EXHIBIT 38

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19
                  UNITED STATES DISTRICT COURT
20   NORTHERN DISTRICT OF CALIFORNIA
                  SAN FRANCISCO DIVISION
21

22 | ORACLE AMERICA, INC. | Case No. CV 10-03561 WHA |
   | --- | --- |
23 | Plaintiff, | **NOTICE OF SUBPOENA TO MOTOROLA MOBILITY, INC.** |
24 | v. | |
   | GOOGLE INC. | Dept.: Courtroom 9, 19th Floor |
25 | | Judge: Honorable William H. Alsup |
   | Defendant. | |
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1   TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2   PLEASE TAKE NOTICE that pursuant to Rule 45 of the Federal Rules of Civil

3 Procedure, Motorola Mobility, Inc. will be served with a subpoena requesting that it produce

4 specified documents and things for inspection and copying at the time and location indicated in

5 the subpoena. A copy of the subpoena is attached.

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9 Dated: April 12, 2011   MICHAEL A. JACOBS
                                 MARC DAVID PETERS

10   DANIEL P. MUINO
                                 MORRISON & FOERSTER LLP

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12   By: /s/ Roman A. Swoopes

13   *Attorneys for Plaintiff*
                               ORACLE AMERICA, INC.

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Schedule A

Definitions and Instructions

1.   "Google" refers to Google Inc. and Android, Inc., and their employees and other persons or entities acting on their behalf.

2.   "Open Handset Alliance" refers to the Open Handset Alliance as referenced in http://www.openhandsetalliance.com, including each member, specification lead, technical lead, or other persons or entities authorized to act on its behalf.

3.   "Motorola," "you," and "your" refer to Motorola Mobility, Inc.; other Motorola-affiliated entities; and their employees.

4.   "Android" refers to the software platform for mobile devices as referenced in http://www.openhandsetalliance.com, http://developer.android.com, and http://android.git.kernel.org, and includes any versions thereof, and related public or proprietary source code, executable code, applications, and documentation.

5.   "Motorola Android Devices" refers to devices that Motorola manufactures, sells, offers for sale, or imports that runs, is sold with, or is loaded with Android or software derived from Android. Examples include the Atrix 4G, Cliq, Cliq 2, Droid 2, Droid Pro, Droid X, Droid, Bravo, Flipside, Citrus, Defy, Charm, Backflip, Devour, Xoom, and i1.

6.   This subpoena shall apply to all documents and things in your actual or constructive possession, custody, or control as of the date of service hereof or coming into your possession, custody, or control prior to the date of the production.

7.   Electronic records and computerized information shall be produced in an intelligible format or together with a description of the system from which it was derived sufficient to permit rendering the materials intelligibly. Production in native format is requested,

along with any necessary documentation or software to permit loading and reviewing such materials in an intelligible form, if such is not commonly available.

Requests for Production

1.   Documents reflecting communication between Google and Motorola (whether or not through the Open Handset Alliance) relating to Android and concerning any license or other agreement, any intellectual property issues, or any compensation or revenue.

2.   Documents sufficient to show the sequence of steps Motorola follows to retrieve, port, load, install, test, or execute Android for or on Motorola Android Devices.

3.   Documents sufficient to identify each package and source code file Motorola retrieved from http://android.git.kernel.org for loading, installation, or execution on Motorola Android Devices.

4.   Documents sufficient to identify the changes Motorola made to the packages and source code files retrieved from http://android.git.kernel.org before loading, installation, or execution on Motorola Android Devices.

5.   Android-related instructions, directions, source code, and technical specifications that are not publicly available through http://android.git.kernel.org or http://developer.android.com that were made available to Motorola by Google (whether or not through the Open Handset Alliance).

6.   Documents sufficient to show the extent to which and conditions under which Google forbids or restricts Motorola from modifying Android, or Motorola has otherwise agreed not to modify Android, before loading, installing, or executing Android on Motorola Android Devices.