

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

Case No. 05-80387-CIV (Ryskamp/Vitunac)

STELOR PRODUCTIONS, LLC, a Delaware
limited liability company,

Plaintiff,

v.

GOOGLE INC., a Delaware corporation,

Defendant.

**DEFENDANT GOOGLE INC.'S RESPONSE TO ORDER COMPELLING
BETTER ANSWERS TO INTERROGATORIES**

On October 23, 2008, the Court issued an order requiring Google to provide better answers to plaintiff's interrogatories. The Court noted it was issuing the order because Google "failed to respond" to the motion and its "failure to timely respond may be sufficient cause to grant the motion by default."

Although the underlying issues may be moot, Google notes that it did not respond to the motion because plaintiff's counsel had promised, repeatedly, to withdraw the motion. In particular, in a series of emails on October 7, 2008, between counsel for Google, Ramsey Al-Salam, and counsel for Stelor, Morgan Swing, Google asked whether the Motion to Compel would be withdrawn, and Ms. Swing agreed to do so upon receipt of supplemental responses. She said that Stelor was "letting the motion to compel sit, and as we discussed last week, it will likely be moot since you are sending up the revised responses." *See* Exhibit 1 attached hereto. Mr. Al-Salam specifically asked what Ms. Swing meant by "letting the motion to compel 'sit,'"

and asked if she was intending to reschedule it. *Id.* Ms. Swing responded that once Stelor “receive[d] [the] revised interrogatory answers, [it] would file a notice to strike or remove the motion from the docket.” *Id.* She emphasized that “[a]s soon as I receive your revised responses, I will submit such a document to the court.” *Id.* In a subsequent email of that day, Ms. Swing again emphasized that “once we receive your [responses to the] interrogatories, we would withdraw the motion to compel as I explained in the previous email.” *See* Exhibit 2.

On that same day, Google provided the supplemental responses. *See* Exhibit 3. Mr. Al-Salam stated, in the email, that “To the extent you still have any questions or concerns, please tell me. Otherwise, I hope this resolves the motion to compel.” *Id.* Verified responses were also provided on October 8, 2008. *See* Exhibit 4.

Based upon Stelor’s counsel’s promises, Google had assumed that Stelor was withdrawing the Motion to Compel.

Google understands that plaintiff has now filed a motion to compel additional information, beyond what was filed in the Supplemental Responses. Google will address that motion separately, to the extent necessary.

DATED: November 3, 2008.

Ft. Lauderdale, FL

Respectfully submitted,

By: /s/ Samantha Tesser Haimo

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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of November, 2008, I served a copy of the foregoing Defendant Google Inc.'s Response to Order Compelling Better Answers on the following persons, via CM/ECF filing:

Kevin C. Kaplan
David J. Zack
Morgan L. Swing
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/s/ Samantha Tesser Haimo

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