

# EXHIBIT E

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6 Attorneys for Non-Party  
LUCASFILM LTD.  
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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION  
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12 ERICH SPECHT, an individual, and doing  
business as ANDROID DATA CORPORATION,  
13 and THE ANDROID'S DUNGEON  
INCORPORATED,

14 Plaintiffs and Counter-  
15 Defendants,

16 v.

17 GOOGLE, INC.,

18 Defendant and Counter-  
19 Plaintiff.

Case No. 09-cv-2572

**NON-PARTY LUCASFILM  
LTD.'S RESPONSES AND  
OBJECTIONS TO PLAINTIFFS'  
SUBPOENA FOR PRODUCTION  
OF DOCUMENTS AND  
TESTIMONY**

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21 Pursuant to Rule 45 of the Federal Rules of Civil Procedure, non-party Lucasfilm Ltd.  
22 ("Lucasfilm") hereby serves the following responses and objections to the subpoena requesting  
23 the production of documents and topics of testimony from Lucasfilm (the "Requests" and the  
24 "Topics") served by Erich Specht, doing business as Android Data Corporation, and The  
25 Android's Dungeon Incorporated ("Plaintiffs").

26 **GENERAL OBJECTIONS TO REQUESTS**

27 1. In responding to the Requests and Topics, Lucasfilm does not concede the  
28 relevancy, materiality, credibility, or admissibility of any information sought by the Requests and

1 Topics. Lucasfilm's responses are made subject to and without waiver of any questions or  
2 objections as to competency, relevancy, materiality, privilege, credibility, or admissibility as  
3 evidence, or for any other purpose, of any of the documents or information referred to herein, or  
4 the subject matter thereof, in any proceeding, including the trial of this action or any other  
5 subsequent proceeding. These responses are made solely for the purpose of this action between  
6 Plaintiffs and Google, Inc. ("Defendant") (the "Litigation") and are not for use in any other action  
7 or proceeding, among the parties to this action or otherwise. Except as otherwise stated herein,  
8 Lucasfilm applies Plaintiffs' definitions of terms set forth in the rider to Plaintiffs' subpoena and  
9 no response may be taken as an admission or concession that such definitions of terms are  
10 accurate or have legal significance in this or any other matter. The responses are made  
11 specifically subject to the right to object in any proceeding relating to the subject matter of the  
12 Requests and Topics.

13 2. Lucasfilm objects to all Definitions, Instructions, Requests, and Topics to the  
14 extent that such Definitions, Instructions, Requests, and Topics purport to impose any obligation  
15 beyond those set forth in the Federal Rules of Civil Procedure and the Local Rules of the  
16 Northern District of California. In responding to the Requests and Topics, Lucasfilm will provide  
17 only such documents and testimony as may be required and proper under the Federal Rules of  
18 Civil Procedure and the Local Rules of the Northern District of California.

19 3. Lucasfilm's responses are based on the information reasonably available at this  
20 time. Lucasfilm reserves the right to further object to the Requests and Topics as more  
21 information becomes available.

22 4. Lucasfilm objects that the Requests and Topics are untimely as the deadline for  
23 written discovery in the Litigation passed before Plaintiffs served the subpoena on Lucasfilm.

24 5. Lucasfilm objects to the Requests and Topics as unduly burdensome, costly, and  
25 oppressive, especially considering Lucasfilm's non-party status, because the requests are overly  
26 broad, not relevant to the subject matter in the Litigation, and not reasonably calculated to lead to  
27 the discovery of admissible evidence. In particular, the Litigation concerns trademark  
28 infringement and validity issues relating to the marks ANDROID DATA and ANDROID.

1 Because the Requests and Topics relate solely to use of Lucasfilm's DROID mark, a mark not at  
2 issue in the Litigation, the Requests and Topics seek documents and information that are wholly  
3 irrelevant to the claims and defenses of the Litigation.

4 6. Lucasfilm objects to the Requests and Topics to the extent that they seek  
5 privileged information, including, without limitation, information that was developed in  
6 anticipation of or in preparation for litigation, that is protected by attorney-client privilege, that  
7 constitutes attorney work product, and/or are protected by the rights of personal, consumer, or  
8 commercial privacy or other applicable law, or are otherwise immune from discovery. Lucasfilm  
9 does not waive attorney-client privilege, work-product protection, or any other privilege or  
10 immunity.

11 7. Lucasfilm objects that the Requests and Topics seek the disclosure of trade secrets  
12 and/or proprietary, competitively sensitive, and/or confidential research, documents, and/or  
13 information.

14 8. Lucasfilm objects to the Requests and Topics to the extent that they seek  
15 disclosure, production, or identification of information and documents subject to confidentiality  
16 or other agreements between Lucasfilm and one or more third parties, which Lucasfilm may not  
17 be authorized or able to disclose without violating the terms of those agreements.

18 9. Lucasfilm objects to the Requests and Topics to the extent that they seek  
19 information already in the possession, custody, or control of Plaintiffs.

20 10. Lucasfilm objects to the definition of "You," "Your," and "Lucasfilm" in  
21 Definition and Instruction No. 1 as being vague, overly broad, and unduly burdensome.

22 11. Lucasfilm objects to Definition and Instruction No. 2 as rendering the Requests  
23 and Topics vague, overly broad, and unduly burdensome.

24 12. Lucasfilm objects to Definition and Instruction No. 3 as rendering the Requests  
25 and Topics vague, overly broad, and unduly burdensome.

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1 **OBJECTION TO REQUEST FOR PRODUCTION NO. 1:**

2 Lucasfilm objects that this Request is unduly burdensome because it is irrelevant to the  
3 subject matter of the Litigation and not reasonably calculated to lead to the discovery of  
4 admissible evidence. In particular, this Request seeks documents that have no bearing on or  
5 relevance to the trademark issues in the Litigation. Rather, this Request seeks documents relating  
6 to a trademark that is owned by a well-established entertainment company and has been  
7 associated with the *Star Wars* films for more than thirty years, and is not a mark involved in this  
8 trademark dispute concerning the ANDROID and ANDROID DATA marks. This Request seeks  
9 documents that have no bearing or relevance on the likelihood of confusion between Plaintiffs'  
10 ANDROID DATA mark and Defendant's ANDROID mark, the validity of Plaintiffs' mark,  
11 and/or the calculation of potential fees relating to the licensing of Plaintiffs' ANDROID DATA  
12 mark. This Request therefore exceeds the scope of discovery permitted under the Federal Rules  
13 of Civil Procedure.

14 Lucasfilm further objects to this Request on the grounds that it is vague and ambiguous,  
15 overly broad in scope, and unduly burdensome as it seeks "all" agreements between "any" person  
16 and "any party" conferring "any" rights to use the Droid Mark.

17 Lucasfilm further objects on the grounds that this Request seeks highly confidential  
18 business or proprietary information.

19 In light of the General Objections and these specific objections, Lucasfilm will not  
20 produce any documents in response to this Request.

21 **REQUEST FOR PRODUCTION NO. 2:**

22 Produce all license agreements referred to on page 2 of Exhibit 1 hereto (the "License  
23 Agreements").

24 **OBJECTION TO REQUEST FOR PRODUCTION NO. 2:**

25 Lucasfilm objects that this Request is unduly burdensome because it is irrelevant to the  
26 subject matter of the Litigation and not reasonably calculated to lead to the discovery of  
27 admissible evidence. In particular, this Request seeks documents that have no bearing on or  
28 relevance to the trademark issues in the Litigation. Rather, this Request seeks documents relating

1 to a trademark that is owned by a well-established entertainment company and has been  
2 associated with the *Star Wars* films for more than thirty years, and is not a mark involved in this  
3 trademark dispute concerning the ANDROID and ANDROID DATA marks. This Request seeks  
4 documents that have no bearing or relevance on the likelihood of confusion between Plaintiffs'  
5 ANDROID DATA mark and Defendant's ANDROID mark, the validity of Plaintiffs' mark,  
6 and/or the calculation of potential fees relating to the licensing of Plaintiffs' ANDROID DATA  
7 mark. This Request therefore exceeds the scope of discovery permitted under the Federal Rules  
8 of Civil Procedure.

9 Lucasfilm further objects to this Request on the grounds that it is vague and ambiguous,  
10 overly broad in scope, and unduly burdensome as it seeks "all" license agreements.

11 Lucasfilm further objects on the grounds that this Request seeks highly confidential  
12 business or proprietary information.

13 In light of the General Objections and these specific objections, Lucasfilm will not  
14 produce any documents in response to this Request.

15 **REQUEST FOR PRODUCTION NO. 3:**

16 Produce documents sufficient to identify all payment obligations under the Agreements  
17 and/or License Agreements produced in response to Requests Nos. 1 and 2.

18 **OBJECTION TO REQUEST FOR PRODUCTION NO. 3:**

19 Lucasfilm objects that this Request is unduly burdensome because it is irrelevant to the  
20 subject matter of the Litigation and not reasonably calculated to lead to the discovery of  
21 admissible evidence. In particular, this Request seeks documents that have no bearing on or  
22 relevance to the trademark issues in the Litigation. Rather, this Request seeks documents relating  
23 to a trademark that is owned by a well-established entertainment company and has been  
24 associated with the *Star Wars* films for more than thirty years, and is not a mark involved in this  
25 trademark dispute concerning the ANDROID and ANDROID DATA marks. This Request seeks  
26 documents that have no bearing or relevance on the likelihood of confusion between Plaintiffs'  
27 ANDROID DATA mark and Defendant's ANDROID mark, the validity of Plaintiffs' mark,  
28 and/or the calculation of potential fees relating to the licensing of Plaintiffs' ANDROID DATA

1 mark. This Request therefore exceeds the scope of discovery permitted under the Federal Rules  
2 of Civil Procedure.

3 Lucasfilm further objects to this Request on the grounds that it is vague and ambiguous,  
4 overly broad in scope, and unduly burdensome as it seeks “all” payment obligations under the  
5 Agreements and License Agreements.

6 Lucasfilm further objects on the grounds that this Request seeks highly confidential  
7 business or proprietary information.

8 In light of the General Objections and these specific objections, Lucasfilm will not  
9 produce any documents in response to this Request.

10 **TOPIC FOR TESTIMONY NO. 1:**

11 Lucasfilm’s knowledge of the Agreements and/or License Agreements, whether such  
12 Agreements and/or License Agreements are written or oral.

13 **OBJECTION TO TOPIC FOR TESTIMONY NO. 1:**

14 Lucasfilm objects that this Topic is unduly burdensome because it is irrelevant to the  
15 subject matter of the Litigation and not reasonably calculated to lead to the discovery of  
16 admissible evidence. In particular, this Topic seeks information that has no bearing on or  
17 relevance to the issues in the Litigation. Rather, this Topic seeks information relating to a  
18 trademark that is owned by a well-established entertainment company and has been associated  
19 with the *Star Wars* films for more than thirty years, and is not a mark involved in this trademark  
20 dispute concerning the ANDROID and ANDROID DATA marks. This Topic seeks information  
21 that has no bearing or relevance on the likelihood of confusion between Plaintiffs’ ANDROID  
22 DATA mark and Defendant’s ANDROID mark, the validity of Plaintiffs’ mark, and/or the  
23 calculation of potential fees relating to the licensing of Plaintiffs’ ANDROID DATA mark. This  
24 Topic therefore exceeds the scope of discovery permitted under the Federal Rules of Civil  
25 Procedure.

26 Lucasfilm further objects to this Topic on the grounds that it is vague, unintelligible, and  
27 ambiguous, overly broad in scope, and unduly burdensome as it seeks information relating to  
28



1 Lucasfilm's "knowledge" of the Agreements and/or License Agreements. In particular, this  
2 Topic's use of the undefined term "knowledge" is vague and ambiguous.

3 Lucasfilm further objects on the grounds that this Topic is untimely because it is merely  
4 an attempt to circumvent the written discovery deadline by asking Lucasfilm to review documents  
5 and provide information set out in written documents.

6 Lucasfilm further objects on the grounds that this Topic seeks highly confidential business  
7 or proprietary information. Lucasfilm further objects to the extent that this Topic calls for  
8 testimony that is privileged attorney-client communications, attorney work product, or otherwise  
9 protected from disclosure by an applicable privilege.

10 In light of the General Objections and these specific objections, Lucasfilm will not  
11 produce any witness in response to this Topic.

12 **TOPIC FOR TESTIMONY NO. 2:**

13 Lucasfilm's knowledge of the payment terms of the Agreements and/or License  
14 Agreements, whether monetary or otherwise, and whether such Agreements and/or License  
15 Agreements are written or oral.

16 **OBJECTION TO TOPIC FOR TESTIMONY NO. 2:**

17 Lucasfilm objects that this Topic is unduly burdensome because it is irrelevant to the  
18 subject matter of the Litigation and not reasonably calculated to lead to the discovery of  
19 admissible evidence. In particular, this Topic seeks information that has no bearing on or  
20 relevance to the trademark issues in the Litigation. Rather, this Topic seeks information relating  
21 to a trademark that is owned by a well-established entertainment company and has been  
22 associated with the *Star Wars* films for more than thirty years, and is not a mark involved in this  
23 trademark dispute concerning the ANDROID and ANDROID DATA marks. This Topic seeks  
24 information that has no bearing or relevance on the likelihood of confusion between Plaintiffs'  
25 ANDROID DATA mark and Defendant's ANDROID mark, the validity of Plaintiffs' mark,  
26 and/or the calculation of potential fees relating to the licensing of Plaintiffs' ANDROID DATA  
27 mark. This Topic therefore exceeds the scope of discovery permitted under the Federal Rules of  
28 Civil Procedure.

1 Lucasfilm further objects to this Topic on the grounds that it is vague and ambiguous,  
2 overly broad in scope, and unduly burdensome as it seeks information relating to Lucasfilm's  
3 "knowledge" of the payment terms of the Agreements and/or License Agreements. In particular,  
4 this Topic's use of the undefined term "knowledge" is vague and ambiguous.

5 Lucasfilm further objects on the grounds that this Topic is untimely because it is merely  
6 an attempt to circumvent the written discovery deadline by asking Lucasfilm to review documents  
7 and provide information set out in written documents.

8 Lucasfilm further objects on the grounds that this Topic seeks highly confidential business  
9 or proprietary information. Lucasfilm further objects to the extent that this Topic calls for  
10 testimony that is privileged attorney-client communications, attorney work product, or otherwise  
11 protected from disclosure by an applicable privilege.

12 In light of the General Objections and these specific objections, Lucasfilm will not  
13 produce any witness in response to this Topic.

14 Dated: May 21, 2010

ROSEMARY S. TARLTON  
JULIA D. KRIPKE  
MORRISON & FOERSTER LLP

15  
16  
17 By:

  
\_\_\_\_\_  
Rosemary S. Tarlton

Attorneys for Non-Party  
LUCASFILM LTD.

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CERTIFICATE OF SERVICE

I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is 425 Market Street, San Francisco, California 94105-2482. I am not a party to the within cause, and I am over the age of eighteen years.

I further declare that on May 21, 2010, I served a copy of:

**NON-PARTY LUCASFILM LTD.'S RESPONSES AND  
OBJECTIONS TO PLAINTIFFS' SUBPOENA FOR  
PRODUCTION OF DOCUMENTS AND TESTIMONY**

**BY OVERNIGHT DELIVERY** [Fed. Rule Civ. Proc. rule 5(b)] by placing a true copy thereof enclosed in a sealed envelope with delivery fees provided for, addressed as follows, for collection by UPS, at 425 Market Street, San Francisco, California 94105-2482 in accordance with Morrison & Foerster LLP's ordinary business practices.

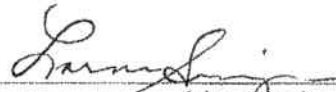
I am readily familiar with Morrison & Foerster LLP's practice for collection and processing of correspondence for overnight delivery and know that in the ordinary course of Morrison & Foerster LLP's business practice the document(s) described above will be deposited in a box or other facility regularly maintained by UPS or delivered to an authorized courier or driver authorized by UPS to receive documents on the same date that it (they) is are placed at Morrison & Foerster LLP for collection

P. Andrew Fleming  
Novack and Macey LLP  
100 North Riverside Plaza  
Chicago, Illinois 60606-1501

I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Francisco, California, this 21st day of May, 2010.

Lorna D. Simpson  
(typed)

  
(signature)

# EXHIBIT F

1 Ronald S. Kravitz, Esq. (SBN: 129704)  
rkravitz@linerlaw.com  
2 LINER GRODE STEIN YANKELEVITZ  
SUNSHINE REGENSTREIF & TAYLOR LLP  
3 199 Fremont Street, 20th Floor  
San Francisco, CA 94105-2255  
4 Telephone: (415) 489-7700  
Facsimile: (415) 489-7701

5 Attorneys for Plaintiffs  
6 ERICH SPECHT, an individual doing business as  
ANDROID DATA CORPORATION, and THE  
7 ANDROID DUNGEON INCORPORATED

8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**

10  
11 ERICH SPECHT, an individual and doing )  
business as ANDROID DATA )  
12 CORPORATION, and THE ANDROID'S )  
DUNGEON INCORPORATED, )

13 Plaintiffs,

14 vs.

15 GOOGLE, INC.,

16 Defendant.  
17

Case No. \_\_\_\_\_ - MISC.

Pending in the U.S. Court District for  
the Northern District of Illinois  
Case No. 09-cv-2572

**DECLARATION OF  
P. ANDREW FLEMING**

18 **DECLARATION OF P. ANDREW FLEMING**

19 I, P. Andrew Fleming, declare as follows:

20 1. I am an attorney with the law firm of Novack and Macey LLP. I am  
21 licensed to practice law in the State of Illinois. I am an attorney of record for  
22 Plaintiffs in the above-captioned litigation, which is pending in the U.S. District  
23 Court for the Northern District of Illinois (the "Litigation"). I am qualified to testify  
24 about, and have personal knowledge of, the matters in this Declaration.

25 2. On May 11, 2010, Plaintiffs served a subpoena (the "Subpoena") on  
26 Lucasfilm Ltd. ("Lucasfilm") pursuant to Rule 45 of the Federal Rules of Civil  
27 Procedure. The Subpoena seeks certain documents and testimony concerning  
28 Lucasfilm's licensing of the trademark DROID for use in connection with mobile.

Case No. \_\_\_\_\_ - MISC.

DECLARATION OF P. ANDREW FLEMING

1 phones and devices. Lucasfilm objected to the Subpoena on various grounds and  
2 refused to produce any documents or witnesses in response thereto.

3 3. Pursuant to Federal Rule of Civil Procedure 37(a)(1) and Local Rule 37-  
4 1(a), on June 8, 2010, I conducted a telephone conference with Rosemary S. Tarlton,  
5 counsel for Lucasfilm, in a good-faith effort to obtain discovery of the information  
6 sought by the Subpoena without the need for court action. Ms. Tarlton and I were  
7 not able to resolve the disputed issues regarding the Subpoena during the conference.

8 4. I then sent a follow up letter to Ms. Tarlton on June 15, 2010. The letter  
9 set forth in detail Plaintiffs' responses to Lucasfilm's objections to the Subpoena, and  
10 invited Ms. Tarlton to engage in further discussions regarding Lucasfilm's objections  
11 and the possibility of limiting the scope of the Subpoena. Attached hereto as Exhibit  
12 J is a true and correct copy of the June 15, 2010 letter. Counsel for Lucasfilm  
13 responded to the June 15 letter by letter dated June 28, 2010, and again refused to  
14 produce any documents or witnesses in response to the Subpoena. Attached hereto  
15 as Exhibit K is a true and correct copy of Ms. Tarlton's June 28, 2010 letter.

16 5. There is no deadline in the Litigation for written discovery from third  
17 parties. The parties discussed a proposed discovery schedule with the court at a  
18 hearing held on February 23, 2010. At that hearing, I stated that the parties were in  
19 agreement that written discovery would close at the end of March. That statement,  
20 however, was intended to apply only to discovery between the parties, and was not  
21 intended to cover third parties, such as Lucasfilm. In any event, the court did not  
22 adopt the proposed discovery schedule, and the only deadline it imposed is that oral  
23 discovery must be completed by July 30, 2010.

24 6. Plaintiffs have attempted to obtain the license information sought by the  
25 Subpoena from other sources. Plaintiffs initially sought the licenses from the  
26 defendant in this case, Google, Inc., but Google claimed not to have them.

27 7. Plaintiffs then served a subpoena for the licenses on Motorola Inc.  
28 ("Motorola") in November 2009. Motorola responded with a motion to quash the

1 subpoena. After fully briefing Motorola's motion, and after Plaintiffs filed a motion  
2 to reconsider, which was granted, Motorola unexpectedly announced that the  
3 subpoena was moot because Motorola did not have the licenses.

4 8. Plaintiffs next served a subpoena on several members of the Verizon  
5 family of companies doing business in Illinois as Verizon Wireless. Like Motorola,  
6 the Verizon entities claimed not to have the licenses. They also claimed that unless a  
7 Verizon employee in Illinois had actual physical possession of the licenses, they  
8 were not subject to the subpoena.

9 9. Attached hereto as Exhibit A is a true and correct copy of the United  
10 States Patent and Trademark Office Action dated January 19, 2010.

11 10. Attached hereto as Exhibit B is a true and correct copy of the subpoena  
12 issued from the Northern District of California on May 11, 2010.

13 11. Attached hereto as Exhibit C is a true and correct copy of Non-Party  
14 Lucasfilm Ltd.'s Responses and Objections to Plaintiffs' Subpoena for Production of  
15 Documents and Testimony dated May 21, 2010.

16 12. Attached hereto as Exhibit D is a true and correct copy of the minute  
17 order issued by Judge Leinenweber of the U.S. District Court for the Northern  
18 District of Illinois entered on February 23, 2010.

19 13. Attached hereto as Exhibit E is a true and correct copy of the protective  
20 order entered in *Specht v. Google, Inc.*, Case No. 09-cv-2572, United States District  
21 Court for the Northern District of Illinois.

22 14. Attached hereto as Exhibit F is a true and correct copy of the United  
23 States Patent and Trademark Offices' Office Action dated February 14, 2008,  
24 regarding the mark "Android."

25 15. Attached hereto as Exhibit G is a true and correct copy of the United  
26 States Patent and Trademark Offices' Office Action dated August 20, 2008,  
27 regarding the mark "Android."

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# EXHIBIT G

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UNITED STATES DISTRICT COURT  
For the Northern District of California

UNITED STATES DISTRICT COURT  
Northern District of California  
Oakland Division

SPECHT, *et al.*,  
Plaintiffs,  
v.  
GOOGLE, INC.,  
Defendant.

No. C 10-80167 RS (LB)

**NOTICE OF REFERRAL AND  
ORDER RE DISCOVERY  
PROCEDURES**

\_\_\_\_\_ /

TO ALL PARTIES AND COUNSEL OF RECORD:

The district court has referred Plaintiff's Motion to Compel, filed on July 7, 2010, which is a discovery matter, to Magistrate Judge Laurel Beeler.

The Court **DENIES** the pending discovery motion without prejudice and directs the parties to comply with the procedures for addressing discovery disputes as set forth in Judge Beeler's standing order (attached). Those procedures require, among other things, that if a meet-and-confer by other means does not resolve the parties' dispute, lead counsel for the parties must meet and confer **in person**. If that procedure does not resolve the disagreement, the parties must file a joint letter instead of a formal motion. After reviewing the joint letter, the Court will evaluate whether

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1 further proceedings are necessary, including any further briefing or argument.

2 **IT IS SO ORDERED.**

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4 Dated: July 16, 2010

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LAUREL BEELER  
United States Magistrate Judge



1           **C.     CIVIL DISCOVERY**

2           5.     **Evidence Preservation.** After a party has notice of this order, it shall take the steps  
3 needed to preserve information relevant to the issues in this action, including suspending any document  
4 destruction programs (including destruction programs for electronically-maintained material).

5           6.     **Production of Documents In Original Form.** When searching for documents and  
6 material under Federal Rule of Civil Procedure 26(a)(1) or after a Federal Rule of Civil Procedure 34(a)  
7 request, parties (a) should search all locations – electronic and otherwise – where responsive materials  
8 might plausibly exist, and (b) to the maximum extent feasible, produce or make available for copying  
9 and/or inspection the materials in their original form, sequence, and organization (including, for  
10 example, file folders).

11          7.     **Privilege Logs.** If a party withholds material as privileged, *see* Fed. R. Civ. P. 26(b)(5)  
12 and 45(d)(2)(A), it must produce a privilege log as quickly as possible, but no later than fourteen days  
13 after its disclosures or discovery responses are due, unless the parties stipulate to or the Court sets  
14 another date. Privilege logs must contain the following: (a) the subject matter or general nature of the  
15 document (without disclosing its contents); (b) the identity and position of its author; (c) the date it was  
16 communicated; (d) the identity and position of all addressees and recipients of the communication;  
17 (e) the document’s present location; (f) the specific privilege and a brief summary of any supporting  
18 facts; and (g) the steps taken to ensure the confidentiality of the communication, including an  
19 affirmation that no unauthorized persons received the communication.

20          8.     **Expedited Procedures for Discovery Disputes.** The parties shall not file formal  
21 discovery motions. Instead, and as required by the federal rules and local rules, the parties shall meet  
22 and confer to try to resolve their disagreements. *See* Fed. R. Civ. P. 37(a)(1); Civil L. R. 37-1. After  
23 attempting other means of conferring such as letters, phone calls, or emails, lead counsel for the parties  
24 must meet and confer **in person**. Either party may demand such a meeting with ten days' notice. If the  
25 parties cannot agree on the location, the location for meetings shall alternate. Plaintiff's counsel shall  
26 select the first location, defense counsel shall select the second location, and so forth. If the parties do  
27 not resolve their disagreements through this procedure, the parties shall file a joint letter instead of a  
28 formal motion five days after lead counsels' in-person meet-and-confer. Lead counsel for both parties

1 must sign the letter, which shall (a) include an attestation that the parties met and conferred in person  
2 regarding all issues before filing the letter, (b) describe each unresolved issue, (c) summarize each  
3 party's position as to each issue with appropriate legal authority, and (d) provide each party's final  
4 proposed compromise as to each issue. The Court then will review the joint letter and determine  
5 whether future proceedings are necessary. In emergencies during discovery events such as depositions,  
6 the parties may contact the Court pursuant to Civil Local Rule 37-1(b).

7 **D. CONSENT CASES**

8 9. In cases that are randomly assigned to Judge Beeler for all purposes, the parties should  
9 file their written consent to the assignment of a United States Magistrate Judge for all purposes, or their  
10 written declination of consent, as soon as possible.

11 **E. SUMMARY JUDGMENT MOTIONS**

12 Motions for summary judgment shall be accompanied by a joint statement of the material facts  
13 that the parties agree are not in dispute. The joint statement shall include – for each undisputed fact –  
14 citations to admissible evidence. The parties shall comply with the procedures set forth in Civil Local  
15 Rule 56-1(b). The parties may not file – and the Court will not consider – separate statements of  
16 undisputed facts. Failure to stipulate to an undisputed fact without a reasonable basis for doing so may  
17 result in sanctions. *See* Civil L. R. 56-1(b).

18 IT IS SO ORDERED.



19  
20 LAUREL BEELER  
United States Magistrate Judge

United States District Court  
For the Northern District of California

# EXHIBIT H

## Nelson, Cameron (Assoc-Chi-IP-Tech)

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**From:** John B. Haarlow [JHaarlow@novackmacey.com]  
**Sent:** Tuesday, July 20, 2010 1:45 PM  
**To:** Finn, Herbert (Shld-Chi-IP-Tech); Nelson, Cameron (Assoc-Chi-IP-Tech); Dunning, Jeffrey (Assoc-Chi-IP-Tech)  
**Cc:** P. Andrew Fleming; John Shonkwiler; martym@villageinvestments.com  
**Subject:** Specht et al. v. Google

**Attachments:** Linda Tong Subpoena.pdf



Linda Tong  
Subpoena.pdf

Counsel - Please see the attached, which is in the process of being served.

The message is ready to be sent with the following file or link attachments:

Linda Tong Subpoena.pdf

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

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[[http://mm1.lettermark.net/novackandmacey/card/ZACM\\_4.gif](http://mm1.lettermark.net/novackandmacey/card/ZACM_4.gif)]

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UNITED STATES DISTRICT COURT

for the

Northern District of California

ERICH SPECHT et al.

Plaintiff

v.

GOOGLE INC.

Defendant

Civil Action No. 09-2572

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

Northern District of Illinois

SUBPOENA TO TESTIFY AT A DEPOSITION OR TO PRODUCE DOCUMENTS IN A CIVIL ACTION

To: Linda Tong
1480 Fulton Street, Apt 3, San Francisco, CA 94117

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.

Table with 2 columns: Place and Date and Time. Place: Liner, Grode, Stein, Yankelevitz, Sunshine, Regenstreif & Taylor, LLP, 199 Fremont St., 20th Floor, San Francisco, CA 94105. Date and Time: 07/29/2010 10:00

The deposition will be recorded by this method: video, audio and/or stenographic means.

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:

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: 07/20/2010

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR [Handwritten Signature]
Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Erich Specht, Android Data Corporation and The Android's Dungeon Inc., who issues or requests this subpoena, are:

John Haarlow, Jr.
Novack and Macey LLP, 100 N. Riverside Plaza, Chicago, IL 60606
(312) 419-6900, jhaarlow@novackmacey.com

Civil Action No. 09-2572

**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)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the subpoena on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I left the subpoena at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the subpoena on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the subpoena unexecuted because \_\_\_\_\_; or

Other *(specify)*:

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 \$ \_\_\_\_\_ 0.00.

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).