

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 PRODUCTIONS, LLC'S OPPOSITION TO SILVERS' MOTION TO FILE  
SUR-REPLY REGARDING STELOR'S MOTION FOR BENCH TRIAL**

Silvers' Motion to File Sur-Reply incorrectly states that Stelor "seeks both *damages for breach of contract* and a declaratory judgment". On that, basis, Silvers' argues that he has a right to jury trial.

Stelor, however, does **NOT SEEK DAMAGES** from Silvers. This has repeatedly been made clear by Stelor, including in its Summary Judgment papers and at the summary judgment hearing. As Silvers has argued, the License Agreement in Article XIII expressly precludes any recovery of damages. [DE # 199-2, at 8]. For this reason, therefore, while the Amended Cross-

**COFFEY BURLINGTON**

---

OFFICE IN THE GROVE PENTHOUSE 2699 SOUTH BAYSHORE DRIVE MIAMI, FLORIDA 33133

T: 305.858.2900 F: 305.858.5261

EMAIL: [info@coffeyburlington.com](mailto:info@coffeyburlington.com)[www.coffeyburlington.com](http://www.coffeyburlington.com)

Claim listed damages as a potential remedy against Silvers (DE 49 at 21), no damages are recoverable from or are being sought from Silvers.

The relief Stelor seeks is exclusively equitable: declaratory and injunctive relief that Silvers' termination is invalid, the Agreements are reinstated and in effect, and must be specifically performed by Silvers. Stelor seeks no damages or other legal relief in Phase I; nor does Silvers.

Accordingly, no right to jury trial exists for this trial. The matter must be tried non-jury. And, Silvers should not be permitted leave to file a sur-reply, mischaracterizing the relief sought by Stelor.

Respectfully submitted,

s/Kevin C. Kaplan - Florida Bar No. 933848

David J. Zack - Florida Bar No. 641685

Email: [kkaplan@coffeyburlington.com](mailto:kkaplan@coffeyburlington.com)

[dzack@coffeyburlington.com](mailto:dzack@coffeyburlington.com)

COFFEY BURLINGTON

Office in the Grove, Penthouse A

2699 South Bayshore Drive

Miami, Florida 33133

Tel: 305-858-2900

Fax: 305-858-5261

Counsel for STELOR PRODUCTIONS,  
LLC and STEVEN ESRIG

CERTIFICATE OF SERVICE AND COMPLIANCE

I hereby certify that on January 12, 2007, 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**

**STEVEN A. SILVERS, Plaintiff, v. GOOGLE INC.  
CASE NO. 05-80387 CIV RYSKAMP/VITUNAC  
UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA**

<p>Robert H. Cooper, Esq. <a href="mailto:robert@rcooperpa.com">robert@rcooperpa.com</a> ROBERT COOPER, P.A. Concorde Centre II, Suite 704 2999 N.E. 191 Street Aventura, Florida 33180 Tel: 305-792-4343 Fax: 305-792-0200 <i>Attorney for Plaintiff Steven A. Silvers</i> Method of Service: CM/ECF</p>	<p>Ramsey Al-Salam, Esq. <a href="mailto:RAlsalam@perkinscoie.com">RAlsalam@perkinscoie.com</a> William C. Rava, Esq. PERKINS COIE LLP Suite 4800 1201 Third Avenue Seattle, Washington 98101-3099 Tel: 206-359-8000 Fax: 206-359-9000 <i>Attorneys for Defendant Google Inc.</i> Method of Service: U.S. Mail</p>
<p>Johanna Calabria, Esq. PERKINS COIE LLP Suite 2400 Four Embarcadero Center San Francisco, CA 94111 Tel: 415-344-7050 Fax: 415-344-7124 E-mail: <a href="mailto:jcalabria@perkinscoie.com">jcalabria@perkinscoie.com</a> <i>Attorneys for Defendant Google Inc.</i> Method of Service: U.S. Mail</p>	<p>Jan Douglas Atlas, Esq. <a href="mailto:jatlas@adorno.com">jatlas@adorno.com</a> ADORNO &amp; YOSS LLP Suite 1700 350 East Las Olas Boulevard Fort Lauderdale, Florida 33301 Tel: 954-763-1200 Fax: 954-766-7800 <i>Attorneys for Defendant Google Inc.</i> Method of Service: CM/ECF</p>