


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 05-80387-CIV Ryskamp/Vitunac

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S.D. OF FLA.-FT. L.

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 business entity of unknown form; and)
 STEVEN ESRIG, an individual,)
)
 Counterdefendants,)
)
 _____)

GOOGLE INC.'S REPLY AND AFFIRMATIVE DEFENSES
TO STELOR'S COUNTERCLAIM
DEMAND FOR JURY TRIAL

Defendant and Counterclaimant Google Inc. ("Google"), by its undersigned counsel, hereby responds to the Counterclaim of Stelor Productions, LLC and Stelor Productions, Inc. (collectively "Stelor") as follows:

1. Google lacks information or belief to admit or deny the allegations of paragraph 1 of the Counterclaim and therefore denies the allegations.



2. Google lacks information or belief to admit or deny the allegations of paragraph 2 of the Counterclaim and therefore denies the allegations.

3. Google admits the allegations of paragraph 3 of the Counterclaim.

4. Google admits that this action arises under the Lanham Act and the common law of the State of Florida, but denies the remaining allegations of paragraph 4 of the counterclaim, and specifically that the counterclaim arises from trademark infringement and unfair competition.

5. Google admits that jurisdiction is proper pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338, and 1367. Google lacks information or belief to admit or deny the remaining allegations of paragraph 5 of the Counterclaim and therefore denies the allegations.

6. Google admits the allegations of paragraph 6 of the Counterclaim.

7. Google lacks information or belief to admit or deny whether the trademark GOOGLES AND DESIGN, bearing registration number 2,087,590, was registered on August 12, 1997 and therefore denies the allegation. Google denies the remaining allegations of paragraph 7.

8. Google lacks information or belief to admit or deny the allegations of paragraph 8 of the Counterclaim and therefore denies the allegations.

9. Google lacks information or belief to admit or deny the allegations of paragraph 9 of the Counterclaim and therefore denies the allegations.

10. Google lacks information or belief to admit or deny the allegations of paragraph 10 of the Counterclaim and therefore denies the allegations.

11. Google lacks information or belief to admit or deny the allegations of paragraph 11 of the Counterclaim and therefore denies the allegations.

12. Google lacks information or belief to admit or deny the allegations of paragraph 12 of the Counterclaim and therefore denies the allegations.

13. Google lacks information or belief to admit or deny the allegations of paragraph 13 of the Counterclaim and therefore denies the allegations.

14. Google admits that it owns and operates the very well known Google Internet search engine. Google denies the remaining allegations of paragraph 14.

15. Google denies the allegations of paragraph 15 of the Counterclaim.

16. Google admits that Stelor seeks injunctive relief and damages. Google denies the remaining allegations of paragraph 16.

17. Google denies that it has engaged in trademark infringement. Google lacks information or belief to admit or deny the remaining allegations of paragraph 17 of the Counterclaim and therefore denies the allegations.

18. Google lacks information or belief to admit or deny the allegations of paragraph 18 of the Counterclaim and therefore denies the allegations.

19. Google lacks information or belief to admit or deny the allegations of paragraph 19 of the Counterclaim and therefore denies the allegations.

20. Google lacks information or belief to admit or deny the allegations of paragraph 20 of the Counterclaim and therefore denies the allegations.

21. Google lacks information or belief to admit or deny the allegations of paragraph 21 of the Counterclaim and therefore denies the allegations.

22. Google lacks information or belief to admit or deny the allegations of paragraph 22 of the Counterclaim and therefore denies the allegations.

23. Google lacks information or belief to admit or deny the allegations of paragraph 23 of the Counterclaim and therefore denies the allegations.

24. Google lacks information or belief to admit or deny the allegations of paragraph 24 of the Counterclaim and therefore denies the allegations.

25. Google lacks information or belief to admit or deny the allegations of paragraph 25 of the Counterclaim and therefore denies the allegations.

26. Google lacks information or belief to admit or deny the allegations of paragraph 26 of the Counterclaim and therefore denies the allegations.

27. Google denies the allegations of paragraph 27 of the Counterclaim.

28. Google lacks information or belief to admit or deny the allegations of paragraph 28 of the Counterclaim and therefore denies the allegations.

29. Google need not respond because the allegations of paragraph 29 are made solely against Steven A. Silvers (“Silvers”).

30. Google need not respond because the allegations of paragraph 30 are made solely against Silvers.

31. Google need not respond because the allegations of paragraph 31 are made solely against Silvers.

32. Google need not respond because the allegations of paragraph 32 are made solely against Silvers.

33. Google need not respond because the allegations of paragraph 33 are made solely against Silvers.

34. Google need not respond because the allegations of paragraph 34 are made solely against Silvers.

35. Google need not respond because the allegations of paragraph 35 are made solely against Silvers.

36. Google need not respond because the allegations of paragraph 36 are made solely against Silvers.

37. Google need not respond because the allegations of paragraph 37 are made solely against Silvers.

38. Google need not respond because the allegations of paragraph 38 are made solely against Silvers.

Google incorporates by reference its responses to paragraphs 1 through 28 above.

39. Google denies the allegations of paragraph 39 of the Counterclaim.

40. Google denies the allegations of paragraph 40 of the Counterclaim.

41. Google denies the allegations of paragraph 41 of the Counterclaim.

42. Google denies the allegations of paragraph 42 of the Counterclaim.

43. Google denies the allegations of paragraph 43 of the Counterclaim.

44. Google denies the allegations of paragraph 44 of the Counterclaim.

45. Google denies the allegations of paragraph 45 of the Counterclaim.

46. Google denies the allegations of paragraph 46 of the Counterclaim.

Google incorporates by reference its responses to paragraphs 1 through 28 above.

47. Google denies the allegations of paragraph 47 of the Counterclaim.

48. Google lacks information or belief to admit or deny the allegations of paragraph 48 of the Counterclaim and therefore denies the allegations.

49. Google denies the allegations of paragraph 49 of the Counterclaim.

50. Google denies the allegations of paragraph 50 of the Counterclaim.

51. Google denies the allegations of paragraph 51 of the Counterclaim.

52. Google denies the allegations of paragraph 52 of the Counterclaim.

53. Google denies the allegations of paragraph 53 of the Counterclaim.

54. Google denies the allegations of paragraph 54 of the Counterclaim.

Google incorporates by reference its responses to paragraphs 1 through 28 above.

55. Google denies the allegations of paragraph 55 of the Counterclaim.

56. Google denies the allegations of paragraph 56 of the Counterclaim.

57. Google denies the allegations of paragraph 57 of the Counterclaim.

58. Google denies the allegations of paragraph 58 of the Counterclaim.

59. Google denies the allegations of paragraph 59 of the Counterclaim.

60. Google lacks information or belief to admit or deny the allegations of paragraph 60 of the Counterclaim and therefore denies the allegations.

61. Google need not respond because the allegations of paragraph 61 are made solely against Silvers.

62. Google need not respond because the allegations of paragraph 62 are made solely against Silvers.

63. Google need not respond because the allegations of paragraph 63 are made solely against Silvers.

64. Google need not respond because the allegations of paragraph 64 are made solely against Silvers.

65. Google need not respond because the allegations of paragraph 65 are made solely against Silvers.

66. Google need not respond because the allegations of paragraph 66 are made solely against Silvers.

67. Google need not respond because the allegations of paragraph 67 are made solely against Silvers.

68. Google need not respond because the allegations of paragraph 68 are made solely against Silvers.

69. Google need not respond because the allegations of paragraph 69 are made solely against Silvers.

70. Google need not respond because the allegations of paragraph 70 are made solely against Silvers.

71. Google need not respond because the allegations of paragraph 71 are made solely against Silvers.

72. Google need not respond because the allegations of paragraph 72 are made solely against Silvers.

73. Google need not respond because the allegations of paragraph 73 are made solely against Silvers.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Counterclaim, and each count asserted in it, fails to allege facts sufficient to state a claim.

SECOND AFFIRMATIVE DEFENSE

Stelor lacks standing to assert the claims asserted in the Complaint.

THIRD AFFIRMATIVE DEFENSE

Stelor's claims are barred because of its unclean hands and fraud.

FOURTH AFFIRMATIVE DEFENSE

Stelor's claims are barred because of laches.

FIFTH AFFIRMATIVE DEFENSE

Stelor's claims are barred by relevant statutes of limitations.

SIXTH AFFIRMATIVE DEFENSE

Stelor's claims are barred because of waiver, acquiescence and estoppel.

SEVENTH AFFIRMATIVE DEFENSE

Stelor's claims are barred because of its failure to mitigate damages.

EIGHTH AFFIRMATIVE DEFENSE

Stelor's claims fail because any marks claimed by it have been abandoned.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Google hereby demands a jury trial of all issues triable by a jury.

Dated: December 21, 2005

Respectfully submitted,

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CERTIFICATE OF SERVICE

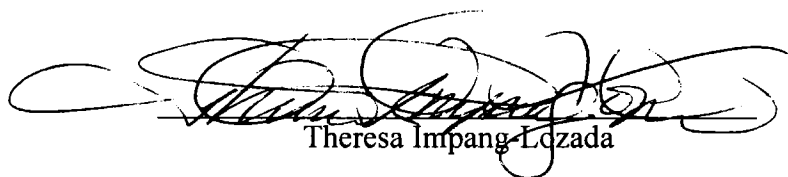
I HEREBY CERTIFY that a true and correct copy of the foregoing was served upon opposing counsel by U.S. mail this 21st day of December, 2005, addressed as follows:

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Dated: December 21 2005



Theresa Impang-Lozada