

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH**

Case No. 05-80387-CIV-RYSKAMP/VITUNAC

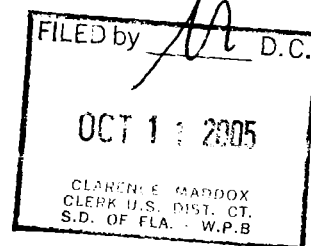
STEVEN A. SILVERS, an individual,

Plaintiff,

v.

GOOGLE INC., a Delaware corporation,

Defendant.



**ORDER GRANTING PLAINTIFF'S MOTION FOR
LEAVE TO FILE FIRST AMENDED COMPLAINT**

THIS CAUSE comes before the Court upon Plaintiff's Motion for Leave to File First Amended Complaint and Memorandum of Law in Support Thereof [DE 10], filed on August 30, 2005. Defendant did not file a response.

Pursuant to S.D. Fla. Local Rule 7.1(C), Defendant's failure to timely respond to the motion may be sufficient cause to grant the relief sought by default. *See* S.D. Fla. L.R. 7.1(C). Additionally, granting Plaintiff leave to amend is consistent with the applicable rules of civil procedure. A party may amend its pleading once as a matter of right before a responsive pleading has been filed, and thereafter, "only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires." Fed. R. Civ. P. 15(a). A district court has "sound discretion" to decide whether to grant leave to amend pleadings. *Nat'l Serv. Indust., Inc. v. Vafsa Corp.*, 694 F.2d 246, 249 (11th Cir. 1982). The Supreme Court has instructed that the mandate of Rule 15(a)

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is to be heeded . . . [i]n the absence of any apparent or declared reason – such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of the amendment, etc. – the leave sought should, as the rules require, be “freely given.”


Foman v. Davis, 371 U.S. 178, 182 (1962).

In this case, there is no indication of undue delay, bad faith or dilatory motive on the part of Plaintiff, nor has Defendant suggested that the proposed amendment would be futile.

Therefore, leave should be freely given in this case, and it is hereby,

ORDERED and ADJUDGED that Plaintiff’s Motion for Leave to File First Amended Complaint **[DE 10]** is GRANTED. The First Amended Complaint, attached Exhibit “A” to the motion, is deemed filed as of the date of this Order.

DONE AND ORDERED in Chambers at West Palm Beach, Florida, this 14th day of October, 2005.


HON. KENNETH L. RYSKAMI
UNITED STATES DISTRICT JUDGE

Copies provided to:
Harley S. Tropin, Esq.
Jan D. Atlas, Esq.
Andrew P. Bridges, Esq.