

TAB 2

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

**NOTICE OF SERVING STELOR PRODUCTIONS, INC.'S FIRST SET
OF INTERROGATORIES TO DEFENDANTS OOGLES N GOOGLES,
KEVIN MENDELL, DANYA MENDELL, AND X, Y, Z CORPORATIONS**

Plaintiff Stelor Productions, Inc., pursuant to Rule 33 of the Federal Rules of Civil Procedure, by and through their undersigned attorneys, hereby propounds the following interrogatories to be answered by Defendants Oogles N Googles, Kevin Mendell, Danya Mendell, and X, Y, Z Corporations, within the time and as required by the above rules of procedure and the local rules of this Court:

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DOCKETED

By: 
Kevin C. Kaplan (Pro Hac Vice)

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4/28-33-8/1

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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

I. DEFINITIONS

As used herein in these Interrogatories and in all subsequent discovery, the following definitions shall apply:

“You” or “your” mean the party to whom these interrogatories are directed, and/or any past or present managers, supervisors, officers, directors, executives executors, employees, agents, attorneys, or other persons or business entities acting on its behalf.

“All” means any and all.

“Any” shall be understood to include and encompass “all.”

“And” and “or” shall be construed both conjunctively and disjunctively, and each shall include the other whenever such dual construction will serve to bring within the scope of these interrogatories which would otherwise not be brought within its scope.

“Document” means all forms of tangible expression as defined by Rule 34 of the Federal Rules of Civil Procedure, and includes, without limitation, any notes taken during telephone conversations, handwritten notes on calendars, notes on loose pieces of paper, computer diskettes, computer electronic mail, and any retrievable data or information, however stored, recorded, or coded, and any other writing on or in whatever sort of medium possible. If a document has been prepared in more than one copy and such copies are no longer identical by reason of subsequent additions or deletions, each non-identical copy is a separate document.

“Relating to” means mentioning (directly or indirectly), discussing, including, summarizing, describing, reflecting, containing, referring to, relating to, analyzing, supporting, documenting, depicting, connected with, embodying, evidencing, constituting, concerning, reporting or pertaining to, in whole or in part.

“Communication” includes every manner and means of disclosure, transfer, or exchange, and every discussion, conversation, or disclosure, transfer, or exchange of information, whether orally or by document.

“Identify,” when used in reference to a document, means and includes the name and address of the custodian of the document, the location of the document, and a general description of the document, including (1) the type of document (i.e., correspondence, memorandum, facsimile etc.); (2) the general subject matter of the document; (3) the date of the document; (4) the author of the document; (5) the addressee of the document; and (6) the relationship of the author and addressee to each other.

“Identify,” when used in reference to a person, means the name and address of the person, and (a) his or her employer and title, (b) telephone number, and (c) e-mail address.

“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’ goods or services.

INSTRUCTIONS

1. If you withhold any information on the ground of privilege, please answer the interrogatory to the extent possible and provide the specific nature of the privilege, the basis of the privilege, the names and positions of all persons who possess the information, and identify, in complete detail, any documents that contain the information, or any part of the information, including by providing: the name of the author; the addressee; all recipients of the document, whether shown on the document or not; the subject matter of the document; the date of the document; and the length of the document.

2. If you are unable to answer any interrogatory completely, so state, answer to the extent possible, set forth the reasons for your inability to answer more fully, and state whatever knowledge or information you have concerning the unanswered portion.

3. Whenever appropriate throughout these Interrogatories, the singular form of a word shall be interpreted to include the plural and vice versa, so as to require the broadest possible production.

4. "And" and "or" shall be construed conjunctively or disjunctively, so as to require the broadest possible production.

Each Interrogatory shall be deemed to be continuing as it pertains to all questions propounded or all documents produced pursuant to the option to produce under Rule 33 of the Federal Rules of Civil Procedure.

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

INTERROGATORIES

1. Please identify any person who has, claims to have or whom you believe may have knowledge or information pertaining to any fact alleged in the Pleadings filed in this action, or any fact underlying the subject matter of this action.

ANSWER:

2. Please state the specific nature and substance of the knowledge that you believe the person(s) identified in your answer to Interrogatory No. 1 may have.

ANSWER:

3. Please provide the name of each person whom you may use as an expert witness at trial.

ANSWER:

4. Please state in detail the substance of the opinions to be provided by each person whom you may use as an expert witness at trial.

ANSWER:

5. Identify all officers and employees of Oogles N Googles, corporation.

ANSWER:

6. Identify all officers and employees of Oogles N Googles responsible for franchising.

ANSWER:

7. Identify all officers and employees of Oogles N Googles responsible for marketing or advertising

ANSWER:

8. Identify all officers and employees of Oogles N Googles responsible for Oogles N Googles' "Kid's Club"

ANSWER:

9. Identify all officers and employees of Oogles N Googles responsible for Oogles N Googles, "Preschool Enrichment and Edutainment Programs."

ANSWER:

10. State the names, addresses, email addresses, and age of all people that signed up for the Oogles N Googles "Kid's Club" on ooglesngoogles.com or otherwise.

ANSWER:

11. Identify all past and present franchisees of Oogles N Googles.

ANSWER:

12. Identify the creator of the monkeys depicted on ooglesngoogles.com and atop the Oogles N Googles press releases.

ANSWER:

13. State all the dates and geographic locations (City, State) where you, or your franchisees, have used your mark.

ANSWER:

14. State all the marketing channels you have used to promote your services or goods.

ANSWER:

15. Please state all facts supporting your contention that Plaintiff has “unclean hands,” as alleged in Paragraph No. 60 of your Answer To Complaint, Affirmative Defenses and Jury Demand.

ANSWER:

16. Please state all facts supporting your Affirmative Defense of “fair use,” as alleged in Paragraph No. 61 of your Answer To Complaint, Affirmative Defenses and Jury Demand.

ANSWER:

17. Please state all facts supporting your Affirmative Defense of "laches and estoppel," as alleged in Paragraph No. 62 of your Answer To Complaint, Affirmative Defenses and Jury Demand.

ANSWER:

OOGLES N GOOGLES

By: _____

STATE OF _____)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2005 by _____, of Oogles N Googles, on behalf of the corporation. He/she is personally known to be or has produced _____ as identification.

(Signature of Person Taking Acknowledgment)

(Name Typed, Printed or Stamped)

(Title or Rank)

(Serial Number, if any)

Kevin Mendell

STATE OF _____)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2005,
by Kevin Mendell.

(Signature of Notary Public - State of Florida)

(Print, Type, or Stamp Commissioned Name
of Notary Public)

Personally Known _____ OR Produced Identification _____ Type of
Identification Produced _____.

Danya Mendell

STATE OF _____)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2005,
by Danya Mendell.

(Signature of Notary Public - State of Florida)

(Print, Type, or Stamp Commissioned Name
of Notary Public)

Personally Known _____ OR Produced Identification _____ Type of
Identification Produced _____.

X, Y, Z CORPORATION

By: _____

STATE OF _____)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2005 by _____, of X, Y, Z Corporation, on behalf of the corporation. He/she is personally known to be or has produced _____ as identification.

(Signature of Person Taking Acknowledgment)

(Name Typed, Printed or Stamped)

(Title or Rank)

(Serial Number, if any)