

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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AMERICAN SOCIETY OF MEDIA :
PHOTOGRAPHERS, INC. et al., :

Plaintiffs,

- against -

GOOGLE, INC., :

Defendant. :

- - - - -x

ORDER

10 Civ. 2977 (DC)

CHIN, Circuit Judge

Plaintiffs move, pursuant to Local Civil Rule 6.3 and the Court's September 23, 2013 Order, for reconsideration of their motion to compel defendant to produce certain documents identified in its December 21, 2012, January 22, 2013, and March 21, 2013 privilege logs. After de novo review of plaintiffs' motion to compel, the motion is denied for the reasons that follow as well as for the reasons stated on the record on September 12, 2013 and in the Court's order dated September 23, 2013.

Plaintiffs argue that the inclusion of documents on a privilege log proves their relevance. This is incorrect. The inclusion of documents merely means that they are responsive to the request for the production of documents, not that they are

relevant or are reasonably calculated to lead to admissible evidence. Plaintiffs have failed to explain how communications between Google and plaintiff's counsel in the Authors Guild case regarding settlement are relevant or would otherwise lead to discoverable or admissible evidence. If defendant expressed its views as to its fair use defense in settlement discussions, those statements are not relevant or, even assuming some relevance, they are not admissible.

SO ORDERED.

Dated: New York, New York
October 11, 2013

A handwritten signature in black ink, appearing to be 'Denny Chin', written over a horizontal line.

DENNY CHIN
United States Circuit Judge
Sitting by Designation