

MICHAEL W. DOBBINS

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS 219 SOUTH DEARBORN STREET CHICAGO, ILLINOIS 60604

312-435-5670

April 12, 2007

Mr. Gino J. Agnello, Clerk U.S. Court of Appeals-Seventh Circuit 219 South Dearborn Street-Room 2722 Chicago, Illinois 60604

RE: Google -v- Stroller

U.S.D.C. DOCKET NO. : 07 cv 385

U.S.C.A. DOCKET NO. : 07-1569, 07-1612 and 07-1651

Dear Mr. Agnello:

Please find attached the original record on appeal consisting of the following:

VOLUME(S) OF PLEADING(S)

VOLUME(S) OF TRANSCRIPT(S)

VOLUME(S) OF DEPOSITION(S)

EXHIBITS:

VAULT ITEMS:

**OTHER (SPECIFY):** 

**2** Loose Pleadings

**1** Volume of Pleadings

**3** Transcripts

SPECIAL NOTE:

Please acknowledge date of receipt of the above mentioned materials on the attached copy of this letter.

Very truly yours,

Michael W. Dobbins, Clerk

By:\_

D. Jordan, Deputy Clerk

**I, MICHAEL W. DOBBINS, CLERK** of the United States District Court for the Northern District of Illinois, do hereby certify to the United States Court of Appeals, for the Seventh Circuit, that the documents submitted herewith and annexed hereto are the original papers filed and entered of record in my office, on the dates in the List of Documents, and together with a true copy of docket entries as they appear in the official dockets in this office, consisting of:

1 Volume of Pleadings 2 Loose Pleadings 3 Transcripts

In the cause entitled: Google -v- Stroller.

USDC NO. : 07 cv 385

USCA NO. : 07-1569, 07-1612 and 07-1651

IN TESTIMONY WHEREOF, I hereunto subscribed my name and affixed the seal of the aforesaid Court at Chicago, Illinois, this 12th day of Apr. 2007.

MICHAEL W. DOBBINS, CLERK

By:

D. Jordan, Deputy Clerk

# United States District Court Northern District of Illinois 219 South Dearborn Street Chicago, Illinois 60604

I, MICHAEL W. DOBBINS, CLERK of the United States District Court for the Northern District of Illinois, do hereby certify to the United States Court of Appeals, for the Seventh Circuit, that the following is transmitted as part of the record on appeal in the cause entitled: *Google -v- Stroller* 

USDC No.: 07 cv 385

USCA No.: 07-1569, 07-1612, 07-1651

FILED DATE	ITEM NO.	DESCRIPTION
1/19/07	1	COMPLAINT by plaintiff
2/12/07	21	DECLARATION of Michael T. Zeller
3/21/07	59-1, 2 and 3	TRANSCRIPT of proceedings before Judge Kendall held 2/5/07, 3/13/07 and 3/19/07 (3vols)

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the seal of the aforesaid court at Chicago Illinois, this 12th day of Apr. 2007.

MICHAEL W. DOBBINS, CLERK

By:\_\_\_

D. Jordan, Deputy Clerk

APPEAL, COLE, TERMED

# United States District Court Northern District of Illinois - CM/ECF LIVE, Ver 3.0 (Chicago) CIVIL DOCKET FOR CASE #: 1:07-cv-00385 Internal Use Only

Google Inc v. Central Mfg. Inc. et al Assigned to: Honorable Virginia M. Kendall Case in other court: 07-01612 07-01651 Date Filed: 01/19/2007 Date Terminated: 03/15/2007 Jury Demand: None Nature of Suit: 470 Racketeer/Corrupt Organization Jurisdiction: Federal Question

Cause: 18:1961 Racketeering (RICO) Act

#### <u>Plaintiff</u>

**Google Inc** 

# represented by Michael Thomas Zeller

Quinn Emanuel Urquhart & Oliver, LLP 865 South Figueroa Street 10th Floor Los Angeles, CA 90017 (213) 443-3000 LEAD ATTORNEY ATTORNEY TO BE NOTICED

#### William John Barrett

Barack, Ferrazzano, Kirschbaum, Perlman & Nagelberg 333 West Wacker Drive Suite 2700 Chicago, IL 60606 (312) 984-3100 Email: william.barrett@bfkpn.com *ATTORNEY TO BE NOTICED* 

V.

**Defendant** 

# Central Mfg. Inc.

also known as Central Mfg Co also known as Central Mfg Co. (Inc.) also known as Central Manufacturing Company, Inc. also known as Central Mfg. Co. of Illinois

#### <u>Defendant</u>

#### **Stealth Industries, Inc.**

also known as Rentamark also known as Rentamark.Com

#### **Defendant**

Central Mfg. Inc. and Stealth Industries, by and through Richard M. Fogel, not individually but as Chapter 7 Trustee

#### <u>Movant</u>

Leo Stoller

#### represented by Leo Stoller 7115 W. North Avenue Oak Park, IL 60302 PRO SE

V.

# <u>Trustee</u>

Richard M. Fogel, not individually, but as chapter 7 trustee of the bankruptcy estate of Leo Stoller

Date Filed	# Docket Text
01/19/2007	S/C 1 COMPLAINT filed by Google Inc; (eav, ) (Entered: 01/22/2007)
01/19/2007	2CIVIL Cover Sheet (eav, ) (Entered: 01/22/2007)
01/19/2007	3 ATTORNEY Appearance for Plaintiff Google Inc by Michael Thomas Zeller (eav, ) (Entered: 01/22/2007)
01/19/2007	4 ATTORNEY Appearance for Plaintiff Google Inc by William John Barrett (eav, ) (Entered: 01/22/2007)
01/19/2007	5 NOTIFICATION of Affiliates pursuant to Local Rule 3.2 by Google Inc (eav, ) (Entered: 01/22/2007)
01/19/2007	6 (Court only) RECEIPT regarding payment of filing fee paid on 1/19/2007 in the amount of \$350.00, receipt number 10337772 (eav, ) (Entered: 01/22/2007)
01/19/2007	7 SUMMONS Issued as to Defendant Central Mfg. Inc. (eav, ) (Entered: 01/22/2007)
01/30/2007	MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc. to interplead (Exhibits) (eav, ) Additional attachment(s) added on 1/31/2007 (eav, ). (Entered: 01/31/2007)
01/30/2007	MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc. to suspend pending the Appeal to lift the automatic stay for Google to sue the debtor Leo Stoller (Exhibits) (eav, ) (Entered: 01/31/2007)
01/30/2007	10 MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc. to suspend pending the Trademark trial and Appeal Board's decision on the defendant's motion for summary judgment (eav, ) (Entered: 01/31/2007)
01/30/2007	<u>11</u> MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc. to suspend (eav, ) (Entered: 01/31/2007)
01/30/2007	12 NOTICE of Motion by Stealth Industries, Inc., Central Mfg. Inc. for presentment of motion to Interplead <u>9</u> , motion to Suspend <u>10</u> , motion to Suspend pending Appeal to lift automatic stay for Google to sue the Debtor, Leo Stoller, and <u>11</u> , motion to suspend pending the Trademark Trial and Appeal Board's Decision on the defendant's motion for summary judgment <u>8</u> before Honorable Virginia M. Kendall on 2/5/2007 at 9:00 AM. (eav, ) (Entered: 01/31/2007)
01/30/2007	13 PRO SE Appearance by Leo Stolla (eav, ) (Entered: 02/01/2007)
02/05/2007	15 MINUTE entry before Judge Virginia M. Kendall :Motion hearing held Motion to interplead <u>8</u> ; Motion to suspend pending the Appeal to lift the automatic stay for Google to sue the debtor Leo Stoller <u>9</u> ; Motion to suspend pending the Trademark trial and Appeal Board's decision on the defendant's motion for summary judgment <u>10</u> ; and Motion to

	suspend 11 are entered and continued to 2/20/2007 at 9:00 AM. Responses due by 2/12/2007. No replies are necessary. Mailed notice (gmr, ) (Entered: 02/06/2007)
02/06/2007	14 SUMMONS Returned Executed by Google Inc as to Stealth Industries, Inc. on 1/23/2007, answer due 2/12/2007; Central Mfg. Inc. on 1/23/2007, answer due 2/12/2007. (Barrett, William) (Entered: 02/06/2007)
02/06/2007	16 MOTION by Leo Stolla to intervene (eav, ) (Entered: 02/07/2007)
02/06/2007	17 NOTICE of Motion by Leo Stolla for motion to intervene <u>16</u> before Honorable Virginia M. Kendall on 2/12/2007 at 9:00 AM. (eav, ) (Entered: 02/07/2007)
02/07/2007	MINUTE entry before Judge Virginia M. Kendall :Motion to intervene <u>16</u> is entered and continued to 2/20/2007 at 09:00 AM. Any response shall be filed by 2/12/2007. No reply is necessary. The presentment date of 2/12/2007 for said motion is hereby stricken. Mailed notice (gmr, ) (Entered: 02/07/2007)
02/12/2007	19 RESPONSE by Richard M. Fogel, not individually, but as chapter 7 trustee of the bankruptcy estate of Leo Stollerin Opposition to MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc.suspend <u>10</u> , MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc.interplead <u>8</u> , MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc.to suspend <u>9</u> , MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc.to suspend <u>11</u> , MOTION by Plaintiff Leo Stolla to intervene <u>16</u> and Joinder to Responses of Google Inc. (Alwin, Janice) (Entered: 02/12/2007)
02/12/2007	<u>20</u> RESPONSE by Google Incin Opposition to MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc.interplead8, MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc.to suspend9, MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc.to suspend <u>11</u> , MOTION by Plaintiff Leo Stolla to intervene <u>16</u> (Barrett, William) (Entered: 02/12/2007)
02/12/2007	21 RESPONSE by Google Incin Opposition to MOTION by Defendants Stealth Industries, Inc., Central Mfg. Inc.suspend <u>10</u> (Barrett, William) (Entered: 02/12/2007)
02/12/2007	22 DECLARATION of Michael T. Zeller regarding response in opposition to motion <u>21</u> , response in opposition to motion, <u>20</u> by Google Inc (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Exhibit 2# <u>3</u> Exhibit 3# <u>4</u> Exhibit 4# <u>5</u>
S/C	Exhibit 5# <u>6</u> Exhibit 6# <u>7</u> Exhibit 7# <u>8</u> Exhibit 8# <u>9</u> Exhibit 9# <u>10</u> Exhibit 10# <u>11</u> Exhibit 11# <u>12</u> Exhibit 12# <u>13</u> Exhibit 13# <u>14</u> Exhibit 14# <u>15</u> Exhibit 15# <u>16</u> Exhibit 16# <u>17</u> Exhibit 17# <u>18</u> Exhibit 18# <u>19</u> Exhibit 19# <u>20</u> Exhibit 20# <u>21</u> Exhibit 21# <u>22</u> Exhibit 22# <u>23</u> Exhibit

	23# <u>24</u> Exhibit 24# <u>25</u> Exhibit 25# <u>26</u> Exhibit 26# <u>27</u> Exhibit 27# <u>28</u> Exhibit 28# <u>29</u> Exhibit 29# <u>30</u> Exhibit 30)(Barrett, William) (Entered: 02/12/2007)
02/12/2007	<ul> <li>MOTION by Plaintiff Google Inc for permanent injunction (<i>Stipulated</i>),</li> <li>MOTION by Plaintiff Google Inc for judgment (<i>Final</i>) (Barrett,</li> <li>William) (Entered: 02/12/2007)</li> </ul>
02/12/2007	24 NOTICE of Motion by William John Barrett for presentment of motion for permanent injunction, motion for judgment23 before Honorable Virginia M. Kendall on 2/20/2007 at 09:00 AM. (Barrett, William) (Entered: 02/12/2007)
02/13/2007	25 SUPPLEMENT by Google Inc to declaration,, <u>22</u> Supplemental Declaration of Michael T. Zeller (Barrett, William) (Entered: 02/13/2007)
02/13/2007	26 CERTIFICATE by Google Inc of Service of the Permanent Injunction and Final Judgment as to Defendants Central Mfg. Inc. and Stealth Industries, Inc.(Proposed Order) (Barrett, William) (Entered: 02/13/2007)
02/13/2007	27 MEMORANDUM by Google Inc in support of motion for permanent injunction, motion for judgment23 Google Inc.'s Separate Memorandum in Support of Joint Motion for Entry of Stipulated Permanent Injunction and Final Judgment (Barrett, William) (Entered: 02/13/2007)
02/15/2007	28 Notice of Filing Supplemental Authority by Leo Stolla ; Notice of filing (eav, ) (Entered: 02/20/2007)
02/16/2007	30 OBJECTION by Leo Stoller to Joint Moiton for Entry of Stipulated Permanent Inj8unction and Final Judgment; Notice of filing (Exhibits) (eav, ) (Entered: 02/21/2007)
02/20/2007	MINUTE entry before Judge Virginia M. Kendall :Motion hearing held. All pending motions are taken under advisement, with a ruling by mail. Status hearing set for 3/13/2007 at 09:00 AM.Mailed notice (gmr, ) (Entered: 02/20/2007)
02/22/2007	31 REPLY by Defendant Leo Stolla to Trustee's Ominibus response in opposition to motions of debtor Leo Stoller to: (1) Intevene; (II) Interplead; (III) Suspend proceeding for sixty days to retain counsel, for defendants; (IV) Suspend pending appeal to lift automactic stay for Google to sue the debtor; and (V) Suspend pending trademark trial and appeal Board's decision for defendants' motion for summary judgment and joinder of responses by Google, Inc.; Notice of filing (eav, ) (Entered: 02/26/2007)
03/02/2007	32MOTION by Defendant Leo Stolla to dismiss for failure to join a party

	under Rule F.R.C.P. 19 (eav, ) (Entered: 03/05/2007)
03/02/2007	33 NOTICE of Motion by Leo Stolla for presentment of motion to dismiss <u>32</u> before Honorable Virginia M. Kendall on 3/7/2007 at 09:00 AM. (eav, ) (Entered: 03/05/2007)
03/02/2007	35 REPLY by Defendant Leo Stolla to Google Inc.'s combined opposition to debtor Leo Stoller's motions (1) to intervene, (2) to interplead, (3) to suspend for sixty days to retain counsel for defendants and (4) to suspend pending appeal to lift automatic stay for Google to sue the debtor ; Notice of filing (eav, ) (Entered: 03/06/2007)
03/02/2007	<ul> <li><u>36</u> REPLY by Movant Leo Stoller to Google Inc.'s opposition to debtor</li> <li>Leo Stoller's motion to suspend pending the trademark trial and appeal board's decision on defendant's motion for summary judgment <u>21</u> (Exhibits); Notice. (smm) (Entered: 03/08/2007)</li> </ul>
03/05/2007	<ul> <li>MINUTE entry before Judge Virginia M. Kendall :On March 2, 2007, Leo Stoller ("Stoller") filed a Motion to Dismiss for failure to join a party himself pursuant to Fed. R. Civ. P. 19. Stoller previously filed a motion to intervene in this action on February 6, 2007. The Court has not yet ruled upon that motion. As such, Stoller remains a non-party and lacks standing to file a motion pursuant to Rule 19. See Arrow v. Gambler's Supply, Inc., 55 F.3d 407, 409 (8th Cir. 1995) ("only a party may make a Rule 19 motion") (citing Thompson v. Boggs, 33 F.3d 847, 858 n. 10 (7th Cir. 1994) (noting lack of any precedent for granting a non-party's motion for joinder)). Accordingly, Stoller's Motion to Dismiss <u>32</u> is stricken and the parties need not appear on March 7, 2007.Mailed notice (gmr, ) (Entered: 03/05/2007)</li> </ul>
03/12/2007	<u>37</u> MINUTE entry before Judge Virginia M. Kendall :For the reasons set out in the Memorandum Opinion and Order, Motion to intervene <u>16</u> is denied; Motion to interplead <u>8</u> is denied; and Motions to suspend <u>9</u> , <u>10</u> , <u>11</u> are denied. Mailed notice (eav, ) (Entered: 03/13/2007)
03/12/2007	<u>38</u> MEMORANDUM Opinion and Order Signed by Judge Virginia M. Kendall on 3/12/2007:Mailed notice(eav, ) (Entered: 03/13/2007)
03/13/2007	39 NOTICE of appeal by Leo Stoller regarding orders 37, 38; Notice of Filing (Fee Due) (dj, ) (Entered: 03/15/2007)
03/15/2007	40 TRANSMITTED to the 7th Circuit the short record on 3/15/07 notice of appeal 39. Notified counsel (dj, ) (Entered: 03/15/2007)
03/15/2007	$\underbrace{41}_{\text{(eav, )}} \text{MOTION by Movant Leo Stoller for leave to appeal in forma pauperis} \\ \underbrace{41}_{\text{(eav, )}} \text{(Entered: 03/16/2007)}$
03/15/2007	<u>42</u> NOTICE of Motion by Leo Stoller for presentment of motion for leave to appeal in forma pauperis <u>41</u> before Honorable Virginia M. Kendall on 3/19/2007 at 09:00 AM. (eav, ) (Entered: 03/16/2007)

03/15/2007	43 MOTION by Movant Leo Stoller under FRCP 59 and/or 60 (Exhibits) (eav, ) (Entered: 03/16/2007)
03/15/2007	<u>44</u> <u>August 2007 August 2007 </u>
03/15/2007	$\underbrace{45}_{\text{pauperis}\underline{41}}_{\text{pauperis}\underline{41}}$ (eav, ) (Entered: 03/16/2007)
03/15/2007	54 ACKNOWLEDGMENT of receipt of short record on appeal regarding notice of appeal 39; USCA Case No. 07-1569. (smm) (Entered: 03/20/2007)
03/15/2007	55 CIRCUIT Rule 3(b) Notice. (smm) (Entered: 03/20/2007)
03/15/2007	<ul> <li>MINUTE entry before Judge Virginia M. Kendall :Joint motion for entry of stipulated permanent injunction and final judgment 23 is granted. Enter permanent injunction and final judgment as to defendants Central Mfg., Inc. and Stealth Industries, Inc. Mailed notice Civil case terminated (eav, ) (Entered: 03/20/2007)</li> </ul>
03/15/2007	<ul> <li><u>58</u>PERMANENT INJUNCTION and Final Judgment as to defendants</li> <li>Central Mfg., Inc. and Stealth Industries, Inc. Signed by Judge Virginia</li> <li>M. Kendall on 3/15/2007:Mailed notice(eav, ) (Entered: 03/20/2007)</li> </ul>
03/16/2007	46 MINUTE entry before Judge Virginia M. Kendall :For the reasons stated below, Movant Stoller's motion to reconsider 43 is denied. The presentment date of 3/19/2007 for said motion is hereby stricken.Mailed notice (gmr, ) Additional attachment(s) added on 3/16/2007 (gmr, ). (Entered: 03/16/2007)
03/16/2007	47 RESPONSE by Google Incin Opposition to MOTION by Movant Leo Stoller for leave to appeal in forma pauperis <u>41</u> (Barrett, William) (Entered: 03/16/2007)
03/16/2007	48 NOTICE by Google Inc re response in opposition to motion47 Notice of Filing (Barrett, William) (Entered: 03/16/2007)
03/16/2007	<ul> <li><u>49</u>DECLARATION of Michael T. Zeller regarding response in opposition to motion<u>47</u> by Google Inc (Attachments: # <u>1</u> Exhibit A-G# <u>2</u> Exhibit H-J)(Barrett, William) (Entered: 03/16/2007)</li> </ul>
03/16/2007	50 NOTICE by Google Inc re declaration <u>49</u> <i>Notice of Filing</i> (Barrett, William) (Entered: 03/16/2007)
03/19/2007	51 SUPPLEMENTAL NOTICE of appeal by Leo Stoller regarding orders 46, 34 ;(Fee Due) (dj, ) (Entered: 03/20/2007)
03/19/2007	52 DESIGNATION by Leo Stoller of the content of the record on appeal : USCA Case No. 07-1569 (dj, ) (Entered: 03/20/2007)
03/19/2007	56 MINUTE entry before Judge Virginia M. Kendall : Motion hearing held

	on 3/19/2007. For the reasons stated on the record in open court, movant Stoller's motion for permission to appeal in forma pauperis <u>41</u> is granted. Mailed notice (eav, ) (Entered: 03/20/2007)
03/19/2007	60 REPLY by Movant Leo Stoller to Google's opposition to motion for permission to appeal in forma pauperis (eav, ) (Entered: 03/22/2007)
03/20/2007	53 TRANSMITTED to the 7th Circuit the short record on 3/20/07 notice of appeal 51. Notified counsel (dj, ) (Entered: 03/20/2007)
03/20/2007	61 ACKNOWLEDGEMENT of receipt of short record on appeal regarding notice of appeal39; USCA Case No. 07-1612. (rp, ) (Entered: 03/23/2007)
03/20/2007	62 CIRCUIT Rule 3(b) Notice. (rp, ) (Entered: 03/23/2007)
03/21/2007 S/C	59 TRANSCRIPT of proceedings for the following dates: 2/5/07, 3/13/07 and 3/19/07; Before the Honorable Virginia M. Kendall (3 volumes) (eav, ) (Entered: 03/22/2007)
03/21/2007	63 SUPPLEMENTAL NOTICE of appeal by Leo Stoller regarding orders 58, 57 ; (Fee Due) (dj, ). (Entered: 03/23/2007)
03/23/2007	64 <u>FRANSMITTED to the 7th Circuit the short record on 3/23/07 notice</u> of appeal <u>63</u> . Notified counsel (dj, ) (Entered: 03/23/2007)
03/23/2007	65 ACKNOWLEDGEMENT of receipt of short record on appeal regarding notice of appeal63; USCA Case No. 07-1651. (smm) (Entered: 03/27/2007)
03/23/2007	66 CIRCUIT Rule 3(b) Notice. (smm) (Entered: 03/27/2007)
03/27/2007	67 DESIGNATION of the content by Leo Stoller of record on appeal : USCA Case No. 07-1651 (dj, ) (Entered: 03/28/2007)
03/27/2007	68 COPIES OF TRANSCRIPTS of the hearing before the Honorable Virginia M. Kendall on March 13, 2007, 2) Transcript of the hearing before the Honorable Virginia M. Kendall on March 19, 2007 and 3) Transcript of the hearing before the Honorable Jack B. Schmetterer on March 1, 2007 by Leo Stoller; Notice. (td, ) (Entered: 03/29/2007)
03/28/2007	<u>69</u> DESIGNATION by Leo Stoller of Additional Content of the Record on Appeal. (rp, ) (Entered: 03/30/2007)
04/10/2007	TopologicalDesign and the second on the second of the second

All items are included in this record. (Or) All cross out items are not included in the record. S/C: These items are sent under a separate certificate. N/A: These items are not available.