

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

STELOR PRODUCTIONS, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:05-cv-0354-DFH-TAB
)	
OOGLES N GOOGLES, an Indiana corporation;)	
KEVIN MENDELL; DANYA MENDELL;)	
MICHELLE COTE; ROB LENDERMAN;)	
STACEY LENDERMAN; BRENDA MURTY;)	
MARGIE THOMAS; ROB SLYTER;)	
ELIZABETH SLYTER; CORINNA SPARKS;)	
CHRISTINE WATERBURRY;)	
LEIGH SUNDLING; and TINA CARTAYA)	
)	
Defendants.)	

**PLAINTIFF’S MOTION FOR ENLARGMENT OF TIME TO FILE ANSWER BRIEF
TO DEFENDANT’S MOTION TO DISMISS**

Pursuant to Southern District of Indiana Local Rule 6.1, Plaintiff Stelor Productions, Inc. moves for an enlargement of time to file and serve its answer brief to Defendants’ motion to dismiss. In support thereof, Plaintiff states as follows:

Defendants’ motion to dismiss is based on the argument Plaintiff is not the real party in interest in this litigation and therefore lacks standing. In support of their motion, Defendant attached the hearsay email of a third-party attorney. The motion also promised that Defendants would submit an affidavit supporting its arguments. At the recent settlement conference held by Magistrate Judge Baker on September 16, 2005, Defendants’ counsel further represented that the affidavit would be submitted to the Court that day. Plaintiff has never received a copy of the

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affidavit and requests to Defendant's counsel regarding it have gone unanswered. Meanwhile, Plaintiff's answer brief to the motion to dismiss is due today.

Plaintiff has been prejudiced in responding to the motion to dismiss because it has not received the affidavit upon which Defendants base their argument. Plaintiff should not be put in the position of responding piecemeal to the motion to dismiss, or worse, being sandbagged with new evidence after Plaintiff has filed its brief. Plaintiff also anticipates that it may need to take discovery, depending on the substance of the affidavit. For these reasons, Plaintiff requests an extension to file and serve its answer brief until at least fifteen (15) after Defendants file the affidavit and that the extension be made without prejudice to Plaintiff's right to request additional time to conduct discovery. In addition, Plaintiff requests that Defendant be ordered to file the affidavit within five (5) days, or confirm that no further affidavits will be filed.

Plaintiff has contacted Defendant's counsel via email about the affidavit and via telephone voice mail about the relief requested in this motion, but Defendant's counsel has not responded regarding their position.

WHEREFORE, Plaintiff respectfully requests an extension to file its answer brief to at least fifteen (15) after Defendants file the affidavit and that the extension be made without prejudice to Plaintiff's right to request additional time to conduct discovery.

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Attorneys for Plaintiff, Stelor Productions, Inc.

/s/Kevin C. Kaplan
By: /s/ David J. Zack

CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2005, a copy of the foregoing Motion for Enlargement of Time to File Answer Brief was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's systems.

Bryan S. Redding, Esq.
COHEN, GARELICH AND GLAZIER
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I hereby certify that on September 23, 2005 a copy of the foregoing Motion for Enlargement of Time to File Answer Brief was mailed, by first class U.S. Mail, postage prepaid and properly addressed to the following:

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