UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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.

CASE NO. 97-3924
CIV-LENARD
Magistrate Judge Turnoff

REPLY DECLARATION OF THOMAS STANTON

Thomas Stanton affirms as follows, under penalty of perjury:

1. I am the Director of CD-ROM Product Management at National Geographic Interactive, a division of NGE, Inc., which is a wholly-owned for-profit subsidiary of the National Geographic Society (collectively, the "Society"). I make this declaration based upon personal knowledge.

2. When the Society decided to produce CD-ROM 108, I asked Mary Anne McMillen, the Director of the Society's Records Library Department, to retrieve copies of each issue of the Magazine from the Society's central warehouse and provide those copies to an outside vendor for scanning.

3. However, the Society's central warehouse did not contain copies of every single issue of the Magazine. We filled the gaps in our inventory by purchasing copies

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of the Magazine from used book stores, institutions, garage sales and any other available source.

4. The Society only included one edition of each issue of the Magazine in CD-ROM 108. The Society actually publishes approximately 30-40 editions of each monthly issue. The editorial content of each edition of the Magazine is identical. However, as is common in the periodical industry, regional editions contain varying advertisements, and the Society also publishes a Japanese language edition of the Magazine. The Society did not employ any methodological selection process whatsoever in determining which edition to include in CD-ROM 108. Because the Society did not publish foreign language editions of the Magazine before 1995, the Society chose the English language edition for inclusion in CD-ROM 108. With respect to regional editions, which differ only in advertisements, the Northeastern edition was chosen simply because it happened to be one of those which the Society had in its central warehouse. No effort was made to select an edition according to any criteria at all.

5. Upon further inquiry since the date of my initial Declaration in this action, I have learned that my letter dated May 21, 1995 was not sent to the plaintiffs.

6. I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 23, 1998

Thomas Stanton