

No. 184,784

PRK ENTERPRISES, INC. AND KLEIN INVESTMENTS, INC.	§	IN THE DISTRICT COURT OF
	§	
	§	
VS.	§	JEFFERSON COUNTY, TEXAS
	§	
GOOGLE, INC., BLOGGER.COM,	§	
WWW.OPERATIONKLEINWATCH.BLOGSPOT.COM	§	
AND WWW.SAMTHEEAGLEUSA.BLOGSPOT.COM	§	
	§	172 ND JUDICIAL DISTRICT

PETITIONERS' FIRST AMENDED PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, PRK ENTERPRISES, INC. and KLEIN INVESTMENTS, INC., Plaintiffs in the above-entitled and numbered cause and files Petitioners' First Amended Petition, complaining of Google, Inc., Blogger.com, www.operationkleinwatch.blogspot.com and www.samtheeagleusa.blogspot.com, Defendants, and for a cause of action would who unto the Court the following:

PARTIES

1. Plaintiffs, PRK Enterprises, Inc. and Klein Investments, Inc., are corporations doing business in Jefferson County, Texas and are appearing in court through their attorney of record.
2. Defendant, Google, Inc., is a website and can be served through Google Legal Support, located at 1600 Ampa Theater Parkway, Mountain View, California 94843.
3. Defendant, Blogger.com, is a website. No service is requested at this time.
4. Defendant, www.operationkleinwatch.blogspot.com, is a website. No service is

requested at this time.

5. Defendant, www.samtheeagleusa.blogspot.com is a website. No service is requested at this time.

JURISDICTION AND VENUE

6. The issues in controversy are within the jurisdictional purview of this Court. Venue is proper in this Court, because any potential suit will be filed in this venue.

FACTS AND CAUSES OF ACTION

7. The Petitioners anticipate the institution of the suit in which the Petitioners may be parties against Respondents identified above, and/or potentially other Respondents. The Petitioners seek to investigate potential claims against the Respondents identified above. The subject matter of the anticipated lawsuit are claims for breach of copyright law, defamation per se, libel per se, and invasion of privacy. Petitioners may be making a claim under the Digital Millennium Copyright Act of 1998, 17 U.S.C. Section 512, because the Respondents identified below are currently using, without permission, copyrighted material and copyrighted intellectual property, for the purposes of accomplishing the state law torts identified above.

8. Specifically, the websites being hosted by the Defendant Google, Inc., and/or Blogger.com, identified above, have been engaged in a pattern of libel and defamation per se, invasion of privacy, and use of copyrighted images (both facial and voice image), without permission. The purpose of these websites are to disparage, harass and cause injury to these Petitioners, as well as to Mr. Philip Klein personally. These websites host significant, false

information, and invade the privacy of Petitioners throughout the website. For example, without limitation, the website Operation Klein Watch, contains false information on legal proceedings that do not involve either Mr. Klein individually or the Petitioners, falsely represent that judgments have been taken against the Petitioners and/or Mr. Klein individually, falsely identify a bankruptcy proceeding, also identify lawsuits that do not involve Petitioners and/or Mr. Klein individually. Additionally, this website identifies all members of Mr. Klein's family, for no apparent purpose other than to invade their privacy. A review of the websites make it clear that they are not expressing any "opinions" protected by the First Amendment but instead are solely vehicles for defamation.

9. Petitioners have sent correspondence to Google, Inc. to determine the identity of who owns or hosts these websites, to no avail. Accordingly, Petitioners seek to take the deposition of the designated corporate representatives of Google, Inc., and/or its subsidiary Blogger.com, for the following purposes:

1. To identify all parties, persons, or entities responsible for the website www.operationkleinwatch.blogspot.com and www.samtheeagleusa.blogspot.com.
2. Identify all persons, parties or entities who provide contributions of money or literary substance to these websites.
3. Identify all persons, parties or entities who posted comments on these websites and/or have provided financial support to these websites.
4. Identify all persons, parties or entities who are in anyway affiliated with, or

connected with in any capacity, these websites.

10. As part of this petition, Petitioners attach a copy of the opinion of the Supreme Court of the State of New York, *Liskulula:; Petitioner, v. Google, Inc. and/or its subsidiary Blogger.com*, in which the Supreme Court of the State of New York ruled that the respondents must divulge the same type of information that Petitioners are seeking in this Rule 202 petition.

11. At this time, Petitioners cannot identify the name of the person(s) who would be Google, Inc., to provide the information requested therein. Petitioners believe that an appropriate corporate representative(s) would provide testimony identifying the parties, persons or entities enquired about in the area of sought after testimony.

12. Petitioners request that this Court enter an order authorizing Petitioners to take these depositions of the corporate representatives identified herein.

13. Plaintiff now sues Google, Inc., on the doctrine of the civil conspiracy, slander, and libel, and Plaintiff would show that Google, Inc., is now an active co-conspirator with the websites and the bloggers at issue. In this regard, Google, Inc., has entered into a Rule 11 agreement for the production of records, but now it adamantly refuses to do so, because it is a civil conspirator with the other Defendants. Plaintiff, therefore, seeks to recover from Google, Inc., all actual damages caused by the torts perpetrated by the Defendant, Google, Inc., for which the Plaintiff now sues.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs, PRK Enterprises, Inc. and Klein

Investments, Inc., pray that Defendants, GOOGLE, INC., BLOGGER.COM, WWW.OPERATIONKLEINWATCH.BLOGSPOT.COM, AND WWW.SAMTHEEAGLEUSA.BLOGSPOT.COM be cited to appear and answer herein as the law directs, and that upon hearing, Petitioners obtain the relief sought herein through the depositions sought herein, and for such other and further relief, both general and special, statutory or common law, at law and in equity, to which Petitioners may be justly entitled.

Respectfully submitted,

/s/ John S. Morgan

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the following counsel of record via facsimile, on this 26th day of February, 2010.

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Via facsimile (214) 939-2090

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Google Blogspot
Operation Kleinwatch Blog
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Via CM/RRR

/s/ John S. Morgan

JOHN S. MORGAN