

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

NETJUMPER SOFTWARE, L.L.C.,

Plaintiff,

v.

GOOGLE, INC.,

Defendant.

Case number 04-70366

Honorable Julian Abele Cook, Jr.

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ORDER

On December 14, 2005, the Court conducted a hearing which addressed the motion for summary judgment that had been filed by the Defendant, Google, Inc. (“Google”). Approximately one week later (December 20, 2005), the Plaintiff, NetJumper Software, L.L.C. (“NetJumper”), filed an “Amended Notice of Filing,” which included a “CD containing the CyberPilot Pro.” On January 3, 2006, Google moved to strike this post-hearing CD that had been submitted along with NetJumper’s Amended Notice of Filing.

According to the text of a “Stipulation and Order” of September 12, 2005, NetJumper’s response to Google’s dispositive motion was “due on or before September 27, 2005.” Insofar as NetJumper’s CD attempts to supplement its response of September 27, 2005 to Google’s motion for summary judgment,<sup>1</sup> the proffer of the CD is untimely and, accordingly, must be excluded from evidence.

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<sup>1</sup>NetJumper admits: “[T]he CD-Rom simply supports those arguments raised by Netjumper in its opposition brief to Google’s summary judgment motion. The CD-Rom is corollary to the pictures contained in Netjumper’s opposition brief regarding the CyberPilot Pro program . . . .” NetJumper’s Response, at 5. Notably, NetJumper has not provided any legal citation which would support its proposition that “corollary” evidence may circumvent the Court’s filing deadlines.

Therefore, for the reason which has been stated above, Google's "Motion to Strike from Evidence the CD-Rom Filed with NetJumper's Notice of Amended Filing" must be, and is, granted.

IT IS SO ORDERED.

DATED: March 8, 2006  
Detroit, Michigan

s/ Julian Abele Cook, Jr.  
JULIAN ABELE COOK, JR.  
United States District Judge

Certificate of Service

I hereby certify that on March 8, 2006, I electronically filed the foregoing with the Clerk of the Court using the ECF system, and I further certify that I mailed a copy to the non-ECF participant(s).

s/ Kay Alford  
Courtroom Deputy Clerk