STELOR PRODUCTIONS, LLC,	)
Plaintiff,	) )
<b>v</b> .	) Case No. 1:05-cv-0354-DFH-TAB
OOGLES N GOOGLES FRANCHISING, LLC, et al.	) ) )
Defendants.	) )

# STELOR PRODUCTIONS ANSWERS TO OOGLES N GOOGLES' FIRST INTERROGATORIES TO PLAINTIFF

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, plaintiff Stelor Productions, LLC ("Stelor" or "Plaintiff") hereby objects and responds to Defendant's First Interrogatories as follows:

# **GENERAL OBJECTIONS**

1. The Plaintiff objects to the Defendant/Counter-Plaintiff's First Interrogatories on the grounds that said interrogatories are overbroad, vague, overly burdensome, and

STELOR PRODUCTIONS, INDIFFS OF STELOR PRODUCTIONS, INDIFFS OF

Doc. 287 Att.

- 2. The Plaintiff objects to each interrogatory to the extent that it seeks information that is protected by the attorney-client privilege, the work product privilege and/or any other applicable privilege. Such information will not be disclosed and any inadvertent disclosure of such information shall not be deemed a waiver of the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or immunity recognized by statute or case law.
- 3. Plaintiff objects to each interrogatory to the extent that it seeks information not reasonably related to the claims or defenses in this matter.

ear or affirm under the penalties of perjury that the representations made in Stelor ductions Answers to Oogles N Googles First Interrogatories to Plaintiff are

Printed Name

Authorized Officer

Stelor Productions, LLC.

EVEW A ESRIG

Respectfully submitted by:

Robert F Merz, Jr.

STELOR PRODUCTIONS, LLC 11910 Montgomery Village Avenue,

Suite 320

Montgomery Village, MD 20886

Telephone: (301) 963-0000

Fax: (301) 740-7552

Email: b.merz@stelorproductions.com

# **CERTIFICATE OF SERVICE**

I hereby certify that on July 22, 2008, a copy of the Answers to the First Interrogatories to Plaintiff by Oogles n Googles Franchising, LLC was sent via US mail, postage prepaid, to the below listed counsel of record.

Stephen L. Vaughan INDIANO VAUGHAN LLP One N. Pennsylvania Street, Suite 1300 Indianapolis, I N 46204

Robert F Merz

STELOR PRODUCTIONS, LLC,	)
Plaintiff,	)
<b>v.</b>	) Case No. 1:05-cv-0354-DFH-TAB
OOGLES N GOOGLES FRANCHISING, LLC, et al.	) ) )
Defendants.	) }

# STELOR PRODUCTIONS ANSWERS TO OOGLES N GOOGLES' FIRST INTERROGATORIES TO PLAINTIFF

#### **INTERROGATORY NO. 1**

Please fully describe each and every incident of actual confusion wherein an actual or prospective consumer confused Stelor's marks with the Oogles n Googles' name or trademark. Include in your answer the name, address, and phone number of all the witnesses to each incident of confusion, the date of each incident of confusion occurred, and description of the incident.

#### ANSWER:

The President and CEO of Stelor Productions, LLC, Steven A. Esrig, took several phone call from individuals seeking to book a party with Oogles N Googles. The individuals were under the impression that the Googles and Oogles N Googles were associated and were confused when they were informed otherwise.

The President and CEO of Stelor Productions, LLC, Steven A. Esrig, was approached by many individuals at licensing shows where those individuals inquired as to whether Stelor Productions, LLC was the birthday party company.

The Oogles N Googles mark generates confusion with Stelor's marks on a daily basis as a result of the following:

- Ooglesngoogles.com utilizes a font similar to the font used by Stelor at googles.com
- The name Oogles N Googles incorporates two trademarks owned by Stelor
- Ooglesngoogles.com utilizes color schemes similar to the color schemes found on the googles.com website and used for the characters of Iggle, Oggle and Oogle.

- Ooglesngoogles.com utilizes tree imagery similar to that which is prevalent on the googles.com website.
- The "Googles Themed Birthday Parties" page of ooglesngoogles.com leads people to believe that Stelor's Googles characters or themes are available.
- Both ooglesngoogles.com and googles.com have "Barnyard", "Firefighter" and "Wizard" themes.
- The "Oogles Parties" page of ooglesngoogles.com leads people to believe that the Stelor-character "Oogle" is associated with Oogles N Googles birthday parties.
- The cloud like banner of ooglesngoogles.com is similar to the artistic style used by Stelors in the creative executions.
- The Oogles N Googles programs focus on the same principles that Stelor and the Googles.com website focus.
- Oogles N Googles offers CDs of music branded with Oogles N Googles like Stelor offers Googles branded music.
- Both ooglesngoogles.com and googles.com have maze games.
- Both ooglesngoogles.com and googles.com have coloring activities.
- Both Oogles N Googles and Stelor have monkey characters.

Investigation continues.

STELOR PRODUCTIONS, LLC,	}
Plaintiff,	)
<b>v.</b>	) Case No. 1:05-cv-0354-DFH-TAB
OOGLES N GOOGLES FRANCHISING, LLC, et al.	) ) )
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# STELOR PRODUCTIONS ANSWERS TO OOGLES N GOOGLES' FIRST INTERROGATORIES TO PLAINTIFF

#### INTERROGATORY NO. 2

Please fully describe each and every incident of actual confusion wherein an actual or prospective consumer was confused as to the source of origin of Stelor's goods or services because the consumer mistook the origin of those goods or services to be Oogles n Googles. Include in your answer the name, address, and phone number of all the witnesses to each incident of confusion, the date of each incident of confusion occurred, and description of the incident.

#### ANSWER:

The President and CEO of Stelor Productions, LLC, Steven A. Esrig, took several phone call from individuals seeking to book a party with Oogles N Googles. The individuals were under the impression that the Googles and Oogles N Googles were associated and were confused when they were informed otherwise.

The President and CEO of Stelor Productions, LLC, Steven A. Esrig, was approached by many individuals at licensing shows where those individuals inquired as to whether Stelor Productions, LLC was the birthday party company.

The Oogles N Googles mark generates confusion with Stelor's marks on a daily basis as a result of the following:

- Ooglesngoogles.com utilizes a font similar to the font used by Stelor at googles.com
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- Ooglesngoogles.com utilizes color schemes similar to the color schemes found on the googles.com website and used for the characters of Iggle, Oggle and Oogle.
- Ooglesngoogles.com utilizes tree imagery similar to that which is prevalent on the googles.com website.
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- The cloud like banner of ooglesngoogles.com is similar to the artistic style used by Stelors in the creative executions.
- The Oogles N Googles programs focus on the same principles that Stelor and the Googles.com website focus.
- Oogles N Googles offers CDs of music branded with Oogles N Googles like Stelor offers Googles branded music.
- Both ooglesngoogles.com and googles.com have maze games.
- Both ooglesngoogles.com and googles.com have coloring activities.
- · Both Oogles N Googles and Stelor have monkey characters.

Investigation continues.

STELOR PRODUCTIONS, LLC,	)
Plaintiff,	)
v.	) Case No. 1:05-cv-0354-DFH-TAB
OOGLES N GOOGLES FRANCHISING, LLC, et al.	)
Defendants.	)

# STELOR PRODUCTIONS ANSWERS TO OOGLES N GOOGLES' FIRST INTERROGATORIES TO PLAINTIFF

#### INTERROGATORY NO. 3

Please fully describe each and every incident of actual confusion wherein an actual or prospective consumer was confused as to the origin of Oogles n Googles' services because the consumer mistook the origin of those services to be Stelor Productions, LLC or Stelor Productions, Inc. Include in your answer the name, address, and phone number of all the witnesses to each incident of confusion, the date each incident of confusion occurred, and description of the incident.

#### ANSWER:

The President and CEO of Stelor Productions, LLC, Steven A. Esrig, took several phone call from individuals seeking to book a party with Oogles N Googles. The individuals were under the impression that the Googles and Oogles N Googles were associated and were confused when they were informed otherwise.

The President and CEO of Stelor Productions, LLC, Steven A. Esrig, was approached by many individuals at licensing shows where those individuals inquired as to whether Stelor Productions, LLC was the birthday party company.

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- The "Googles Themed Birthday Parties" page of ooglesngoogles.com leads people to believe that Stelor's Googles characters or themes are available.
- Both ooglesngoogles.com and googles.com have "Barnyard", "Firefighter" and "Wizard" themes.
- The "Oogles Parties" page of ooglesngoogles.com leads people to believe that the Stelor character "Oogle" is associated with Oogles N Googles birthday parties.
- The cloud like banner of ooglesngoogles.com is similar to the artistic style used by Stelors in the creative executions.
- The Oogles N Googles programs focus on the same principles that Stelor and the Googles.com website focus.
- Oogles N Googles offers CDs of music branded with Oogles N Googles like Stelor offers Googles branded music.
- Both ooglesngoogles.com and googles.com have maze games.
- Both ooglesngoogles.com and googles.com have coloring activities.
- Both Oogles N Googles and Stelor have monkey characters.

Investigation continues.

STELOR PRODUCTIONS, LLC,	)
Plaintiff,	)
v.	) Case No. 1:05-cv-0354-DFH-TAB
OOGLES N GOOGLES FRANCHISING, LLC, et al.	) ) )
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# STELOR PRODUCTIONS ANSWERS TO OOGLES N GOOGLES' FIRST INTERROGATORIES TO PLAINTIFF

#### INTERROGATORY NO. 7

Please state the names, addresses, and telephone numbers of all individuals that prepared or maintained Stelor's accounting and financial records from 2002 to present.

#### ANSWER:

The Plaintiff objects to the Defendant/Counter-Plaintiff's Interrogatory on the grounds that said interrogatory is overbroad, vague, overly burdensome and oppressive.

The Plaintiff objects to the Defendant/Counter-Plaintiff's request to the extent that it seeks information not reasonably related to the claims or defenses in this matter.

STELOR PRODUCTIONS, LLC,	)
Plaintiff,	)
v.	) Case No. 1:05-cv-0354-DFH-TAB
OOGLES N GOOGLES FRANCHISING, LLC, et al.	
Defendants.	)

# STELOR PRODUCTIONS ANSWERS TO OOGLES N GOOGLES' FIRST INTERROGATORIES TO PLAINTIFF

## **INTERROGATORY NO. 16**

Please state the names, addresses, and phone numbers of all past and present investors in Stelor.

#### ANSWER:

The Plaintiff objects to the Defendant/Counter-Plaintiff's Interrogatory on the grounds that said interrogatory is overbroad, vague, overly burdensome and oppressive.

The Plaintiff objects to the interrogatory to the extent that it seeks information not reasonably related to the claims and defenses in this matter.

STELOR PRODUCTIONS, LLC,	)
Plaintiff,	}
<b>v.</b>	) Case No. 1:05-cv-0354-DFH-TAB
OOGLES N GOOGLES FRANCHISING, LLC, et al.	) )
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# STELOR PRODUCTIONS ANSWERS TO OOGLES N GOOGLES' FIRST INTERROGATORIES TO PLAINTIFF

#### **INTERROGATORY NO. 17**

Please fully describe Steven Esrig's employment or work history from 1991-2002, including in your answer the names of his employers, job titles and job duties.

## ANSWER:

The Plaintiff objects to the interrogatory to the extent that it seeks information not reasonably related to the claims and defenses in this matter.

Without waiving said objection the Plaintiff/Counter-Defendant provides the following answer.

From 1991-2002 Steven Esrig was self-employed.

STELOR PRODUCTIONS, LLC,	)
Plaintiff,	) )
<b>v.</b>	) Case No. 1:05-cv-0354-DFH-TAB
OOGLES N GOOGLES FRANCHISING, LLC, et al.	) ) )
Defendants.	<i>)</i> )

# STELOR PRODUCTIONS ANSWERS TO OOGLES N GOOGLES' FIRST INTERROGATORIES TO PLAINTIFF

## **INTERROGATORY NO. 24**

Please state the names and ages of all individuals who have lived or worked at 14701 Mockingbird Drive, Darnestown, Maryland, in the past five (5) years.

## ANSWER:

The Plaintiff objects to the Defendant/Counter-Plaintiff's Interrogatory on the grounds that said interrogatory is overbroad, vague, overly burdensome and oppressive.

The Plaintiff objects to the interrogatory to the extent that it seeks information not reasonably related to the claims and defenses in this matter.

# **CERTIFICATE OF SERVICE**

I hereby certify that on September 24, 2008, a copy of Stelor Productions Answers to Oogles N Googles First Interrogatories to Plaintiff was sent via Fedex, postage prepaid, to the below listed counsel of record.

Stephen L. Vaughan INDIANO VAUGHAN LLP One N. Pennsylvania Street, Suite 1300 Indianapolis, IN 46204

Robert F. Merz

I swear or affirm under the penalties of perjury that the representations made in Stelor Productions Answers to Oogles N Googles First Interrogatories to Plaintiff are true.

Printed Name

Signature

Authorized Officer

Stelor Productions, LLC.

Respectfully submitted by:

Robert F Merz, Jr,

STELOR PRODUCTIONS, LLC

11910 Montgomery Village Avenue,

Suite 320

Montgomery Village, MD 20886

Telephone: (301) 963-0000

Fax: (301) 740-7552

Email: <u>b.merz@stelorproductions.com</u>