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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ERICH SPECHT, et al.,
Plaintiffs,

vs.

GOOGLE, INC., et al.,
Defendants.

No. 09 C 2572

Chicago, Illinois
September 3, 2009
9:30 o'clock a.m.

TRANSCRIPT OF PROCEEDINGS - MOTION
BEFORE THE HONORABLE HARRY D. LEINENWEBER

APPEARANCES:

For the Plaintiffs:

LAW OFFICE OF MARTIN J. MURPHY
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and

NOVACK & MACEY
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For the Defendant,
Google, Inc.:

GREENBERG TRAURIG, LLP
MR. HERBERT H. FINN
MR. RICHARD D. HARRIS
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Court Reporter:

**FEDERAL OFFICIAL COURT REPORTER
MS. KRISTA BURGESON
219 South Dearborn Street
Chicago, Illinois 60604
312-435-5567
Krista_Burgeson@ilnd.uscourts.gov**

1 THE CLERK: 09 C 2572, Specht versus Google.

2 MR. MURPHY: Good morning, your Honor. Martin Murphy
3 on behalf of plaintiffs.

4 MR. SHONKWILER: And John Shonkwiler, your Honor, on
5 behalf of plaintiffs.

6 MR. HARRIS: Good morning, your Honor. Richard
7 Harris and Herb Finn on behalf of defendant, Google.

8 MR. FINN: Good morning, your Honor.

9 THE COURT: 28 days to answer or otherwise plead to
10 the affirmative defenses and counterclaims.

11 Any objection?

12 MR. HARRIS: If that is a reasonable extension to the
13 Court, that is reasonable to us.

14 THE COURT: Fine.

15 Motion granted.

16 MR. HARRIS: Your Honor, there are a few other
17 things.

18 I believe part of the motion requested a date certain
19 for a case management conference and scheduling order, and
20 with the 28 days coming in now for the extension, we probably
21 would want to hold that conference and go through with a
22 scheduling order after the answer is resolved.

23 THE COURT: That makes sense.

24 MR. HARRIS: I assume that is okay with plaintiff.
25 But in the interim, because both sides now want to

1 engage in discovery, would it be possible, your Honor, for us
2 to start going into discovery, even before a case management
3 order, or does the Court want to wait for that?

4 THE COURT: That is fine with me.

5 MR. SHONKWILER: Well, your Honor, we are not going
6 to answer the counterclaim -- we may answer some counts, but
7 there are many we won't. And we will have a motion to
8 dismiss. I don't know that that will be resolved any time
9 soon.

10 Our preference would be to go ahead and start --

11 THE COURT: Start discovery, yes.

12 MR. SHONKWILER: We would love to.

13 MR. MURPHY: We have started. I have tendered over
14 4,000 documents to them, issued interrogatories and --

15 THE COURT: It was Mr. Harris who, as I understand
16 it, is saying there is no reason to wait.

17 MR. HARRIS: Not any more.

18 THE COURT: And then after the pleadings are settled,
19 you can come in with the definitive discovery schedule.

20 MR. HARRIS: That is fine.

21 MR. MURPHY: That includes depositions as well,
22 because we held off on depositions because there most likely
23 will be an amended complaint.

24 THE COURT: If you agree to take some depositions
25 now, go ahead and do it. You apparently will be deposing

1 people.

2 MR. MURPHY: Because I was in two weeks ago and my
3 motion was denied for leave to take depositions over
4 objection.

5 MR. HARRIS: Your Honor, I think Mr. Murphy just
6 mentioned, if I caught this right, that he will be going ahead
7 now and filing an amended complaint.

8 MR. MURPHY: We have got to discuss it. We are going
9 to be discussing it.

10 MR. HARRIS: Here is one last concern I have got for
11 the Court then.

12 The Court granted plaintiff leave to file an amended
13 complaint when it dismissed most of the defendants out of this
14 case last month.

15 With that in mind, we noticed that it was open ended,
16 and Mr. Murphy has been saying that he may be bringing in
17 another amended complaint or he may not be.

18 So, if we could put a date certain on the open ended
19 leave.

20 THE COURT: Were you going to be filing another
21 complaint?

22 MR. SHONKWILER: That is one of the things we are
23 considering. We were just hired, so we are playing catchup as
24 fast as we can.

25 THE COURT: All right.

1 I will give you the same 28 days to file an amended
2 complaint.

3 MR. SHONKWILER: That is fine.

4 MR. HARRIS: Okay.

5 MR. SHONKWILER: We would prefer to have more time,
6 but we want to move this case, too.

7 THE COURT: 28 days to file the amended complaint and
8 28 days to answer the affirmative defenses and the
9 counterclaims.

10 MR. HARRIS: Thank you.

11 MR. SHONKWILER: And one last point, your Honor.

12 Is discovery open to all subjects now that are
13 permissible, that are relevant under the Federal Rules, as
14 opposed to a limited sense of preliminary discovery?

15 THE COURT: It appears to be the case.

16 MR. SHONKWILER: Okay.

17 THE COURT: That is fine with me.

18 MR. HARRIS: And it is with us as well.

19 MR. FINN: Yes.

20 MR. SHONKWILER: Thank you.

21 MR. MURPHY: Thank you.

22 (Proceedings concluded.)

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

/s/Krista Burgeson, CSR, RMR, CRR
Federal Official Court Reporter

September 3, 2009
Date