

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 05-80387 CIV RYSKAMP/VITUNAC

STEVEN A. SILVERS, an individual,

Plaintiff,

v.

GOOGLE INC., a Delaware corporation,

Defendant.  
\_\_\_\_\_ /

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, and  
STEVEN ESRIG, an individual,Counterdefendants.  
\_\_\_\_\_ /**STELOR PRODUCTION, LLC'S SUR-REPLY TO  
GOOGLE INC.'S REPLY IN SUPPORT OF ITS  
CROSS-MOTIONS TO COMPEL AND FOR COSTS**

Google's Reply continues to make unavailing arguments about the privileges asserted by Stelor. The thrust of Google's argument is that it was somehow improper to for Stelor to attempt to narrow the issues by voluntarily providing a more detailed privileged log and producing a thousand pages of documents to Google.

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Stelor acted in good faith to narrow the issues to be resolved by the Court. Most of the documents produced were copies of papers from the prior litigation between Stelor and Silvers, which were subsequently used by Stelor at the deposition of Steven Silvers pursuant to the Court's October 5, 2006 Omnibus Order [DE #138]. Primarily as a courtesy to Google's counsel who was appearing telephonically for the Silvers deposition rather than traveling from her office in San Francisco, Stelor bates stamped and delivered the documents. Of course, Google is not a party to the dispute between Stelor and Silvers, and the documents produced were not germane to Google's issues with Stelor and Silvers, but Stelor produced them nonetheless.

Stelor also produced a set of e-mail communications with Silvers, in an attempt further to narrow the scope of the dispute. Stelor had properly objected to production of those documents on various grounds in response to Google's document requests. Even in its untimely Cross-Motion to Compel, Google still failed to address those objections, let alone explain the basis for seeking to have the objections overruled.<sup>1</sup>

Clearly, Stelor's continued efforts to narrow the scope of this discovery dispute – and also to accommodate Google's out-of-town counsel by overnighting deposition exhibits – does not justify the request for sanctions. Stelor has now produced *in excess of 11,000 pages of documents* to Google; and Google has produced none! And, Stelor has worked in good faith to resolve various discovery issues with Google, demonstrated by the absence of any motion to

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<sup>1</sup> Google now claims that a document buried in the Calabria Declaration at Tab 14 satisfies the Local Rules with respect to preparing a verbatim recitation of the disputed requests and responses. Google's list does not comply with the Local Rules in that it is missing the critical element of the reason why the objections should be overruled. See Local Rule 26.1(h)(2)(c) ("the reason assigned as supporting the motion" shall be written in immediate succession following the grounds assigned for the objection).

compel by Google – until the cross-motion, in response to Stelor’s motion to protect an important privilege.

With respect to the substance of Google’s arguments in opposition to Stelor’s claimed privileges, those issues were fully addressed in Stelor’s initial motion and its reply, on which Stelor relies. Google’s “reply”, improper in the first place, does not support disregarding these important privileges here.

WHEREFORE, Stelor respectfully requests that this Court issue an order granting Stelor’s motion for protective order, and denying Google’s cross-motions to compel and for costs.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2006, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/Kevin C. Kaplan

**SERVICE LIST**

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UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA**

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