

# EXHIBIT 1

00001

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

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STEVEN A. SILVERS, :  
Plaintiff, : Case Number  
vs. : 05-80387-CIV  
GOOGLE INC., :  
Defendant. :  
----- x  
GOOGLE INC., :  
Counterclaimant, :  
vs. :  
STEVEN A. SILVERS, et al., :  
Counter-Defendants. :  
----- x

CONFIDENTIAL 30(b)(6) VIDEO DEPOSITION OF  
STEVEN A. ESRIG

Rockville, Maryland  
Tuesday, August 22, 2006

REPORTED BY:  
CARMEN SMITH

EXHIBIT 1

1           Q     So is it your testimony that Stelor  
2     Productions, then, does not own any trademarks  
3     related to the Googles marks?

4           A     Correct.

5           MR. KAPLAN: Let me just object to the  
6     extent it calls for a legal conclusion. You can  
7     answer the question.

8           THE WITNESS: All of the trademarks in  
9     regard to the Googles marks are owned by Mr. Steven  
10    Silvers.

11          BY MS. CALABRIA:

12          Q     Okay. If you would turn to the profit and  
13    loss page, which is the next page of Exhibit 47.  
14    And you see listed under the income that there is  
15    Web site revenue, it appears that the Web site  
16    revenue as of December 31, 2005 is \$21.40. Do you  
17    see that?

18          A     Yes.

19          Q     Where did that revenue come from?

20          A     I'm guessing it comes from the sale of  
21    music.

22          Q     When you say "the sale of music," are you  
23    referring to iTunes?

24          A     Yes, I believe so.

25          Q     Are you also referring to the sale of a

1 CD?

2 A Well, all of our music is sold through  
3 iTunes, so you go to the site, you click on the link  
4 at the site, it takes you to iTunes.

5 Q So am I understanding correctly that you  
6 can't purchase a CD off the Web site, you can only  
7 purchase through iTunes, purchase music through  
8 iTunes?

9 MR. KAPLAN: Objection to form.

10 THE WITNESS: I believe that's correct.

11 BY MS. CALABRIA:

12 Q Okay. So is it correct that, until  
13 December 31, 2005, or whenever it was that sale took  
14 place in 2005, there had been no sales on the Web  
15 site until then; is that correct?

16 A I believe so.

17 Q I see there there's a line item for  
18 "Royalty Income" as well, and it's \$80.62. What was  
19 that in respect of?

20 A I'm not sure.

21 Q I notice too under expenses there is a CEO  
22 auto expense for 2005 at \$18,000. The CEO is you;  
23 right?

24 A Yes.

25 Q Did you -- did the company incur that

1 Q And did you come up with a price based on  
2 that analysis?

3 A That's how we arrived at the price of the  
4 property, yes. I think that's correct.

5 Q So it was a comparative analysis of other  
6 what you thought were similar --

7 A Similar, yes.

8 Q -- properties. Okay. Now, you stated  
9 earlier that you thought that Aurora had sold  
10 Googles-related merchandise, let's say, as of the  
11 time of the asset purchase; correct?

12 A Yes.

13 Q And you stated you didn't know how many  
14 books had been sold?

15 A I'm not certain, that's correct.

16 Q But you believe some books had been sold?

17 A Yes.

18 Q Are you aware that the initial printing of  
19 the books was a thousand?

20 A I don't recall what that number is, but  
21 I'll take your word for it.

22 Q Okay. You received those books as  
23 inventory when you acquired the Aurora assets;  
24 correct?

25 A Yes.

1           Q     How many books did you get in that  
2     inventory?

3           A     If I remember, there was probably five or  
4     600 books that we received. I know I've been  
5     distributing them since then in my travels, and  
6     we're down to the very last few.

7           Q     Okay. Had Aurora sold any Googles-related  
8     music as of the time of the asset purchase? And  
9     Mr. Esrig, I notice that as I'm asking you these  
10    questions, you're referring to Exhibit 51, the page  
11    that we were just discussing. Is there something in  
12    that document that's helping you answer my  
13    questions?

14          A     No. I'm just looking at the different  
15    line items to see if there is something that could  
16    be helpful. This is showing a balance sheet, and so  
17    it -- I'm not sure how they're reflecting it, but  
18    they're showing Googles shows and they're showing  
19    video and they're showing other Googles entries. So  
20    it would appear that there was.

21          Q     Well, these entries appear to be expenses,  
22    don't they?

23               MR. KAPLAN: Just answer her question  
24    based on what you know. If she wants you to refer  
25    to a document, she'll tell you.

1 A My office.

2 Q Who at your office?

3 A I -- I couldn't tell you.

4 Q Is that your signature --

5 A Yes.

6 Q -- on the schedules?

7 A Yes, it is.

8 Q Were these schedules provided to  
9 Mr. Silvers?

10 A Yes.

11 Q If you would take a moment to familiarize  
12 yourself with the schedules, is it fair to say that  
13 these schedules show that there were no sales of any  
14 licensed product from the period beginning June 1,  
15 2002 through June 30, 2004?

16 A Yes.

17 (Deposition Exhibit 59 identified.)

18 BY MS. CALABRIA:

19 Q Were any products offered for sale during  
20 that time?

21 A What were the time periods again?

22 Q June 1, 2002 through June 30, 2004.

23 A No, I don't believe so.

24 Q Was the book offered for sale during that  
25 time period?

1           A     No. I distributed the book, but I never  
2     offered it for sale.

3           Q     What do you mean by you distributed the  
4     book?

5           A     It's been the centerpiece of all of the  
6     promotional -- every promotional material that I  
7     have given out to -- whether it's been potential  
8     investors, trade shows, potential vendors,  
9     licensees. And I have, whenever I travel, I have  
10    the book, and inside the book I put a sheet of  
11    stickers and a CD, and I give it to children  
12    wherever I travel.

13          Q     Do you have a rough estimate of how many  
14    children you've provided the book to?

15          A     Oh, hundreds.

16          Q     Well, under 500 certainly; right?

17          A     Certainly.

18          Q     Because you only received, I think you  
19    said, five to 600 copies of the book?

20          A     Correct.

21          Q     And I think you just told me that you  
22    provided the book to potential investors, vendors,  
23    et cetera?

24          A     Right.

25          Q     So of the five to 600 books, approximately



1 publishers about doing so.

2 Q But as of today, no book has been  
3 published other than the initial book; correct?

4 A Correct.

5 Q Have you ordered reprinting of the initial  
6 book?

7 A No. As I said earlier in my testimony,  
8 we're about to do that now.

9 Q But you haven't actually done it?

10 A Correct.

11 Q I'm handing you what's been marked as  
12 Exhibit 59. This is a document that was also made a  
13 part of the record in the federal court in the  
14 litigation between Stelor and Mr. Silvers. And it's  
15 an e-mail dated March 5, 2005 from your counsel,  
16 Kevin Kaplan, to Mr. Silvers's counsel, Gail  
17 McQuilkin.

18 If you would look at the last page of the  
19 document, which is the initial e-mail from  
20 Ms. McQuilkin, and I want to direct your attention  
21 specifically to item number 8. Do you see item  
22 number 8?

23 A Yes.

24 Q Where it says, "Stelor needs to provide us  
25 with samples of all products they are offering for

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, CARMEN SMITH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

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Notary Public in and for the  
District of Columbia

My Commission Expires: MARCH 14, 2008