

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
Case No. 97-3924-CIV-LENARD-SIMONTON

JERRY GREENBERG, individually, and IDAZ  
GREENBERG, individually,

Plaintiffs,

v.

NATIONAL GEOGRAPHIC SOCIETY, a  
District of Columbia corporation, NATIONAL  
GEOGRAPHIC ENTERPRISES, INC., a  
corporation, and MINDSCAPE, INC., a  
California corporation,

Defendants.

MAY 6,  
2002

**Defendants' Second Request For Production of Documents**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Defendants National Geographic Society, National Geographic Enterprises, Inc. and Mindscape, Inc., by their attorneys, Weil, Gotshal & Manges LLP, hereby request that Plaintiffs Jerry Greenberg and Idaz Greenberg produce each of the following documents in their possession, custody or control.

**DEFINITIONS AND INSTRUCTIONS**

1. The "Amended Complaint" shall mean the Plaintiffs' Amended Complaint dated December 23, 1997.
2. The term "concerning" shall mean relating to, referring to, describing, evidencing or constituting.
3. "The Complete National Geographic" shall mean the collection, in CD-ROM or DVD format, of all issues of National Geographic Magazine (the "Magazine").
4. "Document" shall have the same meaning as the term "document" in Rule 34(a) of the Federal Rules of Civil Procedure, and shall include all such items which would be

subject to inspection and copying under that Rule, including, but not limited to, all materials written, printed, typed, photographed or recorded such as writings, notes, correspondence, memoranda, agreements, contracts, drafts, mark-ups, red-lined materials, proposals, offers, minutes of meetings, agendas, reports, calendar or diary entries, drawings, graphs, charts, logs, photographs, phone records, tape recordings, computer disks, computer printouts or tape, e-mail, or any other data compilations from which information can be obtained or translated.

Documents which are subject to production include, but are not limited to, all documents within the possession, custody or control of Plaintiffs or their agents and attorneys and shall be produced as such documents are kept in the usual course of business by Plaintiffs.

5. The "Society" shall mean, collectively, National Geographic Society and National Geographic Enterprises, Inc.

6. If any form of privilege or other protection from disclosure is claimed as a ground for withholding responsive information contained in a document or communication, identify the client and the attorney and set forth, with respect to the document or communication, the date, title, identity of the author, subject matter (without revealing the information for which the privilege is claimed), and each and every fact on which your claim of privilege is based, with sufficient specificity to permit the court to make a determination as to whether the claim of privilege is valid.

7. Words used in the plural shall also be interpreted to include the singular, and words used in the singular shall also be interpreted to include the plural. The terms "or" and "and" shall be interpreted either conjunctively or disjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside its scope.

8. Unless otherwise indicated, the relevant time period for answering these discovery requests is 1888 through the present.

9. These discovery requests are continuing in nature and require you to provide supplemental documents or information promptly in the event that you obtain or find responsive documents or information that were not previously provided.

### **REQUESTS FOR PRODUCTION**

1. All documents concerning the market value of images upon which Counts III, IV and V of the Amended Complaint are based.

2. All documents pertaining to any licenses granted by the Plaintiffs for the use of images upon which Counts III, IV and V of the Amended Complaint are based.

3. All documents pertaining to any attempts to license the use of images upon which Counts III, IV and V of the Amended Complaint are based.

4. All documents pertaining to any requests from third parties to license the use of images upon which Counts III, IV and V of the Amended Complaint are based.

5. All documents pertaining to any negotiations to license the use of images upon which Counts III, IV and V of the Amended Complaint are based.

6. All documents pertaining to the sale of images upon which Counts III, IV and V of the Amended Complaint are based.

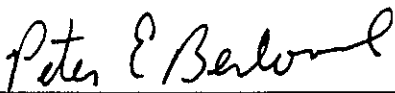
7. All documents pertaining to any attempts to sell the images upon which Counts III, IV and V of the Amended Complaint are based.

8. All documents pertaining to any requests to purchase the images upon which Counts III, IV and V of the Amended Complaint are based.

9. All documents pertaining to any negotiations for the sale of images upon which Counts III, IV and V of the Amended Complaint are based.
10. All documents concerning the decrease or increase in the market value of images upon which Counts III, IV and V of the Amended Complaint are based as a result of the publication of The Complete National Geographic.
11. All documents concerning the damages that Plaintiffs are seeking to recover from Defendants.
12. All documents concerning whether members of the public were induced to buy The Complete National Geographic products, in place of those publications initially authorized by the Plaintiffs, or in place of purchasing and licensing the same images from the Plaintiffs or their agents.
13. Each product published by Plaintiffs, or any entity in which Plaintiffs have an interest, that incorporates the images upon which Counts III, IV and V of the Amended Complaint are based.
14. Each product published by a third party that incorporates the images upon which Counts III, IV and V of the Amended Complaint are based.
15. Documents sufficient to show Plaintiffs' annual advertising expenditures concerning the images upon which Counts III, IV and V of the Amended Complaint are based.
16. Documents sufficient to show Plaintiffs' annual sales, in dollars and units, of all products that incorporate the images upon which Counts III, IV and V of the Amended Complaint are based, including the individual images themselves, for each year in which the images were sold.
17. All documents pertaining to any legal expenses incurred by the Plaintiffs

in pursuing the allegations contained in Counts III, IV and V of the Amended Complaint, including but not limited to the time records or billing records of any and all Steel, Hector and Davis personnel who have rendered services to the Plaintiffs.

Dated: Miami, Florida  
May 6, 2002

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- and -

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*Of Counsel*

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the foregoing has been sent via facsimile and Federal Express this 6th day of May, 2002 to Norman Davis and David A. Aronberg, Steel Hector & Davis LLP, 200 South Biscayne Boulevard, 40th Floor, Miami, Florida 33131-2398, attorneys for Plaintiffs.

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