

EXHIBIT D

David Zack

From: Al-Salam, Ramsey M. (Perkins Coie) [RAlsalam@perkinscoie.com]
Sent: Wednesday, October 25, 2006 6:30 PM
To: Kevin C. Kaplan
Cc: David Zack; Calabria, Johanna (Perkins Coie)
Subject: RE: Silvers

Kevin:

Sorry I can't help you on this. If we have to withdraw one, we will withdraw the one on damages. If this is what the court intended, however, then I think it would have stricken that motion or told us to withdraw one. Anyway, I certainly don't think we are violating the court's order by trying to seek clarification.

Ramsey Al-Salam

Perkins Coie LLP
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From: Kevin C. Kaplan [mailto:kkaplan@bskblaw.com]
Sent: Wednesday, October 25, 2006 2:37 PM
To: Al-Salam, Ramsey M. (Perkins Coie)
Cc: David Zack
Subject: RE: Silvers

Ramsey,

Your email really does not address the problem. Basically, you say that Google is unclear about what the court intended, and you essentially ask us to wait to see if anything develops. In the meantime, you suggest we file a motion for enlargement, to which you would agree. If you believe some clarification is required, coupled with an enlargement of time for responses to the motion(s), then the burden should be on you to get that done.

In the meantime, the court's intention is clear to us: Google improperly filed 2 summary judgment motions. Recognizing that leave of court was required to do so, Google sought leave, and was denied it. In filing two motions prior to getting leave of court, Google took a chance that its request would be denied, as it was. Google now needs to withdraw one of its motions. By refusing to do so, Google is in violation of the Court's order, and is prejudicing Stelor, since Stelor has a deadline for responding to one motion, not two. Google needs to tell Stelor which motion to respond to. Essentially, Google is telling Stelor either file a motion for enlargement or guess which motion to respond to! That's not right, obviously.

Accordingly, Stelor renews its demand that Google immediately confirm which of its pending summary judgment motions is being withdrawn. Otherwise, Stelor will have no choice but to address the issue with the Court – an issue caused by Google's non-compliance with the Court's order.

10/26/2006

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From: Al-Salam, Ramsey M. (Perkins Coie) [<mailto:RAlsalam@perkinscoie.com>]
Sent: Wednesday, October 25, 2006 4:57 PM
To: Kevin C. Kaplan
Cc: David Zack; Calabria, Johanna (Perkins Coie)
Subject: RE: Silvers

Kevin:

We can't figure out what the court intended, and hope to get clarification in some manner. The issue, of course, is whether the court intended to make us put both together or, in the alternative, felt the damages motion should be withdrawn. We would also like to get a decision on the scope of phase one. If phase one is limited to the Silvers/Stelor dispute, that might affect our position, for the reasons we discussed. We are going to talk to our local counsel about the best way to accomplish these tasks. If you need an extension of time to respond in light of the uncertainty, we can agree to a reasonable extension.

Ramsey Al-Salam

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From: Kevin C. Kaplan [<mailto:kkaplan@bskblaw.com>]
Sent: Wednesday, October 25, 2006 1:44 PM
To: Al-Salam, Ramsey M. (Perkins Coie)
Cc: David Zack
Subject: Silvers

Ramsey,

Again, please confirm whether or not Google is withdrawing its summary judgment motion on monetary damages, and if not, what action Google will be taking in light of the Court's order of yesterday.

10/26/2006

Thanks.

Kevin

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