

KRAMER DECLARATION EXHIBIT D

United States District Court

Northern District of California

Digital Envoy, Inc.

SUBPOENA

v.

Case No. C 04 01497 RS
 Northern District of California

Google, Inc.

**TO: Ask Jeeves, Inc.
 Attn: General Counsel
 5858 Horton Street, Suite 350
 Emeryville, CA 94608**

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
See Attachment "A".	

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

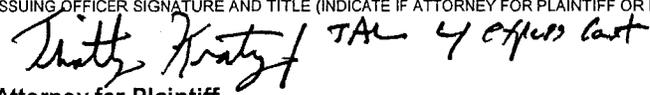
1. See attachment.

PLACE Sheppard, Mullin, Richter and Hampton, LLP c/o Brian Blackman Four Embarcadero Center, 17th Floor San Francisco, CA 94111-4106	DATE AND TIME 10:00 a.m. January 26, 2005.
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YOU ARE COMMANDED to permit inspection of the following premises at the date, and time specified below:

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)  Attorney for Plaintiff	DATE January <u>11</u> , 2005
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ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Timothy H. Kratz
 McGuireWoods, LLP
 1170 Peachtree Street, Suite 2100
 Atlanta, Georgia 30305
 Telephone: (404) 443-5500

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed On

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person

resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

ATTACHMENT A

NOTES AND INSTRUCTIONS

1. "YOU" means AskJeeves, Inc. and its subsidiaries, parents, divisions, partners, assignees, contractors, successors in interest, employees, alter egos, predecessors or anyone acting or purporting to act on its behalf, including directors, officers, managing agents, employees or representatives.
2. "Google" means Google, Inc. and its subsidiaries, parents, divisions, partners, assignees, contractors, successors in interest, employees, alter egos, predecessors or anyone acting or purporting to act on its behalf, including directors, officers, managing agents, employees or representatives.
3. "Document" means any document or tangible item within the scope of the Federal Rule of Civil Procedure 34, including, without limitation, electronic files, directories and transmissions, including non-identical copies and drafts of anything that is a document.
4. "Reference, evidence or relate" means constituting, comprising, pertaining to, mentioning, regarding, relevant to, referring to, containing, setting forth, reflecting, showing, explaining, summarizing, supporting, contradicting or concerning.
5. All documents are to be produced and will be maintained in accordance with the Stipulation and Protective Order Regarding Confidentiality entered in this action, a copy of which is attached to this subpoena as Exhibit B.

INDIVIDUAL REQUESTS

1. Produce all contracts between you and Google.
2. Produce all documents that reference, evidence or relate to contracts between you and Google.
3. Produce all documents that reference, evidence or relate to negotiations between you and Google.
4. Produce all documents that reference, evidence or relate to payments made by Google to you or by you to Google.
5. Produce all documents that reference, evidence or relate to payments made by anyone which were shared or otherwise divided between you and Google.
6. Produce all sales or marketing material regarding any Google products.
7. Produce all technical schematics of any Google products.
8. Produce all communications from Google to you, including without limitation, any communications that reference, evidence or relate to software or other processes that enables the geographic location of users on any of your web sites in conjunction with Google products.