



Plaintiff Dr. Shiva Ayyadurai (“Dr. Ayyadurai”) hereby respectfully moves for leave to file a sur-reply memorandum, three pages in length, in support of Dr. Ayyadurai’s opposition to defendants Floor64, Inc. d/b/a Techdirt, Michael David Masnick, and Leigh Beadon’s (collectively, “Defendants”) (1) Motion to Dismiss of Floor64 and Masnick pursuant to Fed. R. Civ. P. 12(b)(5) and 12(b)(6) (Doc. Nos. 11 and 13), (2) Special Motion to Strike of Floor64 and Masnick pursuant to the California Anti-SLAPP law (Doc. Nos. 14 and 15), (3) Beadon’s Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6) (Doc. Nos. 27 and 28), and (4) Beadon’s Special Motion to Strike pursuant to the California Anti-SLAPP law (Doc. No. 26), and their collective Reply (Doc. No. 38) (collectively “Defendants’ Motions”).

This sur-reply directly addresses, and provides additional authority for, the Court’s questions at the April 20, 2017 hearing on Defendants’ Motions, namely the following:

1. To say that Dr. Ayyadurai invented email requires that we define email. How do we do that?
2. If reasonable people could disagree about the definition of email, even assuming they agree that Dr. Ayyadurai invented some piece of it, how is that a question of provable fact?
3. If Dr. Ayyadurai didn’t invent the “@” symbol, a lot of people would say that is a big component of email. If Dr. Ayyadurai didn’t invent sending texts from one computer to another, how can you say that he invented email?<sup>1</sup>

A copy of the proposed sur-reply brief is attached hereto as Exhibit 1. Defendants do not assent to this Motion.

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<sup>1</sup> Dr. Ayyadurai has not yet received a transcript of the hearing. Thus, the statements attributed to the Court herein represent counsel’s best efforts to set forth the Court’s questions at the hearing.

Dated: April 27, 2017

Respectfully submitted,

**HARDER MIRELL & ABRAMS LLP**

By:  /s/ Charles J. Harder

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**LOCAL RULE 7.1 CERTIFICATION**

Timothy Cornell certifies that, pursuant to Local Rule 7.1, he met and conferred with counsel for the defendants on April 27, 2017, and that opposing counsel indicated they would not assent to the above Motion.

/s/ Timothy Cornell  
Timothy Cornell

**CERTIFICATE OF SERVICE**

I hereby certify that the within document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and by first class mail to any non-registered participants.

/s/ Timothy Cornell  
Timothy Cornell