

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ERICH SPECHT, et al.)	
)	C.A. No. 09-cv-2572
Plaintiffs,)	
)	Judge Leinenweber
v.)	
)	Magistrate Judge Cole
GOOGLE INC.,)	
)	
Defendant.)	

**GOOGLE INC.’S MOTION FOR LEAVE TO FILE A BRIEF SURREPLY
IN OPPOSITION TO PLAINTIFFS’ MOTION TO COMPEL**

Defendant Google Inc. (“Google”) respectfully moves this Court for leave to file a short Surreply to Plaintiffs’ Reply in Support of Their Motion to Compel (“Reply,” Dkt. No. 179, filed under seal). In support of this Motion for Leave, Google states as follows:

1. On February 22, 2010, Plaintiffs filed a Motion to Compel (“Motion,” Dkt. No. 172, filed under seal), requesting that this Court compel Google to conduct additional searching of ESI obtained from several of Google’s highest-ranking executives.

2. Google filed its Response in opposition to Plaintiffs’ Motion on March 9, 2010 (Dkt. No. 175), and Plaintiffs filed their Reply on March 16, 2010.

3. Plaintiffs’ Reply includes demonstratively false and misleading representations that Google independently (and “without cajoling”) determined that documents relating to its acquisition of Android, Inc. are purportedly relevant to the claims asserted by Plaintiffs, and that Google is now somehow contradicting its prior position. To the contrary, Plaintiffs expressly asked for those documents through broad document requests that they served on Google directed to the acquisition of Android, Inc. For example, in their Request No. 6, Plaintiffs requested that Google:

Produce all documents concerning the acquisition of Android, Inc. by Google and/or the negotiations concerning the acquisition of Android, Inc. by Google in or about July 2005, including, without limitation, documents sufficient to identify the consideration paid and/or payable by Google for such acquisition. (emphasis added)

4. Google respectfully requests leave of this Court to submit a Sur-Reply of less than three (3) pages, correcting the knowingly false representations made by Plaintiffs in their Reply. A copy of the proposed Sur-Reply is attached hereto.

WHEREFORE, Google respectfully requests that this Court grant this Motion for Leave.

Respectfully submitted,

Dated: April 20, 2010

/s Herbert H. Finn

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