

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

PERSONALIZED USER MODEL, L.L.P.,)
)
 Plaintiff,)
)
 v.)
)
 GOOGLE INC.,)
)
 Defendant.)
 _____)
 GOOGLE, INC.)
)
 Counterclaimant,)
)
 v.)
)
 PERSONALIZED USER MODEL, LLP and)
 YOCHAI KONIG)
)
 Counterdefendants.)

C.A. No. 09-525-LPS

JURY TRIAL DEMANDED

NOTICE OF SUBPOENA

PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Federal Rules of Civil Procedure, defendant Google Inc., will serve the attached subpoena (Exhibit 1) in the above-referenced action.

POTTER ANDERSON & CORROON LLP

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-and-

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Dated: April 5, 2011
1007702 / 34638

EXHIBIT 1

UNITED STATES DISTRICT COURT
for the
District of Oregon

Personalized User Model, LLP

Plaintiff

v.

Google, Inc.

Defendant

Civil Action No. C.A. No. 09-525 (LPS)

(If the action is pending in another district, state where:

U.S.D.C. of Delaware

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Kemal Sonmez, 520 NE Russell Street, Portland, OR 97212-3826 (503) 288-1985

[X] Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Table with 2 columns: Place and Date and Time. Place: Teach Reporting, 1500 SW First Avneue, Suite 985, Portland, OR 97201. Date and Time: April 26, 2011, 9:00 a.m.

The deposition will be recorded by this method: Video and Stenographer

[X] Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: SEE EXHIBIT "A" ATTACHED HERETO

Date: April 19, 2011

Location: Quinn Emanuel Urquhart & Sullivan, LLP
555 Twin Dolphin Drive, 5th Floor, Redwood Shores, CA 94065

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 4/4/2011

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Handwritten signature of Andrea Pallios Roberts

Attorney's signature

Andrea Pallios Roberts

The name, address, e-mail, and telephone number of the attorney representing (name of party)

Google, Inc., who issues or requests this subpoena, are:
Quinn Emanuel Urquhart & Sullivan, LLP Email: andreaproberts@quinnemanuel.com
555 Twin Dolphin Drive, 5th Floor, Redwood Shores, CA 94065, (650) 801-5000

Civil Action No. C.A. No. 09-525 (LPS)

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* Kemal Sonmez
was received by me on *(date)* _____ .

I served the subpoena by delivering a copy to the named individual as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of

\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

(c) Protecting a Person Subject to a Subpoena.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information.

These procedures apply to producing documents or electronically stored information:

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

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

EXHIBIT A

EXHIBIT A

I. DEFINITIONS

1. "PLAINTIFF," or "PERSONALIZED USER MODEL," shall mean plaintiff Personalized User Model LLP, and its agents, officers, employees, representatives and attorneys, and any and all of its predecessor or successor companies, corporations or business entities.

2. "SRI," shall mean SRI International, formerly known as the Stanford Research Institute, and includes any officers, directors, partners, associates, employees, agents, attorneys, subsidiaries, affiliates, divisions, successors, predecessors, and any other related business entities.

3. "YOU" or "YOUR" shall mean Kemal Sonmez.

4. "YOCHAI KONIG," shall mean the named inventor of U.S. Patent Nos. 6,981,040, 7,320,031, and 7,685,276, and former employee of SRI.

5. "DOCUMENT" or "DOCUMENTS" shall include all written, graphic or otherwise recorded material, including without limitation, microfilms or other film records or impressions, tape recordings or computer cards, floppy disks or printouts, any and all papers, photographs, films, recordings, memoranda, books, records, accounts, communications, letters, telegrams, correspondence, notes of meetings, notes of conversations, notes of telephone calls, inter-office memoranda or written communications of any nature, recordings of conversations either in writings or upon any mechanical or electrical recording devices, including electronic mail ("e-mail"), notes, papers, reports, analyses, invoices, canceled checks or check stubs, receipts, minutes of meetings, time sheets, diaries, desk calendars, ledgers, schedules, licenses, financial statements, telephone bills, logs, and any differing versions of any of the foregoing, whether so denominated, formal, informal or otherwise, as well as copies of the foregoing which differ in any way, including by the addition of handwritten notations or other written or printed matter of any nature, from the original. The foregoing specifically includes information stored in a computer database and capable of being generated in documentary form, such as electronic mail.

6. "THING" as used herein means any physical object other than a "DOCUMENT."

(a) "PERSON" refers to any individual, corporation, proprietorship, association, joint venture, company, partnership or other business or legal entity, including governmental bodies and agencies.

7. "RELATE TO" and "RELATING TO" shall mean relating to referring to, concerning, mentioning, reflecting, pertaining to, evidencing, involving, describing, discussing, commenting on, embodying, responding to, supporting, contradicting, or constituting (in whole or in part), as the context makes appropriate.

8. The "PATENTS-IN-SUIT" shall mean U.S. Patent Nos. 6,981,040, and 7,685,276.

9. The term "RELATED PATENTS/APPLICATIONS" shall mean (1) any United States or foreign patent or patent application related to the PATENTS-IN-SUIT by way of subject matter or claimed priority date, (2) all parent, grandparent or earlier, divisional, continuation, continuation-in-part, provisional, reissue, reexamination, and foreign counterpart patents and applications of thereof, and/or (3) any patent or patent application filed by one of more of the same applicant(s) (or his or her assignees) that refers to any of (1) or (2) herein.

II. INSTRUCTIONS

1. If any portion of a DOCUMENT or THING is responsive to a request, the entire DOCUMENT or THING shall be produced, redacting only privileged material if any.

2. YOU are to produce the original and each non-identical copy of each DOCUMENT or THING requested herein that is in YOUR possession, custody or control.

3. DOCUMENTS produced pursuant to these requests shall be produced in the original files and shall not be shuffled or otherwise rearranged. DOCUMENTS which were stapled, clipped, or otherwise fastened together shall be produced in that form.

4. THINGS produced pursuant to these requests shall be produced in their present form and shall not be changed or modified in any way.

5. In the event that any DOCUMENT or THING called for by these requests or subsequent requests is to be withheld on the basis of a claim of privilege or immunity from discovery, that DOCUMENT or THING is to be identified by stating:

- (a) the author(s), addressee(s) and any indicated or blind copyee(s);
- (b) the DOCUMENT's or THING's date, number of pages and attachments or appendices;
- (c) the subject matter(s) of the document;
- (d) the nature of the privilege or immunity asserted; and
- (e) any additional facts upon which you would base your claim of privilege or immunity.

6. In the event that any DOCUMENT or THING called for by these requests or subsequent requests has been destroyed or discarded, that DOCUMENT or THING is to be identified by stating:

- (a) the author(s), addressee(s) and any indicated or blind copyee(s);
- (b) the DOCUMENT's or THING's date, number of pages and attachments or appendices;
- (c) the DOCUMENT's or THING's subject matter;
- (d) the date of destruction or discard, manner of destruction or discard, and reason for destruction or discard;
- (e) the PERSONS who were authorized to carry out such destruction or discard; and
- (f) whether any copies of the DOCUMENT or THING presently exist and, if so, the name of the custodian of each copy.

6. These Requests shall be deemed continuing so as to require further and supplemental production in accordance with the Federal Rules of Civil Procedure.

III. REQUESTS FOR PRODUCTION

1. All documents regarding YOCHAI KONIG's work in connection with Utopy Inc. performed while he was employed by SRI and/or using SRI facilities, computers, or email services.
2. All documents regarding any awareness YOU and/or SRI had in YOCHAI KONIG's work in connection with Utopy Inc. performed while he was employed by SRI.
3. All documents regarding the areas and/or fields in which YOCHAI KONIG worked while employed by SRI.
4. All documents regarding the subject matter of SRI's research and development, either actual or anticipated, in the period between April 1996 and August 1999.
5. All documents regarding U.S. Patent Nos. 6,981,040, 7,320,031, and 7,685,276.
6. Any communications between or among YOU, PLAINTIFF, YOCHAI KONIG, Utopy Inc. or any other party regarding ownership of the PATENTS-IN-SUIT.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CERTIFICATE OF SERVICE

I, David E. Moore, hereby certify that on April 5, 2011, the attached document was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

I further certify that on April 5, 2011, the attached document was Electronically Mailed to the following person(s):

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