

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA



CASE NO. 05-80387 CIV RYSKAMP/VTJ/NAC

RECEIVED
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIA
OCT 3 2006

STEVEN A. SILVERS, an individual,

Plaintiff,

v.

GOOGLE INC., a Delaware corporation,

Defendant.

**STELOR PRODUCTIONS, LLC'S MOTION FOR ORDER CONFIRMING
STELOR MAY PROCEED WITH DEPOSITIONS IT PREVIOUSLY
AGREED TO SCHEDULE FOR OCTOBER 9-11
TO ACCOMMODATE THE SCHEDULE OF MR. SILVERS**

Stelor Productions, LLC ("Stelor") hereby moves on the following grounds for entry of an order confirming that Stelor may proceed with the depositions of Mr. Silvers and four other witnesses related to its contract claims against Mr. Silvers, scheduled for October 9-11, 2006.

When Stelor previously attempted to take Mr. Silvers' deposition, he filed a motion for protective order claiming that the issues related to Stelor's contract claims were not included within the scope of phase I. [DE 102]. By order dated September 11, 2006, this Court denied Mr. Silvers' motion for protective order, and ordered that the deposition previously set by Stelor should proceed. [DE 119].

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The Court specifically ordered that the deposition was to include issues related to Stelor's cross-claim.

In light of that Order, Stelor has been attempting to schedule the few depositions it needs to conduct in connection with the contract claims against Mr. Silvers. The depositions are of

- (1) Mr. Silvers himself,
- (2) Paul Worsham who had submitted an affidavit on Mr. Silvers' behalf in the case previously pending before Judge Hurley, and
- (3) three former employees of Stelor whom Mr. Silvers has indicated he may call as witnesses at trial in this action.

STELOR SET THE DEPOSITIONS FOR OCTOBER 9-11 IN A GOOD FAITH EFFORT TO ACCOMMODATE MR. SILVERS' SCHEDULE

Stelor has been attempting in good faith to coordinate the Silvers deposition – and the four additional depositions needed on the cross claim issues – with the schedules of Mr. Silvers and counsel for Google. All of the parties confirmed their availability and agreed to the scheduling of those depositions on October 9-11, 2006. Accordingly, subpoenas and notices have been served, and the depositions were scheduled to proceed.

Although Stelor wanted to, and attempted to, set the depositions earlier, Mr. Silvers repeatedly advised that he was unavailable prior to that date because of out-

of-town travel commitments, and the Jewish Holidays. The week of October 9th was agreed upon primarily as an accommodation to him.

The parties' agreement, moreover, was reflected in Google's Unopposed Motion to Alter the Scheduling Order, filed on September 27, 2006. By Order dated September 29th, the Court granted that motion in part, but set an October 5, 2006 deadline for discovery on the contract claims. [DE 127]

Mr. Silvers is already under court order to appear for deposition, based on the Court's denial of his motion for protective order. Mr. Silvers, though, has advised that he will not appear for his deposition on the 9th in light of the September 29th Order. He has also advised that he remains unavailable for deposition on October 5, 2006, a date on which Stelor previously attempted to schedule the deposition. Stelor should not be prejudiced because it attempted to work with Mr. Silvers and counsel for Google to schedule these depositions at a mutually agreeable time.

**ALTERNATIVE MOTION TO COMPEL MR. SILVERS
TO APPEAR FOR DEPOSITION ON OCTOBER 5, 2006**

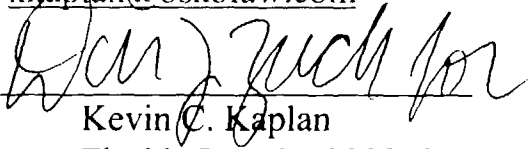
Alternatively, Stelor respectfully requests that the Court compel Mr. Silvers to appear for deposition on October 5, 2006.

WHEREFORE, Stelor respectfully requests that discovery deadline for the contract claims be extended to October 11, 2006, to allow Stelor to take these

depositions. Alternatively, Stelor requests an order compelling Mr. Silvers to appear for deposition on October 5, 2006.

Respectfully submitted,

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CERTIFICATE OF SERVICE AND CONFERENCE

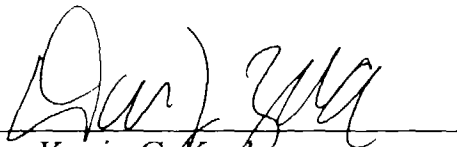
I HEREBY CERTIFY that a true copy of the foregoing was served via facsimile and United States Mail on this 3rd day of October, 2006 upon the following:

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