

**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 SUMMARY JUDGMENT OF ABANDONMENT

Defendant Google Inc. (“Google”), by and through its undersigned counsel, respectfully moves this Court pursuant to Fed.R.Civ.P. 56 for summary judgment in favor of Google on Plaintiffs’ Second Amended Complaint, and on Counts I and III of Google’s Counterclaim. In support of its motion, and as set forth in greater detail in the accompanying memorandum in support of this motion, as well as the statement of material undisputed facts and exhibits, Google states as follows:

1. Plaintiffs ceased all bona fide use of the Asserted Marks at the end of 2002, when Plaintiffs’ business collapsed.

2. Since 2002, Plaintiffs have continuously ***not*** used the Asserted Marks. While Mr. Specht occasionally performed services for friends and family, he made no commercial use of the marks in connection with those services. The other events Mr. Specht points to as “use” -- his attempts to sell the assets of his collapsed business, has alleged mailing of a brochure to persons unknown, and a letter sent to a close personal friend -- do not constitute use of a mark.

3. Plaintiffs have made absolutely no use of the mark “ANDROID DATA” in connection with the e-commerce software goods described in Plaintiffs’ trademark registration since 2002.

4. Because of Plaintiffs’ non-use, Plaintiffs have actually abandoned the Asserted Marks, and are presumed to have abandoned the Asserted Marks.

WHEREFORE, for these and other reasons set forth in the accompanying memorandum, Google respectfully request that this Court enter summary judgment in favor of Google on all counts of Plaintiffs’ Second Amended Complaint, and on Counts I and III of Google’s counterclaim.

Respectfully submitted,

Dated: August 20, 2010

/s Herbert H. Finn

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