

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

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.

**DEFENDANT GOOGLE INC.'S OBJECTIONS AND RESPONSES TO
PLAINTIFF STELOR'S REQUESTS FOR PRODUCTION OF
DOCUMENTS**

Defendant and Counterclaimant Google Inc. ("Google") responds to Plaintiff Stelor Productions, LLC f/k/a Stelor Productions, Inc. ("Stelor")'s July 31, 2008 Requests for Production of Documents as follows:

I. GENERAL OBJECTIONS

Google interposes the following General Objections to each and every Document Request:

1. Google objects to the “definitions” and “instructions” to the extent they seek to impose obligations beyond those established by the Federal Rules of Civil Procedure and the Local Rules of the Court.

2. Google objects to the extent that the requests seek documents protected by the attorney-client privilege, work product immunity or any other applicable privilege or immunity.

3. Google objects to the extent that the requests seek documents already in Plaintiff’s possession or control, such as documents that have been exchanged in the litigation.

4. Google objects to the extent that the requests seek inaccessible documents or electronic information that would be unduly burdensome to identify and produce.

5. Google objects to the requests to the extent they seek documents that Google is contractually or legally prohibited from producing.

6. Google objects to the requirement that the documents be produced at the offices of Plaintiff’s counsel.

7. Google objects to the definitions of “Google” and “You” as overly broad and unduly burdensome to the extent that they include individuals or entities who are or were not acting in their official capacities on behalf of Google, Inc. or under Google’s authority or control.

8. Google objects to the definition of “Children’s Categories.” Google objects to this definition as overly broad, unduly burdensome, and not likely to lead to discoverable information to the extent that it seeks documents relating to products or services offered by Google’s advertisers or customers. Google will produce documents relating only to products or services offered by Google, not by its advertisers or customers. Google further objects to this definition as vague and ambiguous to the extent that it does not describe how a product or service is a “children’s” product or service. For purposes of responding to these requests,

Google will assume that “children’s” or “children” as used throughout the definition means “created for, targeted at, or marketed for children by Google.”

II. REQUESTS FOR PRODUCTION

REQUEST NO. 1. All of your board of director meeting minutes, related to the Children’s Categories and/or Google’s expansion of the use of its trademark in connection with the Children’s Categories.

RESPONSE: Google objects to this request as overly broad and vague and ambiguous because the phrase “related to the Children’s Categories” as used in this request is unclear. Subject to the foregoing general and specific objections, Google will produce responsive, non-privileged, non-objectionable documents to the extent that such documents exist and can be located after a reasonably diligent search.

REQUEST NO. 2. All documents pertaining to Google’s corporate structure, including but not limited to an organization chart or other document that identifies all divisions or separate corporate functions and the specific positions within each division or separate corporate function.

RESPONSE: Google objects to this request as overly broad and unduly burdensome to the extent that it seeks documents detailing specific positions within each division or separate corporate function. Subject to the foregoing general and specific objections, Google will produce responsive, non-privileged, non-objectionable summary documents identifying Google’s corporate structure, including divisions, to the extent that such documents exist and can be located after a reasonably diligent search.

REQUEST NO. 3. All documents relating to or identifying Google’s Goods and Services relating to any of the Children’s Categories.

RESPONSE: Google objects to this request as overly broad and unduly burdensome because it seeks all documents, regardless of subject matter or topic, relating to a broad category of goods and services.

REQUEST NO. 4. All documents pertaining to your use of the “Google” name or trademark in relation or connection with any Goods and Services within any and all of the Children’s Categories.

RESPONSE: Google objects to this request as overly broad and unduly burdensome because it seeks all documents relating to the use of Google’s name or trademark in a broad category of goods and services. Subject to the foregoing general and specific objections, Google will provide representative samples of its trademark use on goods and services within the Children’s Categories to the extent that they exist and can be located after a reasonably diligent search.

REQUEST NO. 5. All documents pertaining to any domain name owned or licensed by Google or affiliated with Google that pertains to any Goods and Services within any and all of the Children’s Categories.

RESPONSE: Google objects to this request as overly broad, unduly burdensome, and as seeking documents not reasonably calculated to lead to admissible evidence to the extent that the request seeks documents relating to domain names licensed by or affiliated with Google, without limitation as to subject matter. Google further objects to this request as vague and ambiguous because the phrase “affiliated with Google” is unclear. Subject to the foregoing general and specific objections and without admitting that any domain name registered by Google is used in connection with any of the categories in this request, Google will produce a list of domain names that it owns to the extent that such a list has not already been produced.

REQUEST NO. 6. All documents pertaining to your commercial use of the “Google” name or trademark in relation or connection with any Goods and Services within any and all of the Children’s Categories.

RESPONSE: Google objects to this request as overly broad and unduly burdensome because it seeks all documents relating to the use of Google’s name or trademark on a broad category of goods and services. Subject to the foregoing general and specific objections, Google will produce representative samples of its commercial trademark use on goods and services within the Children’s Categories to the extent that they exist and can be located after a reasonably diligent search.

REQUEST NO. 7. All contracts and/or agreements related to Google’s offer of Goods and Services in relation to children and/or any of the Children’s Categories.

RESPONSE: Google objects to this request as overly broad and unduly burdensome because it seeks all contracts or agreements, regardless of subject matter or topic, relating to a broad category of goods and services.

REQUEST NO. 8. All documents pertaining to any use of the “Google” name or trademark in relation to children’s books.

RESPONSE: Google objects to this request as vague and ambiguous because it does not specify whose use or whose products to which it relates. For purposes of responding to this request, Google assumes that the request relates to Google’s use of the “Google” trademark on Google’s products. Subject to the foregoing general and specific objections, Google will produce representative samples of Google’s use of the “Google” trademark in relation to children’s books offered by Google, to the extent that they exist and can be located after a reasonably diligent search.

REQUEST NO. 9. All documents identifying or pertaining to all customers, affiliates, and/or business partners who contract with Google to advertise, promote, market, and/or sell children's books.

RESPONSE: Google objects to this request as overly broad, unduly burdensome, and as seeking documents not reasonably calculated to lead to admissible evidence because it seeks documents relating to third parties whose actions are not the subject of this lawsuit.

REQUEST NO. 10. All licensing contracts or agreements or trademarks licensing agreements that you have with respect to any Goods and Services offered by Google in any and all of the Children's Categories.

RESPONSE: Google objects to this request as overly broad and unduly burdensome because it seeks all contracts or agreements, regardless of subject matter or topic, relating to a broad category of goods and services.

REQUEST NO. 11. All manufacturing contracts that you have with respect to any Goods and Services offered by Google in any and all of the Children's Categories.

RESPONSE: Google objects to this request as overly broad, unduly burdensome, vague and ambiguous, and as seeking documents not reasonably calculated to lead to admissible evidence.

REQUEST NO. 12. All documents that record, state, or detail the type, sources, and amounts of revenue for any Goods and Services offered by Google in any and all of the Children's Categories.

RESPONSE: Google objects to this request as vague and ambiguous because it does not define "record, state, or detail," "type," or "sources." Google further objects to this request as seeking documents not reasonably calculated to lead to admissible evidence because the

“sources” of Google’s revenue are not relevant to the present dispute. Subject to the foregoing general and specific objections, Google will produce responsive, non-privileged, non-objectionable summary documents to the extent they exist and can be identified through a reasonably diligent search.

REQUEST NO. 13. All documents that record, state, or detail the sources and amount of revenue for all licensing agreements for Google relating to any of the Children’s Categories.

RESPONSE: Google objects to this request as vague and ambiguous because it does not define “record, state, or detail,” “type,” or “sources.” Google further objects to this request as seeking documents not reasonably calculated to lead to admissible evidence because the “sources” of Google’s revenue are not relevant to the present dispute. Subject to the foregoing general and specific objections, Google will produce responsive, non-privileged, non-objectionable summary documents to the extent they exist and can be identified through a reasonably diligent search.

REQUEST NO. 14. All documents pertaining to communications by any of your employees or personnel with respect to the licensing of any Goods and Services within any of the Children’s Categories.

RESPONSE: Google objects to this request as overly broad and unduly burdensome and as seeking documents not reasonably calculated to lead to admissible evidence because the request does not limit the communications to any particular topic. Google further objects to this request as vague and ambiguous because it does not specify with whom the communications were had.

REQUEST NO. 15. All documents pertaining to internal communications with respect to any Goods and Services offered by Google within any of the Children’s Categories.

RESPONSE: Google objects to this request as overly broad and unduly burdensome and as seeking documents not reasonably calculated to lead to admissible evidence because the request does not limit the communications to any particular topic.

REQUEST NO. 16. All documents pertaining to future development plans within Google with respect to any offer of Goods and Services within any of the Children's Categories.

RESPONSE: Google objects to this request as overly broad, unduly burdensome, vague and ambiguous, and as seeking documents not reasonably calculated to lead to admissible evidence.

REQUEST NO. 17. All documents pertaining to future development plans in association with any entity other than Google for any Goods and Services within any of the Children's Categories.

RESPONSE: Google objects to this request as overly broad, unduly burdensome, vague and ambiguous, and as seeking documents not reasonably calculated to lead to admissible evidence.

REQUEST NO. 18. All business plans pertaining to any Goods and Services within any of the Children's Categories.

RESPONSE: Google objects to this request as overly broad, unduly burdensome, vague and ambiguous, and as seeking documents not reasonably calculated to lead to admissible evidence.

REQUEST NO. 19. All marketing plans pertaining to any Goods and Services within any of the Children's Categories.

RESPONSE: Google objects to this request as overly broad, unduly burdensome, vague and ambiguous and as seeking documents not reasonably calculated to lead to admissible evidence.

REQUEST NO. 20. All documents pertaining to any federal trademark application by Google to expand the initial definition that could be directed in any way at children, including but not limited to the Children's Categories.

RESPONSE: Google objects to this request as vague and ambiguous as it relates to the phrases "initial definition" and "directed in any way at children."

REQUEST NO. 21. All business plans, marketing plans, or other documents demonstrating management's intentions regarding licensing with respect to any of the Children's Categories.

RESPONSE: Google objects to this request as vague and ambiguous because it does not define "business plans" or "marketing plans" and the phrase "demonstrating management's intentions regarding licensing" is unclear. Google further objects to this request as overly broad, unduly burdensome, and as seeking documents not reasonably calculated to lead to admissible evidence.

REQUEST NO. 22. All internally generated budgets, forecasts, or other documents reflecting your expectations for revenues, expenses, or profits with respect to any Goods and Services within any and all of the Children's Categories.

RESPONSE: Google objects to this request as overly broad, unduly burdensome, and as seeking documents not reasonably calculated to lead to admissible evidence. Subject to the foregoing general and specific objections, Google will produce responsive, non-privileged, non-

objectionable summary documents to the extent they exist and can be identified through a reasonably diligent search.

REQUEST NO. 23. All documents or reports generated to record licensing contracts, trademark licensing agreements, or any other licensing arrangement.

RESPONSE: Google objects to this request as overly broad and unduly burdensome and as seeking documents not reasonably calculated to lead to admissible evidence because it seeks documents and reports relating to agreements and contracts that have no relation to the present dispute.

REQUEST NO. 24. All documents or reports generated on an interim basis (including but not limited to daily, weekly, monthly, quarterly, or annually) that reflect any of the following operating results for Google for any Goods and Services within any of the Children's Categories: (a) licensing; (b) marketing; (c) product sales or revenues.

RESPONSE: Google objects to this request as vague and ambiguous and as seeking documents not reasonably calculated to lead to admissible evidence. Subject to the foregoing general and specific objections, Google will produce responsive, non-privileged, non-objectionable summary documents relating to product sales and revenues to the extent they exist and can be identified through a reasonably diligent search.

REQUEST NO. 25. All documents pertaining to your marketing attempts, either on your own or through any other person or entity, for any Goods and Services within any and all of the Children's Categories.

RESPONSE: Google objects to this request as vague and ambiguous because the phrase "marketing attempts" is not defined.

REQUEST NO. 26. All documents pertaining to your attempts to expand Google's mark into areas other than those originally approved through Google's original trademark applications, registrations, or amendments.

RESPONSE: Google objects to this request as overly broad and vague and ambiguous with respect to the phrases "original trademark applications, registrations, or amendments" and "areas originally approved."

REQUEST NO. 27. All documents pertaining to advertisements by Google or associated with the "Google" trademark for any Goods and Services within any and all of the Children's Categories.

RESPONSE: Google objects to this request as overly broad and unduly burdensome and vague and ambiguous with respect to the phrases "associated with the 'Google' trademark" and "pertaining to advertising."

REQUEST NO. 28. All documents or reports that reflect operating revenues, expenses, or profits from licensing arrangements and products sales of any Goods and Services within any and all of the Children's Categories.

RESPONSE: Subject to the foregoing general objections, Google will produce responsive, non-privileged, non-objectionable summary documents to the extent they exist and can be identified through a reasonably diligent search.

REQUEST NO. 29. All documents pertaining to shipping or storing of any Goods and Services within any and all of the Children's Categories.

RESPONSE: Google objects to this request as overly broad and unduly burdensome and as seeking documents not reasonably calculated to lead to admissible evidence.

REQUEST NO. 30. All documents pertaining to the planning, development, implementing, testing, advertising, or marketing of Lively by Google in relation to children and/or any and all of the Children's Categories.

RESPONSE: Google objects to this request as overly broad and unduly burdensome, vague and ambiguous, and as seeking documents not reasonably calculated to lead to admissible evidence.

REQUEST NO. 31. All documents pertaining to the planning, development, implementing, testing, advertising, or marketing of Lively by Google.

RESPONSE: Google objects to this request as overly broad and unduly burdensome, vague and ambiguous, and as seeking documents not reasonably calculated to lead to admissible evidence.

REQUEST NO. 32. All documents pertaining to Google's intent to use "Google" as a trademark.

RESPONSE: Google objects to this request as vague and ambiguous, overly broad and unduly burdensome, and as seeking documents not reasonably calculated to lead to admissible evidence.

REQUEST NO. 33. All documents pertaining to the incorporation of Google, Inc. on or about September 16, 1998.

RESPONSE: Google objects to this request as overly broad and unduly burdensome and as seeking documents not reasonably calculated to lead to admissible evidence. Subject to the foregoing general and specific objections, Google states that general information about Google's incorporation has either already been produced or is available through publicly available sources.

REQUEST NO. 34. All documents relating to the preparation and submission of the Declaration signed by Larry Page dated on or about March 9, 1999, including any document filed in support of the Amendment to Allege Use filed on or about March 15, 1999.

RESPONSE: Google objects to this request as overly broad and unduly burdensome. Google further objects to this request to the extent it seeks documents protected by the attorney-client privilege or work-product immunity. Subject to the foregoing general and specific objections, Google states that it has already produced such documents or will produce responsive, non-privileged, non-objectionable documents to the extent they exist and can be identified through a reasonably diligent search.

REQUEST NO. 35. All documents pertaining to the adoption and/or use of the name “Google Goo” with respect to any product.

RESPONSE: Google objects to the request as vague and ambiguous because it does not specify whose use or which product that the request pertains to. For purposes of responding to this request, Google assumes that the request pertains to Google’s use or adoption of the name “Google Goo” with respect to Google’s “Google Goo” product. Subject to the foregoing general and specific objections, Google will produce responsive, non-privileged, non-objectionable representative documents to the extent they exist and can be identified through a reasonably diligent search.

REQUEST NO. 36. All documents pertaining to the letter agreement entered into in February 2005 by Stelor Productions, Inc., Google, Inc., and Silvers relating to the then pending proceedings.

RESPONSE: Google objects to this request to the extent it seeks documents protected by the attorney-client privilege or work-product immunity, as seeking documents not reasonably

calculated to lead to admissible evidence, and because it seeks documents already in Stelor's possession.

REQUEST NO. 37. All documents reflecting, referring or relating to the October 11, 2002 assignment of any trademark applications or registrations from Google, Inc., a California corporation, to Google Technology, Inc.

RESPONSE: Google objects to this request as overly broad, unduly burdensome, as seeking documents not reasonably calculated to lead to admissible evidence, and as seeking publicly available documents.

REQUEST NO. 38. All documents reflecting, referring or relating to the August 27, 2003 assignment of any trademark applications or registrations from Google Technology, Inc., to Google, Inc., a Delaware corporation.

RESPONSE: Google objects to this request as overly broad, unduly burdensome, as seeking documents not reasonably calculated to lead to admissible evidence, and as seeking publicly available documents.

REQUEST NO. 39. All documents related to any agreements, contracts, partnerships, or deals entered into when the Google search engine was hosted or located at google.stanford.edu.

RESPONSE: Google objects to this request as overly broad, unduly burdensome, and as seeking documents not reasonably calculated to lead to admissible evidence.

REQUEST NO. 40. All documents related to user statistics, traffic reports, user information or any similar document generated or maintained in relation to the research project that was at one time referred to as "Backrub" (which subsequently came to be identified as the Google search engine), including but not limited to when the project was hosted on any website in association with Stanford University.

RESPONSE: Google objects to this request as overly broad, unduly burdensome, vague and ambiguous, and as seeking documents not reasonably calculated to lead to admissible evidence.

REQUEST NO. 41. All documents evidencing or pertaining to interstate commerce related to the “Google” trademark from August 1, 1997 to December 31, 1999.

RESPONSE: Google objects to this request as vague and ambiguous. Google further objects to this request to the extent that it requires legal conclusions and to the extent that it seeks documents protected from disclosure by the attorney-client privilege or work product doctrine.

REQUEST NO. 42. All documents pertaining to advertising, media communications, and/or publications pertaining to services offered by Google.com and/or google.stanford.edu.

RESPONSE: Google objects to this request as overly broad and unduly burdensome and as seeking documents not reasonably calculated to lead to admissible evidence.

REQUEST NO. 43. All documents pertaining to the establishment of e-mail services, from September 1, 1997 to December 31, 1999.

RESPONSE: Google objects to this request as overly broad, unduly burdensome, vague and ambiguous, and as seeking documents not reasonably calculated to lead to admissible evidence.

REQUEST NO. 44. All communications between Google’s founders, Sergey Brin and Lawrence Page regarding the establishment of the Internet search engine and e-mail services.

RESPONSE: Google objects to this request as overly broad, unduly burdensome, and as seeking documents not reasonably calculated to lead to admissible evidence.

REQUEST NO. 45. All documents pertaining to any agreement or contract entered into with Red Hat.

RESPONSE: Google objects to this request as overly broad and as seeking documents not reasonably calculated to lead to admissible evidence. Subject to the foregoing general and specific objections, Google has already produced documents relating to Google's relationship with Red Hat.

REQUEST NO. 46. All documents pertaining to any depositions of Rose Hagan, Sergey Brin, Lawrence Page, or any other employee, agent, representative, contractor, or attorney of Google who was deposed in relation to the enforcement or protection of Google's rights in the Google name and/or trademark.

RESPONSE: Google objects to this request as overly broad, as seeking documents not reasonably calculated to lead to admissible evidence, and to the extent that the request seeks documents protected from disclosure by the attorney-client privilege or work product doctrine.

REQUEST NO. 47. Copies of all deposition transcripts of any Google employee, officer or director taken in any and all actions or proceedings filed by or against you regarding any trademark dispute.

RESPONSE: Google objects to this request as overly broad and as seeking documents not reasonably calculated to lead to admissible evidence and to the extent that the request seeks documents protected from disclosure by the attorney-client privilege or work product doctrine.

REQUEST NO. 48. Copies of all deposition transcripts of any Google employee, officer or director taken in any and all actions or proceedings filed by or against you regarding any domain name dispute.

RESPONSE: Google objects to this request as overly broad and as seeking documents not reasonably calculated to lead to admissible evidence and to the extent that the request seeks documents protected from disclosure by the attorney-client privilege or work product doctrine.

REQUEST NO. 49. Copies of all communications, including but not limited to emails, letters, documents, notes or other correspondence sent or received, whether directly or indirectly, by Defendant to or from any past or present Stelor officers, directors, investors, consultants, contractors, personnel or employees since 2002 until the present time.

RESPONSE: Google objects to this request as overly broad and unduly burdensome, as seeking documents already in possession of Plaintiff, and as vague and ambiguous because it does not include the names of Stelor's officers, directors, investors, consultants, contractors, personnel, or employees.

REQUEST NO. 50. Copies of all communications, including but not limited to emails, letters, documents, notes or other correspondence sent or received, whether directly or indirectly, by Defendant to or from any past or present officers, directors, investors, consultants, contractors, personnel or employees of The Aurora Collection, Inc., since 2000 until the present time.

RESPONSE: Google objects to this request as overly broad and unduly burdensome. Google is a large corporation whose employees receive countless emails, documents, letters, and other correspondence. This request seeks documents from an over eight year period without limitation as to specific recipient, location, or subject matter. Google further objects to this request as vague and ambiguous because it does not identify the names of the past or present officers, directors, investors, consultants, contractors, personnel, or employees of The Aurora Collection, Inc.

OBJECTIONS DATED: September 2, 2008

By: Ramsey M. Al-Salam by *jsm*

Jan Douglas Atlas
Florida Bar No. 226246
jda@adorno.com
Samantha Tesser Haimo
Florida Bar No. 0148016
stesser@adorno.com
ADORNO & YOSS LLP
350 East Las Olas Boulevard, Ste. 1700
Fort Lauderdale, FL 33301
Telephone: (954) 763-1200
Facsimile: (954) 766-7800

Ramsey M. Al-Salam
Washington Bar. No. 18822
ramsalam@perkinscoie.com
PERKINS COIE LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Telephone: (206) 359-6338
Facsimile: (206) 359-7338

Attorneys for Defendant / Counterclaimant Google, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of September, 2008, I served a copy of the foregoing
DEFENDANT GOOGLE INC.'S OBJECTIONS AND RESPONSES TO PLAINTIFF
STELOR'S REQUESTS FOR PRODUCTION OF DOCUMENTS on the following persons, by
United States mail, postage prepaid:

Kevin C. Kaplan
David J. Zack
Morgan L. Swing
Coffey Burlington
Office in the Grove, Penthouse
2699 S. Bayshore Drive. Penthouse A
Miami, FL 33133



Elana Matt