

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

OCT 10 2002

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

LESLIE A. KELLY, an individual, dba Les
Kelly Publications, dba Les Kelly
Enterprises, dba Show Me The Gold,

Plaintiff-Appellant,

v.

ARRIBA SOFT CORPORATION, an
Illinois corporation,

Defendant-Appellee.

No. 00-55521

D.C. No. CV-99-00560-GLT

ORDER

Before: B. FLETCHER, T.G. NELSON, and BERZON, Circuit Judges.

The parties shall file supplemental briefs addressing the following
questions:

1. Was a claim of violation of Kelly's display right or his derivative use right presented to the district court, and if so, in what manner?
2. Is the record adequate to allow consideration of either of these issues in this court?
3. If the record is adequate to allow consideration of the derivative use issue, was Kelly's derivative use right violated?

4. Should the case be remanded to the district court for further development of the record, a determination of the underlying copyright violation issues (as opposed to the fair use defense already adjudicated by the district court), or both?

Appellant's brief shall be filed within twenty-one days of this order.

Appellee's brief shall be filed within twenty-one days of the service of the brief filed by Appellant. Appellant may file a reply and any reply shall be filed within fourteen days of the responsive brief.

The briefs shall conform to the word count and format requirements of Federal Rule of Appellate Procedure 32, except no brief shall exceed twenty-five pages or 7000 words.