

**COPY**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
Case No. 97-3924 CIV-LENARD  
Magistrate Judge 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' Cross-Motion for Partial Summary Judgment  
As To Number Of Works Infringed**

Defendants National Geographic Society, National Geographic Enterprises, Inc. and Mindscape, Inc., by undersigned counsel, respectively cross-move this Court, pursuant to Federal Rule of Civil Procedure 56, for partial summary judgment as to the number of works infringed for purposes of computing statutory damages and request that this Court declare the number of works infringed for purposes of computing statutory damages to be four. The grounds upon which Defendants rely for this motion are set forth in the memorandum of law served and filed herewith, the Affirmation of Naomi Jane Gray, and the Declaration of Kent Kobersteen.

WHEREFORE, Defendants respectfully request that the foregoing cross-motion be granted.

Dated: May 6, 2002

Respectfully submitted,

By: Peter E Berlowe

ROBERT G. SUGARMAN, ESQ.

[robert.sugarman@weil.com](mailto:robert.sugarman@weil.com)

NAOMI JANE GRAY, ESQ.

[naomi.gray@weil.com](mailto:naomi.gray@weil.com)

JANET L. GOLDBERG, ESQ.

(not admitted in the Southern District of Florida)

[janet.goldberg@weil.com](mailto:janet.goldberg@weil.com)

WEIL, GOTSHAL & MANGES LLP

767 Fifth Avenue

New York, New York 10153

Telephone: (212) 310-8000

Facsimile: (212) 310-8007

- and -

EDWARD SOTO, ESQ. (265144)

[edward.soto@weil.com](mailto:edward.soto@weil.com)

PETER E. BERLOWE, ESQ. (0143650)

[peter.berlowe@weil.com](mailto:peter.berlowe@weil.com)

WEIL, GOTSHAL & MANGES LLP

701 Brickell Avenue

Suite 2100

Miami, FL 33131

Telephone: (305) 577-3100

Facsimile: (305) 374-7159

*Attorneys for Defendants*

National Geographic Society, National

Geographic Enterprises, Inc., and

Mindscape, Inc.

- and -

Terrence B. Adamson, Esq.

[tadamson@ngs.org](mailto:tadamson@ngs.org)

Executive Vice President

National Geographic Society

1145 17th Street, N.W. 20036-4688

*Of Counsel*

**CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that the foregoing has been sent by 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.

By: Peter E. Berlowe  
Peter E. Berlowe, Esq. (0143650)  
peter.berlowe@weil.com  
WEIL, GOTSHAL & MANGES LLP  
701 Brickell Avenue  
Suite 2100  
Miami, FL 33131  
(305) 577-3100

*Attorneys for Defendants*