

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

ERICH SPECHT, an individual and doing)	
business as ANDROID DATA CORPORATION,)	
and THE ANDROID’S DUNGEON)	
INCORPORATED,)	
)	Civil Action No. 09-cv-2572
Plaintiffs-Counterdefendants,)	
v.)	Judge Harry D. Leinenweber
)	
GOOGLE INC.,)	Magistrate Judge Jeffrey Cole
)	
Defendant-Counterplaintiff.)	

**PLAINTIFFS’ MOTION TO CLARIFY OR RECONSIDER
ORDER REGARDING PLAINTIFFS’ THIRD AMENDED COMPLAINT**

Plaintiffs Erich Specht (“Specht”), an individual and doing business as Android Data Corporation (“ADC”), and The Android’s Dungeon Incorporated (“ADI”), by and through their attorneys, file this Motion to Clarify or Reconsider the Court’s prior Order regarding Plaintiffs’ Third Amended Complaint, and show the Court as follows:

1. On October 6, 2009, Plaintiffs filed their Second Amended Complaint. (Docket No. 134)
2. On February 23, 2010, the Court ordered that: “Parties to file amended pleading by July 15, 2010. (Docket No. 174.)
3. On July 13, 2010, Plaintiffs filed their Third Amended Complaint. (Docket No. 216.) However, because the Third Amended Complaint also sought to add new parties, on July 15, 2010, Plaintiffs’ also filed a Motion for Leave to Amend, seeking to add the new parties identified in the Third Amended Complaint. (Docket No. 217.) Conversely, Google filed a Motion to Strike the Third Amended Complaint, arguing that if Plaintiffs wanted to add parties, they should have done so sooner. (Docket No. 221.)

4. On July 27, 2010, the Court denied Plaintiffs Motion for Leave to Amend, finding that Plaintiffs waited too long to add parties to the case. (Docket No. 235.) This motion does not seek reconsideration or clarification of this portion of the Court's ruling.

5. However, in addition to adding parties, the Third Amended Complaint made textual amendments to the Second Amended Complaint that pertain to Plaintiffs claims against Google. These amendments were timely made and cannot be the cause of any prejudice to Google. For instance, the Third Amended Complaint includes "Android's Dungeon" in the definition of the "Android Marks" at issue. (Compare Docket No. 216 ¶ 19 with Docket No. 134 ¶ 10.)

6. Pursuant to the Court's February 23, 2010 Order, Plaintiffs were permitted to file such amendments through July 15, 2010, and they did so in a timely manner. Accordingly, Plaintiffs respectfully request that the Court clarify or reconsider its July 27, 2010 Order striking the Third Amended Complaint in its entirety and, instead, strike from the Third Amended Complaint only those allegations which purport to add new parties -- i.e., strike only those parts of the Third Amended Complaint which the Court found were unauthorized.

7. Alternatively, for purposes of clarity, if directed by the Court Plaintiffs would file a Fourth Amended Complaint that is identical to the Third Amended Complaint, except that Plaintiffs would delete all allegations relating to the addition of parties.

WHEREFORE, for the foregoing reasons, Plaintiffs respectfully request that the court clarify or reconsider its July 27, 2010 Order and confirm the Third Amended Complaint is stricken only to the extent that it purports to add additional parties to this action.

Respectfully submitted,

ERICH SPECHT, an individual, and
doing business as ANDROID DATA
CORPORATION and THE ANDROID'S
DUNGEON INCORPORATED

By: /s/ P. Andrew Fleming
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CERTIFICATE OF SERVICE

P. Andrew Fleming, an attorney, certifies that he caused copies of the foregoing *Plaintiffs' Motion to Clarify or Reconsider Order Regarding Plaintiffs' Third Amended Complaint* to be served by electronically filing the document with the Clerk of Court using the ECF system this 8th day of October, 2010.

/s/ P. Andrew Fleming