

**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,)	
)	
Plaintiffs/Counter-Defendants,)	
v.)	Civil Action No. 09-cv-2572
)	
GOOGLE INC.,)	Judge Harry D. Leinenweber
)	
Defendant/Counter-Plaintiff.)	

**NOTICE OF APPEAL TO A COURT OF APPEALS FROM A
JUDGMENT OR ORDER OF A DISTRICT COURT**

Notice is hereby given that Erich Specht, an individual and doing business as Android Data Corporation, and The Android's Dungeon Incorporated, Plaintiffs/Counter-Defendants in the above named case, Specht, et al. v. Google, Inc., Civil Action No. 09-cv-2572, hereby appeal to the United States Court of Appeals for the Seventh Circuit from the final judgment entered in this action on the 24th day of February, 2011.

Respectfully submitted:

Erich Specht, an individual, and doing business as
Android Data Corporation and The Android's
Dungeon Incorporated

By: s/ Martin J. Murphy
His Attorney

Martin J Murphy
Attorney for Plaintiffs/Counter-Defendants
2811 RFD
Long Grove, IL 60047
(312) 933-3200

CERTIFICATE OF SERVICE

I, the undersigned attorney, hereby certify that on the date set forth below, I electronically filed the foregoing:

**NOTICE OF APPEAL TO A COURT OF APPEALS FROM A JUDGMENT OR ORDER
OF A DISTRICT COURT**

with the Court using the CM/ECF system, which will serve the attached on all counsel of record.

Dated: March 22, 2011

s/ Martin J Murphy

**UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
United States Courthouse
219 S Dearborn Street
Chicago, Illinois**

DOCKETING STATEMENT

Caption of Case

7CCA Docket No. _____

ERICH SPECHT, an individual and doing business)	Type of Action: Civil
as ANDROID DATA CORPORATION, and THE)	
ANDROID'S DUNGEON INCORPORATED,)	
)	
Plaintiffs/Counter-Defendants/Appellants,)	
v.)	Civil Action No. 09-cv-2572
)	
GOOGLE INC.,)	Judge Harry D. Leinenweber
)	
Defendant/Counter-Plaintiff/Appellees.)	Northern District IL/Eastern
)	Division

Statute or other authority establishing jurisdiction in the:

District Court: 28 U.S.C. §§ 1338(a)(b);
Court of Appeals: 28 U.S.C. § 1291

Timeliness of Appeal:

1. Date of entry of judgment or order appealed from: 02/24/2011
2. Date this notice of appeal filed: 03/22/2011

Is the order or judgment appealed from a final decision on the merits? Yes

Based on your present knowledge:

Will this appeal involve a question of first impression? Yes

If yes, please explain briefly:

Whether the operation of a website, coupled with website and email hosting for paying and non-paying customers constitutes a bona fide use of a trademark in commerce where the website prominently displayed the trademark, contained information regarding the products and services being offered, and offered visitors, to the site, the ability to order a brochure or contact the business by email, phone or mail directly?

Are any related cases or cases raising related issues pending in this Court, any district court of this circuit, or the Supreme Court? No

State the nature of the suit, the relief sought, and the outcome below.

This is an action brought under the Lanham Act, Common Law, and State Law for money damages and equitable relief. The District Court granted summary judgment in favor of Defendant ruling that Plaintiff had abandoned his trademark rights. Plaintiff is seeking to have the Summary Judgment order reversed and the case remanded. In the alternative, Plaintiff asks that this Court rule against Google on the issue of liability and remand the case for trial on the issues relating to equitable relief and damages.

Issues to be raised on appeal.

Whether the District Court applied the wrong standard of review and improperly dismissed parties in its ruling on the motion to dismiss the First Amended Complaint?

Whether the District Court committed error when it ordered Plaintiffs' attorney to sit for a second deposition and give testimony regarding the factual basis for all of Plaintiffs filings and ordering Plaintiffs to pay costs and Attorney fees for the deposition?

Whether the District Court erred in denying Plaintiffs' motion for reconsideration of: the Court's order striking the Third Amended Complaint; and the Court's Order granting Defendant's motion for Summary Judgment?

Whether the District Court improperly weighed evidence in favor of Google and erred in its ruling on admissibility of evidence including evidence of continued business operations, handing out of business cards, and advertising of goods and services on a third party websites?

Whether the District Court erred in granting Google's motion for Summary Judgment?

Is settlement being discussed? No

Is disposition on motions, memoranda, or abbreviated briefing schedule appropriate? No

Is oral argument necessary? Yes

Were there any in-court proceedings below? Yes

Is a transcript necessary for this appeal? Yes

If yes, is transcript already on file with district court? No
(If transcript is not already on file, attach copy of transcript order)

List each adverse party to the appeal. If no attorney, give address and telephone number of the adverse party. Attach additional page if necessary.

Google, Inc.
Herbert H. Finn
Greenberg Traurig, LLP
77 West Wacker Drive, Suite 3100
Chicago, IL 60601
Tel (312) 456-8427 | Fax (312) 456-8435

List name(s) and address(es) of appellant(s) who filed this notice of appeal and appellant's counsel. Attach additional page if necessary.

Appellant(s) name Erich Specht, an individual and doing business as Android Data Corporation,
and The Android's Dungeon Incorporated
Attorney Martin J Murphy
Law office of Martin J. Murphy
2811 RFD, Long Grove IL 60047
Tel. (312) 933-3200 | Fax (773) 338-9913

Will you be handling the appeal? (In criminal cases counsel below will handle the appeal unless relieved by this court.) Yes

FRAP 12(b) provides that each attorney who files a notice of appeal must file with the clerk of the court of appeals a statement naming each party represented on appeal by that attorney. Any counsel, other than the attorney filing this form, who filed a notice of appeal must provide the requisite statement to be attached to this form.

Signature s/ Martin J. Murphy
Date 03/22/2011

ATTACH:

COPY OF THE ORDER OR JUDGMENT FROM WHICH THE APPEAL IS TAKEN.
COPY OF THE TRANSCRIPT ORDER (WITH ATTACHMENTS, IF ANY).
CERTIFICATE OF SERVICE FOR THIS DOCKETING STATEMENT.

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, I electronically filed the foregoing:

DOCKETING STATEMENT

with the Court using the CM/ECF system, which will serve the attached on all counsel of record.

Dated: March 22, 2011

s/ Martin J Murphy

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Harry D. Leinenweber	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	09 C 2572	DATE	2/24/2011
CASE TITLE	Erich Specht, et al vs. Google Inc., et al		

DOCKET ENTRY TEXT

Plaintiffs' Motion for Reconsideration is denied on all counts. Google's oral motion to dismiss without prejudice Counts II, IV, V, VI, VII of the counterclaim is granted. The Court having previously granted Google's Motion for summary judgment on Counts I-V of Plaintiffs' Second Amended Complaint, and Counts I and III of Google's counterclaim judgment is hereby final for purposes of appeal.

Docketing to mail notices.
*Mail AO 450 form.

00:03

Courtroom Deputy Initials:	WAP
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United States District Court
Northern District of Illinois
Eastern Division

Erich Specht, et al

JUDGMENT IN A CIVIL CASE

v.

Case Number: 09 C 2572

Google Inc., et al

- ☐ Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury rendered its verdict.
- ☒ Decision by Court. This action came to hearing before the Court. The issues have been heard and a decision has been rendered.

IT IS HEREBY ORDERED AND ADJUDGED that Google's oral motion to dismiss without prejudice Counts II, IV, V, VI, VII of the counterclaim is granted. The Court having previously granted Google's Motion for Summary Judgment on Counts I-V of Plaintiffs' Second Amended Complaint, and Counts I and III of Google's counterclaim, judgment is hereby final for the purposes of appeal.

Michael W. Dobbins, Clerk of Court

Date: 2/24/2011

/s/ Wanda A. Parker, Deputy Clerk

Marty Murphy

From: ILND Transcript Ordering System <donotreply@ilnd.uscourts.gov>
Sent: Thursday, February 24, 2011 10:18 AM
To: mjm@law-murphy.com
Subject: Order Information

WE HAVE SUCCESSFULLY RECEIVED YOUR TRANSCRIPT ORDER!

Your reference order number is 4812 and it was assigned and forwarded to Court Reporter [Gayle McGuigan](#).

After reviewing your order request, the assigned official court reporter or transcriber will contact your order.

IMPORTANT NOTE:

Court Reporters have duty to make every reasonable effort to deliver transcripts in accordance with transcript delivery schedules requested by counsel. However, please keep in mind that previous transcript orders, trial, hearing and motion call times in court, sick and/or annual leave may impact on the reporter that the transcript order has been received and the expected delivery time.

SUBMITTED TRANSCRIPT ORDER AND DELIVERY INFO

For security purposes we have not displayed your personal and contact information.

CASE INFORMATION

Proceeding Dates: 1/11/11, 2/3/11, 2/24/11 Status

Case Number: 09-CV-2572

Case Title: Spect et al. v Google, Inc.

IF THIS IS A CRIMINAL CASE...

Indicate the attorney's status: Retained Attorney

Selected case type for Appointed Attorney:

Is the case is currently on appeal? No

DELIVERY INFORMATION

Preferred Delivery Schedule: Fourteen Days

Delivery Information: Full Printed, PDF Format, E-mail Delivery,

Additional Instructions:

User IP Address: 69.209.60.104

Date and time sent: 2/24/2011 10:18:28 AM