

# EXHIBIT B

UNITED STATES DISTRICT CIRCUIT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 05-80387 CIV RYSKAMP/VITUNIC

STEVEN A. SILVERS, an individual,  
Plaintiff,

v.

GOOGLE INC., a Delaware corporation,  
Defendant.

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GOOGLE INC., a Delaware corporation,  
Counterclaimant,

v.

STEVEN A. SILVERS, an individual;  
STELOR PRODUCTIONS, INC., a Delaware  
Corporation; STELOR PRODUCTIONS, LLC, a  
Delaware limited liability company,  
Counterdefendants.

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DEPOSITION OF STEVEN SILVERS  
VOLUME III

Friday, October 13, 2006  
11:46 a.m. - 2:00 p.m.  
2699 South Bayshore Drive  
Miami, Florida 33133

Reported By:  
Thomas R. Neumann  
Notary Public, State of Florida  
Network Reporting Corporation  
Phone: 888.358.8188  
305.358.8188

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1 APPEARANCES:  
 2 On behalf of the Plaintiff:  
 3 ROBERT H. COOPER, ESQUIRE  
 ROBERT H. COOPER, P.A.  
 4 2999 N.E. 191 Street  
 Suite 704  
 5 Aventura, Florida 33180  
 6  
 On behalf of the defendant Google:  
 7  
 JOHANNA CALABRIA, ESQUIRE (By telephone.)  
 8 PERKINS COIE LLP  
 Suite 2400  
 9 Four Embarcadero Center  
 San Francisco, California 94111  
 10  
 On behalf of defendant Stelor:  
 11 KEVIN C. KAPLAN, ESQUIRE  
 BURLINGTON, SCHWIEP, KAPLAN & BLONSKY, P.A.  
 12 2699 South Bayshore Drive  
 Penthouse  
 13 Miami, Florida 33133  
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P R O C E E D I N G S

- - -

1 Deposition taken before Thomas R. Neumann,  
 2 Registered Reporter and Notary Public in and for the  
 3 State of Florida at Large, in the above cause.  
 4  
 5  
 6  
 7 VIDEO OPERATOR: This is the videotape  
 8 deposition continuation of Steven Silvers taken  
 9 in the mater of Steven Silvers versus Google,  
 10 Inc. This deposition is being held at 2699  
 11 South Bayshore Drive, Miami, Florida. Today's  
 12 date is October 13, 2006. The time is 11:47  
 13 a.m. The court reporter's name is Tom Neumann  
 14 with the firm of Network Reporting. The  
 15 videographer is David Zeber with the firm of  
 16 Action Video. Will counsel now please  
 17 introduce themselves.  
 18 MR. KAPLAN: I'm Kevin Kaplan counsel for  
 19 the crossplaintiffs, Stelor Productions, LLC.  
 20 With me is my partner David Zack.  
 21 MR. COOPER: Robert Cooper on behalf of  
 22 Steven Silvers making a limited appearance for  
 23 the purpose of this deposition.  
 24 MS. CALABRIA: Johanna Calabria on behalf  
 25 of Google, Inc.

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I N D E X

D I R E C T C R O S S

1 WITNESS  
 2 STEVEN SILVERS  
 3 By Mr. Kaplan 278  
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1 MR. KAPLAN: Mr. Cooper, again we object  
 2 to the so-called limitation of your appearance.  
 3 MR. COOPER: So noted.  
 4 MR. KAPLAN: Would you swear the witness,  
 5 please.  
 6  
 7 Thereupon,  
 8 (STEVEN SILVERS)  
 9 having been first duly sworn or affirmed,  
 10 was examined and testified as follows:  
 11 DIRECT EXAMINATION  
 12 BY MR. KAPLAN:  
 13 Q Good morning, Mr. Silvers. You understand  
 14 this is a continuation of the deposition we started  
 15 two days ago.  
 16 A Yes.  
 17 Q Is there anything that you recall  
 18 testifying to on Tuesday that as you think back was  
 19 inaccurate or incorrect?  
 20 A Not at this time. I have to probably wait  
 21 until I reread the transcripts. At this time I  
 22 don't believe so.  
 23 Q As you think back on your testimony from  
 24 two days ago do you believe anything was -- any of  
 25 your testimony was incomplete in any way?

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1 A I would not be able to give you that  
 2 answer until I reread the transcripts.  
 3 Q Let me ask you a couple of general  
 4 questions about Stelor and your relationship with  
 5 it.  
 6 Is it important to you -- let me ask you  
 7 the question this way. Under the license  
 8 agreement while you agreed it was still in effect  
 9 was it important to you to watch out for Stelor's  
 10 interests?  
 11 MR. COOPER: Object to the form.  
 12 MS. CALABRIA: Object to form.  
 13 THE WITNESS: That I was responsible for  
 14 watching out for Stelor's interests. I would  
 15 think so. There was some language in there  
 16 that I had responsibility to that effect as my  
 17 licensee.  
 18 BY MR. KAPLAN:  
 19 Q You wanted to help do what you could to  
 20 protect Stelor's and for that matter your interests  
 21 with respect to the intellectual property, right?  
 22 MS. CALABRIA: Object to form.  
 23 MR. COOPER: Object to the form.  
 24 THE WITNESS: So long as they complied  
 25 with the caveats and mandates of the license

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1 agreement, yes.  
 2 BY MR. KAPLAN:  
 3 Q Certainly you agree that under the license  
 4 agreement you did not want to take any action to  
 5 jeopardize Stelor's interest, is that fair?  
 6 MS. CALABRIA: Object to form.  
 7 MR. COOPER: Same.  
 8 THE WITNESS: I would answer that by  
 9 saying that that is an accurate statement to  
 10 the extent that when I found out there was  
 11 possible breaches that I had to take care of my  
 12 interests first not Stelor's interests at that  
 13 point.  
 14 BY MR. KAPLAN:  
 15 Q You agree under the license agreement --  
 16 let me ask the question this way. Did you think you  
 17 had the right under the license agreement just to  
 18 make up a reason to terminate Stelor?  
 19 MS. CALABRIA: Object to form.  
 20 MR. COOPER: Object to the form.  
 21 THE WITNESS: Make up a reason? I don't  
 22 believe so.  
 23 BY MR. KAPLAN:  
 24 Q In other words, you could terminate the  
 25 license agreement on proper notice but only if there

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1 was a material breach by Stelor, right?  
 2 MR. COOPER: Object to the form.  
 3 THE WITNESS: I don't know that to be an  
 4 accurate statement. You are using material  
 5 breach. I know the document speaks for itself.  
 6 The license agreement has certain specifics.  
 7 As to whether or not I was able to allege a  
 8 breach, I spoke to counsel about that and they  
 9 advised me accordingly.  
 10 BY MR. KAPLAN:  
 11 Q Let's assume for a second that you  
 12 terminated Stelor at some point in time, terminated  
 13 the license agreement without a valid reason, just  
 14 make that assumption for a second.  
 15 What do you think Stelor's rights would  
 16 be? Could they fairly get the license agreement  
 17 reinstated?  
 18 MR. COOPER: Object to the form.  
 19 THE WITNESS: I don't know that to be a  
 20 fact, I'm not a lawyer. There is case law that  
 21 goes either way at this point. I can't give  
 22 you a definitive answer in that regard.  
 23 BY MR. KAPLAN:  
 24 Q What about in your view as the licensor,  
 25 would it be fair to Stelor for you to terminate the

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1 license without a valid reason and then take the  
 2 position that notwithstanding that the license is  
 3 over, would that be fair?  
 4 MR. COOPER: Object to the form.  
 5 THE WITNESS: I don't think it's a matter  
 6 of the question of being fair or not fair. I  
 7 don't think that I purposely terminated the  
 8 agreement -- license agreement between myself  
 9 and Stelor for no reason.  
 10 I'm sure the reasons that I alleged in the  
 11 violation letter and the termination letter and  
 12 the advice of counsel that the reasons were,  
 13 you know, proper and that's my answer.  
 14 BY MR. KAPLAN:  
 15 Q But is it your position as the licensor  
 16 that you can terminate the license agreement any  
 17 time with or without a valid reason and the effect  
 18 of that is the license is over whether you are right  
 19 or wrong, is that your position?  
 20 MR. COOPER: Object to the form.  
 21 THE WITNESS: No. I believe the document  
 22 speaks for itself. The license agreement has  
 23 language in there, I believe, that stipulates,  
 24 if I'm not mistaken, on 60-days notice either  
 25 party may terminate the agreement. I can't

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1 remember the exact verbiage, but that's not my  
 2 position.  
 3 BY MR. KAPLAN:  
 4 Q Do you agree that if you terminate the  
 5 license and you do not have a good reason or a valid  
 6 reason for doing it that the license stays in  
 7 effect?  
 8 MR. COOPER: Object to the form.  
 9 THE WITNESS: I don't have that answer. I  
 10 don't have an answer definitive one way or the  
 11 other on that question. That's as a matter of  
 12 law.  
 13 BY MR. KAPLAN:  
 14 Q Well, what do you think is fair in your  
 15 view as the licensor?  
 16 MR. COOPER: Object to the form.  
 17 BY MR. KAPLAN:  
 18 Q Is it fair -- would it be fair to Stelor  
 19 for the license just to be over even if you  
 20 terminate it without a valid reason?  
 21 A Stelor, I'm sure, has good counsel --  
 22 MR. COOPER: Object to the form.  
 23 THE WITNESS: -- to advise them about  
 24 their remedies in that regard. Now, whether it  
 25 was fair or not is a matter for the court and

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1 jury to determine.  
 2 BY MR. KAPLAN:  
 3 Q What do you think as licensor --  
 4 MR. COOPER: Same objection.  
 5 THE WITNESS: I don't have an opinion to  
 6 share with you.  
 7 BY MR. KAPLAN:  
 8 Q Let me hand you what was previously marked  
 9 as Exhibit 113, which we were talking about when the  
 10 deposition concluded two days ago. That's your  
 11 declaration, Mr. Silvers, correct?  
 12 A Yes.  
 13 Q The declaration you signed and had your  
 14 lawyers file in the action that was pending before  
 15 Judge Hurley, right?  
 16 A I believe so, yes.  
 17 Q Take a look at paragraph 18 of that  
 18 declaration if you would.  
 19 A Yes.  
 20 Q You say in the last sentence there that,  
 21 "Stelor failed to oppose other parties' federal  
 22 registration of the Google mark for a variety of  
 23 goods." Is that -- do you stand by that statement?  
 24 MR. COOPER: Object to the form.  
 25 THE WITNESS: From the knowledge that I

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1 was given by counsel at the time that this --  
 2 MR. COOPER: Hang on. If you are only  
 3 answering based on attorney-client privilege  
 4 communications then I'm instructing you not to  
 5 answer and insert the privilege objection.  
 6 THE WITNESS: Okay. I would assert the  
 7 privilege objection then.  
 8 BY MR. KAPLAN:  
 9 Q Well, whose application or whose  
 10 registration did Stelor fail to oppose?  
 11 A I don't recall. It might have been  
 12 Google, I'm not sure. It might have been Google's  
 13 and Google, I'm not sure. I'm reading what I'm  
 14 reading, but I'm not sure of the exact parties that  
 15 were involved at this time.  
 16 Q As you sit here today do you recall what  
 17 the basis for that statement in this declaration  
 18 was?  
 19 A I believe there were a number of parties  
 20 that I might have brought to the attention of my  
 21 counsel that I had believed Stelor had failed to  
 22 oppose, but as I sit here today I can't recall other  
 23 than Oogles and Googles.  
 24 Q That's OOGLES and --  
 25 A Googles.

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1 Q GOOGLES?  
 2 A Yes, and then there was, of course,  
 3 Google, I believe, and I'm not sure of the others.  
 4 I'm sure there were some others but I can't recall.  
 5 Q Of course as of the time of this  
 6 declaration Stelor had office actions pending in  
 7 front of the Trademark Trial and Appeal Board  
 8 related to Google, Inc., correct?  
 9 A I don't know that to be a fact. Counsel,  
 10 if you say so and the dates are accurate then I  
 11 cannot argue that.  
 12 Q And also Stelor had brought an office  
 13 action against Oogles and Googles, correct?  
 14 A I think after the fact that they brought  
 15 an office action against them after I had made it  
 16 known to Mr. Esrig via correspondence -- I believe  
 17 it might have been verbal that that was something he  
 18 needed to look into immediately because I was  
 19 getting concerned about the opposition coming to an  
 20 end.  
 21 Q Oh, so you advised Stelor of the problem  
 22 and they immediately took action to address it  
 23 including instituting an office action against  
 24 Oogles and Googles, right?  
 25 MR. COOPER: Object to the form.



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1 THE WITNESS: No. He didn't do it for a  
 2 long time. If he did it it was months and  
 3 months and months later. I never was told  
 4 about it. I found out about it later. I don't  
 5 know how long it was after he was made aware  
 6 and there was others -- excuse me. There were  
 7 other companies. Now I'm getting my memory  
 8 back, Aston Products, federal registration  
 9 involving a product called Googles or Pet Toys  
 10 for Children -- excuse me, Pet Toys for  
 11 Animals. That opposition -- that information  
 12 was brought to Mr. Esrig and Stelor's attention  
 13 on numerous occasions. To this day I don't  
 14 know if they did anything with that federal  
 15 opposition and 016 class code for I think 02A  
 16 close code.  
 17 BY MR. KAPLAN:  
 18 Q Anything else?  
 19 A I cannot recall, but I'm pretty certain  
 20 that there were other federal registrations that I  
 21 brought to the attention of Stelor that I believe to  
 22 this day have not been properly addressed.  
 23 Q Any mention of any of those issues in your  
 24 April 27, 2005 letter which is marked as Exhibit  
 25 111?

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1 A I'm not sure. I know they were mentioned  
 2 in the violation letter that was sometime in January  
 3 in correspondence with Mr. Esrig during our  
 4 relationship.  
 5 Q Take a look at the January letter, the  
 6 November letter that's attached there. Do you see  
 7 that?  
 8 A Okay.  
 9 Q Where specifically in the November 12,  
 10 2004 letter does it tell Stelor what action it  
 11 failed to take to oppose trademark applications?  
 12 A No. I'm referring to correspondence that  
 13 I had specifically with Mr. Esrig and his board of  
 14 directors that was sent to him with my violations  
 15 that I had put him on notice by characterizing the  
 16 letter as an official notice of breach, and I'm  
 17 pretty certain that you have those documents. That  
 18 was before I retained counsel.  
 19 Q You agree there is no reference to any of  
 20 that in what I've handed you as Exhibit 111,  
 21 correct?  
 22 MR. COOPER: Object to the form.  
 23 THE WITNESS: I would have to say yes,  
 24 that's accurate.  
 25

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1 BY MR. KAPLAN:  
 2 Q Would you hand me back Exhibit 111,  
 3 please.  
 4 A Yes.  
 5 Q Take a look at the next paragraph of your  
 6 declaration where it talks about Stelor's failure to  
 7 obtain product liability insurance. In fact, you  
 8 now know Stelor did obtain that insurance, correct?  
 9 A They obtain that insurance, I believe,  
 10 after the fact and at the time it was not for the  
 11 proper amount. It was \$1 million less than what it  
 12 was supposed have been from what I can recall to the  
 13 best of my knowledge. I also put Mr. Esrig and  
 14 Stelor on notice about that.  
 15 Q When?  
 16 A I'm not sure. And I believe they failed  
 17 to correct that problem within the proper timeframe,  
 18 and then eventually we did get some documentation.  
 19 As I sit here I'm trying to recall something that  
 20 came to me FedEx with documentation of the updated  
 21 insurance plan or policy which I sent to my counsel  
 22 KTT law at the time.  
 23 Q Take a look at page 7 of the declaration  
 24 if you would.  
 25 A Okay.

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1 Q Do you see paragraph G where you refer to  
 2 the issue of providing samples of any license  
 3 product and you say, "Other than the two Googles  
 4 music compact disks provided after the settlement  
 5 agreement." So you did receive samples of those  
 6 compact discs, correct?  
 7 A I received a demo product which I was not  
 8 told or instructed that that was the final sample or  
 9 the final production sample of a Spanish version and  
 10 a English version of the two CDs that were  
 11 supposedly made available on i-Tunes.  
 12 Q You say here you received two Googles  
 13 music compact discs. Is that statement true or  
 14 false?  
 15 A I received two compact Googles music discs  
 16 after the settlement agreement.  
 17 Q So as of the time of your declaration you  
 18 had received those two music compact discs, correct?  
 19 A I believe so.  
 20 Q Alright. Will you hand me back your  
 21 declaration, please.  
 22 A (Witness complies.)  
 23 Q I'm going to hand you what I'm marking as  
 24 Exhibit 118, which is a copy of a declaration filed  
 25 by your former counsel Gail McQuilkin. I want to

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1 just ask you about one exhibit that's attached to  
 2 that. Let me turn to that page. Just give me one  
 3 second. It's Exhibit FFF.  
 4 (Deposition Exhibit 118 was  
 5 marked for identification.)  
 6 MS. CALABRIA: Kevin, is this the April  
 7 29th letter?  
 8 MR. KAPLAN: No. This is Gail McQuilkin's  
 9 June 17th declaration.  
 10 MS. CALABRIA: Give me one second, please.  
 11 Let me try to find it.  
 12 The first or second action?  
 13 MR. KAPLAN: 80393.  
 14 MS. CALABRIA: Was that the first or the  
 15 second?  
 16 MR. KAPLAN: Second.  
 17 MS. CALABRIA: Okay, go ahead.  
 18 BY MR. KAPLAN:  
 19 Q Okay. Is that a declaration that you  
 20 signed, Mr. Silvers?  
 21 A Yes.  
 22 Q Did you understand that form to be  
 23 something that confirmed you were making those  
 24 statements under oath?  
 25 A That's what it says.

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1 Q This is like an affidavit, right?  
 2 A That's what it says.  
 3 Q It says you paid to the Aurora Collection  
 4 the amounts reflected in a chart, but I don't see  
 5 that chart attached. That statement was true, that  
 6 you paid those amounts to the Aurora Collection?  
 7 A If I said that that's what it was.  
 8 Q How did you pay, cash, check?  
 9 A By check, I believe.  
 10 Q Why couldn't you just provide copies of  
 11 the checks to Stelor?  
 12 A Because the checks were made payable to  
 13 the Aurora Collection not to the insurance company.  
 14 The only person that could prove that the checks  
 15 were being made to the insurance company on my  
 16 behalf was the Aurora Collection who directly made  
 17 the checks from their company, deposited it  
 18 directly to -- excuse me, sent directly to  
 19 Neighborhood Health Partnership, the insurance  
 20 company. And that was made clear to Stelor that  
 21 that's the way it was going to be handled.  
 22 I probably could have had no problem  
 23 supplying checks, but the checks would have been  
 24 shown they were made payable to the Aurora  
 25 Collection not to the insurance company.

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1 So then we would have had the issue of  
 2 what I was paying checks to the Aurora for. Check  
 3 came to me, I took the check and sent it to the  
 4 Aurora Collection. The Aurora Collection turned  
 5 around and sent it to the insurance company, end  
 6 of story.  
 7 Q So you had the checks, right? The checks  
 8 that you paid to the Aurora, you had those, they  
 9 were readily available, correct?  
 10 A Yes. I had checks that I made payable to  
 11 Aurora for my monthly insurance premiums.  
 12 Q And you could easily have provided those  
 13 checks to Stelor, correct?  
 14 A They were never -- there was no checks  
 15 that were asked to be provided by Stelor. There was  
 16 documentation that was asked by me to provide Stelor  
 17 of health insurance premiums being paid by Aurora  
 18 not by Steven Silvers. Let's make that clear.  
 19 So I took the liberty of contacting the  
 20 CEO of the company of Aurora Collection, Ryan  
 21 Blumquist and he turned around provided  
 22 documentation -- proper documentation of the money  
 23 that was paid by me on behalf of my insurance that  
 24 was sent to the insurance company.  
 25 Q Mr. Silvers, I need you to answer the

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1 questions that I'm asking. I got a limited amount  
 2 of time left for the deposition, and if you are not  
 3 going to answer my questions then we will have an  
 4 issue when we get to the end of that time and I'm  
 5 not done with my questions.  
 6 I understand what you are saying but  
 7 that's not what I asked you. Listen to my  
 8 question and please answer what I asked.  
 9 You had the checks that you paid to  
 10 Aurora, correct?  
 11 A Yes.  
 12 Q You could easily have provided those  
 13 checks to Stelor, correct?  
 14 MR. COOPER: Object to the form.  
 15 THE WITNESS: If they would have asked me  
 16 to provide checks to them I could have easily  
 17 done that, that's correct.  
 18 BY MR. KAPLAN:  
 19 Q In fact, you refused to provide those  
 20 checks to Stelor, correct?  
 21 A No. I'm not sure that's an accurate  
 22 statement. Why would I refuse to provide checks to  
 23 Stelor?  
 24 Q Did your lawyer ever ask you to assemble  
 25 those checks to provide to Stelor?

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1 MR. COOPER: Hang on. Objection,  
 2 attorney-client privilege. Don't answer.  
 3 BY MR. KAPLAN:  
 4 Q Is it your testimony that no one asked you  
 5 to provide copies of your checks to Stelor?  
 6 A Repeat the question, please.  
 7 Q Is it your testimony that no one ever  
 8 asked you to provide copies of those checks to  
 9 Stelor?  
 10 A I don't recall. I don't remember and I  
 11 don't recall at this time.  
 12 Q Can I have that declaration back, please?  
 13 A One second, please.  
 14 Q Let me show you what I marked as  
 15 Exhibit 119. It's a declaration of Steven Esrig.  
 16 MR. COOPER: You don't have an extra copy  
 17 of 118, do you?  
 18 MR. KAPLAN: I don't, no.  
 19 BY MR. KAPLAN:  
 20 Q This is a declaration of Mr. Esrig that  
 21 was filed in case number 05-80393.  
 22 (Deposition Exhibit No. 119 was  
 23 marked for identification.)  
 24 BY MR. KAPLAN:  
 25 Q Do you recall seeing this?

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1 A I believe so.  
 2 Q Alright. Take a look if you would at  
 3 Exhibit B?  
 4 MS. CALABRIA: Mr. Kaplan, what's the date  
 5 of the declaration?  
 6 MR. KAPLAN: May 22, 2005, docket entry  
 7 16.  
 8 MS. CALABRIA: Okay.  
 9 THE WITNESS: Where am I going to find  
 10 Exhibit B?  
 11 MR. KAPLAN: Let me get it for you.  
 12 BY MR. KAPLAN:  
 13 Q I'm showing you a redacted e-mail from  
 14 Gail McQuilkin to me dated April 12, 2005. Did you  
 15 ever see this?  
 16 A No, I don't believe so.  
 17 Q Take a look at the second page, begins  
 18 finally how important I feel it is for us to stay  
 19 aligned and it continues. Did you see this e-mail  
 20 that your lawyer sent out?  
 21 A Can I finish reading it?  
 22 Q Please.  
 23 MS. CALABRIA: Which exhibit is that?  
 24 MR. KAPLAN: B as in boy.  
 25 (Pause.)

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1 THE WITNESS: Okay. What's the question  
 2 now?  
 3 BY MR. KAPLAN:  
 4 Q Did you see this e-mail before it was  
 5 sent?  
 6 A I don't think so.  
 7 Q Did you see it after it was sent?  
 8 A No, I don't believe so.  
 9 Q Your testimony is that this is the first  
 10 time you have ever seen this e-mail here today?  
 11 A No.  
 12 Q So you saw it in connection with the  
 13 action, right?  
 14 A No.  
 15 Q When did you see it?  
 16 A I think Mr. Esrig provided me a copy of it  
 17 when I met with him up in Maryland and showed me  
 18 some things that he felt may have been improper.  
 19 Q Take a look at the second page of the  
 20 e-mail. Look at the 5th sentence where your lawyer  
 21 writes, "I agree that this has gotten silly and I'm  
 22 sure the board would rather focus it's discussions  
 23 on the upcoming launch and trade show than obsessing  
 24 over these rather small advances to my client."  
 25 Were you aware that your lawyer made

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1 that statement to us in April of 2005 before you  
 2 terminated the license?  
 3 MR. COOPER: Hang on one second.  
 4 I'm going to object to the question on the  
 5 basis of attorney-client privilege and instruct  
 6 him not to answer.  
 7 BY MR. KAPLAN:  
 8 Q Did you agree that the so-called dispute  
 9 between you and Stelor had gotten silly as of that  
 10 time?  
 11 MS. CALABRIA: Object to form.  
 12 MR. COOPER: Object to the form.  
 13 THE WITNESS: Once again.  
 14 BY MR. KAPLAN:  
 15 Q Did you agree with your lawyer's statement  
 16 that this has gotten silly?  
 17 MS. CALABRIA: Object to form.  
 18 MR. COOPER: Same.  
 19 THE WITNESS: I agree with the fact that  
 20 it had gotten -- I don't know if the right word  
 21 is silly, but out of control, going the wrong  
 22 way. But I don't believe it would be  
 23 characterized as being silly. It was very  
 24 serious, if anything.  
 25

(Pages 295 to 298)



Page 299

1 BY MR. KAPLAN:  
 2 Q Did you agree that the issue related to  
 3 rather small advances to you?  
 4 A I don't believe so.  
 5 Q Is the statement that Ms. McQuilkin had  
 6 spent considerable time getting my client, that  
 7 would be you, to focus on what your client, that  
 8 would be Stelor, has and will accomplish, was that  
 9 statement true?  
 10 MR. COOPER: Can you read the question  
 11 back, please.  
 12 MR. KAPLAN: Let me ask it this way.  
 13 BY MR. KAPLAN:  
 14 Q Your lawyer writes, "I have spent  
 15 considerable time getting my client to focus on what  
 16 your client has and will accomplish." Was that  
 17 statement true?  
 18 MR. COOPER: Hang on a second. I'm going  
 19 to object to the question as worded on the  
 20 basis of attorney-client privilege and instruct  
 21 you not to answer.  
 22 MR. KAPLAN: Clearly if she wrote that in  
 23 an e-mail. She waived it as to that.  
 24 MR. COOPER: We can bring it up with the  
 25 court.

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1 MR. KAPLAN: Okay.  
 2 BY MR. KAPLAN:  
 3 Q Were you really very happy with the  
 4 project and excited about the launch and upcoming  
 5 show?  
 6 A I have to say that I was excited about the  
 7 upcoming show and the potential of the launch. I  
 8 was concerned about some issues involving protection  
 9 of the property that I expressed to Stelor verbally  
 10 and in writing about not being protected  
 11 internationally. But I would have to say that I was  
 12 kind of excited about the potential of what was  
 13 going to be happening at the show.  
 14 Q Did you agree that the potential was the  
 15 result of the work and investment made by everyone  
 16 at Stelor?  
 17 MR. COOPER: Object to the form.  
 18 THE WITNESS: I didn't know what was going  
 19 to be at the show. I couldn't have made that  
 20 statement until I saw what was physically there  
 21 at the show, what they had planned to do at the  
 22 launch.  
 23 BY MR. KAPLAN:  
 24 Q To your knowledge did your lawyer ever  
 25 send a retraction of those statements?

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1 A I don't believe so. I'm not sure, not to  
 2 my knowledge.  
 3 Q Hand me that back. I want to direct your  
 4 attention to Exhibit C.  
 5 Take a look at this which appears to be  
 6 a November 5, 2003 letter from you to Stelor  
 7 Productions. Can you identify it as that and then  
 8 turn to page 4?  
 9 A Okay.  
 10 Q Is that a letter you wrote to Stelor?  
 11 A I'm sure it is, yes.  
 12 Q On or about November 5, 2003?  
 13 A Uh-huh.  
 14 Q You got to answer out loud.  
 15 A Yes, I'm sorry, yes.  
 16 Q Take a look at page 4 of that letter?  
 17 A Okay.  
 18 Q The part that's got the asterisk around  
 19 it, actually a little above it says, "I'm likewise  
 20 further informing Stelor as follows. You and the  
 21 board have expressed a concern that I may attempt  
 22 now or perhaps at some point in the future to  
 23 exercise my authority given the fact that I  
 24 currently control the googles.com and other Googles  
 25 related domain names that I own, authority that may

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1 include the shutting down of the googles.com Web  
 2 site." Did you recognize at the time that the board  
 3 had that concern?  
 4 A Yes.  
 5 Q And you assured the board that you would  
 6 not do that unless and until a court ruled on the  
 7 issue of whether there was a material breach, right?  
 8 A No. Where does it say that?  
 9 Q "I'm willing, assuming that we can  
 10 amicably resolve the aforementioned issues, to  
 11 assure Stelor with the exception of a material  
 12 breach by Stelor and ruled as such by a court of  
 13 competent jurisdiction that at that time and only at  
 14 such time shall I then determined what would be in  
 15 the best interest of my intellectual property and  
 16 the rights associated with same." Did you make that  
 17 assurance to Stelor?  
 18 MR. COOPER: Object to the form.  
 19 MS. CALABRIA: Object to form.  
 20 THE WITNESS: Yes, I did.  
 21 BY MR. KAPLAN:  
 22 Q And, in fact, upon sending your  
 23 termination letter in April 2005 before the court  
 24 ever determined the validity of your claimed  
 25 breaches, you took action, including trying to shut

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1 down the googles.com Web site, didn't you?  
 2 A Yes.  
 3 MR. COOPER: Object to the form.  
 4 BY MR. KAPLAN:  
 5 Q So what was the point of that assurance  
 6 that you gave to Stelor?  
 7 A Things had changed between our  
 8 relationship and basically what they had done they  
 9 didn't keep their word to me about specific things,  
 10 and I'm sure that my reasons were sound.  
 11 Q Is it fair to say that in taking those  
 12 actions in April of 2005 you did not stand by the  
 13 promise you made to Stelor in 2003, is that fair to  
 14 say?  
 15 A Two years is a long time for things have  
 16 changed.  
 17 Q So the answer to my question is yes,  
 18 correct?  
 19 A Yes.  
 20 Q Alright. Take a look at Exhibit E if you  
 21 would. That's an April 14, 2003 letter that I sent  
 22 to your lawyer Ms. McQuilkin. Do you recognize that  
 23 letter?  
 24 A I don't think I would have seen this  
 25 letter but that's okay.

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1 Q Take a look at the checks.  
 2 A Okay.  
 3 Q Do you recognize those checks?  
 4 A Yes.  
 5 Q You received those checks, your lawyer  
 6 received those checked?  
 7 A I believe so.  
 8 Q Your lawyer cashed those checks?  
 9 A No.  
 10 Q Are you sure about that?  
 11 A Let me see, hold on. I may have made a  
 12 mistake here, excuse me. Yes, I'm sorry. I think  
 13 these checks were involving the settlement agreement  
 14 action, and these were checks that were owed to me.  
 15 Q In fact, let me show you Exhibit 120,  
 16 copies of those cancelled checks with the  
 17 endorsement of your lawyer's at Kozyak Tropin; is  
 18 that correct?  
 19 (Deposition Exhibit No. 120 was  
 20 marked for identification.)  
 21 THE WITNESS: Yes, I believe so.  
 22 MS. CALABRIA: What are you marking as  
 23 Exhibit 120?  
 24 MR. KAPLAN: The four checks -- those  
 25 checks with the cancelled marks.

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1 THE WITNESS: These are '05, right, okay.  
 2 Before the termination.  
 3 MS. CALABRIA: And attached to an April  
 4 29th letter?  
 5 MR. KAPLAN: I don't know, they are  
 6 someplace.  
 7 MS. CALABRIA: Is the first one dated  
 8 4/28/05?  
 9 MR. KAPLAN: 3/7/05.  
 10 THE WITNESS: These were all checks that  
 11 were previously owed to me.  
 12 BY MR. KAPLAN:  
 13 Q Okay. And they were received by your  
 14 lawyers and cashed, right?  
 15 A Okay. So you have here -- there was only  
 16 two checks received by my lawyer and cashed. The  
 17 other ones were received by me, I believe, and  
 18 cashed. Pay to the order of Bank of America. These  
 19 checks here are for 5,000 and 5,000 and 5,000 were  
 20 paid to me so the payment was not to my lawyer. The  
 21 only checks that were paid to my lawyer were the  
 22 2,000, the 4,000 and 318.  
 23 Q So the first three checks in Exhibit 120  
 24 were paid to your lawyer and deposited by your  
 25 lawyer, correct?

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1 A Yes, and they subsequently, I think, gave  
 2 me a check for that amount.  
 3 Q And the next -- the last three checks were  
 4 paid directly to you and cashed by you, correct?  
 5 A Yes.  
 6 Q Hand me that exhibit back.  
 7 A (Witness complies.)  
 8 Q Okay. Let me show you a March 23, 2005  
 9 e-mail from Gail McQuilkin to me. Take a look at  
 10 this. I'm going to give Johanna the record site and  
 11 let me know when you are done reading it. That's  
 12 Exhibit 121.  
 13 (Deposition Exhibit No. 121 was  
 14 marked for identification.)  
 15 MS. CALABRIA: So what exhibit was that,  
 16 Kevin?  
 17 MR. KAPLAN: Hold on. It's in the Esrig  
 18 declaration, Exhibit H.  
 19 MS. CALABRIA: Repeat that.  
 20 MR. KAPLAN: That's in the supplemental  
 21 Esrig declaration, Exhibit E.  
 22 MS. CALABRIA: What's the docket entry?  
 23 MR. KAPLAN: 53.  
 24 BY MR. KAPLAN:  
 25 Q Are you finished reading this e-mail,

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1 Mr. Silvers?  
 2 A No.  
 3 (Pause.)  
 4 MS. CALABRIA: Okay. I have it.  
 5 THE WITNESS: Okay.  
 6 BY MR. KAPLAN:  
 7 Q Ever see this before?  
 8 A I don't recall. I think this might have  
 9 been another one of the correspondences that was  
 10 shared when I went up to a meeting with Mr. Esrig  
 11 not too long ago.  
 12 Q That was in about June of 2006?  
 13 A Yes.  
 14 Q When you saw this e-mail at that meeting  
 15 had you ever seen it before?  
 16 A I don't believe so.  
 17 Q Were you surprised when you saw it?  
 18 A Somewhat.  
 19 Q Why?  
 20 MR. COOPER: If the answer involves your  
 21 communications with your attorney I'll instruct  
 22 you on the basis of attorney-client privilege  
 23 not to answer. If you can otherwise answer the  
 24 question feel free to go ahead.  
 25 THE WITNESS: Why? I don't think I saw it

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1 before it was sent.  
 2 BY MR. KAPLAN:  
 3 Q But what about its content surprised you?  
 4 A I'm going to invoke the attorney-client  
 5 privilege.  
 6 Q Is it fair to say your lawyer was raising  
 7 the issue of getting samples from Stelor just to  
 8 appease you?  
 9 MR. COOPER: I'm going to object to the  
 10 form -- hang on a second. I got to think if  
 11 this is an attorney-client privilege issue.  
 12 (Pause.)  
 13 MR. COOPER: I'm going to object on the  
 14 basis of attorney-client privilege and/or  
 15 work-product privilege and instruct him not to  
 16 answer.  
 17 MR. KAPLAN: Okay.  
 18 BY MR. KAPLAN:  
 19 Q Look at the last paragraph, if you would,  
 20 where Ms. McQuilkin writes, "Think of it as quid pro  
 21 quo for agreeing to postpone the audit." Were you  
 22 aware that as of March 23, 2005 Ms. McQuilkin agreed  
 23 to postpone the audit?  
 24 A I can't say that I did or I did not. She  
 25 may have had some reasons for that. I'm not sure.

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1 I did not know why she agreed to postpone the order.  
 2 It may have conflicted with her schedule, I'm not  
 3 sure.  
 4 Q Do you deny that she agreed to postpone  
 5 the audit?  
 6 A I don't know if I had that -- I don't  
 7 recall if I had that conversation with her or not.  
 8 Q Let me show you your declaration again,  
 9 Exhibit 119, and I'm directing your attention to  
 10 Exhibit H.  
 11 MS. CALABRIA: Silvers' declaration or  
 12 Esrig's declaration?  
 13 MR. KAPLAN: Silvers' -- I'm sorry, you  
 14 are right, Johanna, it's Esrig's declaration,  
 15 Exhibit H.  
 16 BY MR. KAPLAN:  
 17 Q It's another e-mail from Gail McQuilkin to  
 18 me dated April 22, 2005. Did you see that e-mail,  
 19 Mr. Silvers, at any time?  
 20 A I don't remember seeing this e-mail. I  
 21 may have seen it but I don't recall seeing it.  
 22 Q And note the date. It's April 22nd,  
 23 right? That's the week before you sent your  
 24 termination letter, correct?  
 25 A Yes.

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1 Q And the letter, the e-mail rather, asks  
 2 for dates in the next two weeks for the scheduling  
 3 of the audit, right?  
 4 A That's what it appears to say, yes.  
 5 Q And yet you didn't wait two weeks to  
 6 terminate the license including for the reason that  
 7 Stelor never scheduled the audit, right?  
 8 MR. COOPER: Object to the form.  
 9 THE WITNESS: I don't know what my lawyer  
 10 was thinking when she wrote this e-mail. I  
 11 know there was some back and forth e-mails  
 12 between you and her at the time involving dates  
 13 and promises for dates. And I don't believe I  
 14 saw this e-mail until I think it was sometime  
 15 way after it had been sent.  
 16 BY MR. KAPLAN:  
 17 Q As of April 22, 2005, had you decided to  
 18 terminate the license?  
 19 A I don't recall what Gail's position was in  
 20 that regard. I know there were some other concerns  
 21 and other breaches that were not addressed. So  
 22 whatever she did she was my counsel.  
 23 Q I'm asking you, Mr. Silvers, as of April  
 24 22nd, 2005, had you, Steve Silvers, decided to  
 25 terminate the license?

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1 A I don't recall. I don't recall my frame  
 2 of mind back then.  
 3 Q Do you agree that Stelor could reasonably  
 4 expect upon receiving this e-mail that it would have  
 5 a week or two weeks to schedule the audit?  
 6 A I don't see the e-mail of the response to  
 7 what happened in this response. "Please give me a  
 8 date in the next two weeks other than the April 28th  
 9 or 29th which are good for him for the visit,  
 10 Thanks." From what I remember my lawyer instructing  
 11 me I guess it's attorney privilege what she told me.  
 12 So I can't answer that question.  
 13 Q You can't answer my question.  
 14 Is it reasonable to expect -- for Stelor  
 15 to expect based on this communication that it had  
 16 a week or two to schedule the audit, yes or no?  
 17 MR. COOPER: Object to the form.  
 18 THE WITNESS: Based upon that e-mail I  
 19 would have to say yes.  
 20 BY MR. KAPLAN:  
 21 Q In fact, the e-mail say the auditor is  
 22 preparing a letter outlining the documents and  
 23 records he will need available, do you see that?  
 24 A Yes.  
 25 Q Was that letter ever provided to Stelor?

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1 A I'm not certain. I do not know that  
 2 answer.  
 3 Q Assuming it wasn't, do you know why?  
 4 A No, I don't.  
 5 Q Would it be reasonable for Stelor to  
 6 expect to see that letter before it provided dates  
 7 for when the audit would be scheduled?  
 8 MR. COOPER: Object to the form.  
 9 THE WITNESS: I don't know what my  
 10 lawyer's frame of mind was about this letter.  
 11 I know there was a lot of communication going  
 12 back and forth between you on behalf of Stelor  
 13 and myself and Gail on behalf of myself.  
 14 I remember that period distinctly and  
 15 there was a lot of back and forth e-mails to  
 16 that effect. I think she was waiting on dates  
 17 from you and you were waiting on dates from  
 18 her. I don't know the specifics between the  
 19 two of you.  
 20 BY MR. KAPLAN:  
 21 Q Turn, if you would, to Exhibit I, the next  
 22 one. Do you see the e-mail April 26th from  
 23 Ms. McQuilkin to me, have you ever seen that before?  
 24 A April 26, this is the 22nd --  
 25 Q "I cannot get into this with you right

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1 now. I assure you I will get back to you and Stelor  
 2 by Friday." Ever seen that e-mail?  
 3 A I don't believe so.  
 4 MR. COOPER: Is this redacted?  
 5 MR. KAPLAN: Yes.  
 6 BY MR. KAPLAN:  
 7 Q So this is one day before you sent the  
 8 termination letter, correct?  
 9 A It appears that way, the 26th and the  
 10 27th.  
 11 Q Had you decided to terminate on April  
 12 26th?  
 13 A I believe Gail was preparing something for  
 14 the 27th. It was obvious the 27th when you got the  
 15 letter.  
 16 Q A little misleading for her to write back  
 17 and say, "I assure you I'll get back to you and  
 18 Stelor by Friday." when she was intending to send a  
 19 termination letter on your behalf on Wednesday,  
 20 right?  
 21 MR. COOPER: Object to the form. Don't  
 22 answer on attorney-client privilege.  
 23 BY MR. KAPLAN:  
 24 Q That's not privilege. I'm asking for your  
 25 view.

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1 Do you agree it was a little misleading  
 2 for her to assure us she would get back to us on  
 3 Friday when she intended to send a termination  
 4 letter the next day. Do you agree or not?  
 5 MR. COOPER: Same objection,  
 6 attorney-client privilege. Don't answer.  
 7 BY MR. KAPLAN:  
 8 Q Take a look at the last exhibit to this  
 9 declaration, two certificates of insurance. What's  
 10 wrong with those certificates?  
 11 A These were the ones after the fact, I  
 12 believe. I'm not a hundred percent certain on that,  
 13 but I believe these are the ones that were -- hold  
 14 on one second.  
 15 Q The first certificates were policy term  
 16 July 2004 to July 2005. Do you agree that's before  
 17 the fact, right?  
 18 A No. We have certificates or some  
 19 information that was originally sent to us that are  
 20 different from these numbers and these policy  
 21 figures.  
 22 Q Does this certificate of insurance satisfy  
 23 what you understood to be the insurance requirements  
 24 for the period July '04 to July '05, yes or no?  
 25 A I cannot give you a definitive answer on



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1 that.

2 Q You agree that you are included as a named

3 insured under this policy?

4 A Yes.

5 Q And you agree it's for the amount of \$2

6 million?

7 A Yes.

8 Q Take a look at the next page.

9 A Okay.

10 Q This is a certificate of insurance for the

11 period 4/05 to 4/06, correct?

12 A Okay.

13 Q You agree that your name appears you see

14 down on the bottom as the certificate holder?

15 A Yes.

16 Q That makes you an additional insured under

17 that policy, correct?

18 A I believe so.

19 Q Do you see anything wrong with that

20 policy?

21 A Not that I'm aware of.

22 Q Will you hand me back the declaration,

23 please?

24 A Uh-huh.

25 Q That's Mr. Esrig's declaration.

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1 Alright. Let me hand you what I'm

2 marking as Exhibit 122 which is a second

3 supplemental declaration of Mr. Esrig filed in

4 case number 80393, docket entry 63.

5 (Deposition Exhibit No. 122 was

6 marked for identification.)

7 BY MR. KAPLAN:

8 Q Take a look, if you would, at the last

9 page of this document, Exhibit A?

10 A Okay.

11 Q Have you ever seen that list of licensees

12 or description of licensees status before?

13 A Not that I can recall.

14 Q If I were to read this declaration when it

15 was filed with the court and served on your lawyers.

16 MR. COOPER: Object to the form.

17 THE WITNESS: I don't recall. This is a

18 licensee status. I think I remember this now.

19 BY MR. KAPLAN:

20 Q Anything inaccurate?

21 A I think I remember this now.

22 Q Anything inaccurate -- anything that is

23 inaccurate in that description to your knowledge?

24 MS. CALABRIA: Object to form.

25 THE WITNESS: I believe we had an issue

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1 about the verbiage where it says, major this,

2 major that, international this, Fortune 500.

3 We requested specifically who they were. Who

4 was the major children entertainment

5 conglomerate. Who was the nationally

6 recognized sporting goods company and so on.

7 BY MR. KAPLAN:

8 Q Are you sure you sent that request to

9 Stelor?

10 A No, I'm not sure.

11 Q Did you ever advise --

12 A I believe my lawyer was advised by me of

13 that and I think she was supposed to have done

14 something about that.

15 MR. COOPER: Let's not go into your

16 communications with your lawyer.

17 THE WITNESS: Okay.

18 BY MR. KAPLAN:

19 Q To your knowledge did your lawyer send

20 such a letter to Stelor?

21 A I don't have that knowledge. What

22 exhibit is that?

23 Q 122. Let me show you what I'm marking as

24 Exhibit 123, which is an April 29th, 2005 letter

25 from me to Ms. McQuilkin. Take a look at that and

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1 let me know if you have ever seen it?

2 (Deposition Exhibit No. 123 was

3 Marked for identification.)

4 THE WITNESS: I think I recall receiving

5 this letter.

6 BY MR. KAPLAN:

7 Q Why didn't you accept the checks that they

8 were tendering?

9 A I guess that's attorney client.

10 Q Okay. Hand me the letter back, please.

11 Did you accept the checks that were tendered?

12 A The checks were mailed to me so if that's

13 accepting checks the answer is yes. They were not

14 cashed. They were never cashed.

15 Q Let me show you a May 2nd, 2004 letter

16 from your lawyer to actually my partner Dan Blonsky

17 that I marked as Exhibit 125. Do you recognize this

18 letter?

19 MS. CALABRIA: Do you mean 124?

20 MR. KAPLAN: Yes, thank you, 124.

21 (Deposition Exhibit No. 124 was

22 marked for identification.)

23 THE WITNESS: I remember this letter.

24 BY MR. KAPLAN:

25 Q The effect of this letter was to advise



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1 Stelor that you refused to accept any payments or  
 2 any other performance Stelor was making under the  
 3 license agreement; is that correct?  
 4 A I think the document speaks for itself,  
 5 late compliance.  
 6 Q Do you agree with my characterization?  
 7 MR. COOPER: Object to the form. Can you  
 8 read the question back again, the prior one?  
 9 MR. KAPLAN: Let me ask it this way.  
 10 BY MR. KAPLAN:  
 11 Q You refused to accept Stelor's attempt to  
 12 comply with the license agreement because you claim  
 13 the attempts were late, is that fair to say?  
 14 A Yes.  
 15 Q But in any event, you refused to accept  
 16 Stelor's efforts to comply; is that correct?  
 17 MR. COOPER: Object to the form.  
 18 THE WITNESS: I have to defer to advice of  
 19 counsel in this regard.  
 20 BY MR. KAPLAN:  
 21 Q I'm not asking why. Let me ask you the  
 22 question this way.  
 23 You know Stelor has tendered checks  
 24 every month under the agreements since you  
 25 terminated, correct?

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1 A That's correct.  
 2 Q Stelor sent you \$6,000 worth of checks for  
 3 each month since April 2005, correct?  
 4 A I believe so.  
 5 Q And you've refused to accept any of those  
 6 checks, correct?  
 7 A I've accepted them but have not cashed  
 8 them.  
 9 Q In fact, you have returned all of those  
 10 checks with the exception of the last three months,  
 11 correct?  
 12 A That's correct.  
 13 Q You are still holding checks for what is  
 14 it September -- August, September and October,  
 15 correct?  
 16 A I believe they are in my files.  
 17 Q What are you holding those checks for?  
 18 A I was going to use them as  
 19 exhibit perhaps, no particular reason. I think we  
 20 spoke to -- there was communication for you to stop  
 21 sending the checks -- for Stelor to stop sending the  
 22 checks and they continue to send them and so instead  
 23 of conveniently having you send them to me and put  
 24 them back in the mail at my expense I just kept  
 25 them.

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1 Q You maintained the position since April  
 2 27th, 2005 that the license is terminated, correct?  
 3 A Yes.  
 4 Q In fact, this letter says May 2nd, 2004  
 5 but it was really 2005, right?  
 6 A May 2nd, 2004 should have been 2005,  
 7 that's correct, that's a mistake.  
 8 MR. KAPLAN: Let's pause for a second to  
 9 change the tape.  
 10 VIDEO OPERATOR: We are off the record.  
 11 (Thereupon, a brief recess was  
 12 taken.)  
 13 VIDEO OPERATOR: We are on the record.  
 14 MS. CALABRIA: We just had a discussion  
 15 off the record regarding whether or not Google  
 16 would have an opportunity to cross examine  
 17 Mr. Silvers within the scope of the questions  
 18 that Mr. Kaplan just asked.  
 19 And I would like to state for the record  
 20 that when we first began this deposition on  
 21 Tuesday at the end of it when we all agreed to  
 22 continue the deposition to today I requested  
 23 approximately 30 minutes time, and in fact I  
 24 think an hour was contemplated for my ability  
 25 to ask questions.

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1 I confirmed that everyone was going to  
 2 stay for those questions. Just now off the  
 3 record and counsel for Mr. Silvers and counsel  
 4 for Stelor have now objected. We intend to ask  
 5 approximately 30 minutes of questions on cross  
 6 examination which we are entitled to do, and if  
 7 Mr. Silvers leaves then we will bring him back  
 8 and we will redepose him.  
 9 MR. COOPER: Just for the record, my  
 10 client, I believe, is obligated to be in this  
 11 deposition for seven hours. If Stelor finishes  
 12 in six and a half hours to leave you a half  
 13 hour of time to ask cross examination questions  
 14 we will sit here and have you ask those  
 15 questions.  
 16 In seven hours we believe our obligation  
 17 to comply with the rules, especially after your  
 18 client has already asked their seven hours of  
 19 questions. It will be our position that the  
 20 deposition is finished.  
 21 MS. CALABRIA: Mr. Cooper, you agreed on  
 22 Tuesday that you would stay for an additional  
 23 half hour and that was in contemplation of  
 24 Mr. Kaplan asking seven hours worth of  
 25 questions. Right now you changed your

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1 position.  
 2 MR. COOPER: As you know, I'm very new to  
 3 this case. I was not aware at that point when  
 4 I discussed that Google had already taken a  
 5 seven hour deposition of my client.  
 6 MS. CALABRIA: That was during the  
 7 deposition, wasn't it?  
 8 MR. KAPLAN: The other concern that I  
 9 have, that Stelor has, is that this deposition  
 10 has been addressed specifically to issues  
 11 concerning the dispute between Stelor and  
 12 Silvers on the contract claims. Google is not  
 13 a party to that dispute as Google has made  
 14 clear. Google has no position with respect to  
 15 that dispute. It has no standing with respect  
 16 to that dispute. I'm concerned for that reason  
 17 about the propriety of Google asking questions  
 18 related to the contract claim issues, and I  
 19 guess to the extent you are trying to ask  
 20 questions that relate to the registration  
 21 issues you've already had seven hours to depose  
 22 this witness.  
 23 MS. CALABRIA: We intend to ask questions  
 24 that relate to the scope of this examination as  
 25 you have taken it, Mr. Kaplan. I have

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1 approximately half hour worth of questions that  
 2 relate to testimony that Mr. Silvers just gave.  
 3 MR. KAPLAN: We are not in agreement,  
 4 obviously. Let me go on and finish my  
 5 deposition and then we can address the  
 6 questions that you want to ask afterwards.  
 7 MS. CALABRIA: Well, I'm going to call the  
 8 court if you guys are not agreeing. So if you  
 9 are not agreeing now then I'll call the clerk  
 10 and make sure that we have permission to have  
 11 Mr. Silvers stay.  
 12 MR. KAPLAN: Okay. Well, I'm going to go  
 13 forward with the deposition. I'm happy to  
 14 continue discussing the issue when we are done.  
 15 It's not really up to me whether Mr. Silvers  
 16 stays or not, and I can address my specific  
 17 objections if and when you ask your questions,  
 18 but I would really like to proceed with my  
 19 deposition.  
 20 MS. CALABRIA: Okay. Can I represent to  
 21 the court that Mr. Silvers is refusing to stay?  
 22 MR. KAPLAN: No, because we are not at  
 23 that point yet.  
 24 MR. COOPER: Mr. Silvers is amenable to  
 25 stay his full seven hours.

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1 MS. CALABRIA: And, Kevin, I assume you  
 2 are going to take the full seven hours because  
 3 you had seven hours and fifteen minutes,  
 4 correct?  
 5 MR. KAPLAN: I expect.  
 6 MS. CALABRIA: Okay. I will call the  
 7 court.  
 8 MR. KAPLAN: Johanna, are you there?  
 9 MS. CALABRIA: Yes.  
 10 BY MR. KAPLAN:  
 11 Q Exhibit 124, do you have it in front of  
 12 you? No, because I have it in front of me.  
 13 Your lawyer writes this letter,  
 14 "Mr. Silvers has terminated the license and  
 15 intends to go in a different direction to develop  
 16 his characters and intellectual property." What  
 17 direction?  
 18 A That's proprietary.  
 19 MR. COOPER: I'll make an objection based  
 20 upon my client's answer, objection on the  
 21 grounds of trade secret.  
 22 MR. KAPLAN: We got a confidentiality  
 23 order in effect in the case.  
 24 BY MR. KAPLAN:  
 25 Q Go ahead, please answer.

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1 MR. COOPER: I don't think --  
 2 THE WITNESS: Explain that to me.  
 3 MR. COOPER: I didn't see the  
 4 confidentiality order.  
 5 MR. KAPLAN: Stelor has produced  
 6 proprietary stuff. You want to designate it  
 7 attorneys eyes only so that Stelor is not a  
 8 party to it, that's fine. But it's not a basis  
 9 for not answering the question.  
 10 MS. CALABRIA: Can you repeat the  
 11 question?  
 12 MR. KAPLAN: What direction.  
 13 MS. CALABRIA: Can you repeat the question  
 14 before it?  
 15 MR. KAPLAN: The letter writes that  
 16 Mr. Silvers has terminated the license and  
 17 intends to go in a different direction to  
 18 develop his characters' and intellectual  
 19 property. The question is what direction?  
 20 MR. COOPER: You can go ahead and answer,  
 21 and this attorney eyes only and make sure when  
 22 this deposition is transcribed your client does  
 23 not receive the copy without the answer being  
 24 redacted.  
 25 MR. KAPLAN: Understood.

(Pages 323 to 326)

Page 327	Page 329
<p>1 THE WITNESS: I was going to be involved                  2 with my son who is an animation student and we                  3 were going to develop some additional                  4 characters and we were planning to utilize the                  5 Googles Web site for doing some flash animation                  6 and cartoon characterization and some story                  7 lines involving the characters and the                  8 interaction and possibly do some exploring of                  9 doing some downloadable down rings for children                  10 with cell phones and basically turning the site                  11 into a flash site.                  12 BY MR. KAPLAN:                  13 Q Have you done any of that?                  14 A No.                  15 Q You still intend to do that?                  16 A If I prevail at trial I will definitely                  17 explore that as opportunities.                  18 Q Why have you waited?                  19 A Why have I waited?                  20 Q Yes.                  21 A Probably lack of capitalization and                  22 forcing me to put money into a project if the court                  23 decide to rule not in my favor.                  24 Q Still want to do an audit?                  25 A Do I still want to do and audit? I</p>	<p>1 THE WITNESS: My lawyer was handling that                  2 so I had no input with this. I'm assuming that                  3 that was between you and the lawyer.                  4 BY MR. KAPLAN:                  5 Q Did your lawyer to your knowledge or                  6 anyone advise Stelor that you refused to proceed                  7 with the audit on that day?                  8 A I don't recall.                  9 Q The letter also asks that you provide                  10 Stelor with a letter from the auditor listing the                  11 information requested. Did you provide that letter                  12 in response to this June 21st request?                  13 A This is after the termination was sent on                  14 April 27, 2005. So I think my lawyer's position was                  15 that none of the contents of this letter mattered to                  16 her.                  17 Q And, In fact, she just ignored it,                  18 correct?                  19 A I would probably assume so.                  20 Q Now, turn the page if you would. Look at                  21 the second to the last paragraph that says,                  22 "Finally, with respect to Mr. Silvers' claimed                  23 options, we reiterate that LLC's certificate and                  24 options have not yet been issued." Do you have any                  25 basis for claiming that statement is untrue?</p>
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<p>1 believe that that is something that I would consider                  2 doing.                  3 Q Let me show you what I'm marking as                  4 Exhibit 125.                  5 (Deposition Exhibit No. 125 was                  6 marked for identification.)                  7 BY MR. KAPLAN:                  8 Q Which is a June 21, 2005 letter from me to                  9 your lawyer, Ms. McQuilkin. Take a look at this and                  10 let me know if you have ever seen it.                  11 (Pause.)                  12 A Okay.                  13 Q Have you ever seen this?                  14 A I believe so.                  15 Q Did you see it at or about the time it was                  16 sent?                  17 A I can't answer that question. I wouldn't                  18 be able to answer that question.                  19 Q The last paragraph on the first page                  20 proposes a date for the audit on June 27, 2005. Do                  21 you see that?                  22 A Yes.                  23 Q Did you agree to proceed with the audit on                  24 that date?                  25 MR. COOPER: Object to the form.</p>	<p>1 A This is a letter from you to                  2 Ms. McQuilkin. So you are asking this question.                  3 You are saying finally -- claimed options -- you are                  4 saying we reiterated LLC options was not yet                  5 issued --                  6 Q Do you dispute that?                  7 A Do I dispute what?                  8 Q That statement in the letter that as of                  9 June 21, 2005 the LLC certificates and options have                  10 not yet been issued?                  11 A Where are you reading that?                  12 Q The top.                  13 A It doesn't say anything about a date. You                  14 just read a date, June what?                  15 Q The letter is dated June 21, 2005. In the                  16 letter there is a statement that says, "We reiterate                  17 that LLC certificates and options have not yet been                  18 issued." Do you dispute that statements?                  19 A I don't have any reason to dispute or not                  20 dispute it. I don't know that that is the case,                  21 whether or not there was options issued or not.                  22 Q Take a look at the next sentence. "Stelor                  23 did provide Mr. Silvers with a letter in December of                  24 2004 asking him to confirm his claimed options." I                  25 showed you that letter.</p>

(Pages 327 to 330)

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1 A Okay, right.  
 2 Q You saw that letter at your last  
 3 deposition, right?  
 4 A Right.  
 5 Q But for whatever reason he failed and  
 6 refused to sign or return that letter.  
 7 A Correct.  
 8 Q The letter then asks that, "If his  
 9 position has changed please have him execute and  
 10 return that letter now." Did you?  
 11 A No.  
 12 Q Can you hand me the letter back.  
 13 Let me show you what was previously  
 14 marked as Exhibit 116. This is the June 24, 2005  
 15 letter with the bulky set of attachments.  
 16 Now, the letter asks in paragraph 3,  
 17 "Please advise immediately in writing what  
 18 breaches you contend remain uncured." Do you see  
 19 that?  
 20 A Yes.  
 21 Q Did you do that? Did your lawyers do  
 22 that? Did anyone do that?  
 23 A I believe if I'm not mistaken  
 24 Ms. McQuilkin did provide a letter. I'm not a  
 25 hundred percent sure. I'm fairly certain that she

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1 provided a letter about what is still not yet to be  
 2 cured.  
 3 Q If she did I ask that you to provide it to  
 4 me because I have never seen it.  
 5 A Please make a note of that.  
 6 Q Will you agree to do that?  
 7 A I'll speak with my counsel about that.  
 8 Q Now, in the last paragraph on the first  
 9 page at the very end we are talking about the issue  
 10 about you documenting the premiums for your  
 11 insurance through Aurora, right; and it says  
 12 Silvers -- it says -- it asks you to document that  
 13 and it says, these are the last three sentences,  
 14 "The requirement is not difficult to satisfy.  
 15 Silvers need only forward a cancelled check or a  
 16 statement or invoice for the insurance premium."  
 17 And the question is, did you ever forward the  
 18 cancelled checks or the statements or invoices for  
 19 the insurance premiums to Stelor, yes or no?  
 20 A I don't recall. This letter is dated the  
 21 24th of 2005, which is three months after the  
 22 termination. So assumingly my lawyer probably just  
 23 ignored this as well.  
 24 Q Did you agree that you had an obligation  
 25 to cooperate with respect to the audit under the

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1 agreements?  
 2 MR. COOPER: Object to the form.  
 3 THE WITNESS: I would have to say the  
 4 document will speak for itself. I don't know  
 5 that answer.  
 6 BY MR. KAPLAN:  
 7 Q Take a look at the second page. The third  
 8 paragraph references that December 10, 2004 letter  
 9 relating to the options again. Do you see that?  
 10 A Okay.  
 11 Q And it asks you again to sign it and  
 12 provide it to us if you wanted the options, right?  
 13 MR. COOPER: Object to the form.  
 14 THE WITNESS: Correct.  
 15 BY MR. KAPLAN:  
 16 Q Did you?  
 17 A I did not because I dispute the fact that  
 18 there was only a thousand options being granted when  
 19 I had reason to believe that there were more options  
 20 due me.  
 21 Once I executed that agreement for one  
 22 thousand options it would have precluded me from  
 23 challenging Stelor from getting future options  
 24 that I was made aware of that other people in the  
 25 like class as me were given more than 1,000

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1 options as promised.  
 2 BY MR. KAPLAN:  
 3 Q Do you still want options?  
 4 MR. COOPER: Object to the form.  
 5 THE WITNESS: Do I still want options?  
 6 Assuming that the license agreement is  
 7 reinstated then I would expect to receive what  
 8 I'm entitled to. If it's 1,000 options so be  
 9 it. If it's 2,000 options so be it.  
 10 BY MR. KAPLAN:  
 11 Q As you sit here today do you want the  
 12 options, yes or no, today?  
 13 MR. COOPER: Object to the form.  
 14 THE WITNESS: Yes.  
 15 BY MR. KAPLAN:  
 16 Q Are you willing to sign the option letter?  
 17 MR. COOPER: Object to the form.  
 18 THE WITNESS: I would have to take that  
 19 upon advice of counsel.  
 20 BY MR. KAPLAN:  
 21 Q Let me hand you Exhibit 114, that's the  
 22 option letter and here is my pen. Please sign it  
 23 and date it, Mr. Silvers.  
 24 MR. COOPER: He is not signing the option  
 25 letter here. That's not proper deposition

(Pages 331 to 334)



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1 questions.

2 THE WITNESS: First of all --

3 MR. COOPER: Excuse me, hang on. There is

4 no question pending.

5 Here you go. If you have a question you

6 can ask him.

7 BY MR. KAPLAN:

8 Q Will you sign that letter today?

9 A No.

10 Q Is there some change that you request in

11 that letter after which you would sign it today?

12 MR. COOPER: Object to the form.

13 THE WITNESS: I would have to defer to my

14 new counsel to discuss that, Mr. Kaplan.

15 BY MR. KAPLAN:

16 Q Alright. Now, attached to this letter you

17 looked at the end -- you still have it. We looked

18 at that royalty statement the last session of your

19 deposition, right? Do you recall now that you

20 received the royalty statements from Stelor?

21 A I received royalty statements from Stelor

22 but they were not timely submitted to me and I do

23 acknowledge that I did receive, I believe, most of

24 them. I'm not sure if I received all of them. I

25 think there is still an outstanding dispute of two

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1 of the royalty statements being inaccurate. One the

2 dates are inaccurate, improper reporting dates and

3 one I never did receive to this date to the best of

4 my knowledge.

5 Q Which one -- first of all, which one is

6 inaccurate?

7 A I don't have all of them to look at, and

8 if you would be kind enough to provide me with all

9 of them I could point it out to you.

10 Q Which one is missing?

11 A I don't recall. I believe it might have

12 been in 2004. December quarter of 2004. I'm not

13 sure. One of them I don't believe I have ever

14 received.

15 Q Are they two royalty statements for

16 periods in 2004?

17 A I'm not sure, sir. But I know there was

18 one that was inaccurate. I addressed it in numerous

19 letters to Mr. Esrig, I believe, and Stelor

20 Productions and one I never received.

21 Q And just before the royalty statements do

22 you see copies of some pleadings Stelor had filed in

23 the federal court action against Oogles and Googles?

24 A I would like to go back to the last

25 statement before, I just remembered something. Also

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1 the initial issue with the royalty statements had to

2 do with Stelor Productions providing me with -- I

3 want to say two years worth of royalty statements,

4 eight quarters after the fact about a year later not

5 when they were due each quarter as the license

6 agreement called for, but a year and a half to two

7 years later where, of course, I got one statement

8 that says there was zero owed to me, and I just want

9 to put that on the record.

10 Now, you are asking me to go to --

11 Q You got a copy of the complaint that was

12 filed by Stelor against Oogles and Googles in

13 Federal Court in Indiana, right?

14 A I was never made aware of this to be

15 honest with you. This is something that I found out

16 on my own when I went to the Internet and did some

17 research.

18 Q When?

19 A Way after the fact. I don't recall when.

20 It was way after the fact. There are numerous

21 letters between me and Mr. Esrig outlining my

22 insistence on him looking into this. There was some

23 negotiations going on, I believe, with Stelor. They

24 were trying to negotiate something. I don't know

25 nothing -- I didn't know anything about this

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1 litigation until way after the fact and I don't

2 recall when.

3 Q Certainly your lawyer knew that it was

4 filed as of June 2005, right?

5 A I don't know that to be a fact.

6 Q Your lawyer got this letter, right?

7 A What letter is that?

8 Q The one you are looking at, Exhibit 116,

9 right?

10 A Okay. Where does it mention here Oogles

11 and Google.

12 MR. COOPER: She only asked -- he only

13 asked you if your lawyer got that, if you know

14 if your lawyer got that or not.

15 THE WITNESS: I would assume she got that.

16 BY MR. KAPLAN:

17 Q There is also voluminous information

18 attached to the document in all of the actions

19 Stelor had taken to protect the trademark, right?

20 MR. COOPER: Object to the form.

21 THE WITNESS: I never received this.

22 BY MR. KAPLAN:

23 Q Did you have a communication issue with

24 your lawyer?

25 MR. COOPER: I'm going to object to the



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1 form, attorney-client privilege. Instruct him  
 2 not to answer.  
 3 BY MR. KAPLAN:  
 4 Q Did you get papers from your counsel from  
 5 Kozyak Tropin when they were representing you in  
 6 this case?  
 7 A Yes. I got e-mails and --  
 8 Q Did they keep you informed about what was  
 9 happening in the action?  
 10 MR. COOPER: Object to the form,  
 11 attorney-client privilege. Don't answer.  
 12 BY MR. KAPLAN:  
 13 Q It's a yes or no question. Do you believe  
 14 your lawyers kept you informed about what was  
 15 happening in the action?  
 16 MR. COOPER: I'm going to make the same  
 17 objection and same instruction, don't answer.  
 18 THE WITNESS: I need to take a men's room  
 19 break, please.  
 20 MR. KAPLAN: Okay.  
 21 VIDEO OPERATOR: We are off the record.  
 22 (Thereupon, a brief recess was  
 23 taken.)  
 24 VIDEO OPERATOR: We are on the record.  
 25

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1 BY MR. KAPLAN:  
 2 Q Mr. Silvers, let me hand you what I marked  
 3 as Exhibit 126, copy for your lawyer. It appears to  
 4 be June 29th letter from Ken Hartman, one of your  
 5 lawyers over at Cozyak Tropin to Stelor advising of  
 6 claims breaches under the composure agreement. Have  
 7 you seen this before?  
 8 (Deposition Exhibit No. 126 was  
 9 marked for identification.)  
 10 THE WITNESS: I believe so.  
 11 BY MR. KAPLAN:  
 12 Q Yes or no, do you believe there is still a  
 13 breach under the composer agreement?  
 14 MR. COOPER: Object to the form.  
 15 THE WITNESS: I don't have enough  
 16 knowledge to give you a yes or no answer. I  
 17 haven't taken the time to reread the composer  
 18 agreement, and it may very well likely be there  
 19 is still a breach.  
 20 BY MR. KAPLAN:  
 21 Q Hand me that letter back if you would.  
 22 Let me show you what I marked as Exhibit 127, which  
 23 is a July 29th letter from me back to Mr. Hartman.  
 24 (Deposition Exhibit No. 127 was  
 25 marked for identification.)

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1 MS. CALABRIA: Kevin, which letter are you  
 2 talking about?  
 3 MR. KAPLAN: July 29, 2005 Kaplan to  
 4 Hartman re composure agreement, SP10829.  
 5 MS. CALABRIA: Got it.  
 6 (Pause.)  
 7 BY MR. KAPLAN:  
 8 Q Have you ever seen this before?  
 9 A Excuse me for one second.  
 10 (Pause.)  
 11 A I don't believe I saw this letter.  
 12 Q It says in the first paragraph, "The  
 13 Silvers composition does not appear on any of  
 14 Stelor's CDs and is not included on i-Tunes." Do  
 15 you agree with that statement?  
 16 A Yes.  
 17 Q Let me show you what I marked at Exhibit  
 18 128.  
 19 (Deposition Exhibit No. 128 was  
 20 marked for identification.)  
 21 BY MR. KAPLAN:  
 22 Q Which appears to be an August 4, 2005  
 23 letter from Mr. Hartman back to me. In it he says,  
 24 "My letter is unsatisfactory," Do you know why?  
 25 Let me ask you the question this way.

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1 What use do you contend is being made by Stelor of  
 2 your composition?  
 3 MR. COOPER: Object to the form.  
 4 THE WITNESS: Okay. I'm not aware that I  
 5 received this letter and Mr. Hartman, I can't  
 6 speak for him whatever -- he was my counsel at  
 7 the time. So he wrote what I wrote. I don't  
 8 know what he was thinking.  
 9 I do know that the Googles From Goo song  
 10 that I created or was part and parcel to  
 11 creating was manufactured and placed on a CD  
 12 that Stelor took inventory of from Aurora  
 13 Collections and to that effect I don't know  
 14 what, if any, of those CDs were sold, and so I  
 15 can't give you an answer one way or the other.  
 16 BY MR. KAPLAN:  
 17 Q But what information do you have that you  
 18 think will prove your allegation for making it that  
 19 Stelor breached the composer agreement?  
 20 A I have to defer to my former counsel and  
 21 gather that information based upon the contracts  
 22 that were signed between us and based upon what  
 23 their position was at the time.  
 24 Q Hand me that exhibit back if you would and  
 25 I'll trade you for what I marked as Exhibit 129.

(Pages 339 to 342)

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1 (Deposition Exhibit No. 129 was  
2 marked for identification.)  
3 BY MR. KAPLAN:  
4 Q This is a letter from me back to  
5 Mr. Hartman dated August 8th. Have you seen this?  
6 A I don't believe I have ever seen this  
7 letter.  
8 Q It says, "Specific questions that we  
9 asked." in the first paragraph. Did you or anybody  
10 on your behalf ever answer them?  
11 A I could not answer that question August 8,  
12 2005.  
13 Q Hand me the letter back, please.  
14 Have you done any further investigation  
15 into the allegations you made about the composer  
16 agreement since August 2005?  
17 A I don't believe I had any obligation to do  
18 anything past April 27, 2005, the date of the  
19 termination.  
20 Q I'm just asking have you done any  
21 investigation?  
22 A Me personally, no.  
23 Q Anybody on your behalf?  
24 A Not that I can think of.  
25 Q I have just handed you what I marked as

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1 Exhibit 130, a declaration from Keva, KEVA,  
2 Labossiere, LABOSSIÈRE, that was filed in case  
3 number 80393.  
4 (Deposition Exhibit No. 130 was  
5 marked for identification.)  
6 BY MR. KAPLAN:  
7 Q Who is she?  
8 MS. CALABRIA: Kevin, what's the docket  
9 entry number, please?  
10 MR. KAPLAN: I don't know. It's from May  
11 19, 2005.  
12 MR. COOPER: That's the Hurley case.  
13 MS. CALABRIA: The second action?  
14 MR. KAPLAN: Yes.  
15 THE WITNESS: The question is?  
16 BY MR. KAPLAN:  
17 Q Who is she?  
18 A Keva Labossiere, I believe, was one of  
19 Ms. McQuilkin's paralegals.  
20 Q Turn if you would to Exhibit B.  
21 A Exhibit what?  
22 Q B as in boy. It appears to be some pages  
23 from an Internet site located at wwwcafepress.com?  
24 MR. COOPER: Exhibit B?  
25 THE WITNESS: That's it.

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1 MR. COOPER: Where do you see the Cafe  
2 Press?  
3 MR. KAPLAN: At the bottom.  
4 MR. COOPER: Okay.  
5 BY MR. KAPLAN:  
6 Q Have you ever seen these pages before,  
7 Mr. Silvers?  
8 A Yes.  
9 Q When did you first see the so-called  
10 Google Store at the Cafe Press Web site?  
11 A When did I first see it? I can't give you  
12 an answer. That's a loaded question, Mr. Kaplan,  
13 probably a while back. I know it existed because  
14 I'm pretty sure that I clicked it and went to the  
15 store.  
16 Q Well, tell me when, approximately?  
17 A I can't give you an answer. I would be  
18 sitting here lying if I did.  
19 Q Before you sent the termination notice in  
20 April of 2005?  
21 A I do not know.  
22 Q Can you tell me what year it was,  
23 approximately?  
24 A No, I can't.  
25 Q This is dated May 13, 2005. So certainly

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1 you had seen it by May of 2005, right?  
2 A No, not necessarily. This was printed out  
3 by -- I don't even know who.  
4 Q Keva Labossiere.  
5 A Okay, so this is a printout of May of  
6 2005. I'm not certain.  
7 Q When did you first talk to Paul Worsham  
8 about the Cafe Press site?  
9 MR. COOPER: Object to the form.  
10 THE WITNESS: I wouldn't be able to recall  
11 that information either.  
12 BY MR. KAPLAN:  
13 Q Approximately?  
14 A No.  
15 Q Before or after May of 2005?  
16 A I don't recall.  
17 Q Have you talked to Paul Worsham about the  
18 Cafe Press site?  
19 A Yes, I have.  
20 Q And what conversations -- what has he told  
21 you about it?  
22 A Basically that he was commissioned to do  
23 something of this nature from Mr. Esrig on Stelor's  
24 behalf initially when the -- I guess back in 2002,  
25 2003 when the site was being developed and there was

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1 some conversation about ways to market some of the  
 2 products for the Googles and I believe they had some  
 3 conversations that I, you know, was not made aware  
 4 of or privy to, and this was, I believe, at the  
 5 behest of Mr. Esrig, Stelor Productions, to do this.  
 6 Q Would you hand me that declaration back  
 7 and take a look at Exhibit 131, please.  
 8 (Deposition Exhibit No. 131 was  
 9 marked for identification.)  
 10 THE WITNESS: Okay.  
 11 BY MR. KAPLAN:  
 12 Q Do you recognize that as a declaration of  
 13 Paul Worsham that was filed in the declaration  
 14 action?  
 15 A Yes.  
 16 MS. CALABRIA: Which exhibit are you  
 17 talking about?  
 18 MR. KAPLAN: The declaration of Paul  
 19 Worsham on June 17, 2005.  
 20 MS. CALABRIA: Same action?  
 21 MR. KAPLAN: Yes. It's actually Worsham  
 22 with an M, correct?  
 23 THE WITNESS: WORSHAM, Worsham, yes.  
 24 BY MR. KAPLAN:  
 25 Q Did you pay Mr. Worsham for providing this

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1 declaration?  
 2 A No.  
 3 Q Was Mr. Worsham retained as an expert or a  
 4 consultant by you or your lawyers in connection with  
 5 the lawsuit?  
 6 A No.  
 7 Q Did your lawyer provide free legal  
 8 services to Mr. Worsham?  
 9 A I have no idea.  
 10 Q Do you know if your lawyers charged  
 11 Mr. Worsham for the legal services they provided him  
 12 in connection with the Jabbles mark?  
 13 A No, I do not.  
 14 Q Do you know who prepared this affidavit?  
 15 A No, I do not.  
 16 Q Take a look at the last page, page 4, the  
 17 declaration, paragraph 12?  
 18 A Okay.  
 19 Q He says, "After the October, November 2002  
 20 timeframe I did not log into or assist with the  
 21 Google Store cafepress.com." Do you know why?  
 22 MR. COOPER: What paragraph?  
 23 MR. KAPLAN: 12.  
 24 THE WITNESS: Do I know why?  
 25

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1 BY MR. KAPLAN:  
 2 Q Yes.  
 3 A No.  
 4 Q When did Mr. Worsham stop having any  
 5 involvement with Stelor?  
 6 A I have no idea.  
 7 Q Did you know that he stopped having any  
 8 involvement with Stelor?  
 9 A I did not know that he was really actively  
 10 involved with Stelor.  
 11 Q You knew he was a consultant, right?  
 12 A No, I did not know that.  
 13 Q You didn't know that?  
 14 A Not in the true sense of the word. I knew  
 15 he was doing some favors or helping out, but I  
 16 didn't know he was a consultant.  
 17 Q Did you know that he was advised by Stelor  
 18 to stop helping out as you put it?  
 19 A No, that's not an accurate statement from  
 20 my conversation with Mr. Worsham.  
 21 Q Tell me what that -- what was said during  
 22 that conversation?  
 23 A There was nothing mentioned about stopping  
 24 any kind of communication with Mr. Esrig and  
 25 Mr. Worsham to the best of my knowledge for him to

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1 stop or do anything. It was a situation where there  
 2 was a favor done to create the shop for Mr. Esrig  
 3 and that was the extent of Mr. Worsham's involvement.  
 4 to the best of my knowledge.  
 5 Q Would you hand me that back?  
 6 A Yes.  
 7 Q By the way, you know that the Google Store  
 8 on Cafe Press has been closed down; is that correct?  
 9 A I know that because I was instrumental in  
 10 making that happen, to the best of my knowledge.  
 11 Q How so?  
 12 A I believe I communicated or my lawyers  
 13 communicated, I'm not sure, with Cafe Press to  
 14 inquire why that was still operating. I think I  
 15 have communicated that also to Mr. Esrig, if my  
 16 memory strikes me correctly, and I think at that  
 17 point the store was, in fact, shut down.  
 18 Q So you brought it to Stelor's attention  
 19 and they immediately took action, correct?  
 20 MR. COOPER: Object to the form.  
 21 THE WITNESS: I don't know how immediate  
 22 it was. It's been the common scenario that  
 23 every time I found something that was being  
 24 done wrong it would be brought to their  
 25 attention and then they did whatever they had

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1 to do. Sometimes to correct it other times not  
 2 to correct it.  
 3 BY MR. KAPLAN:  
 4 Q But in this instance they corrected it,  
 5 correct?  
 6 A To the best of my knowledge. I'm not sure  
 7 if they corrected it or if it was corrected through  
 8 the efforts of my counsel.  
 9 Q Let me show you what's been marked as  
 10 Exhibit 132, which is also included as Exhibit D to  
 11 Mr. Esrig's supplemental declaration.  
 12 (Deposition Exhibit No. 132 was  
 13 marked for identification.)  
 14 BY MR. KAPLAN:  
 15 Q Now, you saw this, right, when Mr. Esrig  
 16 filed the supplemental declaration in the Judge  
 17 Hurley action? And, for the record, it's a  
 18 transaction report that lists the total commissions  
 19 earned from this Google Store at Cafe Press in the  
 20 amount of \$2. You saw this, Mr. Silvers?  
 21 MS. CALABRIA: Mr. Kaplan, sorry to  
 22 interrupt. Where are you?  
 23 MR. KAPLAN: Exhibit D to Esrig's  
 24 supplemental declaration.  
 25 THE WITNESS: I'm not sure if I saw this

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1 or not to be honest with you.  
 2 BY MR. KAPLAN:  
 3 Q Do you dispute the total commissions  
 4 earned to Stelor from the Cafe Press store were \$2?  
 5 A That's what it appears to be on this  
 6 document. Pending orders. There was pending  
 7 orders. Those are completed orders. So it says  
 8 total commissions \$2.  
 9 Q Do you dispute that?  
 10 A The document speaks for itself.  
 11 Q So of that your royalty rate is 6%, right?  
 12 A No, I think it's 10% from Internet sales.  
 13 Q Actually we looked at the royalty rate  
 14 before under the agreement it says 6%, correct?  
 15 A There is a 6, there is a 10 and there is a  
 16 3%. 3% for the royalties, 10% for sublicensees  
 17 which this would be considered a sublicensee, Cafe  
 18 Press.  
 19 Q Okay. Let's assume it's 10%?  
 20 A That's 20 cents.  
 21 Q Of course it's 20 cents if and when Stelor  
 22 received the 2 bucks, right?  
 23 A Right.  
 24 Q Was there -- were you aware of any issue  
 25 involving fraud on that Web site?

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1 A Fraud? Not that I can recall.  
 2 Q Let me show you what I marked as  
 3 Exhibit 133.  
 4 (Deposition Exhibit No. 133 was  
 5 marked for identification.)  
 6 BY MR. KAPLAN:  
 7 Q Which was included in Exhibit D to  
 8 Mr. Esrig's deposition -- I'm sorry, Exhibit C to  
 9 Mr. Esrig's supplemental declaration. Have you ever  
 10 seen this before?  
 11 MS. CALABRIA: Is that the Paul Worsham  
 12 letter?  
 13 MR. KAPLAN: It's the e-mail after it.  
 14 MS. CALABRIA: September 12, e-mail?  
 15 MR. KAPLAN: Next one.  
 16 MS. CALABRIA: September 30th, 2002  
 17 e-mail?  
 18 MR. KAPLAN: Correct.  
 19 THE WITNESS: Okay. I can't say that I  
 20 have seen it or did not see it.  
 21 BY MR. KAPLAN:  
 22 Q It was in Mr. Esrig's declaration,  
 23 correct?  
 24 A Then I would have saw it, I'm pretty sure.  
 25 Q Did you see it before you saw it attached

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1 to Mr. Esrig's declaration?  
 2 A I don't believe so.  
 3 Q Did Mr. Worsham give you this e-mail?  
 4 A I don't believe so.  
 5 Q Do you know why not?  
 6 A I have no clue.  
 7 Q Would you hand that exhibit back to me,  
 8 please.  
 9 Let me show you what's been marked as  
 10 Exhibit 134.  
 11 (Deposition Exhibit No. 134 was  
 12 marked for identification.)  
 13 BY MR. KAPLAN:  
 14 Q Which is a letter from Stelor to  
 15 Mr. Worsham dated 10/3/02. This was included in  
 16 Mr. Esrig's supplemental declaration, but had you  
 17 seen it before then?  
 18 A This is the famous letter. Okay. I think  
 19 my lawyer provided me a copy of this letter.  
 20 Q When, before or after you saw Mr. Esrig's  
 21 declaration?  
 22 A Probably before, I think.  
 23 Q Well, why didn't you bother to make sure  
 24 this was included in Mr. Worsham's declaration?  
 25 A I don't have an answer for that question.

(Pages 351 to 354)



Page 355

1 I do know that there was some discussion about this  
 2 being a bogus letter and not being accurate, and the  
 3 fact that if you look at the way the letter is  
 4 situated and the address on the bottom is crooked it  
 5 was pasted. There was some discussion about this  
 6 letter not being authentic.  
 7 Q Did Mr. Worsham receive this letter, to  
 8 your knowledge?  
 9 A Yes. I think he received it and he  
 10 disputed it.  
 11 Q But you agree based on this letter at  
 12 least as of October 2002, Mr. Worsham knew that  
 13 Stelor had asked him to remove from that Web site  
 14 any product with Stelor's name on it, correct?  
 15 A No. That's where the issue comes in that  
 16 it's Mr. Worsham's belief -- I believe, I can't  
 17 speak for him, that this letter was made after the  
 18 fact. He never received -- this letter went to an  
 19 improper address, an addressee that he never lived  
 20 at, and there is some deep concern about the  
 21 contents of this letter being erroneous.  
 22 Q What exactly did Mr. Worsham tell you  
 23 about this letter?  
 24 A It's not accurate at all and that he never  
 25 received it and it's not true. He was never sent

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1 this letter, never received this letter.  
 2 Q Well, I asked you a moment ago if  
 3 Mr. Worsham confirmed receiving this letter. I  
 4 understood you to say yes.  
 5 A He received the letter when Ms. McQuilkin  
 6 got this letter and she sent it to Mr. Worsham, I  
 7 believe for him to read it, which he said he never,  
 8 ever saw this letter to the best of my knowledge.  
 9 That's when he agreed to give a declaration that  
 10 this letter is absolutely false in all regards  
 11 according to Mr. Worsham.  
 12 Q Alright so you are saying Mr. Worsham was  
 13 sent this letter before he gave his declaration?  
 14 A I'm not sure when he was sent this letter,  
 15 before or after. He got this letter sometime when  
 16 Ms. McQuilkin got it for Mr. Esrig's declaration.  
 17 So if Paul's declaration was before Mr. Esrig's  
 18 declaration then I would assume that he would have  
 19 gotten it after his declaration.  
 20 Q Are you telling me things you heard from  
 21 Mr. Worsham directly or that you heard from your  
 22 lawyer?  
 23 A Both, I believe both.  
 24 Q Did Mr. Worsham admit to you that his  
 25 services were terminated by Stelor?

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1 A No. He left Stelor Productions because he  
 2 did not care for the way he was treated at Stelor  
 3 Productions according to his conversations with me,  
 4 promises that were made to him that were never kept  
 5 and he left Stelor Productions. He was not  
 6 terminated from Stelor Productions.  
 7 Q Okay. Can I have that exhibit back,  
 8 please?  
 9 A Yes.  
 10 MR. COOPER: I think we are beyond the  
 11 seven hours so if you can wrap up the next  
 12 couple of questions I would appreciate it.  
 13 MR. KAPLAN: I need ten more minutes and  
 14 I'll be done.  
 15 BY MR. KAPLAN:  
 16 Q Who is Russell Tewksbury, TEWKSBURY?  
 17 A Russell Tewksbury is a, I guess,  
 18 consultant or he was hired as a consultant for Gail.  
 19 Q Did you ever talk to him?  
 20 A We met, I think, on one or two occasions.  
 21 Q What did you ask him to do?  
 22 A I didn't ask him to do anything.  
 23 Ms. McQuilkin handled that, contacted him. She was  
 24 seeking some knowledge, I believe.  
 25 Q Did he, to your knowledge, take action to

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1 shut down Stelor's Web site?  
 2 A Not to my knowledge, absolutely not.  
 3 Q Did you ever direct him to do that?  
 4 A No.  
 5 Q Let me show you a copy of a pleading from  
 6 that Indiana action. Brief in support of motion to  
 7 dismiss plaintiff's amended complaint, filed in the  
 8 case of Stelor Productions, Inc. versus Oogles and  
 9 Googles in the Southern Districts of Indiana,  
 10 Indianapolis. Division document 39. Are you aware  
 11 that your lawyer provided a declaration to assist  
 12 Oogles and Googles in its defense of that action?  
 13 MS. CALABRIA: Kevin, which document is  
 14 this?  
 15 MR. KAPLAN: 39.  
 16 MR. COOPER: Wait a second. I'm going to  
 17 object on the basis of attorney-client  
 18 privilege unless you actually saw the document  
 19 that was provided in that case.  
 20 MR. KAPLAN: Let me show you the  
 21 declaration.  
 22 MS. CALABRIA: This is the declaration of  
 23 Paul Worsham?  
 24 MR. KAPLAN: No. This is in the  
 25 Indianapolis action.

(Pages 355 to 358)



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1 MS. CALABRIA: Oh, well, I don't have  
 2 that.  
 3 BY MR. KAPLAN:  
 4 Q Alright. Were you aware that declaration  
 5 was filed by your lawyer. Let me rephrase the  
 6 question.  
 7 Are you aware that declaration was  
 8 provided by your lawyer to the lawyer for Oogles  
 9 and Googles?  
 10 MR. COOPER: I'm going to object.  
 11 MS. CALABRIA: We don't have a copy of  
 12 that so I can't follow along.  
 13 MR. COOPER: To the extent that you had  
 14 communications with anybody at Oogles and  
 15 Googles to give you that knowledge you can  
 16 answer.  
 17 To the extent that the only basis of  
 18 knowledge you have to answer that questions is  
 19 communication with your own counsel, it's  
 20 attorney-client privilege, don't answer.  
 21 MS. CALABRIA: I'm going to object to  
 22 form.  
 23 THE WITNESS: I never had communication  
 24 with Oogles and Googles in reference to this  
 25 that I can recall and therefore it's

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1 attorney-client privilege. Do you have a copy  
 2 of this?  
 3 MR. COOPER: No.  
 4 THE WITNESS: I need a copy of that.  
 5 MR. KAPLAN: Here is a copy. I have two  
 6 documents.  
 7 BY MR. KAPLAN:  
 8 Q I'm going to show you a memorandum in  
 9 opposition to plaintiff's motion for leave to file a  
 10 surrepley that was filed in the Hurley action. It's  
 11 docket entry 97. Let me direct your attention to  
 12 Exhibit A of that.  
 13 Take a look at those documents and let  
 14 me know if you have ever seen it before?  
 15 MS. CALABRIA: Kevin, are you introducing  
 16 the entire memorandum and attached exhibit?  
 17 MR. KAPLAN: Yes, it is Exhibit 136.  
 18 (Deposition Exhibit No. 136 was  
 19 marked for identification.)  
 20 MS. CALABRIA: What is it you are asking  
 21 Mr. Silvers to focus on?  
 22 MR. KAPLAN: Exhibit A.  
 23 THE WITNESS: What are you asking me now,  
 24 sir?  
 25

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1 BY MR. KAPLAN:  
 2 Q Have you seen that document before?  
 3 A Yes.  
 4 Q When did you first see it?  
 5 A I don't recall.  
 6 Q Where did you get it?  
 7 A Through counsel.  
 8 Q Where did your counsel get it?  
 9 A Attorney-client privilege.  
 10 Q Sir, who provided this document to you or  
 11 your counsel?  
 12 MR. COOPER: If the only basis of your  
 13 knowledge is what you were told by your counsel  
 14 then that's attorney-client privilege and I  
 15 instruct you not to answer.  
 16 BY MR. KAPLAN:  
 17 Q Sir, this is a document that your lawyers  
 18 filed with the court in the prior lawsuit. I'm  
 19 trying to find out where it came from. If you know  
 20 you need to tell me where did it come from?  
 21 MR. COOPER: If you have a basis to answer  
 22 than question other than your direct  
 23 communications with your attorney answer,  
 24 otherwise don't, it's attorney-client  
 25 privilege.

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1 THE WITNESS: The lawyer acquired the  
 2 document, you have to -- it's attorney-client,  
 3 I guess.  
 4 BY MR. KAPLAN:  
 5 Q Alright. Who did you talk to about this  
 6 document other than your lawyer?  
 7 A Who did I talk to other than my lawyer?  
 8 Q I'm referring to all of the documents in  
 9 Exhibit A.  
 10 MR. COOPER: Object to the form.  
 11 BY MR. KAPLAN:  
 12 Q There is four pages of documents.  
 13 A I believe after the document was  
 14 disseminated and made part of this memorandum I  
 15 think I might have spoken with Mr. Sagan, I believe,  
 16 in reference to the document.  
 17 Q Tell me what Mr. Sagan said.  
 18 A He was in communication with my lawyer in  
 19 reference to something that might be of benefit  
 20 based upon perjury that was committed in the  
 21 affidavit by -- declaration by Mr. Esrig that he had  
 22 reason to suspect was not accurate.  
 23 Q Did Mr. Sagan provide this document to  
 24 you?  
 25 A I do not -- not to me, no.

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1 Q Do you know if Mr. Sagan was the source of  
 2 this document?  
 3 A That would have to be answered to my  
 4 counsel.  
 5 Q Do you have any information about how this  
 6 document -- you contend this document came from  
 7 Stelor, right?  
 8 A I believe it did come from Stelor. I have  
 9 no genuine knowledge that it came from Stelor, but I  
 10 believe it came from Stelor. It was later proof of  
 11 the information on this document that would be  
 12 reason to suspect that it did come from Stelor.  
 13 Q That's your speculation, right?  
 14 A No. That's fact based upon follow up  
 15 conversations with my counsel that she did  
 16 investigate it.  
 17 MR. COOPER: Let's not get into your  
 18 communications with your counsel.  
 19 BY MR. KAPLAN:  
 20 Q Do you have any independent knowledge to  
 21 support the statement you just made that this  
 22 document came from Stelor?  
 23 A Independent knowledge, no.  
 24 Q Any knowledge?  
 25 A The document came from Stelor.

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1 Q Other than what you learned from your  
 2 attorney?  
 3 A I don't recall.  
 4 Q I'm going to hand you what I marked as  
 5 Exhibit 137?  
 6 (Deposition Exhibit No. 137 was  
 7 marked for identification.)  
 8 MR. COOPER: Excuse me one second.  
 9 Mr. Videographer, how much time do we have?  
 10 How much time has elapsed for the video so  
 11 far -- for the depo so far?  
 12 VIDEO OPERATOR: 7 hours and 8 minutes.  
 13 BY MR. KAPLAN:  
 14 Q Take a look at that document, 137, which  
 15 is copy of the defendant's supplement in support of  
 16 motion for attorney's fees and expenses filed by  
 17 your lawyers in the Hurley action, docket entry 99.  
 18 Attached as Exhibit A to this is a  
 19 transcript from somebody named Rebecca Gardner.  
 20 Do you see that? Hold on. You got my copy.  
 21 Where did this come from?  
 22 A Where did what come from, sir?  
 23 Q The transcript.  
 24 MR. COOPER: Again, if you can answer  
 25 without revealing attorney-client privileged

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1 communication go ahead.  
 2 THE WITNESS: I would have to defer to  
 3 counsel.  
 4 BY MR. KAPLAN:  
 5 Q Do you know where this came from?  
 6 A No, sir.  
 7 Q How did you find out this transcript  
 8 existed?  
 9 A My lawyer. I have no idea.  
 10 Q Did you pay anyone to get this transcript?  
 11 A Attorney-client privilege.  
 12 Q Well, do you know whether or not payments  
 13 were made by you or anybody that works for you to  
 14 get this document?  
 15 A Not to my knowledge.  
 16 Q What about the documents attached to  
 17 Exhibit 136, were any payments made for those that  
 18 we just looked at, 136, Exhibit A?  
 19 A Not to my knowledge.  
 20 Q Who did you discuss this transcript with  
 21 other than your lawyers?  
 22 A Which transcript?  
 23 Q This transcript we are looking at that was  
 24 attached to Exhibit 137?  
 25 MR. COOPER: Rebecca Gardner. Object to

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1 the form.  
 2 THE WITNESS: I think I was provided the  
 3 opportunity to read this transcript after it  
 4 was acquired and I see Mr. Sagan's name in  
 5 here.  
 6 BY MR. KAPLAN:  
 7 Q It said Mr. Sagan stole documents from  
 8 Stelor. Do you have any information about that?  
 9 A No, none whatsoever.  
 10 Q Now the question was and is what  
 11 conversations did you have with anyone regarding  
 12 this transcript aside from your lawyers?  
 13 A I'm sure I might have spoken to Mr. Sagan  
 14 about this, and I think I haven't read all of this  
 15 transcript but I think this was refuted by Rebecca  
 16 Gardner if there was no transcript that -- there was  
 17 no document stolen.  
 18 Q What conversation did you have with  
 19 Mr. Sagan about this?  
 20 A Basically his involvement with Mr. Esrig  
 21 and his -- the allegations that were made in this --  
 22 something to do with an unemployment claim.  
 23 Q But what specifically did Mr. Sagan say to  
 24 you?  
 25 A I don't recall.

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1 Q Do you have any recollection of what  
 2 Mr. Sagan said to you other than what you just  
 3 described for me?  
 4 A Not at this time.  
 5 Q Did you ever talk to Mr. Sagan about the  
 6 allegation that he stole documents from Stelor?  
 7 A I think I might have breached that  
 8 question to him and he flatly refused that  
 9 allegation as being untrue and had no substantiated  
 10 documentation.  
 11 Q What did he say exactly?  
 12 A He never stole any documents from Stelor  
 13 Productions.  
 14 Q Did you ever talk to Rebecca Gardner  
 15 directly?  
 16 A No.  
 17 MR. KAPLAN: Alright. In light of the  
 18 time limitation I'll stop.  
 19 VIDEO OPERATOR: Are we going off the  
 20 record?  
 21 MR. COOPER: Yes. He will read if it gets  
 22 typed up.  
 23 MR. KAPLAN: We will order it.  
 24 VIDEO OPERATOR: We are on the record.  
 25 MS. CALABRIA: Google would like an

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1 opportunity to cross examine this witness and I  
 2 understand from his counsel and from Stelor's  
 3 counsel that they are taking the position that  
 4 they are going to leave the deposition now; is  
 5 that correct?  
 6 MR. COOPER: More than the seven hours,  
 7 that is correct.  
 8 MR. KAPLAN: Stelor objected. We are  
 9 still here, but you have heard the position  
 10 from Silvers' lawyer.  
 11 MS. CALABRIA: Right. My understanding is  
 12 that a deposition is not admissible if a party  
 13 is deprived of the opportunity to cross  
 14 examine. So if we are deprived, as it seems we  
 15 are, then we reserve the right to exclude any  
 16 or all of the testimony that was just provided.  
 17 We also reserve the right to move to  
 18 compel Mr. Silvers to return for the cross  
 19 examination, and we will also seek costs in  
 20 doing that.  
 21 We called the judge's chambers and we were  
 22 unable to get in touch with them so we have no  
 23 option but to reserve our right on the record  
 24 and move for relief later on.  
 25 MR. KAPLAN: Johanna, let me clarify.

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1 Surely you are not objecting to the use of this  
 2 deposition limited to the crossclaim dispute  
 3 between Stelor and Silvers, are you?  
 4 MS. CALABRIA: I am objecting to it,  
 5 Kevin. We have the right to cross examine the  
 6 witness and we are not being permitted the  
 7 opportunity to do that.  
 8 MR. KAPLAN: Do you contend you have a  
 9 right to cross examine the witness related to  
 10 the contract claim dispute?  
 11 MS. CALABRIA: We reserve -- we have the  
 12 right to cross examine the witness as to the  
 13 scope of the testimony he just provided.  
 14 MR. KAPLAN: Okay. I guess don't see why  
 15 that's a basis for objecting to its use in  
 16 connection with the crossclaims, that's what  
 17 I'm trying to get clear. But in any event  
 18 Silvers -- you have heard the position of  
 19 Silvers' counsel so that's what it is.  
 20 MS. CALABRIA: Right. The last thing is  
 21 that I guess we will fight about this, but the  
 22 agreement of the parties as of last Tuesday was  
 23 to allow this cross examination and it was in  
 24 part based on that agreement that we agreed to  
 25 return here on Friday. Since that agreement

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1 has been reneged we contend that the deposition  
 2 testimony that was heard today should be  
 3 stricken.  
 4 MR. KAPLAN: Stelor has not and is not  
 5 terminating the objection. We just voiced our  
 6 position on the record.  
 7 MS. CALABRIA: I understand that, Kevin,  
 8 but the rules say that we are entitled to cross  
 9 examination of deposition testimony, and the  
 10 witness is leaving.  
 11 So under the rules the relief that we are  
 12 entitled to is, A, to move to exclude all of  
 13 the testimony or any portion of it; or B, to  
 14 move to compel him to return and to move for  
 15 sanctions against him. And so we are  
 16 seeking -- we are reserving both of those  
 17 rights.  
 18 MR. KAPLAN: I think I misspoke. I just  
 19 want to make sure. Stelor has not terminated  
 20 the deposition and we are still sitting here,  
 21 so in any event.  
 22 MS. CALABRIA: And I, you know, restate my  
 23 objection. I think your position earlier was  
 24 that we should not be permitted to cross  
 25 examine, so that is our position.

(Pages 367 to 370)

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1 MR. KAPLAN: Yes, and as I confirmed,  
 2 Stelor was and will make its objections to your  
 3 questions at the time.  
 4 Anything more?  
 5 MR. COOPER: No.  
 6 MR. KAPLAN: Anything more Johanna?  
 7 MS. CALABRIA: No.  
 8 VIDEO OPERATOR: We are off the record.  
 9  
 10 (Witness excused.)  
 11 (Thereupon, the deposition was  
 12 concluded.)  
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Page 373

1 CERTIFICATE  
 2  
 3 THE STATE OF FLORIDA)  
 4 COUNTY OF DADE)  
 5  
 6 I, Thomas R. Neumann, Registered Reporter,  
 7 State of Florida at large, do hereby certify that I  
 8 was authorized to and did report said deposition in  
 9 stenotype; and that the foregoing pages, numbered  
 10 from 274 to 371, inclusive, are a true and correct  
 11 transcription of my shorthand notes of said  
 12 deposition.  
 13  
 14 I further certify that said deposition was  
 15 taken at the time and place hereinabove set forth  
 16 and that the taking of said deposition was commenced  
 17 and completed as hereinabove set out.  
 18 I further certify that I am not attorney or  
 19 counsel of any of the parties, nor am I a relative  
 20 or employee of any attorney or counsel of party  
 21 connected with the action, nor am I financially  
 22 interested in the action.  
 23 The foregoing certification of this transcript  
 24 does not apply to any reproduction of the same by  
 25 any means unless under the direct control and/or  
 direction of the certifying reporter.  
 IN WITNESS WHEREOF, I have hereunto set my hand  
 this 23rd day of October 2006.  
 \_\_\_\_\_  
 Thomas R. Neumann  
 Notary Public - State of Florida  
 My Commission Expires: 3/22/07  
 My Commission No.: DD187497

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1  
 2 THE STATE OF FLORIDA)  
 3 COUNTY OF MIAMI-DADE)  
 4  
 5 I, the undersigned authority, certify that the  
 6 aforementioned witness personally appeared before me  
 7 and was duly sworn.  
 8  
 9 WITNESS my hand and official  
 10 seal this 23rd day of October  
 11 2006.  
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 18 \_\_\_\_\_  
 19 Thomas R. Neumann  
 20 Notary Public - State of Florida  
 21 My Commission Expires: 3/22/07  
 22 My Commission No.: DD187497  
 23  
 24  
 25

Page 374

1 DATE: October 23, 2006  
 2 TO: STEVEN SILVERS  
 3 C/O ROBERT H. COOPER P.A.  
 4 2699 N.E. 191 Street  
 5 Suite 704  
 6 Aventura, Florida 33180  
 7 IN RE: STEVEN A. SILVERS V GOOGLE, INC.  
 8 CASE NO.: 05-80387  
 9  
 10 Please take notice that on Friday, the 13th of  
 11 October 2006, you gave your deposition in the  
 12 above-referred matter. At that time, you did not  
 13 waive signature. It is now necessary that you sign  
 14 your deposition.  
 15 Please call our office at the below-listed  
 16 number to schedule an appointment between the hours  
 17 of 9:00 a.m. and 4:30 p.m., Monday through Friday,  
 18 at Network Reporting Corporation, 44 W. Flagler  
 19 Street.  
 20 If you do not read and sign the deposition  
 21 within a reasonable time, the original, which has  
 22 already been forwarded to the ordering attorney, may  
 23 be filed with the Clerk of the Court. If you wish  
 24 to waive your signature, sign your name in the blank  
 25 at the bottom of this letter and return it to us.  
 Very truly yours,  
 NETWORK REPORTING CORPORATION.  
 \_\_\_\_\_  
 THOMAS R. NEUMANN  
 I do hereby waive my signature:  
 \_\_\_\_\_  
 STEVEN SILVERS  
 cc via transcript: KEVIN C. KAPLAN, ESQ.  
 JOHANNA CALABRIA, ESQ.  
 ROBERT H. COOPER, ESQ.  
 file copy

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CERTIFICATE

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THE STATE OF FLORIDA)  
COUNTY OF MIAMI-DADE)

I hereby certify that I have read the foregoing deposition by me given, and that the statements contained herein are true and correct to the best of my knowledge and belief, with the exception of any corrections or notations made on the errata sheet, if one was executed.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
STEVEN SILVERS

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ERRATA SHEET

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IN RE: STEVEN A. SILVERS V GOOGLE, INC.  
DEPOSITION OF: STEVEN SILVERS  
TAKEN: 10/13/06  
DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE  
PAGE # LINE # CHANGE REASON


Please forward the original signed errata sheet to this office so that copies may be distributed to all parties.

Under penalty of perjury, I declare that I have read my deposition and that it is true and correct subject to any changes in form or substance entered here.

DATE: \_\_\_\_\_

SIGNATURE OF DEPONENT: \_\_\_\_\_

(Pages 375 to 376)