



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

2 MR. SHONKWILER: Good morning, your Honor. John  
3 Shonkwiler for the plaintiffs.

4 MR. FINN: Good morning, your Honor. Herbert Finn on  
5 behalf of defendant, Google.

6 MR. SHONKWILER: Your Honor, we are here this morning  
7 on the plaintiff's motion to dismiss counterclaims.

8 I have been informed by Mr. Finn that they may be  
9 amending their counterclaims, however, as part of their -- the  
10 answer, et cetera, that they plan to file to our second  
11 amended complaint, which you may recall was filed the same day  
12 as our motion to dismiss counterclaims.

13 I will let Mr. Finn address that.

14 MR. FINN: Your Honor, as counsel represented, they  
15 filed a second amended complaint about a week ago that will  
16 require responsive pleadings.

17 So, we are suggesting that the Court dismiss without  
18 prejudice, or plaintiffs withdraw, the motion to dismiss until  
19 they see our responsive pleadings with the counterclaims in  
20 them.

21 MR. SHONKWILER: Well, your Honor, we would agree  
22 that if they amended their counterclaims, our motion would  
23 become moot and we would file -- we would ask for 28 days  
24 thereafter to file a response. However, if they don't amend  
25 their counterclaims, the motion to dismiss their counterclaims

1 is good, and it should stay on file, and there is no reason to  
2 dismiss it.

3 THE COURT: When are you filing this?

4 MR. FINN: Whatever the time period allows. I  
5 believe it is the 22nd, 23rd, somewhere in there. That is the  
6 response date to the second amended complaint.

7 MR. SHONKWILER: That sounds right, October 23rd.

8 THE COURT: Well, it will save you from redrafting it  
9 if they don't make any changes.

10 I will continue your motion, or we will set a status,  
11 shortly thereafter.

12 THE CLERK: October 27th at 9:00.

13 MR. FINN: At 9:00?

14 THE CLERK: Yes.

15 THE COURT: I will continue the motion to dismiss  
16 over to that date, and then we will see if it is moot or not  
17 moot.

18 MR. FINN: Very good.

19 Thank you, your Honor.

20 MR. SHONKWILER: Thank you, your Honor.

21 (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      October 13, 2009  
Federal Official Court Reporter      Date