, and that despite the fact that Google here has sued the bankruptcy estate and dealt with the Trustee, it has taken the position in the bankruptcy court that this suit arose after Stoller filed for bankruptcy. Some facts, however, indicate that the cause of action actually arose before Stoller filed for bankruptcy. As such, the Seventh Circuit questioned whether the trustee and the bankruptcy estate were properly involved in this case. In order to resolve these issues before the case proceeds further, this Court directs the parties to submit position papers regarding the extent to which Stoller's corporations are subject to suit and when this case arose and as such the propriety of the involvement of the bankruptcy estate. The parties must submit such position papers within 21 days of this order.

So ordered.



Virginia M. Kendall, United States District Judge
Northern District of Illinois

Date: August 17, 2009

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	10/16/2009
CASE TITLE	GOOGLE INC vs. CENTRAL MANUFACTURING INC et al		

DOCKET ENTRY TEXT

Stoller's motion for reconsideration is denied.

■[For further details see text below.] Notices mailed by Judicial staff.

STATEMENT

Before the Court is Leo Stoller's ("Stoller") Motion for Reconsideration of the Court's August 17, 2009 Memorandum Opinion and Order denying his Motion to Intervene. ®. 111.) For the reasons stated, Stoller's Motion for Reconsideration is denied.

Plaintiff Google, Inc. ("Google") filed a civil RICO action against Defendants Central Mfg. Inc. ("Central") a/k/a Central Mf. 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 and a/k/a Rentamark.com (collectively "Defendants") on January 19, 2007, alleging, among other things, that the Defendants and their purported principal, Stoller, are engaged in a scheme of falsely claiming trademark rights for the purpose of attempting to extort money out of legitimate commercial actors. ®. 1.) On February 6, 2007, Stoller filed a Motion to Intervene in this action which the Court denied, finding that Stoller did not have a "direct, significant legally protectable interest" in the suit because he was acting as president of the "corporate" defendants when he undertook the actions described in the Complaint, and that as a result of his bankruptcy case he no longer held a stake in those businesses. ®. 16, R. 38.) Subsequently, the Court approved the settlement agreed to by Google and the Trustee of Stoller's bankruptcy estate and entered the permanent injunction contemplated by that agreement. ®. 57-58.) Stoller appealed both the denial of his motion to intervene and the final judgment in the lawsuit. The Seventh Circuit consolidated Stoller's appeals, vacated the final judgment issued and remanded the case for reconsideration of Stoller's Motion to Intervene. *See Google, Inc. v. Central Mfg. Inc. and Stealth Industries, Inc.*, Nos. 07-1569, 07-1612, 07-1651, 2008 WL 896376, at *5 (7th Cir. 2008). In remanding the case, the Seventh Circuit directed the Court to "resolve in the first instance whether [Central and Rentamark] are entities that are subject to suit, whether and under what circumstances Goolge's suit in its present form can proceed without Stoller if they are not, and whether any of the unlawful conduct Google alleges gave rise to a claim that even involves the Chapter 7 estate." *Id.* After receiving the mandate, the Court reinstated Stoller's Motion to Intervene and permitted him to file a supplemental brief in support of his motion. ®. 93.)

STATEMENT

On August 17, 2009, the Court issued a Memorandum Opinion and Order denying Stoller's Motion to Intervene finding that despite the fact that Central and Rentamark are Stoller's alter egos, Stoller cannot use the doctrine of "piercing the corporate veil" offensively to *defend* a lawsuit. ®. 110, at 7.) The Court noted that piercing the corporate veil is utilized only to protect third parties who have relied on the existence of the separate corporate entity, not for the benefit of the corporation itself or its shareholders. *See id.* After determining that Stoller was not permitted to intervene as a matter of right, per the Seventh Circuit's mandate, the Court ordered the parties to submit position papers on whether Central and Rentamark are entities that are subject to suit, and whether Google's claim arose prior to or after Stoller filed for bankruptcy to determine whether Google's claim even involves the Chapter 7 estate. (R. 110, at 9.) In its position paper, submitted on September 30, 2009, Google notified the Court that The Society for the Prevention of Trademark Abuse, LLC (the "SPTA") acquired all stock and other assets of Central and Rentamark in a bankruptcy auction under the auspices and with the approval of the Bankruptcy Court. ®. 121, at 1.)[1] Therefore, Stoller's Chapter 7 Trustee is no longer Central and Rentamark's representative but instead the entities are now under the ownership and control of the SPTA. ®. 121, at 2; R. 122-2, at 16-60.) On August 20, 2007, the same day that the SPTA acquired ownership of Central and Rentamark, the SPTA, as the new stockholder of the corporate entity Defendants, removed Stoller from "any and all positions, offices and capacities in connection with each of the corporations." ®. 121, at 3; R. 122-2, at 62-63.) Subsequently, on January 29, 2008 and April 24, 2008, the SPTA dissolved Central and Rentamark. ®. 121, at 4; R. 122, Exs., 13, 14.)

Federal Rule of Civil Procedure 59(e) serves the limited function of allowing courts to correct manifest errors of law or fact or consider newly discovered material evidence. *See Bordelon v. Chicago Sch. Reform Bd. Of Trustees*, 233 F.3d 524, 529 (7th Cir. 2000); *see also Oto v. Metropolitan Life Ins. Co.*, 224 F.3d 601, 606 (7th Cir. 2000) (manifest error is the wholesale disregard, misapplication, or failure to recognize controlling precedent). However, Rule 59(e) "does not provide a vehicle for a party to undo its own procedural failures, and it certainly does not allow a party to introduce new evidence or advance legal arguments that could and should have been presented to the district court prior to the judgment." *Moro v. Shell Oil Co.*, 91 F.3d 872, 876 (7th Cir. 1996). Reconsideration is only appropriate when "the Court has patently misunderstood a party or has made a decision outside the adversarial issues presented to the Court by the parties or has made an error not of reasoning but of apprehension." *Bank of Waunakee v. Rochester Cheese Sales, Inc.*, 906 F.2d 1185, 1191 (7th Cir. 1990) (internal quotations omitted). Whether to grant a Rule 59(e) motion "is entrusted to the sound judgment of the district court." *Matter of Prince*, 85 F.3d 314, 324 (7th Cir. 1996).

Stoller's Motion for Reconsideration sets forth no newly discovered material evidence and does not identify any controlling precedent that the Court failed to recognize, misapplied or wholly disregarded. Instead, it reiterates Stoller's previous argument that "Leo Stoller has a protectable interest in this case which the existing parties may not adequately represent Stoller's interests," and goes on to assert that his "reputation" as a "nationally recognized trademark expert" will be permanently damaged if he is not allowed to defend himself in this case. ®. 111, at 3.) Although the Court must construe *pro se* filings liberally, even litigants proceeding without the benefit of counsel must articulate some reason for disturbing the Court's judgment. *See Anderson v. Hardman*, 241 F.3d 544, 545 (7th Cir. 2001). Here, Stoller offers no articulable basis for disturbing the Court's previous ruling denying his Motion to Intervene. Courts have repeatedly held that purported injury to one's reputation is an insufficient interest for intervention of right. *See e.g., People Who Care v. Rockford Bd. of Educ., Sch. Dist. No. 205*, 179 F.R.D. 551, 562 (N.D. Ill. 1998) (effect on "political reputation" not a legally cognizable interest for intervention of right). Furthermore, this argument was available to Stoller when he filed his opening, supplemental and reply brief in support of his Motion to Intervene; he has not set for any newly discovered evidence. Google, however, has submitted new evidence to the Court which further supports the Court's denial of Stoller's Motion to Intervene; Stoller no longer has any interest or ownership in either Central or Rentamark and therefore has no interest related "to the property or the transaction which is the subject of the action." *See*

STATEMENT

Fed.R.Civ.P. 24(a). Accordingly, Stoller has failed to establish that the Court erred as to law or fact or that he has newly discovered material evidence. *See Bordelon*, 233 F.3d at 529. A meritorious motion to reconsider is rare and under Stoller's circumstances should not be granted. *See Bank of Waunakee*, 906 F.2d at 1191. Therefore, Stoller's Motion to Reconsider is denied.

Furthermore, as previously mentioned, since the Seventh Circuit's mandate, the Court has received new material information related to the corporate entity Defendants and Stoller's interest in those Defendants. Therefore, when the Seventh Circuit issued its mandate it did so under a different set of facts and circumstances. Currently, the corporate entity Defendants, Central and Rentamark, are no longer part of Stoller's bankruptcy estate but instead are currently under the control and ownership of the SPTA and the SPTA removed Stoller from "any and all positions, offices, and capacities in connection with each of the corporations." ®. 121.) Therefore, Google's claims against Central and Rentamark no longer involve Stoller's Chapter 7 estate. Furthermore, the circumstances giving rise to the Seventh Circuit's concern as to whether Central and Rentamark are entities that are subject to suit no longer exist because under the ownership and control of the SPTA they are no longer Stoller's alter egos. *See Palen v. Daewoo Motor Co.*, 832 N.E. 2d 173, 185 (Ill. App. Ct. 2005) (suits against legally nonexistent entities renders the suit void *ab initio*). Put another way, after the SPTA acquired all stock and assets in Central and Rentamark, they became corporate entities distinguishable from Stoller and not just trade names through which Stoller conducts business as an individual, making them entities that are subject to suit.[2]

Lastly, in his Motion for Reconsideration Stoller requests that the Court suspend the current action pending his appeal of the denial of his Motion to Intervene if his Motion to Reconsider is denied. ®. 111, at ¶ 10.) Having no right to intervene, however, Stoller has no right to file a motion to suspend ongoing 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.

1. The Court notes that despite the fact that the Bankruptcy Court approved the sale of Central and Rentamark's stocks and assets to the SPTA on August 8, 2007, and all stock and assets in Central and Rentamark were transferred to the SPTA on August 20, 2007, Google did not bring this information to the Court's attention until September 09, 2009, when it made a mere passing reference to the SPTA's acquisition of Central and Rentamark. It was not until September 30, 2009, when it filed its position paper in response to the Court's request for additional information pursuant to the Seventh Circuit's mandate that Google provided the Court with additional information regarding the status of Stoller's bankruptcy proceedings and the transfer of Central's and Rentamark's stocks and assets to the SPTA.

2. The Court notes that Central's and Rentamark's dissolution does not prevent them from being subject to suit in the present action. Under both Illinois and Delaware state law, a corporation can participate in litigation after being dissolved if the litigation was initiated before or within five years or three years, respectively, after dissolution. *See* 805 ILCS 5/12.80 (corporation can sue or be sued on claims brought before and up to five years post-dissolution); 8 Del. C. § 278 (corporation can sue or be sued on claims brought before and up to three years post dissolution.). Here, Google filed its Complaint against Central and Rentamark on January 19, 2007 and the corporate entities were dissolved in January and April 2008, respectively. Therefore, Central and Rentamark, although dissolved are still subject to suit in this case.

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; STEALTH INDUSTRIES, INC. a/k/a RENTAMARK and a/k/a RENTAMARK.COM; and LEO D. STOLLER a/k/a LEO REICH, Defendants.	Civil Action No. 07 CV 385 Hon. Virginia M. Kendall

PERMANENT INJUNCTION AND FINAL JUDGMENT AS TO

DEFENDANTS CENTRAL MFG. INC. AND STEALTH INDUSTRIES, INC.

This Stipulated 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. ("Stealth") (collectively, Central Mfg. and Stealth are the "Entity Defendants"). The parties having stipulated to the entry of the following Stipulated Permanent Injunction and Final Judgment, and good cause appearing for the entry thereof:

1. Pursuant to the Assignment attached hereto as Exhibit 1 and as approved by Order of the United States Bankruptcy Court for the Northern District of Illinois, The Society for the Prevention of Trademark Abuse, LLC, a limited liability company organized under the laws of Delaware (hereinafter The Society), has acquired all right, title and interest in the stock and all other assets, including any and all trademark rights, held by the Entity Defendants. The Sale of the Assets to the Purchaser was free and clear of all liens and all other claims whatsoever pursuant to Section 363(f) of the Bankruptcy Code, whether known or unknown, including, but not limited to, liens and claims of any of the Debtor's creditors, vendors, suppliers, employees or lessors, and The Society is not liable in any way (as a successor to the Debtor or otherwise) for any claims that any of the foregoing or any other third party may have against the Debtor or the Assets. Any and all alleged liens and claims on the Assets were transferred, affixed, and attached to the proceeds of the Sale, with the same validity, priority, force, and effect as such liens had been upon such property immediately prior to the Closing. Debtor or any person or entity acting in concert with the debtor were and continue to be enjoined from asserting any right, title, interest or claim in the assets following consummation of the sale by the trustee.

2. Leo Stoller was discharged as an officer or representative in any capacity of the Entity Defendants on August 20, 2007. Lance G. Johnson became the President of the Entity Defendants and oversaw the dissolution of the incorporated Entity Defendants by April 2008. All assets and claims for each of the Entity Defendants have been assigned to The Society. The Society thus stands as a successor in interest to any claims available to any of the Entity Defendants.

3. 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.

4. The Entity Defendants have been duly served with the summons and Complaint in this matter. If service is required in The Society, The Society hereby waives service and acknowledges receipt of the Complaint in this matter.

5. Judgment is hereby entered in favor of Plaintiff Google, and against each of the Entity Defendants and The Society, 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.

6. The Entity Defendants and The Society admit each and every fact alleged in the Complaint. Without limiting the generality of the foregoing, each of the Entity Defendants and The Society admit and represent:

(a) None of the Entity Defendants or The Society has or has had any right, title or interest of any kind in the GOOGLE mark or in any mark, trade name or designation that is confusingly similar or dilutes to the GOOGLE mark;

(b) None of the Entity Defendants or The Society has or has had 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 or The Society has or has had 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."

7. Each of the Entity Defendants and The Society, 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 are, 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, in whole or in part and regardless of what other terms may be included, Plaintiff's GOOGLE mark;

(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.

8. Each party to this Permanent Injunction and Final Judgment shall bear its respective attorney's fees, costs and expenses incurred in this action.

9. The Entity Defendants and The Society 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 The Society and shall be enforceable as such. The Entity Defendants and The Society 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 or The Society 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 or The Society shall be entitled to assert, and each Entity Defendant and The Society 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.

10. 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 against other person or entity other than

Central Mfg. and Stealth in connection with this action or otherwise.

11. 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: September __, 2009

GOOGLE INC.

By:_____
One of Its Attorneys

Michael T. Zeller (ARDC No. 6226433)
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865 South Figueroa Street, 10th Floor
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DATED: September 22, 2009

CENTRAL MFG. INC., STEALTH INDUSTRIES, INC. and THE SOCIETY FOR THE PREVENTION OF TRADEMARK ABUSE, LLC

By:_____
Lance G. Johnson
Director, The Society for the Prevention of Trademark Abuses, LLC
President, Central Mfg. Inc.
President, Stealth Industries, Inc.
c/o Roylance, Abrams, Berdo & Goodman LLP
1300 19th Street, NW Suite 600
Washington, DC 20036
Tel: (202) 659-9076/Fax: (202) 659-9344

IT IS SO ORDERED.

DATED: October 16, 2009

Virginia M. Kendall
United States District Judge

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

GOOGLE, INC.,	)	
	)	
Appellee/Plaintiff	)	Appeal No: _____
	)	
v.	)	
	)	On appeal from the United States
	)	District Court, Northern District of
	)	Illinois, No. 1:07-cv-0385
CENTRAL MFG. INC., et al.,	)	Honorable Virginia J. Kendall
	)	decisions dated August 17, 2009,
Defendants.	)	and October 16, 2009
	)	
v.	)	
	)	
LEO STOLLER.,	)	
	)	
Intervenor/Appellant.	)	

FILED

OCT 19 2009

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

NOTICE OF FILING

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

PLEASE TAKE NOTICE that on the **19th day of October, 2009,** there was filed with the Clerk of the United States District Court the attached **1) Notice of Appeal , 2) Notice of *In Forma Pauperis* Petition Having Been Granted,** and **3) Designation of Content of Record on Appeal.**

I certify that the foregoing was mailed via first class mail on the 19th **day of October, 2009,** to the parties listed, with the U.S. Postal Service with proper postage prepaid.

Leo Stoller

Leo Stoller, *Appellant*
7115 W. North Avenue #272
Oak Park, Illinois 60302
(312) 545-4554

C4

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

GOOGLE, INC., Appellee/Plaintiff v. CENTRAL MFG. INC., et al., Defendants. v. LEO STOLLER., Intervenor/Appellant.	Appeal No: _____ On appeal from the United States District Court, Northern District of Illinois, No. 1:07-cv-0385 Honorable Virginia J. Kendall decisions dated August 17, 2009, and October 16, 2009

FILED

OCT 19 2009
Oct 19 2009
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

DESIGNATON OF CONTENT OF RECORD ON APPEAL

NOW COMES the Appellant, Leo Stoller, *Appellant,* and identifies the record on appeal which consists of: (see attached docket sheet).

1. (Docket No. 1).
2. (Docket No. 8).
3. (Docket No. 9).
4. (Docket No. 10).
5. (Docket No. 12).
6. (Docket No. 13).
7. (Docket No. 15).
8. (Docket No. 16).

9. (Docket No. 17).

10. (Docket No. 30).

11. (Docket No. 31).

12. (Docket No. 33).

13. (Docket No. 35).

14. (Docket No. 36).

15. (Docket No. 42).

16. (Docket No. 43).

17. (Docket No. 57).

18. (Docket No. 58).

19. (Docket No. 46).

20. (Docket No. 59).

21. (Docket No. 68).

22. (Docket No. 72).

23. (Docket No. 106).

24. (Docket No. 109).

25. (Docket No. 110).

26. (Docket No. 111).

27. (Docket No. 112).

28. (Docket No. 113).

29. (Docket No. 114).

30. (Docket No. 116).

31. (Docket No. 117).

32. (Docket No. 118).

33. (Docket No. 119).

34. (Docket No. 120).

35. (Docket No. 128).

36. (Docket No. 129).

37. (Docket No. 131).

38. (Docket No. 132).

39. (Docket No. 133).

40. (Docket No. 134).

41. (Docket No. 135).

42. (Docket No. 136).

OFFICIAL TRANSCRIPT of hearing on Oct 13, 2009 — ordered 10-13-09

Leo Stoller

Leo Stoller, *Appellant*
7115 W. North Avenue #272
Oak Park, Illinois 60302
(312) 545-4554

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

Google Inc v. Central Mfg. Inc. et al
Assigned to: Honorable Virginia M. Kendall
Case in other court: 07-01612
07-01651
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

Plaintiff

Google Inc

represented by **Michael Thomas Zeller**
Quinn Emanuel Urquhart & Oliver, LLP
865 South Figueroa Street
10th Floor
Los Angeles , CA 90017
(213) 443-3000
Email: michaelzeller@quinnemanuel.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Jonathan M. Cyrluk
Stetler & Duffy, Ltd.
11 South LaSalle Street
Suite 1200
Chicago , IL 60603-1203
(312) 338-0200
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PRO HAC VICE
ATTORNEY TO BE NOTICED

William John Barrett
Barack Ferrazzano Kirschbaum & Nagelberg LLP
200 West Madison
Suite 3900
Chicago , IL 60606
(312) 984-3100
Email: william.barrett@bfkn.com
TERMINATED: 05/15/2008

V.

Defendant

Central Mfg. Inc.
also known as
Central Mfg Co
also known as
Central Mfg Co. (Inc.)
also known as
Central Manufacturing Company, Inc.
also known as
Central Mfg. Co. of Illinois

Defendant

Stealth Industries, Inc.
also known as
Rentamark
also known as
Rentamark.Com

Defendant

Central Mfg. Inc. and Stealth Industries, by and through Richard M. Fogel, not individually but as Chapter 7 Trustee

Defendant

The Society for the Prevention of Trademark Abuse, LLC as successor in interest to Central Mfg. Inc and Stealth Industries, Inc.

represented by **Lance G. Johnson**
Roylance, Abrams, Berdo & Goodman LLP
1300 19th Street, NW
Suite 600
Washington , DC 20036
202 659 9076
ATTORNEY TO BE NOTICED

Barack Ferrazzano Kirschbaum & Nagelberg LLP

represented by **Barack Ferrazzano Kirschbaum & Nagelberg LLP**
ATTORNEY TO BE NOTICED

V.

Movant

Leo Stoller

represented by **Leo Stoller**
7115 W. North Avenue
Oak Park, IL 60302
(312)545-4554
PRO SE

V.

Trustee

Richard M. Fogel, not individually, but as chapter 7 trustee of the bankruptcy estate of Leo Stoller

Date Filed	#	Docket Text
01/19/2007	1	COMPLAINT filed by Google Inc; (eav,) (Entered: 01/22/2007)
01/19/2007	2	CIVIL Cover Sheet (eav,) (Entered: 01/22/2007)
01/19/2007	3	ATTORNEY Appearance for Plaintiff Google Inc by Michael Thomas Zeller (eav,) (Entered: 01/22/2007)
01/19/2007	4	ATTORNEY Appearance for Plaintiff Google Inc by William John Barrett (eav,) (Entered: 01/22/2007)
01/19/2007	5	NOTIFICATION of Affiliates pursuant to Local Rule 3.2 by Google Inc (eav,) (Entered: 01/22/2007)
01/19/2007	7	SUMMONS Issued as to Defendant Central Mfg. Inc. (eav,) (Entered: 01/22/2007)
01/30/2007	8	MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc. to interplead (Exhibits) (eav,) Additional attachment(s) added on 1/31/2007 (eav,). (Entered: 01/31/2007)
01/30/2007	9	MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc. to suspend pending the Appeal to lift the automatic stay for Google to sue the debtor Leo Stoller (Exhibits) (eav,) (Entered: 01/31/2007)
01/30/2007	10	MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc. to suspend pending the Trademark trial and Appeal Board's decision on the defendant's motion for summary judgment (eav,) (Entered: 01/31/2007)
01/30/2007	11	MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc. to suspend (eav,) (Entered: 01/31/2007)
01/30/2007	12	NOTICE of Motion by Stealth Industries, Inc., Central Mfg. Inc. for presentment of motion to Interplead 9 , motion to Suspend 10 , motion to Suspend pending Appeal to lift automatic stay for Google to sue the Debtor, Leo Stoller, and 11 , motion to suspend pending the Trademark Trial and Appeal Board's Decision on the defendant's motion for summary judgment 8 before Honorable Virginia M. Kendall on 2/5/2007 at 9:00 AM. (eav,) (Entered: 01/31/2007)
01/30/2007	13	PRO SE Appearance by Leo Stolla (eav,) (Entered: 02/01/2007)
02/05/2007	15	MINUTE entry before Judge Virginia M. Kendall :Motion hearing held. Motion to interplead 8 ; Motion to suspend pending the Appeal to lift the automatic stay for Google to sue the debtor Leo Stoller 9 ; Motion to suspend pending the Trademark trial and Appeal Board's decision on the defendant's

		motion for summary judgment 10 ; and Motion to suspend 11 are entered and continued to 2/20/2007 at 9:00 AM. Responses due by 2/12/2007. No replies are necessary.Mailed notice (gmr,) (Entered: 02/06/2007)
02/06/2007	14	SUMMONS Returned Executed by Google Inc as to Stealth Industries, Inc. on 1/23/2007, answer due 2/12/2007; Central Mfg. Inc. on 1/23/2007, answer due 2/12/2007. (Barrett, William) (Entered: 02/06/2007)
02/06/2007	16	MOTION by Leo Stolla to intervene (eav,) (Entered: 02/07/2007)
02/06/2007	17	NOTICE of Motion by Leo Stolla for motion to intervene 16 before Honorable Virginia M. Kendall on 2/12/2007 at 9:00 AM. (eav,) (Entered: 02/07/2007)
02/07/2007	18	MINUTE entry before Judge Virginia M. Kendall :Motion to intervene 16 is entered and continued to 2/20/2007 at 09:00 AM. Any response shall be filed by 2/12/2007. No reply is necessary. The presentment date of 2/12/2007 for said motion is hereby stricken.Mailed notice (gmr,) (Entered: 02/07/2007)
02/12/2007	19	RESPONSE by Richard M. Fogel, not individually, but as chapter 7 trustee of the bankruptcy estate of Leo Stollerin Opposition to MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc.suspend 10 , MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc.interplead 8 , MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc.to suspend 9 , MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc.to suspend 11 , MOTION by Plaintiff Leo Stolla to intervene 16 *and Joinder to Responses of Google Inc.* (Alwin, Janice) (Entered: 02/12/2007)
02/12/2007	20	RESPONSE by Google Incin Opposition to MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc.interplead 8 , MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc.to suspend 9 , MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc.to suspend 11 , MOTION by Plaintiff Leo Stolla to intervene 16 (Barrett, William) (Entered: 02/12/2007)
02/12/2007	21	RESPONSE by Google Incin Opposition to MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc.suspend 10 (Barrett, William) (Entered: 02/12/2007)
02/12/2007	22	DECLARATION of Michael T. Zeller regarding response in opposition to motion 21 , response in opposition to motion, 20 by Google Inc (Attachments: # 1 Exhibit 1# 2 Exhibit 2# 3 Exhibit 3# 4 Exhibit 4# 5 Exhibit 5# 6 Exhibit 6# 7 Exhibit 7# 8 Exhibit 8# 9 Exhibit 9# 10 Exhibit 10# 11 Exhibit 11# 12 Exhibit 12# 13 Exhibit 13# 14 Exhibit 14# 15 Exhibit 15# 16 Exhibit 16# 17 Exhibit 17# 18 Exhibit 18# 19 Exhibit 19# 20 Exhibit 20# 21 Exhibit 21# 22 Exhibit 22# 23 Exhibit 23# 24 Exhibit 24# 25 Exhibit 25# 26 Exhibit 26# 27 Exhibit 27# 28 Exhibit 28# 29 Exhibit 29# 30 Exhibit 30)(Barrett, William) (Entered: 02/12/2007)
02/12/2007	23	MOTION by Plaintiff Google Inc for permanent injunction *(Stipulated)*, MOTION by Plaintiff Google Inc for judgment *(Final)* (Barrett, William) (Entered: 02/12/2007)

02/12/2007	24	NOTICE of Motion by William John Barrett for presentment of motion for permanent injunction, motion for judgment 23 before Honorable Virginia M. Kendall on 2/20/2007 at 09:00 AM. (Barrett, William) (Entered: 02/12/2007)
02/13/2007	25	SUPPLEMENT by Google Inc to declaration,, 22 *Supplemental Declaration of Michael T. Zeller* (Barrett, William) (Entered: 02/13/2007)
02/13/2007	26	CERTIFICATE by Google Inc of Service of the Permanent Injunction and Final Judgment as to Defendants Central Mfg. Inc. and Stealth Industries, Inc. (Proposed Order) (Barrett, William) (Entered: 02/13/2007)
02/13/2007	27	MEMORANDUM by Google Inc in support of motion for permanent injunction, motion for judgment 23 *Google Inc.'s Separate Memorandum in Support of Joint Motion for Entry of Stipulated Permanent Injunction and Final Judgment* (Barrett, William) (Entered: 02/13/2007)
02/15/2007	28	Notice of Filing Supplemental Authority by Leo Stolla ; Notice of filing (eav,) (Entered: 02/20/2007)
02/16/2007	30	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	29	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	31	REPLY by Defendant Leo Stolla to Trustee's Ominibus response in opposition to motions of debtor Leo Stoller to: (1) Intevenc; (II) Interplead; (III) Suspend proceeding for sixty days to retain counsel, for defendants; (IV) Suspend pending appeal to lift automactic 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	32	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	33	NOTICE of Motion by Leo Stolla for presentment of motion to dismiss 32 before Honorable Virginia M. Kendall on 3/7/2007 at 09:00 AM. (eav,) (Entered: 03/05/2007)
03/02/2007	35	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	36	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 21 (Exhibits); Notice. (smm) (Entered: 03/08/2007)

03/05/2007	34	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,) (Entered: 03/05/2007)
03/12/2007	37	MINUTE entry before Judge Virginia M. Kendall :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.Mailed notice (eav,) (Entered: 03/13/2007)
03/12/2007	38	MEMORANDUM Opinion and Order Signed by Judge Virginia M. Kendall on 3/12/2007:Mailed notice(eav,) (Entered: 03/13/2007)
03/13/2007	39	NOTICE of appeal by Leo Stoller regarding orders 37 , 38 ; Notice of Filing (Fee Due) (dj,) (Entered: 03/15/2007)
03/15/2007	40	TRANSMITTED to the 7th Circuit the short record on 3/15/07 notice of appeal 39 . Notified counsel (dj,) (Entered: 03/15/2007)
03/15/2007	41	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	42	NOTICE of Motion by Leo Stoller for presentment of motion for leave to appeal in forma pauperis 41 before Honorable Virginia M. Kendall on 3/19/2007 at 09:00 AM. (eav,) Modified on 5/4/2007 (tg,). (Entered: 03/16/2007)
03/15/2007	43	MOTION by Movant Leo Stoller under FRCP 59 and/or 60 (Exhibits) (eav,) (Entered: 03/16/2007)
03/15/2007	44	NOTICE of Motion by Leo Stoller for presentment of under FRCP 59 and/or 60 43 before Honorable Virginia M. Kendall on 3/19/2007 at 09:00 AM. (eav,) (Entered: 03/16/2007)
03/15/2007	45	NOTICE by Leo Stoller of filing motion for leave to appeal in forma pauperis 41 (eav,) (Entered: 03/16/2007)
03/15/2007	54	ACKNOWLEDGEMENT of receipt of short record on appeal regarding notice of appeal 39 ; USCA Case No. 07-1569. (smm) (Entered: 03/20/2007)
03/15/2007	55	CIRCUIT Rule 3(b) Notice. (smm) (Entered: 03/20/2007)
03/15/2007	57	MINUTE entry before Judge Virginia M. Kendall :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.Mailed notice Civil case terminated (eav,) (Entered: 03/20/2007)

03/15/2007	58	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	46	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,) Additional attachment(s) added on 3/16/2007 (gmr,). (Entered: 03/16/2007)
03/16/2007	47	RESPONSE by Google Incin Opposition to MOTION by Movant Leo Stoller for leave to appeal in forma pauperis 41 (Barrett, William) (Entered: 03/16/2007)
03/16/2007	48	NOTICE by Google Inc re response in opposition to motion 47 *Notice of Filing* (Barrett, William) (Entered: 03/16/2007)
03/16/2007	49	DECLARATION of Michael T. Zeller regarding response in opposition to motion 47 by Google Inc (Attachments: # 1 Exhibit A-G# 2 Exhibit H-J) (Barrett, William) (Entered: 03/16/2007)
03/16/2007	50	NOTICE by Google Inc re declaration 49 *Notice of Filing* (Barrett, William) (Entered: 03/16/2007)
03/19/2007	51	SUPPLEMENTAL NOTICE of appeal by Leo Stoller regarding orders 46 , 34 ;(Fee Due) (dj,) (Entered: 03/20/2007)
03/19/2007	52	DESIGNATION by Leo Stoller of the content of the record on appeal : USCA Case No. 07-1569 (dj,) (Entered: 03/20/2007)
03/19/2007	56	MINUTE entry before Judge Virginia M. Kendall :Motion hearing held on 3/19/2007. For the reasons stated on the record in open court, movant Stoller's motion for permission to appeal in forma pauperis 41 is granted.Mailed notice (eav,) (Entered: 03/20/2007)
03/19/2007	60	REPLY by Movant Leo Stoller to Google's opposition to motion for permission to appeal in forma pauperis (eav,) Modified on 5/17/2007 (vcf,). (Entered: 03/22/2007)
03/20/2007	53	TRANSMITTED to the 7th Circuit the short record on 3/20/07 notice of appeal 51 . Notified counsel (dj,) (Entered: 03/20/2007)
03/20/2007	61	ACKNOWLEDGEMENT of receipt of short record on appeal regarding notice of appeal 39 ; USCA Case No. 07-1612. (rp,) (Entered: 03/23/2007)
03/20/2007	62	CIRCUIT Rule 3(b) Notice. (rp,) (Entered: 03/23/2007)
03/21/2007	59	TRANSCRIPT of proceedings for the following dates: 2/5/07, 3/13/07 and 3/19/07; Before the Honorable Virginia M. Kendall (3 volumes) (eav,) (Entered: 03/22/2007)
03/21/2007	63	SUPPLEMENTAL NOTICE of appeal by Leo Stoller regarding orders 58 , 57 ; (Fee Due) (dj,). (Entered: 03/23/2007)
03/23/2007	64	TRANSMITTED to the 7th Circuit the short record on 3/23/07 notice of appeal 63 . Notified counsel (dj,) (Entered: 03/23/2007)

03/23/2007	65	ACKNOWLEDGEMENT of receipt of short record on appeal regarding notice of appeal 63 ; USCA Case No. 07-1651. (smm) (Entered: 03/27/2007)
03/23/2007	66	CIRCUIT Rule 3(b) Notice. (smm) (Entered: 03/27/2007)
03/27/2007	67	DESIGNATION of the content by Leo Stoller of record on appeal : USCA Case No. 07-1651 (dj,) (Entered: 03/28/2007)
03/27/2007	68	COPIES of TRANSCRIPTS of the hearing before the Honorable Virginia M. Kendall on March 13, 2007, 2) Transcript of the hearing before the Honorable Virginia M. Kendall on March 19, 2007 and 3) Transcript of the hearing before the Honorable Jack B. Schmetterer on March 1, 2007 by Leo Stoller; Notice. (td,) (Entered: 03/29/2007)
03/28/2007	69	DESIGNATION by Leo Stoller of Additional Content of the Record on Appeal. (rp,) (Entered: 03/30/2007)
04/10/2007	70	DESIGNATION by Leo Stoller of additional content of the record on appeal 46 : USCA Case No. 07-1651 (hp,) (Entered: 04/12/2007)
04/12/2007	71	TRANSMITTED to the USCA for the 7th Circuit the long record on appeal 51 , 39 , 63 (USCA no. 07-1569, 07-1612 and 07-1651) consisting of 1 volume of pleadings, 2 loose pleadings and 3 transcripts. (dj,) (Entered: 04/12/2007)
04/12/2007	72	TRANSCRIPT of proceedings for the following dates: 02/20/07 before the Honorable Virginia M. Kendall. (ar,) (Entered: 04/13/2007)
04/12/2007	74	USCA RECEIVED on 4/12/07 the long record regarding notice of appeal 51 , 39 , 63 ; (07-1569, 07-1612 and 07-1651) (dj,) (Entered: 04/17/2007)
04/13/2007	73	TRANSMITTED to the USCA for the 7th Circuit supplemental record on appeal, 51 39 and 63 , (USCA nos. 07-1569, 07-1612, and 07-1651) consisting of one transcript 72 . Mailed copies of USCA transmittal letter and certificate to counsel of record. (ar,) (Entered: 04/13/2007)
05/10/2007	75	MOTION by Movant Leo Stoller for leave to file designation of supplemental content of record on appeal. (smm) (Entered: 05/11/2007)
05/10/2007	76	NOTICE of Motion by Leo Stoller for presentment of motion for leave to file designation of supplemental content of record on appeal 75 before Honorable Virginia M. Kendall on 5/14/2007 at 9:00 A.M. (smm) (Entered: 05/11/2007)
05/10/2007	79	DESIGNATION of supplemental content of record on appeal by Leo Stoller; Notice. (smm) (Entered: 05/16/2007)
05/11/2007	77	RESPONSE by Google Incin Opposition to MOTION by Movant Leo Stoller for leave to file 75 (Barrett, William) (Entered: 05/11/2007)
05/14/2007	78	MINUTE entry before Judge Virginia M. Kendall :Motion for leave to file designation of supplemental content of record on appeal 75 is denied as moot.Mailed notice (gmr,) (Entered: 05/14/2007)
05/16/2007	80	DESIGNATION of additional content of the record on appeal by Leo Stoller (Exhibit); Notice. (smm) (Entered: 05/18/2007)

05/16/2007	81	DESIGNATION of supplemental content of record on appeal by Leo Stoller (Exhibits); Notice. (smm) (Entered: 05/18/2007)
05/31/2007	82	NOTICE by William John Barrett of Change of Address (Barrett, William) (Entered: 05/31/2007)
08/08/2007	83	CERTIFIED copy of order dated 8/7/2007 from the 7th Circuit regarding notice of appeal 51 , notice of appeal 39 , notice of appeal 63 ; Appellate case no. : 07-1569, 07-1612, 07-1651 It is ordered that the #1 and #3 are Denied. It is further Ordered that Stoller is fined $10,000, payable to the Clerk of this Court. If this fine is not paid within 14 days, we will enter an order under Support Systems, Int'l, Inc. v. Mack, 45 F.3d 185 (7th Cir. 1995), directing the clerks of all the federal courts in this circuit to return unfiled any papers submitted either directly or indirectly by or on behalf of Stoller unless and until he pays in full the sanction that has been imposed against him. (rp,) (Entered: 08/13/2007)
04/24/2008	84	LETTER from the USCA retaining the record on appeal in USCA no. 07-1569, 07-1612, 07-1651 consisting of one volume of pleadings, two volumes of loose pleadings and four volumes of transcripts. (kjc,) (Entered: 04/28/2008)
04/24/2008	85	MANDATE of USCA dated 4/2/2008 regarding notice of appeal 51 , notice of appeal 39 , notice of appeal 63 ; USCA No. 07-1569, 07-1612, 07-1651 ; The ruling on the motions to intervene and the final judgment Vacated and the case Remanded for further proceedings, in accordance with the decision of this court entered on this date. (kjc,) (Entered: 04/28/2008)
04/24/2008	86	OPINION from the USCA for the 7th Circuit; Argued 4/2/2008; Decided 4/2/2008 in USCA case no. 07-1569, 07-1612 & 07-1651. (kjc,) (Entered: 04/28/2008)
05/02/2008	87	MINUTE entry before Judge Virginia M. Kendall: Status hearing set for 5/15/2008 at 09:00 AM. Mailed notice. (kw,) (Entered: 05/02/2008)
05/12/2008	88	MOTION to withdraw as attorney *for Plaintiff, Google, Inc.* (Barrett, William) (Entered: 05/12/2008)
05/12/2008	89	NOTICE of Motion by William John Barrett for presentment of motion to withdraw as attorney 88 before Honorable Virginia M. Kendall on 5/15/2008 at 09:00 AM. (Barrett, William) (Entered: 05/12/2008)
05/14/2008	90	ATTORNEY Appearance for Plaintiff Google Inc by Jonathan M. Cyrluk (Cyrluk, Jonathan) (Entered: 05/14/2008)
05/14/2008	91	MOTION by Plaintiff Google Inc to substitute attorney, MOTION by counsel for Plaintiff Google Inc to withdraw as attorney (Cyrluk, Jonathan) (Entered: 05/14/2008)
05/14/2008	92	NOTICE of Motion by Jonathan M. Cyrluk for presentment of motion to substitute attorney, motion to withdraw as attorney 91 before Honorable Virginia M. Kendall on 5/20/2008 at 09:00 AM. (Cyrluk, Jonathan) (Entered: 05/14/2008)

05/15/2008	93	MINUTE entry before the Honorable Virginia M. Kendall: Status hearing held. Plaintiff's Motion to Withdraw Attorney William J. Barrett 88 and to Substitute Jonathan M. Cyrluk as Local Counsel 91 are granted. The Motion to Intervene is reinstated. Plaintiff to supplement the Motion by 6/9/2008; response due 6/30/2008; reply due 7/7/2008. Defendant must pay the fine as ordered by the 7th Circuit by 6/9/2008 or this case will be dismissed. Mailed notice. (kw,) Modified on 5/23/2008 (kw,). (Entered: 05/16/2008)
05/16/2008	94	MINUTE entry before the Honorable Virginia M. Kendall: Minute entry 93 is amended to reflect that the Defendant must pay his fine prior to the filing of any papers in this case. In all other respects the minute entry stands. Mailed notice. (kw,) (Entered: 05/16/2008)
05/23/2008	95	MINUTE entry before the Honorable Virginia M. Kendall: It has been brought to the Court's attention that electronic notice of minute entry 93 was not distributed. The Court hereby brings notice to all parties of the filing of minute order 93 . Paper copies of minute entries 93 and 94 will be mailed to all parties. Mailed notice. (kw,) (Entered: 05/23/2008)
06/03/2008	97	MOTION by Movant Leo Stoller to Suspend; Notice.(Exhibits)(Poor Quality Original - Paper Document on File)(vcf,) (Entered: 06/09/2008)
06/04/2008	96	LETTER from the Seventh Circuit returning the record on appeal in USCA no. 07-1569, 07-1612, 07-1651 consisting of one volume of pleadings, two volumes of loose pleadings and four volumes of transcripts. (kjc,) (Entered: 06/06/2008)
06/18/2008	98	MINUTE entry before the Honorable Virginia M. Kendall: Mr. Stoller is advised that all motions shall be presented to the court pursuant to Local Rule 5.3(a and b). Failure to comply with this rule may result in the striking of the motion. A copy of Local Rule 5.3 (a and b) was mailed to Mr. Stoller along with a copy of this order by the court's clerk.Mailed notice (jms,) (Entered: 06/18/2008)
06/25/2008	99	MOTION by Movant Leo Stoller to suspend. (vcf,) (Entered: 06/26/2008)
06/25/2008	100	NOTICE of Motion by Leo Stoller for presentment of motion to suspend 99 before Honorable Virginia M. Kendall on 6/30/2007 at 09:00 AM. (vcf,) (Entered: 06/26/2008)
06/30/2008	101	MINUTE entry before the Honorable Virginia M. Kendall:Motion hearing held. Plaintiff's motion to suspend 99 is entered and continued pending ruling on the pending motion.Advised in open court (jms,) (Entered: 06/30/2008)
06/30/2008	102	RESPONSE by Plaintiff Google Inc to motion to intervene 16 (Attachments: # 1 Declaration Michael T. Zeller, # 2 Exhibit 1, # 3 Exhibit 2, # 4 Exhibit 3) (Cyrluk, Jonathan) (Entered: 06/30/2008)
07/11/2008	103	MOTION by Movant Leo Stoller to file reply instanter. (Attachments: # 1 Response)(vcf,) (Entered: 07/14/2008)
07/11/2008	104	NOTICE of Motion by Leo Stoller for presentment of motion to file reply instanter 103 before Honorable Virginia M. Kendall on 7/17/2008 at 09:00 AM. (vcf,) (Entered: 07/14/2008)

07/14/2008	105	MINUTE entry before the Honorable Virginia M. Kendall:Mr. Stoller's motion to file reply instanter 103 is granted. Mailed notice (jms,) (Entered: 07/14/2008)
07/14/2008	106	REPLY by Leo Stoller to Google's response to supplement to motion to intervene 16 . (vcf,) (Entered: 07/15/2008)
03/31/2009	107	MINUTE entry before the Honorable Virginia M. Kendall:Stollers Motion to Suspend [97, 99 is denied without prejudice. For further details see attached minute order.Mailed notice (tlp,) (Entered: 03/31/2009)
06/30/2009	108	MINUTE entry before the Honorable Virginia M. Kendall:Movant Stollers motion to suspend is denied without prejudice. Movant Stoller may refile the motion if this Court allows him to intervene on remand.Mailed notice (jms,) (Entered: 06/30/2009)
08/17/2009	109	MINUTE entry before the Honorable Virginia M. Kendall: Stollers motion to Intervene is denied. The parties are directed to submit position papers regarding the extent to which Stollers corporations are subject to suit and when this case arose and as such the propriety of the involvement of the bankruptcy estate. The parties must submit such position papers by 9/9/2009.Mailed notice (jms,) (Entered: 08/17/2009)
08/17/2009	110	MEMORANDUM Opinion and Order Signed by the Honorable Virginia M. Kendall on 8/17/2009:Mailed notice(jms,) (Entered: 08/17/2009)
08/24/2009	111	MOTION by Movant Leo Stoller for reconsideration regarding its opinion dated August 17, 2009 109 (Exhibit) (hp,) (Entered: 08/24/2009)
08/24/2009	112	NOTICE of Motion by Leo Stoller for presentment of motion for reconsideration 111 before Honorable Virginia M. Kendall on 8/27/2009 at 09:00 AM. (hp,) (Entered: 08/24/2009)
08/25/2009	113	MINUTE entry before the Honorable Virginia M. Kendall:Mr. Stoller's motion for reconsideration 111 is taken under advisement. Response is to be filed by 9/9/2009. Reply is to be filed by 9/16/2009. Mr. Stoller's motion for an extension of time to file his position brief pursuant to this court's order of 8/17/2009 111 is granted in part. The parties are given to 9/30/2009 to file their position briefs on the extent to which Stollers corporations are subject to suit and when this case arose and as such the propriety of the involvement of the bankruptcy estate. Mailed notice (jms,) (Entered: 08/25/2009)
09/09/2009	114	RESPONSE by Google Incin Opposition to MOTION by Movant Leo Stoller for reconsideration regarding terminate motions, 109 111 *Google Inc.'s Response to Motion for Reconsideration* (Zeller, Michael) (Entered: 09/09/2009)
09/09/2009	115	AFFIDAVIT by Plaintiff Google Inc in Opposition to MOTION by Movant Leo Stoller for reconsideration regarding terminate motions, 109 111 *Declaration of Michael T. Zeller In Support of Google's Response to Motion for Reconsideration* (Attachments: # 1 Exhibit Exhibit 1)(Zeller, Michael) (Entered: 09/09/2009)
09/14/2009	116	REPLY by Leo Stoller to Google's response to motion for reconsideration 114

		(Exhibits); Notice. (smm) (Entered: 09/16/2009)
09/14/2009	117	EXHIBIT C by Movant Leo Stoller regarding reply to Google's response to motion for reconsideration 116 , (Attachment(s): #(1) Continuation of Exhibit C) 114 . (smm) Modified on 9/16/2009 (smm). (Entered: 09/16/2009)
09/14/2009	118	EXHIBIT D by Movant Leo Stoller regarding reply to Google's response to motion for reconsideration 116 , 114 . (smm) (Entered: 09/16/2009)
09/14/2009	119	EXHIBIT E by Movant Leo Stoller regarding reply to Google's response to motion for reconsideration 116 , 114 (Attachments: #(1) Continuation of Exhibit E).(Poor Quality Original - Paper Document on File.)(smm) (Entered: 09/16/2009)
09/14/2009	120	EXHIBIT F by Movant Leo Stoller regarding reply to Google's response to motion for reconsideration 116 , 114 .(Poor Quality Original - Paper Document on File.) (smm) (Entered: 09/16/2009)
09/30/2009	121	MEMORANDUM by Google Inc (Cyrluk, Jonathan) (Entered: 09/30/2009)
09/30/2009	122	DECLARATION of Michael T. Zeller regarding memorandum 121 (Attachments: # 1 Exhibit 1-19)(Cyrluk, Jonathan) (Entered: 09/30/2009)
09/30/2009	123	MOTION by Plaintiff Google Inc for judgment *and entry of stipulated permanent injunction* (Cyrluk, Jonathan) (Entered: 09/30/2009)
09/30/2009	124	DECLARATION of Michael T. Zeller regarding motion for judgment 123 *and entry of stipulated permanent injunction* (Attachments: # 1 Exhibit 1-7, # 2 Exhibit 8-17, # 3 Exhibit 18-26)(Cyrluk, Jonathan) (Entered: 09/30/2009)
09/30/2009	125	NOTICE of Motion by Jonathan M. Cyrluk for presentment of motion for judgment 123 before Honorable Virginia M. Kendall on 10/13/2009 at 09:00 AM. (Cyrluk, Jonathan) (Entered: 09/30/2009)
09/30/2009	126	CERTIFICATE of Service *of permanent injunction* by Jonathan M. Cyrluk on behalf of Google Inc (Cyrluk, Jonathan) (Entered: 09/30/2009)
09/30/2009	128	POSITION brief by Leo Stoller;Notice. # 1 Exhibit 1, # 2 Exhibit 1 contd) (vcf,). (Poor Quality Original - Paper Document on File.) (Entered: 10/02/2009)
09/30/2009	129	POSITION brief by Leo Stoller (Attachments: # 1 Exhibit 5-7, # 2 Exhibit 7-8). (Poor Quality Original - Paper Document on File.)(vcf,) (Entered: 10/02/2009)
10/01/2009	127	CERTIFIED copy of order dated 6/16/2009 from the USCA regarding notice of appeal 39 ; Appellate case no. : 07-1569, 07-1612 and 07-1651. The following is before the court: Notice of Sanction Payment, filed on June 3, 2008, by the pro se appellant. It is ordered that the court's order dated August 23,2007, imposing a filing bar in accordance with Mack, is Rescinded. Leo Stoller has paid the underlying sanction in full. The clerk of this court shall send a copy of this order to the clerks of all federal courts in this circuit. (vcf,) (Entered: 10/02/2009)
10/02/2009	130	MOTION for Leave to Appear Pro Hac Vice Filing fee $ 50, receipt number

		07520000000004155494. (Cyrluk, Jonathan) (Entered: 10/02/2009)
10/06/2009	131	MINUTE entry before the Honorable Virginia M. Kendall:Motion by Jonathan Cyrluk to file the appearance of Lance Johnson as appear pro hac vice 130 is granted. Mailed notice (jms,) (Entered: 10/06/2009)
10/07/2009	132	RESPONSE by Leo Stoller to MOTION Google Inc for judgment *and entry of stipulated permanent injunction* 123 ;Notice. (vcf,) (Entered: 10/09/2009)
10/13/2009	133	MINUTE entry before the Honorable Virginia M. Kendall:Motion hearing held regarding motion for judgment 123 . Court will issue an order shortly. Advised in opn court (jms,) (Entered: 10/16/2009)
10/16/2009	134	MINUTE entry before the Honorable Virginia M. Kendall:Stollers motion for reconsideration 111 is denied.Mailed notice (jms,) (Entered: 10/16/2009)
10/16/2009	135	MINUTE entry before the Honorable Virginia M. Kendall:Enter Permanent Injunction and Final judgment. Civil case terminated. Mailed notice (jms,) (Entered: 10/16/2009)
10/16/2009	136	PERMANENT INJUNCTION Signed by the Honorable Virginia M. Kendall on 10/16/2009:Mailed notice(jms,) (Entered: 10/16/2009)

PACER Service Center

Transaction Receipt

10/17/2009 14:52:28

PACER Login:	ls2729	**Client Code:**	
Description:	Docket Report	**Search Criteria:**	1:07-cv-00385
Billable Pages:	9	**Cost:**	0.72

C11

UNITED STATE DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GOOGLE, INC.,	)	
	)	
Appellee/Plaintiff	)	Appeal No: _____
	)	
v.	)	
	)	On appeal from the United States
	)	District Court, Northern District of
	)	Illinois, No. 1:07-cv-0385
CENTRAL MFG. INC., et al.,	)	Honorable Virginia J. Kendall
	)	decisions dated August 17, 2009,
Defendants.	)	and October 16, 2009
	)	
v.	)	
	)	
LEO STOLLER.,	)	
	)	
Intervenor/Appellant.	)	

FILED

OCT 19 2009

Oct 19 2009

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

NOTICE OF GRANTING *IN FORMA PAUPERIS* PETITION

NOW COMES the Appellant, LEO STOLLER, and attaches the order of Judge Virginia J. Kendall dated March 19, 2007, granting the Appellant *pauperis* status.

Respectfully submitted,

Leo Stoller
7115 W. North Avenue #272
Oak Park, Illinois 60302
(312) 545-4554

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	3/19/2007
CASE TITLE	Google Inc. Vs. Central Mfg. Inc., et al.		

DOCKET ENTRY TEXT

Motion hearing held. For the reasons stated on the record in open court, Movant Stoller's motion for permission to appeal in forma pauperis [41] is granted.

Docketing to mail notices.

00:07

	Courtroom Deputy Initials:	GR

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.	Civil Action No. 07 CV 385 Hon. Virginia M. Kendall

GOOGLE'S RESPONSE TO STOLLER'S PURPORTED "NOTICE OF GRANTING *IN FORMA PAUPERIS* PETITION"

Google Inc. ("Google") respectfully responds to Stoller's purported "Notice of Granting *In Forma Pauperis* Petition," filed October 19, 2009.

Stoller's reliance on a March 19, 2007 Order to show supposed in forma pauperis status today -- over two and a half years later -- is misleading and improper. Stoller has made no motion to proceed in forma pauperis on his recently filed appeal. Nor has he made the disclosures of his "assets and income" by sworn affidavit "in the form prescribed by Form 4" on such a motion.[1] The Form 4 affidavit, in turn, mandates financial disclosures that relate to an appellant's current financial condition or to an appellant's financial condition in the past six to twelve months.[2] Stoller's cursory reliance on a 2007 Order does not and cannot substitute for the financial disclosures covering these time periods required by the Form 4 affidavit.

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[1] Circuit Rule 3(b) Notice, docket entry 143, at 2 (in forma pauperis motion "must be supported by a sworn affidavit in the form prescribed by Form 4 of the Appendix of Forms to the Federal Rules of Appellate Procedure (as amended 12/01/98), listing the assets and income of the appellant(s)." (bold and italics omitted).

[2] E.g., Form 4 of the Appendix of Forms to the Federal Rules of Appellate Procedure, Question 1 (requiring for each source of income "the average amount of money received from each of the following sources during the past 12 months"), Questions 2-3 (requiring employment information up to present), Question 4 (requiring disclosure of current cash on hand and disclosure of bank accounts), Question 5 (requiring "asset" information up to present), Question

Furthermore, Stoller fails to disclose that the Seventh Circuit more recently considered his financial condition and ***rejected*** his requests that he be relieved from paying the required appeal fees. In doing so, the Seventh Circuit noted that Stoller had the financial wherewithal to pay the $10,000 sanction it had ordered in the prior appeal in this case -- a fact that indisputably shows Stoller is amply capable of paying routine court fees. Indeed, in the aftermath of that denial, and as a result of the obvious inconsistency between Stoller's in forma pauperis petition and his ability to pay the appeal fee after his petition was denied (as well as his earlier payment of the substantial sanction), the Seventh Circuit issued an OSC to Stoller as to why the Mack bar against him should not be reinstated. The Seventh Circuit has appointed the Honorable Geraldine Soat Brown to act as Special Master to determine the truthfulness of his claims to forma pauperis status. That proceeding remains on-going.[3] It would not be appropriate in such circumstances to permit Stoller to proceed in forma pauperis in this case, particularly where he has filed no motion here and failed to submit the required financial affidavit.

Stoller's purported Notice should be disregarded.

DATED: October 23, 2009

Respectfully submitted,

GOOGLE INC.

By: /s/ 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
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Jonathan M. Cyrluk (ARDC No. 6210250)
STETLER & DUFFY, LTD
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Chicago, Illinois 60603
(312) 338-0200 (tel.)/(312) 338-0070 (fax)
cyrlukj@stetlerandduffy.com

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6 (requiring disclosure of current debts), Question 7 (requiring disclosure of current dependents), Question 8 (requiring disclosure of "average monthly expenses" by specific categories), Question 9 (requiring statement as to whether appellant anticipates "any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months").

[3] The proceeding before Judge Brown is In Re Leo D. Stoller, Case No. 07-CV-5118. Copies of the relevant Seventh Circuit Orders are attached hereto for the Court's convenience.

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604

Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

ORDER

April 24, 2009

BEFORE

FRANK H. EASTERBROOK, Chief Judge
RICHARD A. POSNER, Circuit Judge
DIANE S. SYKES, Circuit Judge

No.: 08-4240	IN RE: LEO D. STOLLER, Debtor - Appellant
Originating Case Information:	
District Court No: 1:07-cv-05118 Northern District of Illinois, Eastern Division District Judge John W. Darrah	

Upon consideration of the MOTION FOR STAY, filed on April 20, 2009, by the pro se appellant,

IT IS ORDERED that the motion is DENIED.

In Stoller v. Pure Fishing, Inc., No. 07-1936, we warned Stoller that continued frivolous filings would result in sanctions. Stoller ignored this warning, and in In re Stoller, No. 07-1934, we fined Stoller $2,500 and explained that failure to pay that sum within 14 days would result in the entry of a filing bar in accordance with Suppor Sys. Int'l v. Mack, 45 F.3d 185, 186 (7th Cir. 1995) (per curiam). Stoller paid the fine a week later.

In Google, Inc. v. Central Mfg., Inc., Nos. 07-1569, 07-1612 & 07-1651, we sanctioned Stoller $10,000 for additional frivolous filings. A Mack bar was entered on August 23, 2007, and Stoller paid the $10,000 fine in June 2008.

Seven months later, in January 2009, Stoller moved for leave to proceed in forma pauperis in this case. Unsure how Stoller could have paid such a large fine so recently, yet now was virtually destitute, we ordered Stoller to show cause why this appeal should not be dismissed under 28 U.S.C. s 1915(e). We discharged the rule to show cause when Stoller suggested that it was his brother Christopher Stoller, who who Stoller says is now bankrupt, who provided the funds to pay the fine.

We denied Stoller leave to proceed on appeal in forma pauperis and Stoller has now paid the $455 filing fee. We note that in the affidavit supporting his motion for leave to proceed in forma pauperis, Stoller stated, under oath, that he subsisted only on the $589 per month he recives in Social Security benefits, and that he spends this entire amount each month.

Based on the inconsistency between the lack of discretionary income noted in Stoller's affidavit and the fact that he has paid the filing fee, the amount of the filing fee as compared to Stoller's stated monthly income, and Stoller's demonstrated ability to pay large fines when necessary, IT IS FURTHER ORDERED that Leo Stoller show cause why this appeal should not be dismissed pursuant to 28 U.S.C. s 1915(e)(2)(A). If we conclude that Stoller has been untruthful regarding his alleged indigency, the Mack bar will be reinstated. Stoller's response to this order shall be filed on or before May 1, 2009.

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604

Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

CERTIFIED COPY

A True Copy
Teste:

Deputy Clerk
of the United States
Court of Appeals for the
Seventh Circuit

ORDER

May 14, 2009

BEFORE

FRANK H. EASTERBROOK, Chief Judge
RICHARD A. POSNER, Circuit Judge
DIANE S. SYKES, Circuit Judge

No.: 08-4240	IN RE: LEO D. STOLLER, Debtor - Appellant
Originating Case Information:	
District Court No: 1:07-cv-05118 Northern District of Illinois, Eastern Division District Judge John W. Darrah	

On April 24, 2008, we ordered Stoller to show cause why this appeal should not be dismissed under 28 U.S.C. § 1915(e)(2)(A) for making false representations on his motion for leave to proceed in forma pauperis. Stoller has responded, and we permitted Pure Fishing, Inc., one of Stoller's creditors, to file a response as well.

IT IS ORDERED that this matter is referred to a Special Master for recommended disposition. The Honorable Geraldine Soat Brown, United States Magistrate Judge for the Northern District of Illinois, is appointed Special Master to take testimony, hear evidence, make appropriate submissions concerning this matter, and make a report and recommendation of the proper disposition of this appeal. Stoller contends that he has been truthful, but there appears to be contradictory evidence. The recommendation of the appropriate disposition of this appeal, in its present posture, depends principally on a determination of Stoller's honesty, and the Special Master should make any credibility findings that are required. The clerk of this court shall forthwith furnish the Special Master with a certified copy of this order, the relevant papers filed by the appellant in this court and orders this court has issued in this appeal, and any items in the court's files which the Special Master requires. As soon as practicable after the conclusion of any proceedings, the Special Master shall file with the clerk of this court any exhibits, transcripts or proceedings, or other evidence along with the Special Master's report and recommendation. The clerk of this court shall immediately mail notice to the parties of the filing of the Special Master's report. Within 15 days after such notice, the parties may file a response with this court. The clerk of the district court is appointed the agent of this court for purposes of issuance of summons and any other steps deemed necessary by the Special Master.

CERTIFICATE OF SERVICE

I, Jonathan M. Cyrluk, an attorney, certify that I caused copies of the foregoing **Google's Response to Stoller's Purported "Notice of Granting *In Forma Pauperis* Petition"** to be served on all counsel via the Court's CM/ECF online filing system and on:

Via U.S. Mail and Email Leo Stoller 7115 W. North Avenue, #272 Oak Park, IL 60302 E-Mail: ldms4@hotmail.com
Via U.S. Mail and Email Richard M. Fogel, Trustee Shaw, Gussis, Fishman, Glantz, Wolfson & Towbin, LLC 321 North Clark Street, Suite 800 Chicago, IL 60610 E-Mail: rfogel@shawgussis.com and rfogel@ecf.epiqsystems.com
Via U.S. Mail and Email Lance G. Johnson Roylance, Abrams, Berdo & Goodman LLP 1300 19th Street, NW Suite 600 Washington, DC 20036 E-Mail: ljohnson@roylance.com

via U.S. Mail and email where indicated this 23rd day of October, 2009.

/s/ Jonathan M. Cyrluk

MHN

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

GOOGLE INC
PLAINTIFF

07cv385

CASE NO. 07C385

VS.

Judge Kendall

CENTRAL MFG INC
DEFENDANT

ET AL

NOTICE OF FILING TRANSCRIPT

PROOF OF SERVICE

FILED
NOV 9, 2009
NOV - 9 2009
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

TO: STETLER + DUFFY LTD
11 S. LASALLE ST SUITE 1200
CHICAGO IL 60603

TO:

TO:

TRANSCRIPT FOR APPEAL

I, the undersigned (plaintiff / defendant), certify that on the 9th day of NOV, 2009, I served a copy of this NOTICE to each person whom it is directed by way of FIRST CLASS MAIL.

Name LEO STOLLER
Address 7115 W. NORTH AVE #272
City/Zip OAK PARK, IL 60302
Telephone 312-545-4554

Leo Stoller
SIGNATURE / CERTIFICATION

11-9-09
DATE

09:03:54

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

GOOGLE INC.,

Plaintiff,

vs.

CENTRAL MANUFACTURING, INC., et al.,

Defendants.

Docket No. 07 C 385

Chicago, Illinois
October 13, 2009
9:15 o'clock a.m.

TRANSCRIPT OF PROCEEDINGS - MOTION
BEFORE THE HONORABLE VIRGINIA M. KENDALL

APPEARANCES:

For the Plaintiff: STETLER & DUFFY, LTD.
BY: MR. JONATHAN M. CYRLUK
11 South LaSalle Street, Suite 1200
Chicago, IL 60603
(312) 338-0200

Pro Se: MR. LEO STOLLER
7115 W. North Avenue, Suite 272
Oak Park, IL 60302
(312) 545-4554

Court Reporter: MS. CAROLYN R. COX, CSR, RPR, CRR, FCRR
Official Court Reporter
219 S. Dearborn Street, Suite 1854-B
Chicago, Illinois 60604
(312) 435-5639

(The following proceedings were had in open court:)

10:04:35 THE CLERK: 07 C 385, Google Inc. v. Central Manufacturing et al.

10:04:45 MR. STOLLER: Good morning, your Honor; Leo Stoller.

10:04:47 THE COURT: Good morning, Mr. Stoller.

10:04:47 MR. CYRLUK: Good morning, your Honor; John Cyrluk on behalf of Google.

10:04:50 THE COURT: Good morning, Mr. Cyrluk.

10:04:51 Okay. I have the motion for the permanent injunction as to the defendants, and then Mr. Stoller has filed a response to the motion, and he's attempting to say that it's a fraud on the court and that it should not be entered essentially, correct?

10:05:04 MR. STOLLER: Your Honor, their order -- their request for the permanent injunction -- and I have to qualify myself as an expert in trademarks for over 30 years, having prosecuted over 200 oppositions successfully, and over cancelling more trademarks than anybody else in America, in fact; and in this building alone, I have been involved, as most of the judges know, in more District Court and trademark infringement cases than any other party. This agreement they are asking is predicated on the assignment in my bankruptcy proceeding that Mr. Fogel entered into with Lance Johnson. This assignment of the trademark -- my trademark rights under the law is a naked license. You had just indicated in a

conversation a few seconds ago about a trademark regarding this building and the openness as a trademark. You obviously understand source identifiers.

Under the Lanham Act -- and there is no bankruptcy exception -- no bankruptcy trustee can assign a trademark to a third party without assigning its goodwill and the mark has to be in use and not abandoned, and no trademark assignment has ever been held valid in any court in America which says the trademark is assigned as is, where is, and without any warranties.

THE COURT: Okay. Let me ask you, Mr. Stoller, based upon my ruling that I issued a few weeks back, do you have any standing now to intervene on this agreement that they have proposed?

MR. STOLLER: We have a motion for reconsideration --

THE COURT: Okay.

MR. STOLLER: -- regarding my intervention. Secondly, I have introduced a decision by Judge Hibbler, which you probably have seen, where he has in the identical situation previously ruled that I have standing to file an appeal from Judge Schemetterer in this identical matter, and I would argue that that presents a doctrine of res judicata issue before this court to deprive me of my right and standing in this proceeding. Judge Hibbler said, and I quote, to the bankruptcy court orders -- and I appreciate you giving me the

opportunity to put this into the record -- approved by the trustee's agreement with Google and Lanard Toys to enter into a compromise, these two orders involved discrete issues seriously affecting the appellant's substantive rights and may cause him irreparable harm. In addition, the court finds that the bankruptcy court's orders denying the motion to disqualify trustee is also final; therefore, this court, Judge Hibbler, holds these orders are final and appealable as to Leo Stoller's rights, giving me standing.

Secondly, and this is most important, Judge, in the event, which is now placed squarely before you and no other judge has ever ruled on it, you look at the assignment and you find that assignment to be a naked license, as I am sure you will, that acts as an abandonment. Under bankruptcy law, an abandonment means that the assets revert back to the debtor, so then I would have the sole standing. My argument and the law that I cited to you regarding that, and that's clear, and I want the court reporter to get this, in Williams v. United Technologies Carrier Corps, 310 F. Supp 1002, and this has also been sustained by the Seventh Circuit, SD, in 2004, this is a case similar to what we have here in which a party brought a lawsuit claiming that the debtor had no standing because he was in a bankruptcy proceeding and that right was given only to the trustee.

THE COURT: Okay. Let me hear from the other side.

10:09:00 MR. STOLLER: Let me just finish that, please.

10:09:02 THE COURT: I have read your paper, sir.

10:09:04 Go ahead.

10:09:05 MR. CYRLUK: Your Honor, what Mr. Stoller is saying is an improper collateral attack on Judge Schmetterer's order which was that what Mr. Stoller is referring to is appeal of that order to Judge Hibbler who allowed him to go forward with that appeal and then denied the appeal. Mr. Stoller then was able to appeal the order approving the assignment and the sale of the assets to the Seventh Circuit, which he did, but he didn't pay the fee, and that court -- that appeal is dead. He is out of any more rights to directly attack the order approving the sale.

10:09:44 THE COURT: Only if I were to reconsider my ruling, right, because he still has a motion to reconsider my ruling which says that he is not allowed to intervene.

10:09:52 MR. CYRLUK: Correct, but that's an apple and an orange, your Honor. The intervention has nothing to do with his rights to challenge the assignment. His intervention is somehow -- he says he somehow has a right to intervene because he used to be an owner or shareholder or was the alter ego of these corporate entities. We have cited in our opposition a litany of cases that even if he were the current president and shareholder of the defendant entities, he still wouldn't have the right to intervene. He's now two steps removed from being

10:10:23 the owner or shareholder of these entities, and so he even has
10:10:28 a less of a right to intervene.
10:10:30 I will note, your Honor, that the judgment, the
10:10:33 injunction, doesn't affect Mr. Stoller at all. And, in fact,
10:10:37 if you look at I think it's paragraph 10 of the draft
10:10:39 injunction, it specifically says that it doesn't affect Mr.
10:10:42 Stoller's rights. If he -- you know, we are not encouraging
10:10:46 him to do this, but if he somehow claims that he individually
10:10:49 has some rights to Google's mark, which he obviously doesn't,
10:10:54 nothing in the order that we drafted and in the agreement that
10:10:58 we have agreed upon with the current owners of the defendants
10:11:02 impacts those rights.
10:11:04 THE COURT: All right.
10:11:04 MR. STOLLER: But a naked license, your Honor, is a
10:11:07 naked license, and there is nothing under the law in any case
10:11:10 that sustains their rights under a naked license. And that
10:11:15 license is called a license in gross, and at the moment that
10:11:19 it was signed by Lance Johnson, it was void ab initio and they
10:11:26 have abandoned their rights. That's just a matter of law.
10:11:27 The bottom line is they're asking you to approve an
10:11:30 assignment, approve an agreement based on a naked license, and
10:11:34 if we got to take that up to the Seventh Circuit, so be it.
10:11:37 But the bottom line is there is nothing that makes that
10:11:40 valid --
10:11:41 THE COURT: Okay.

10:11:42 MR. STOLLER: -- under the law.

10:11:43 THE COURT: All right. First of all, based upon your motion to reconsider, which you will get a minute order today regarding, you have raised no new facts or law to provide for my change in ruling, and that will be my final judgment regarding the case that's pending before me regarding the permanent injunction and final judgment as to Central Manufacturing and Stealth Industries.

10:12:08 Aside from the reasons stated in the reply by the parties, as well as the fact that paragraph 10 excludes any rights that you may have or allegations or accusations regarding Google, I am going to enter that permanent injunction final judgment, and that leaves all of the matters that I have on my plate final which means that you can go back to the Seventh Circuit and request relief if I am incorrect in doing so.

10:12:36 MR. STOLLER: Okay. The last time we went through this drill, they reversed, and I would ask that you -- I would like to have leave of court to suspend ruling on the final and permanent injunction pending my appeal on the rule -- your rule that I am the intervention.

10:12:55 THE COURT: Okay. That request is denied, so you can bring it upstairs and see what they say. Okay?

10:13:00 MR. STOLLER: Fair enough.

10:13:01 MR. CYRLUK: Thank you, your Honor.

10:13:02 THE COURT: Thank you.

10:13:03 MR. STOLLER: Thank you.

(Which were all the proceedings had in the above-entitled cause on the day and date aforesaid.)

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Carolyn R. Cox

Carolyn R. Cox
Official Court Reporter
Northern District of Illinois

10-9-09
Date

/s/Carolyn R. Cox, CSR, RPR, CRR