

TAB 1

0120

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

STELOR PRODUCTIONS, INC.,)
a Delaware corporation,)
)
Plaintiff,)
)
vs.)
)
OOGLES N GOOGLES, an Indiana)
corporation; KEVIN MENDELL,)
an individual; DANYA MENDELL, an)
individual; and X,Y,Z COROPORATIONS,)
)
Defendants.)

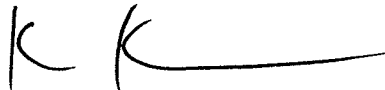
Case Number: 1:05-CV-0354-DFH-TAB

**STELOR PRODUCTION, INC.'S FIRST REQUEST FOR
PRODUCTION FROM DEFENDANTS OOGLES N GOOGLES,
KEVIN MENDELL, DANYA MENDELL, AND X,Y,Z CORPORATIONS**

Plaintiff Stelor Productions, Inc., (hereinafter "Plaintiff"), by and through undersigned counsel and pursuant to Rule 34, Federal Rules of Civil Procedure, hereby request that the following items be produced to the undersigned for inspection and copying at its offices within the time and as required by the above rules of procedure and the local rules of this Court.

John David Hoover, Attorney No. 7945-49
HOOVER HULL BAKER & HEATH LLP
111 Monument Circle, Ste. 4400
P.O. Box 44989
Indianapolis, IN 46244-0989
Tel: 317-822-4400
Fax: 317-822-0234
E-mail: jdhoover@hooverhull.com

BURLINGTON, WEIL, SCHWIEP,
KAPLAN & BLONSKY, P.A.
Office in the Grove, Penthouse A
2699 South Bayshore Drive
Miami, Florida 33133
Tel: 305-858-2900
Fax: 305-858-5261
E-mail: kkaplan@bwskb.com

By: 
Kevin C. Kaplan (Pro Hac Vice)

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BURLINGTON • WEIL • SCHWIEP • KAPLAN & BLONSKY, P.A.

OFFICE IN THE GROVE PENTHOUSE 2699 SOUTH BAYSHORE DRIVE MIAMI, FLORIDA 33133

T: 305.858.2900 F: 305.858.5261


EMAIL: INFO@BWSKB.COM WWW.BWSKB.COM

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via U.S.

Mail this 28th day of June, 2005 upon the following:

Bryan S. Redding
Cohen, Garelich and Glazier
Suite 800, 888 Keystone Crossing
Indianapolis, IN 46240
Tel: 317-573-8888
Fax: 317-574-3855



Kevin C. Kaplan

DEFINITIONS AND INSTRUCTIONS

1. "Document" means all forms of tangible expression as defined by Rule 34 of the Federal Rules of Civil Procedure, and includes, without limitation, any written or graphic matter or other means of preserving thought or expression, and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including, but not limited to correspondence, memoranda, notes, messages, letters, telegrams, teletype, facsimile bulletins, meetings, or other communications, interoffice and intra-office telephone calls, diaries, chronological data, minutes, books, reports, charts, ledgers, invoices, work-sheets, receipts, returns, computer print-outs, prospectuses, financial statements, schedules, affidavits, contracts, cancelled checks, transcripts, statistics, surveys, magazine or newspaper articles, releases (and any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphs or aural records or representations of any kind, including without limitation, photographs, charts, graphs, microfiche, microfilm, video-tape, recordings, motion pictures and electronic, mechanical or electric recordings or representations of any kind (including without limitation, tapes, cassettes, discs and recordings), and including the file and file cover.

2. The term "communications" means any oral or written statement, dialogue, colloquialism, discussion, conversation and agreement.

3. The term "all documents" means every document or group of documents for communication as above defined known to you and every such document or communication which can be located or discovered by reasonably diligent efforts.

4. Every non-identical copy of a "document" is a separate "document" and must be produced in response to this request. All requested "documents" include any and all attachments and enclosures and any file folder in which the "document" was located.

5. The term "you" and "your" means the party to whom these requests are addressed, including the party's employees and agents and all other persons acting or purporting to act on the party's behalf.

6. The term "person" means any natural person, individual, proprietorship, partnership, corporation, association, organization, joint venture, firm, other business enterprise, governmental body, group of natural persons or other entity.

7. The term "mark," as used herein, means the Oogles N Googles trademark and any color, symbol, sound, scent, name, design, phrase, slogan, shape, or any combination thereof, used to distinguish Defendants' good or services.

8. As used herein, the singular and masculine form of noun and pronoun shall embrace, and be read and applied as, the plural or feminine or neuter, as circumstances may make appropriate.

9. "Plaintiff" means Stelor Productions, Inc., and any agent or any other person acting for or on behalf of Plaintiff, or under Plaintiff's authority and control.

10. "Defendants" means, Oogles n Googles, Kevin Mendell, Danya Mendell, and X, Y, Z Corporations, and any employee, agent or attorney for Defendants, and any other person acting for or on behalf of Defendants, or under Defendants' authority and control, or any individual Defendant or combination thereof.

11. Any documents responsive to this request which, nonetheless, are not produced

by reason of a claim of privilege, work product or for any other reason shall be identified in writing by (1) date; (2) author; (3) recipient; (4) general subject matter; (5) identity of person or persons to whom the contents of the document have already been revealed; (6) the identity of the person or entity now in possession or control of the document; and (7) the basis upon which it is being withheld.

12. The relevant time period for these Requests is between January 1, 1996 and the present.

DOCUMENTS TO BE PRODUCED

1. Any and all agreements between Defendants and all franchisees of Defendants.
2. All communications between Defendants and any franchisee related to the Oogles N Googles trademark.
3. All communications between Defendants and any franchisee, including, but not limited to, communications related to Plaintiff.
4. All documents relating to your Affirmative Defense of "unclean hands."
5. All documents relating to your Affirmative Defense of "fair use."
6. All documents relating to your Affirmative Defense of "laches and estoppel."
7. Documents referring, related to, or evidencing Defendants' first use of the mark.
8. All documents relating to any customer inquiry made to Defendants, relating to any service or good provided by Plaintiff.
9. All documents referring, related to, or evidencing confusion with Plaintiff's marks.
10. All documents relating to any customer inquiry made to an Oogles n Googles franchisee relating to any service or good provided by Plaintiff.
11. Documents sufficient to establish the ownership interest of Kevin Mendell in Oogles N Googles.
12. Documents sufficient to establish the ownership interest of Danya Mendell in Oogles N Googles.
13. All documents relating to your advertising.
14. All documents relating to the marketing of your goods or services.

15. All documents submitted to the US Patent and Trademark Office related to your mark.

16. All business plans relating to the formation of the Oogles N Googles corporation.

17. All business plans relating to the development of the monkeys depicted on "ooglesngoogles.com."

18. All business plans relating to the Oogles N Googles "Preschool Enrichment and Edutainment Programs."

19. All business plans relating to the franchising of Oogles N Googles.

20. All press releases relating to Oogles N Googles.

21. All documents relating to the expansion of Oogles N Googles.

22. All documents relating to the selection of "Oogles N Googles" as the Defendants' mark.

23. Any and all agreements relating to the mark between or among any of the Defendants.

24. All documents (including, but not limited to, general ledgers, profit and loss statements, and corporate reports) relating to all revenues received by the defendants. Such revenues include (but are not limited to) revenues from franchising and licensing operations.

25. All document relating to the ownership of corporate stock, including, but not limited to, corporate filings and reports.