

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

STELOR PRODUCTIONS, INC.,)
a Delaware corporation)
)
Plaintiff)
)
) Case Number: 1:05-CV-0354-DFH-TAB
v.)
)
)
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)
WATERBURY; LEIGH SUNDLING;)
and TINA CARTAYA)
)
Defendants)

MOTION FOR LEAVE TO FILE COUNTERCLAIM

Oogles n Googles Franchising, LLC (incorrectly named as OOGLES N GOOGLES, an Indiana Corporation), for its Motion for Leave to File Counterclaim, states as follows:

1. F.R.C.P. 15 states that leave to amend a pleading shall be freely given when justice so requires.
2. The deadline for amendments to pleadings is February 29, 2008, pursuant to the Case Management Plan, as amended. (Doc. 79).
3. Defendants, by counsel, have become aware of information showing that a prior purported owner of the Googles word and design mark, The Googles Childrens

Workshop, Inc., abandoned that mark and that a subsequent renewal of the federal registration for that mark was filed on behalf of The Googles Children's Workshop, Inc., a New Jersey corporation, after that company had been dissolved. Additionally, information obtained by Oogles n Googles Franchising, LLC, by the undersigned counsel, provides a good faith basis for alleging that the words Oogle, Oggie, and Iggle asserted to be trademarks by the Plaintiff have not been continuously used in commerce as a source identifier of goods and services. Therefore, no trademark rights have ever accrued in those words, or alternatively, those word marks have been abandoned.

4. The proposed counterclaim is attached to this Motion as required by local rules.

Wherefore, Oogles n Googles Franchising LLC, by the undersigned counsel, respectfully moves that the Court grant this Motion and permit requests Oogles n Googles Franchising LLC's to file its Counterclaim against Stelor Productions, Inc. within five (5) business days the order on this Motion.

Respectfully submitted by:

/s/ Stephen L. Vaughan
Stephen L. Vaughan, #2294-49
INDIANO VAUGHAN LLP
One N. Pennsylvania Street, Suite 1300
Indianapolis, IN 46204
Telephone: (317) 822-0033
Fax: (317) 822-0055
E-mail: Steve@IPLawIndiana.com

CERTIFICATE OF SERVICE

I hereby certify that on February 29, 2008, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties of record by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Stephen L. Vaughan
Stephen L. Vaughan, #2294-49