

3. The Court awarded Google costs in the amount of \$19,063.65. [ECF 360.]

4. Plaintiffs previously moved this Court to stay enforcement without requiring a bond be posted. The Court granted the Stay provided Plaintiffs posted a supersedeas bond. However, the amount of the bond set by the Court, \$21,000, was incorrect.

5. At the hearing on Plaintiffs' Motion to Stay Enforcement, Mr. Dunning, one of Google's attorneys, represented to the Court that he calculated the amount due under Loc. R. 62.1 as approximately \$21,000. At the time, neither the Court nor Plaintiffs' attorney had any reason to question Mr. Dunning's representation. However, it was subsequently learned that the amount was incorrect and that the actual amount should have been \$19,586.53 (\$19,063.65 plus \$500 plus interest of \$22.58).

6. Plaintiffs' attorney informed Mr. Finn that Plaintiff was prepared to post a bond in the amount required by L.R. 62.1, i.e. \$19,586.53.

7. Mr. Finn's refusal to accept Plaintiffs' calculation or offer an explanation for Mr. Dunning's misrepresentation has necessitated the filing of this motion. (See the attached email chain, Exhibit 1.)

8. While Plaintiffs have been willing to accept Mr. Dunning's statements as a simple math error, Mr. Finn appears to be arguing that the misrepresentation was an intentional attempt to have the amount of the bond increased. Google never made such a motion or offered an argument in support of an increased bond.

9. Thus, there is no reason that the Court should require Plaintiffs to post a bond in any amount greater than required under L.R. 62.1.

Wherefore, Plaintiffs respectfully move this Court for an order authorizing the filing of a letter of credit in the amount of \$19,586.53, and in the form set forth under L.R. 65.1, by November 7, 2011 as well as such other relief as this Court deems appropriate.

Respectfully submitted,

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

By: /s/Martin J. Murphy

Martin J Murphy
2811 RFD
Long Grove, IL 60047
(312) 933-3200
mjm@law-murphy.com

CERTIFICATE OF SERVICE

Martin J. Murphy, an attorney, certifies that he caused copies of the foregoing to be served by electronically filing the document with the Clerk of Court using the ECF system this 31st day of October, 2011.

/s/ Martin J. Murphy

EXHIBIT 1

Marty Murphy

From: FinnH@gtlaw.com
Sent: Monday, October 31, 2011 1:55 PM
To: martym@villageinvestments.com
Cc: DunningJ@gtlaw.com
Subject: Specht/Google
Attachments: pdf.pdf

Mr. Murphy,

The Court's Order (a copy of which is attached) is very clear "Plaintiffs' motion to stay enforcement is granted and will become effective upon posting of a supercedeas bond in the amount of \$21,000." There is no calculations being done in the Court's Order. As you aptly point out, L.R. 65.1 permits a party to ask for a larger or smaller bond -- which is precisely what Google did. We asked for and obtained a bond in the amount of \$21,000. We will leave it up to you and your client as to whether you will post the Court ordered bond (letter of credit) or have Google initiate enforcement efforts and potential freezing of your client's accounts. We hope that enforcement will not be necessary and that the appropriate letter of credit will be in place and filed by the end of the week.

Herb Finn

Herbert H. Finn
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From: Marty Murphy [mailto:martym@villageinvestments.com]
Sent: Friday, October 28, 2011 3:07 PM
To: Finn, Herbert (Shld-Chi-IP-Tech)
Cc: Dunning, Jeffrey (Assoc-Chi-IP-Tech)
Subject: RE: Specht/Google

Mr. Finn,

The Court arrived at the \$21,000 amount based upon Mr. Dunning's calculation of \$19,063.65 + \$500 cost reserve + interest. I didn't question Mr. Dunning's calculations at the time. When I did calculate the numbers today, I discovered that Mr. Dunning's interest calculation was too high. The interest should have been \$25 instead of +/- \$1,436 calculated by Mr. Dunning. I believe this was an honest

mista e, and because the calculation is plainly set forth in the local rule 62.1, I didn't see any need to get the Court involved.

local rule 62.1 states

supersedeas bond, where the judgment is for a sum of money only, shall be in the amount of the judgment plus one year's interest at the rate provided in 28 U.S.C. 1961, plus \$500 to cover costs. If in conformance with 65.1, the bond may be approved by the clerk. The bond amount fixed hereunder is without prejudice to any party's right to seek timely judicial determination of a higher or lower amount.

When the Court set the amount, it was because we were following the local rule and not because Google was seeing a higher amount. I still believe that my calculation is correct.

Marty Murphy

From: FinnH@gtlaw.com [mailto:FinnH@gtlaw.com]
Sent: Friday, October 28, 2011 2:38 PM
To: martym@villageinvestments.com
Cc: DunningJ@gtlaw.com; NelsonC@gtlaw.com
Subject: Specht/Google

Mr. Murphy,

Please express our condolences to Mr. and Mrs. Specht and their family.

As to posting a letter of credit, we do not agree to the amount you calculated. The Court ordered the bond in the amount of \$21,000. As such, we believe the proper calculation to be:

Bond Ordered	\$ 21,000
Reserve for costs per L.R. 62.1	\$ 500
Interest per 28 U.S.C. Sec. 1961	
Weekly average 1-year constant maturity Treasury yield w/e 10/21/2011 at 0.12%	\$25.20
Total Amount of letter of credit should be:	\$21,525.20

We look forward to receiving confirmation of posting in the amount of \$21,525.20, by next Thursday as indicated.

Herb Finn

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From: Marty Murphy [mailto:martym@villageinvestments.com]
Sent: Friday, October 28, 2011 11:20 AM
To: Finn, Herbert (Shld-Chi-IP-Tech)
Subject: RE: Specht/Google

Mr. Finn,

Due to a death in Mrs. Specht's family, I have been unable to meet with my client. However, I have spoken with him and he has elected to post a letter of credit as security per Fed. R. Civ. P. 65.1(b)(4). I have calculated the amount of the letter of credit as follows

Costs

Awarded

\$ 19,063.65

Reserve for costs per Fed. R. Civ. P. 62.1

\$ 500.00

Interest per 2% Fed. R. Civ. P. 69.1

Weekly average 1-year constant maturity Treasury yield w/e

10/21/2011 0.12% \$ 22.00

Total amount of letter of credit

\$ 19,565.63

If this amount is agreeable, I will forward copies to you by Thursday for review before filing with the Clerk.

Marty Murphy

From: FinnH@gtlaw.com [mailto:FinnH@gtlaw.com]
Sent: Thursday, October 27, 2011 3: 7 PM
To: martym@villageinvestments.com
Cc: DunningJ@gtlaw.com; NelsonC@gtlaw.com
Subject: Specht/Google

Mr. Murphy,

As Judge Leineweber has not denied Plaintiffs' Motion to Vacate his awarding of costs, and in view of the months that Plaintiffs have had to comply with the Court's prior orders to either pay the awarded costs or to post the appropriate bond with the Clerk, we reiterate our request that you confirm compliance. If we do not receive either payment or confirmation (including copies of the filed documentation) that bond has been posted with the Clerk by Monday, October 31, we have been instructed to proceed with enforcement of the Court's Order.

Herb Finn

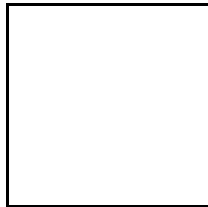
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From: Finn, Herbert (Shld-Chi-IP-Tech)
Sent: Monday, October 17, 2011 3:22 PM
To: martym@villageinvestments.com
Cc: Dunning, Jeffrey (Assoc-Chi-IP-Tech); Nelson, Cameron (Shld-Chi-IP-Tech)
Subject: Specht/Google

Mr. Murphy,

Please confirm that you have complied with Judge Leinenweber's August 17, 2011 Order and that Plaintiffs have posted the requisite bond with the Clerk of the District Court. Your early provision of copies of the check and any associated documents submitted to or received from the Clerk is appreciated.

Herb Finn

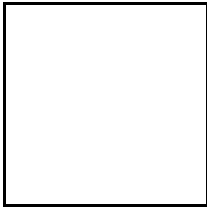
Herbert H. Finn

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