

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF CONNECTICUT**

VERTRUE INCORPORATED,	:	
Plaintiff,	:	
	:	
-vs-	:	Civil No. 3:05cv1809 (PCD)
	:	
ALEXANDER B. MESHKIN,	:	
Defendant.	:	

**RULING ON PLAINTIFF’S MOTION TO COMPEL  
PRODUCTION OF PRIVILEGE LOG**

Plaintiff moves for an order compelling Defendant to produce a privilege log identifying all documents responsive to Plaintiff’s discovery requests that have been withheld. Defendant opposes Plaintiff’s motion. For the reasons stated herein, Plaintiff’s Motion to Compel [Doc. No. 168] is **granted**.

The facts relevant to this action were discussed at length in this Court’s prior rulings, and will not be reiterated here.

According to Plaintiff, Defendant has failed to fully comply with this Court’s outstanding discovery orders, has failed to produce all documents responsive to Plaintiff’s First Request for Production of Documents, Request Numbers 13, 33, and 34, and has failed to produce a privilege log with respect to any documents that have been withheld. Federal Rule of Civil Procedure 26(b)(5) requires parties to produce a privilege log for any discoverable information withheld on the basis of attorney-client privilege or protection under the work product doctrine:

When a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess

the applicability of the privilege or protection.

Fed. R. Civ. P. 26(b)(5). Similarly, District of Connecticut Local Rule 37(a)(1) requires a party asserting a privilege to provide a privilege log. D. Conn. Loc. Civ. R. 37(a)(1). Plaintiff has twice requested Defendant's privilege log relating to the production of documents, however, Defendant has not produced one.

In response to Plaintiff's motion, Defendant argues that Plaintiff's document requests in this action are identical to the document requests in the arbitration between Plaintiff and Nutzz.com, LLC, and that the privilege log produced by Nutzz.com in the arbitration is the same for all intents and purposes as the privilege log produced in this action. This argument is without merit. The scope of discovery permitted in this action is broader than that permitted in the arbitration. In the instant action, Defendant's objections to numerous document requests were overruled, whereas Nutzz.com's objections to many of these same requests were sustained in the arbitration. Accordingly, Defendant will not be permitted to rely on the privilege log produced in the arbitration.

Defendant also asserts that "[t]here are no additional documents that were not discovered by [Plaintiff] that are being withheld by [Defendant] on any assertion of the attorney-client privilege or work product doctrine." If, disregarding the privilege log produced in the arbitration, this statement remains true, there is nothing for this Court to order Defendant to produce. If, however, some documents are being withheld on an assertion of privilege, a privilege log should be produced.

Accordingly, for the foregoing reasons, Plaintiff's Motion to Compel [Doc. No. 168] is **granted**. Within five (5) days of the date of this Order, Defendant shall produce a privilege log

identifying all documents responsive to Plaintiff's discovery requests that have been withheld by Defendant in this action, or shall notify Plaintiff, by sworn statement, that no such documents exist.

SO ORDERED.

Dated at New Haven, Connecticut, November 29, 2006.

\_\_\_\_\_  
/s/  
Peter C. Dorsey, U.S. District Judge  
District of Connecticut