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Attorneys for Non-Party Verizon Wireless Services, LLC d/b/a Verizon Wireless

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**ERICH SPECHT, an individual and  
doing business as ANDROID DATA  
CORPORATION, and THE ANDROID'S  
DUNGEON INCORPORATED,  
an Illinois corporation,**

**Plaintiffs/Counter-Defendants,**

**v.**

**GOOGLE INC., a Delaware corporation,**

**Defendant/Counter-Plaintiff.**

**No. 09 CV 2572**

**Hon. Harry D. Leinenweber**

**VERIZON WIRELESS SERVICES, LLC'S OBJECTIONS AND RESPONSES TO  
SUBPOENA ISSUE PURSUANT TO RULE 45 OF THE FED. R. CIV. P.**

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, Verizon Wireless Services, LLC d/b/a Verizon Wireless ("Verizon Wireless Services"), a non-party to the above captioned action having its principal place of business in Basking Ridge, New Jersey, hereby makes the following objections and responses to the subpoena issued out of the United States District Court for the Northern District of Illinois and served on March 31, 2010 by plaintiffs, Erich Specht, an individual and doing business as Android Data Corporation, and The Android's Dungeon Incorporated, an Illinois corporation, (hereafter individually and/or collectively referred to as "Plaintiff" or "Specht") calling for the production of documents and things from Verizon Wireless Services in Illinois (the "Subpoena"):

## GENERAL OBJECTIONS

In addition to the objections separately set forth in response to certain of the document requests in the Subpoena, Verizon Wireless Services' responses are provided subject to the following General Objections, which are hereby expressly incorporated by reference into each and every one of the specific responses below. The inclusion of any specific objection to a document request herein is neither intended as, nor shall in any way be deemed, a waiver of any General Objection or of any other specific objection made herein or that may be asserted at another date. In addition, the failure to include at this time any general or specific objection to a document request is neither intended as, nor shall in any way be deemed, a waiver of Verizon Wireless Services' right to assert that or any other objection(s) at a later date.

- a) Verizon Wireless Services objects to the document requests in the Subpoena insofar as they seek information for which Verizon Wireless Services lacks first hand knowledge and/or that is not in the possession, custody or control of Verizon Wireless Services.
- b) Verizon Wireless Services objects to the document requests in the Subpoena to the extent that they seek to impose duties or obligations on Verizon Wireless Services beyond those imposed by the Federal Rules of Civil Procedure (the "Federal Rules") or the Local Civil Rules for the Northern District of Illinois (the "Local Rules").
- c) Verizon Wireless Services objects to the document requests in the Subpoena insofar as they are vague, ambiguous, incomprehensible, overly broad, unduly burdensome, unlimited or excessive in time or geographic scope, duplicative, lack sufficient precision or particularity, or otherwise unclear as to the precise information sought, and/or seek documents and/or information that are neither relevant to the subject matter involved in

the above captioned proceeding, nor reasonably calculated to lead to the discovery of admissible evidence.

- d) Verizon Wireless Services objects to the Subpoena, including without limitation, to Definitions 1 through 3, as being vague, ambiguous, overly broad and unduly burdensome, to the extent that complying with the Subpoena would require Verizon Wireless Services to perform independent research and investigation and reach legal conclusions regarding whether or not various persons are or were “predecessors, successors, parent corporations, subsidiaries, affiliates, segments or divisions thereof, any present or former members of its Board of Directors, and any present or former officers, employees, agents, representatives, attorneys, accountants or other persons acting or purporting to act on its behalf” in order to locate and identify materials responsive to the Subpoena.
- e) To the extent that the document requests in the Subpoena may be construed as calling for documents or information that are subject to a claim of privilege, including, but not limited to, the attorney client privilege, the work product immunity doctrine, the joint defense privilege, or any constitutional, common law, statutory or regulatory proscription against disclosure, Verizon Wireless Services hereby asserts that doctrine, privilege or proscription and objects to the document requests on that basis; such documents shall not be produced, made available or disclosed. Should Verizon Wireless Services inadvertently produce or disclose such privileged or protected information, Verizon Wireless Services expressly reserves the right to assert said privilege(s) and protection(s). Verizon Wireless Services further objects to identifying such materials in accordance with Fed. R. Civ. P. 45(d)(2) to the extent that such an identification would be unduly

burdensome and not reasonably calculated to lead to the discovery of admissible evidence, and to the extent that identification of privileged or otherwise protected materials would disclose privileged or protected information. To the extent that the Subpoena seeks documents or information not subject to this objection, Verizon Wireless Services' response to the document requests in the Subpoena shall not constitute or be construed as a waiver of such privilege or immunity.

- f) Verizon Wireless Services objects to the document requests in the Subpoena to the extent they seek confidential and proprietary business information, trade secrets, or other confidential research, development, or commercial information of Verizon Wireless Services absent the entry of a suitable protective order and/or confidentiality agreement between Verizon Wireless Services and the parties in the above captioned matter.
- g) Verizon Wireless Services objects to the document requests in the Subpoena to the extent that they call for the confidential business and/or proprietary information, trade secrets or other confidential research, development, or commercial information of another party and/or which is also the subject of a Protective Order or Confidentiality Agreement in another matter. Verizon Wireless Services objects to the Subpoena to the extent that it seeks information covered by confidentiality obligations Verizon Wireless Services may have to other entities that preclude unauthorized disclosure of materials requested in the Subpoena.
- h) Verizon Wireless Services objects to the Subpoena to the extent that compliance would require Verizon Wireless Services to perform a search of unreasonable breadth and complexity.

- i) Verizon Wireless Services objects to the document requests in the Subpoena to the extent that the Requests are duplicative or cumulative of one another.
- j) Verizon Wireless Services objects to the document requests in the Subpoena as being overly broad and unduly burdensome to the extent they fail to specify the time period they cover or are excessive in time.

Verizon Wireless Services' specific responses are based upon information presently known and/or available to Verizon Wireless Services. Verizon Wireless Services reserves the right to amend and/or supplement the objections and responses to the document requests in the Subpoena subject, in part, to the General Objections above, should additional information become available or known to Verizon Wireless Services. Further, given the overly broad and unduly burdensome nature of the Subpoena, Verizon Wireless Services reserves all its rights, remedies, claims, defenses and/or objections in connection with this or any other matter, including, but not limited to, the right to recover any and all of its fees and costs associated with responding to the Subpoena.

Subject to and without waiving any of the aforesaid General Objections, Verizon Wireless Services responds to the document requests identified in the Subpoena as set forth below.

### **DOCUMENT REQUESTS**

#### **REQUEST NO. 1:**

Produce all licensing agreements or other agreements (collectively, the "Agreements") between Verizon or any other person or entity, on the one hand, and any party, including Lucasfilms, on the other hand, conferring any rights to use the Droid Mark.

#### **RESPONSE:**

Verizon Wireless Services objects to this document request insofar as it is overly broad, unduly burdensome, vague, ambiguous, unclear as to the precise information sought

and/or calls for information that is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence.

Verizon Wireless Services objects to the document request to the extent it calls for confidential and proprietary business information, trade secrets, or other confidential information of Verizon Wireless Services absent the entry of a suitable protective order and/or confidentiality agreement between Verizon Wireless Services and the parties in the above captioned matter.

Verizon Wireless Services further objects as CT Corporation System, its registered agent authorized to accept service of process in Illinois, does not possess or control documents responsive to the Subpoena. Verizon Wireless Services has no responsive documents in Illinois or employees in Illinois who possess or control such documents. The Subpoena is therefore invalid.

Subject to and without waiving any specific objections and/or any general objections which are incorporated herein by reference, Verizon Wireless Services responds that it has no documents responsive to this request.

**REQUEST NO. 2:**

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

**RESPONSE:**

Verizon Wireless Services objects to this document request insofar as it is vague, ambiguous, unclear as to the precise information sought and/or calls for information that is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence. Verizon Wireless Services further objects to this document request to the extent that it is duplicative or cumulative of Request No. 1.

Verizon Wireless Services objects to the document request to the extent it calls for confidential and proprietary business information, trade secrets, or other confidential

information of Verizon Wireless Services absent the entry of a suitable protective order and/or confidentiality agreement between Verizon Wireless Services and the parties in the above captioned matter.

Verizon Wireless Services further objects as CT Corporation System, its registered agent authorized to accept service of process in Illinois, does not possess or control documents responsive to the Subpoena. Verizon Wireless Services has no responsive documents in Illinois or employees in Illinois who possess or control such documents. The Subpoena is therefore invalid.

Subject to and without waiving any specific objections and/or any general objections which are incorporated herein by reference, Verizon Wireless Services responds as follows: (i) see objections and response to Request No. 1; and (ii) Verizon Wireless Services has no documents responsive to this request.

**REQUEST NO. 3:** Documents sufficient to identify all payment obligations under the Agreements and/or License Agreements produced in response to Request Nos. 1 and 2.

**RESPONSE:**

Verizon Wireless Services objects to this document request insofar as it is overly broad, unduly burdensome, vague, ambiguous, unclear as to the precise information sought and/or calls for information that is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence. Verizon Wireless Services further objects to this document request to the extent that it is duplicative or cumulative of Request Nos. 1 and/or 2.

Verizon Wireless Services objects to this document request to the extent that it seeks information protected from discovery by the attorney-client privilege, the attorney work-product immunity doctrine and/or any other applicable privilege, protection or immunity. Verizon Wireless Services objects to the document request to the extent it calls for confidential and proprietary business information, trade secrets, or other confidential information of Verizon



Wireless Services absent the entry of a suitable protective order and/or confidentiality agreement between Verizon Wireless Services and the parties in the above captioned matter.

Verizon Wireless Services further objects as CT Corporation System, its registered agent authorized to accept service of process in Illinois, does not possess or control documents responsive to the Subpoena. Verizon Wireless Services has no responsive documents in Illinois or employees in Illinois who possess or control such documents. The Subpoena is therefore invalid.

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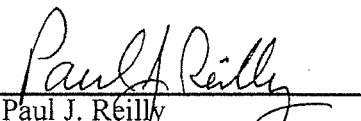
Verizon Wireless Services further reserves the right to supplement its objections and responses to the Subpoena and/or Document Request Nos. 1-3, and to raise additional arguments against the enforcement of the Subpoena and/or the disclosure of documents called for by the Subpoena.

Respectfully submitted,

BAKER BOTTS L.L.P

Dated: April 14, 2010

By:

  
Paul J. Reilly  
30 Rockefeller Plaza  
New York, NY 10112  
Telephone: (212) 408-2500  
Facsimile: (212) 408-2501

Attorneys for Third Party  
Verizon Wireless Services, LLC

**CERTIFICATE OF SERVICE**

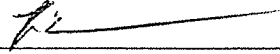
I hereby certify that I served the foregoing **VERIZON WIRELESS SERVICES, LLC'S OBJECTIONS AND RESPONSES TO SUBPOENA ISSUE PURSUANT TO RULE 45 OF THE FED. R. CIV. P.** on counsel of record for Plaintiffs in the above captioned matter via Federal Express courier, postage prepaid, in envelopes addressed as follows:

John F. Shonkwiler  
Patrick A. Fleming  
John B Haarlow , Jr.  
Novak and Macey LLP  
100 North Riverside Plaza, Suite 1500  
Chicago, Illinois 60606

and on counsel of record for Defendants in the above captioned matter via Federal Express courier, postage prepaid, in an envelope addressed as follows:

Herbert H. Finn  
Jeffrey P. Dunning  
Richard Daniel Harris  
Greenberg Traurig, LLP  
77 West Wacker Drive  
Suite 3100  
Chicago, IL 60601

April 14, 2010

By:   
Lauren Beth Emerson



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Attorneys for Non-Party GTE Wireless of the Midwest, Incorporated d/b/a Verizon Wireless

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**ERICH SPECHT, an individual and  
doing business as ANDROID DATA  
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DUNGEON INCORPORATED,  
an Illinois corporation,**  
  
**Plaintiffs/Counter-Defendants,**  
  
**v.**  
  
**GOOGLE INC., a Delaware corporation,**  
  
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**No. 09 CV 2572**

**Hon. Harry D. Leinenweber**

**GTE WIRELESS OF THE MIDWEST, INCORPORATED'S OBJECTIONS AND  
RESPONSES TO SUBPOENA ISSUE PURSUANT TO RULE 45 OF THE FED. R. CIV. P.**

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, GTE Wireless of the Midwest, Incorporated d/b/a Verizon Wireless ("GTE"), a non-party to the above captioned action having its principal place of business in Basking Ridge, New Jersey, hereby makes the following objections and responses to the subpoena issued out of the United States District Court for the Northern District of Illinois and served on March 31, 2010 by plaintiffs, Erich Specht, an individual and doing business as Android Data Corporation, and The Android's Dungeon Incorporated, an Illinois corporation, (hereafter individually and/or collectively referred to as "Plaintiff" or "Specht") calling for the production of documents and things from GTE in Illinois (the "Subpoena"):

## GENERAL OBJECTIONS

In addition to the objections separately set forth in response to certain of the document requests in the Subpoena, GTE's responses are provided subject to the following General Objections, which are hereby expressly incorporated by reference into each and every one of the specific responses below. The inclusion of any specific objection to a document request herein is neither intended as, nor shall in any way be deemed, a waiver of any General Objection or of any other specific objection made herein or that may be asserted at another date. In addition, the failure to include at this time any general or specific objection to a document request is neither intended as, nor shall in any way be deemed, a waiver of GTE's right to assert that or any other objection(s) at a later date.

- a) GTE objects to the document requests in the Subpoena insofar as they seek information for which GTE lacks first hand knowledge and/or that is not in the possession, custody or control of GTE.
- b) GTE objects to the document requests in the Subpoena to the extent that they seek to impose duties or obligations on GTE beyond those imposed by the Federal Rules of Civil Procedure (the "Federal Rules") or the Local Civil Rules for the Northern District of Illinois (the "Local Rules").
- c) GTE objects to the document requests in the Subpoena insofar as they are vague, ambiguous, incomprehensible, overly broad, unduly burdensome, unlimited or excessive in time or geographic scope, duplicative, lack sufficient precision or particularity, or otherwise unclear as to the precise information sought, and/or seek documents and/or information that are neither relevant to the subject matter involved in the above captioned proceeding, nor reasonably calculated to lead to the discovery of admissible evidence.

- d) GTE objects to the Subpoena, including without limitation, to Definitions 1 through 3, as being vague, ambiguous, overly broad and unduly burdensome, to the extent that complying with the Subpoena would require GTE to perform independent research and investigation and reach legal conclusions regarding whether or not various persons are or were “predecessors, successors, parent corporations, subsidiaries, affiliates, segments or divisions thereof, any present or former members of its Board of Directors, and any present or former officers, employees, agents, representatives, attorneys, accountants or other persons acting or purporting to act on its behalf” in order to locate and identify materials responsive to the Subpoena.
- e) To the extent that the document requests in the Subpoena may be construed as calling for documents or information that are subject to a claim of privilege, including, but not limited to, the attorney client privilege, the work product immunity doctrine, the joint defense privilege, or any constitutional, common law, statutory or regulatory proscription against disclosure, GTE hereby asserts that doctrine, privilege or proscription and objects to the document requests on that basis; such documents shall not be produced, made available or disclosed. Should GTE inadvertently produce or disclose such privileged or protected information, GTE expressly reserves the right to assert said privilege(s) and protection(s). GTE further objects to identifying such materials in accordance with Fed. R. Civ. P. 45(d)(2) to the extent that such an identification would be unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence, and to the extent that identification of privileged or otherwise protected materials would disclose privileged or protected information. To the extent that the Subpoena seeks documents or

information not subject to this objection, GTE's response to the document requests in the Subpoena shall not constitute or be construed as a waiver of such privilege or immunity.

- f) GTE objects to the document requests in the Subpoena to the extent they seek confidential and proprietary business information, trade secrets, or other confidential research, development, or commercial information of GTE absent the entry of a suitable protective order and/or confidentiality agreement between GTE and the parties in the above captioned matter.
- g) GTE objects to the document requests in the Subpoena to the extent that they call for the confidential business and/or proprietary information, trade secrets or other confidential research, development, or commercial information of another party and/or which is also the subject of a Protective Order or Confidentiality Agreement in another matter. GTE objects to the Subpoena to the extent that it seeks information covered by confidentiality obligations GTE may have to other entities that preclude unauthorized disclosure of materials requested in the Subpoena.
- h) GTE objects to the Subpoena to the extent that compliance would require GTE to perform a search of unreasonable breadth and complexity.
- i) GTE objects to the document requests in the Subpoena to the extent that the Requests are duplicative or cumulative of one another.
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GTE's specific responses are based upon information presently known and/or available to GTE. GTE reserves the right to amend and/or supplement the objections and responses to the

document requests in the Subpoena subject, in part, to the General Objections above, should additional information become available or known to GTE. Further, given the overly broad and unduly burdensome nature of the Subpoena, GTE reserves all its rights, remedies, claims, defenses and/or objections in connection with this or any other matter, including, but not limited to, the right to recover any and all of its fees and costs associated with responding to the Subpoena.

Subject to and without waiving any of the aforesaid General Objections, GTE responds to the document requests identified in the Subpoena as set forth below.

### **DOCUMENT REQUESTS**

#### **REQUEST NO. 1:**

Produce all licensing agreements or other agreements (collectively, "Agreements") between Verizon or any other person or entity, on one hand, and any party, including Lucasfilms, on the other hand, conferring any rights to use the Droid Mark.

#### **RESPONSE:**

GTE objects to this document request insofar as it is overly broad, unduly burdensome, vague, ambiguous, unclear as to the precise information sought and/or calls for information that is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence.

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GTE further objects as CT Corporation System, its registered agent authorized to accept service of process in Illinois, does not possess or control documents responsive to the Subpoena. GTE has no responsive documents in Illinois or employees in Illinois who possess or control such documents. The Subpoena is therefore invalid.



Subject to and without waiving any specific objections and/or any general objections which are incorporated herein by reference, GTE responds that it has no documents responsive to this request.

**REQUEST NO. 2:**

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

**RESPONSE:**

GTE objects to this document request insofar as it is vague, ambiguous, unclear as to the precise information sought and/or calls for information that is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence. GTE further objects to this document request to the extent that it is duplicative or cumulative of Request No. 1.

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**REQUEST NO. 3:** Documents sufficient to identify all payment obligations under the Agreements and/or License Agreements produced in response to Request Nos. 1 and 2.

**RESPONSE:**

GTE objects to this document request insofar as it is overly broad, unduly burdensome, vague, ambiguous, unclear as to the precise information sought and/or calls for information that is neither relevant to the subject matter involved in this action nor reasonably calculated to lead to the discovery of admissible evidence. GTE further objects to this document request to the extent that it is duplicative or cumulative of Request Nos. 1 and/or 2.

GTE objects to this document request to the extent that it seeks information protected from discovery by the attorney-client privilege, the attorney work-product immunity doctrine and/or any other applicable privilege, protection or immunity. GTE objects to the document request to the extent it calls for confidential and proprietary business information, trade secrets, or other confidential information of GTE absent the entry of a suitable protective order and/or confidentiality agreement between GTE and the parties in the above captioned matter.

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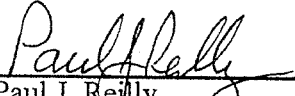
Subject to and without waiving any specific objections and/or any general objections which are incorporated herein by reference, GTE responds as follows: (i) see objections and responses to Request Nos. 1 and/or 2; and (ii) GTE has no documents responsive to this request.

GTE further reserves the right to supplement its objections and responses to the Subpoena and/or Document Request Nos. 1-3, and to raise additional arguments against the enforcement of the Subpoena and/or the disclosure of documents called for by the Subpoena.

Respectfully submitted,

BAKER BOTTS L.L.P

Dated: April 14, 2010

By:   
Paul J. Reilly  
30 Rockefeller Plaza  
New York, NY 10112  
Telephone: (212) 408-2500  
Facsimile: (212) 408-2501

Attorneys for Third Party  
GTE Wireless of the Midwest, Incorporated

**CERTIFICATE OF SERVICE**

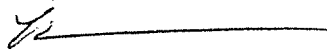
I hereby certify that I served the foregoing **GTE WIRELESS OF THE MIDWEST, INCORPORATED'S OBJECTIONS AND RESPONSES TO SUBPOENA ISSUE PURSUANT TO RULE 45 OF THE FED. R. CIV. P.** on counsel of record for Plaintiffs in the above captioned matter via Federal Express courier, postage prepaid, in envelopes addressed as follows:

John F. Shonkwiler  
Patrick A. Fleming  
John B Haarlow, Jr.  
Novak and Macey LLP  
100 North Riverside Plaza, Suite 1500  
Chicago, Illinois 60606

and on counsel of record for Defendants in the above captioned matter via Federal Express courier, postage prepaid, in an envelope addressed as follows:

Herbert H. Finn  
Jeffrey P. Dunning  
Richard Daniel Harris  
Greenberg Traurig, LLP  
77 West Wacker Drive  
Suite 3100  
Chicago, IL 60601

April 14, 2010

By:   
Lauren Beth Emerson

I

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

ERICH SPECHT, et al.,	)	
	)	Civil Action No. 09-cv-2572
Plaintiffs,	)	
v.	)	Judge Leinenweber
	)	
GOOGLE, INC., et al.,	)	Magistrate Judge Cole
	)	
Defendants.	)	

**DEFENDANT GOOGLE INC.'S FIRST SET OF REQUESTS FOR DOCUMENTS  
AND/OR THINGS TO PLAINTIFFS**

Defendant GOOGLE INC. ("Google"), pursuant to the Court's Order of June 4, 2009 and Rules 26 and 34 of the Federal Rules of Civil Procedure, requests that Plaintiffs ERICH SPECHT ("Specht") d/b/a ANDROID DATA CORPORATION ("ACD") and THE ANDROID'S DUNGEON INCORPORATED ("ADI") (collectively "Plaintiffs") produce within thirty (30) days of service of these Requests, the following documents that are in Specht's possession, custody or control, at the offices of GREENBERG TRAUIG, LLP, 77 West Wacker Drive, Suite 3100, Chicago, IL 60601, or at such other time and place as may be agreed upon by the parties.

**DEFINITIONS AND INSTRUCTIONS**

As used herein:

A. "Document" shall mean any writing, record and/or electronically stored information ("ESI") of every type and description in the possession, custody or control of Plaintiffs including, without limitation, correspondence; memoranda; stenographic or handwritten notes; studies; books, charts; agreements; communications, including intra-company communications and correspondence; e-mails; cablegrams; faxes; radiograms and telegrams;

summaries, minutes and records or telephone conversations, meetings and conferences; summaries and records of personal conversations or interviews; manuals, publications and diaries; computer readable media; laboratory and engineering reports and notebooks; plans; sketches and drawings; photographs; reports and/or summaries of investigations and/or surveys, opinions and reports of consultants; opinions of counsel; reports and summaries of negotiations; brochures; pamphlets; catalogs and catalog sheets; advertisements, including story-boards, mock-ups, blueprints, layout schematics and/or scripts for television, radio, magazine commercials, trade show publications, and/or trade displays of any kind; circulars, trade letters; press or trade publicity and releases; drafts of original or preliminary notes on and marginal comments appearing on any document; graphs; maps, pictures and voice recordings (including but not limited to video tapes, film clips and audio tapes); computer software; voicemails; podcasts; audio or video files; digital photographs; instant messages; and electronic data of any kind; and shall mean a copy where the original is not in possession, custody or control of Plaintiffs and shall mean each copy of every document where such copy is not an identical copy of an original.

B. "Person" shall mean an individual, firm, partnership, corporation or other organization.

C. "Identify", when used in reference to documents and/or electronically stored information shall mean to state:

(i) The nature or type of documents or electronically stored information (e.g., letter, contract, memorandum, catalog, advertisement, package, e-mail, word processing document, spreadsheet, etc.);

(ii) A brief description of its contents;

(iii) The name, business address, job title and responsibilities of the author and of each person who has made any notation thereon, or who has signed or initialed the document;

(iv) The date of the document;

(v) The name, business address, job title and responsibilities of each recipient and designated recipient of the document or any copy thereof;

(vi) The name, business address, job title and responsibilities of any person who now has (or is last known to have had) possession, custody, or control of the original document; and

(vii) Whether Plaintiffs will claim the document as privileged or otherwise not a proper subject of discovery, and the legal or factual basis for any such claim.

D. "Identify", when used in reference to a (an):

(i) Natural person means to state his/her full name, present or last known business address and home address, employer, or business, or professional affiliations, job title, position, vocation, and associated responsibilities;

(ii) Corporation means to state its full name, date and State of its incorporation, and the address of its principal office or place of business;

(iii) Partnership, association, or other legal entity means to state the full name, date of formation and the address of its principal office or place of business; and

(iv) Act shall mean to state a description of the act; when it occurred; the identity of the person or persons performing said act (or in the case of an omission, the identity of the person or persons failing to act); and the identity of all Persons who have knowledge, information or belief about the act.



E. "Communicate" or "communication" includes written or oral communications. "Oral communication" includes any utterance heard by any person, electronic device or otherwise.

F. "Specht" shall refer to Plaintiff ERICH SPECHT.

G. "ADC" shall refer to ANDROID DATA CORPORATION, and any predecessors, successors, parent corporations, subsidiaries, affiliates, segments or divisions thereof, any present or former members of its Board of Directors, and any present or former officers, employees, agents, representatives, attorneys, accountants or other persons acting or purporting to act on its behalf.

H. "ADI" shall refer to THE ANDROID'S DUNGEON INCORPORATED, and any predecessors, successors, parent corporations, subsidiaries, affiliates, segments or divisions thereof, any present or former members of its Board of Directors, and any present or former officers, employees, agents, representatives, attorneys, accountants or other persons acting or purporting to act on its behalf.

I. "Plaintiffs" shall refer collectively to ERICH SPECHT, ANDROID DATA CORPORATION, and THE ANDROID'S DUNGEON INCORPORATED.

J. "Google" shall refer to Defendant GOOGLE INC. and any predecessors, successors, parent corporations, subsidiaries, affiliates, segments or divisions thereof, any present or former members of its Board of Directors, and any present or former officers, employees, agents, representatives, attorneys, accountants or other persons acting or purporting to act on its behalf.

K. The "Non-Google Defendants" shall collectively refer to each and every one of the entities named as co-Defendants in Plaintiffs' First Amended Complaint, other than Google Inc.

L. Unless otherwise indicated, the relevant time period for the information requested herein shall be from January 1, 1998 to the present date.

### INSTRUCTIONS

For the purposes of these requests, the following instructions also apply:

1. Each document request is to be responded to in accordance with the Federal Rules of Civil Procedure.
2. The requests are to be regarded as continuing in nature, so that further, more complete and supplemental responses shall be timely served if you obtain further, more complete, or new information or documents prior to the final disposition of this action.
3. Each paragraph and subparagraph hereof and the definitions herein are to be construed independently, and not by or with reference to any other paragraph or subparagraph or definition herein for purposes of limiting the scope of any particular request or the subject matter thereof.
4. If any portion of any document is responsive to any document request, the entire document shall be produced.
5. If any of these document requests cannot be satisfied in full, you are to produce documents to the extent possible, specifying the reason for your inability to produce further documents, and stating what information, knowledge or belief you have concerning the unproduced portion. You then have a continuing obligation to make efforts to produce the remaining documents.

6. The documents produced in response to these requests shall be either organized and designated to correspond to the categories in the requests, or produced in a form that accurately reflects how they are maintained by you in the normal course of business, including but not limited to, the following:

a. That all associated file labels, file headings and file folders be produced together with the responsive documents from each file and that each file be identified as to its owner or custodian;

b. That all pages now stapled or fastened together be produced stapled or fastened together; and

c. That all documents which cannot be legibly copied be produced in their original form.

7. If any claim of privilege is asserted, in whole or in part, with respect to any document, or you refuse to disclose any document requested herein, in whole or in part, on any other ground, identify each such document as follows:

a. date of document;

b. description of document (i.e., letter, memorandum);

c. author of document;

d. signer of document (including entity with which such signer is affiliated);

e. recipient or addressee of document (including entity with which such recipient or addressee is affiliated);

f. the name, address and affiliation of each person to whom a copy of the document was sent or shown or explained, including "blind" copies;

g. subject matter of document;

- h. number of pages;
- i. attachments or appendices or enclosures;
- j. nature of privilege claimed; and
- k. present physical location of document.

In the event that you decline to comply with any or all of the above identification instructions on the grounds that compliance would divulge privileged information, you shall so state and set forth an explanation accordingly.

8. With respect to any document which has been destroyed, identify each document in the manner detailed in ¶7 hereof and state the date of destruction, manner of destruction, reason for destruction, person authorizing destruction and person destroying same.

9. With respect to any document which is no longer in your possession, custody or control, identify each document in the manner detailed in ¶7 hereof and indicate the present custodian of the same.

10. These document requests are intended to seek documents necessary to Plaintiffs' preparation of this case and are not meant to be harassing or burdensome in any way. If you believe that a document request is vague, ambiguous or unduly burdensome, rather than object, please contact the undersigned counsel and every effort will be made to rephrase the document request to remove the ambiguity or minimize the burden. This rephrasing will be put in a reply letter which may be treated as a modification of the document request, provided that such modification shall not delay the time for your response to the request.

11. If, in answering these requests, you claim any ambiguity in interpreting either the request or a definition or instruction applicable thereto, such claim shall not be utilized by you as a basis for refusing to respond, but there shall be set forth as part of the response the language deemed to

be ambiguous, the interpretation chosen or used in responding to the request, and the interpretation not chosen or used in responding to the request.

12. Each request herein contemplates production of the entire matter without abbreviation, expurgation or redaction.

13. With respect to any electronically stored information, including e-mail, you shall provide both a hard copy printout of the document, to the extent practicable, as well as an electronic copy of the information in its native format.

14. Unless otherwise indicated, the relevant time period for the information requested herein shall be from January 1, 1998 to the present date.

### **DOCUMENT REQUESTS**

#### **REQUEST NO. 1**

Any and all documents and/or things which record, refer or relate to each Plaintiffs' respective adoption of the ANDROID DATA mark.

#### **REQUEST NO. 2**

Any and all documents and/or things which record, refer or relate to each Plaintiffs' respective use of the ANDROID DATA mark for each year between 1999 to date.

#### **REQUEST NO. 3**

A sample of each version of Plaintiffs' computer e-commerce software to allow users to perform electronic business transactions via a global computer network, which was sold, licensed and/or distributed during each year from 1999 to date.

#### **REQUEST NO. 4**

Any and all documents and/or things which record, refer or relate to each Plaintiffs' efforts to commercialize any product in association with the ANDROID DATA mark for each

year between 1998 and the present.

**REQUEST NO. 5**

Any and all documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶13 of Specht's First Amended Complaint that Erich Specht "has and continues to develop software and offer computer software and hardware related products and services under the Android Data mark."

**REQUEST NO. 6**

Any and all documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶15 of Specht's First Amended Complaint that Plaintiffs' software "has been used in commerce by customers."

**REQUEST NO. 7**

Any and all documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶15 of Specht's First Amended Complaint that customers of its ANDROID DATA software use the software to process "tens of millions [of dollars] in e-commerce over the world wide web."

**REQUEST NO. 8**

Any and all documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶17 of Specht's First Amended Complaint that Plaintiff "has been further developing the original Android Data software suite product."

**REQUEST NO. 9**

Any and all documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶17 of Specht's First Amended Complaint that Plaintiff is "preparing to release additional products in the near future under the Android Data mark."

**REQUEST NO. 10**

Any and all documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶52 of Specht's First Amended Complaint that Plaintiffs have continuously used the ANDROID DATA mark in interstate commerce.

**REQUEST NO. 11**

Any and all invoices, sales receipts and/or purchase orders issued to or received from customers for any products and/or services offered, sold, licensed and/or distributed in association with the ANDROID DATA mark.

**REQUEST NO. 12**

For each product and service offered for sale, sold, licensed and/or distributed by each Plaintiff at any time in association with the mark ANDROID DATA, any and all documents which identify:

- (a) the number of units sold by each Plaintiff per month and year;
- (b) each person to whom each Plaintiff has sold such product or rendered such service, by name and address;
- (c) all channels of trade into which each Plaintiff sells, offers for sale, licenses or distributes such product or service;
- (d) gross and net revenues earned by each Plaintiff from the sale, license or distribution of such product or service, per month and year;
- (e) the cost of goods sold for each such product or service;
- (f) gross profits or margins earned by each Plaintiff from the sale, license or distribution of each such product or service, per month and year; and
- (g) net profits or income earned by each Plaintiff from the sale, license or distribution of each such product or service, per month and year.

**REQUEST NO. 13**

Any and all documents and/or things which record, refer or relate to Plaintiffs' sale, license and/or distribution of products or provision of services in association with the ANDROID DATA mark.

**REQUEST NO. 14**

Any and all documents and/or things which record, refer or relate to Plaintiffs' marketing, advertising and/or promotion of products or services in association with the ANDROID DATA mark.

**REQUEST NO. 15**

Any and all documents and/or things which identify all actual or potential customers and/or distributors for each of Plaintiffs' products and services offered for sale, sold, licensed and/or distributed in association with the ANDROID DATA mark.

**REQUEST NO. 16**

Any and all documents and/or things which record, refer or relate to Plaintiffs' decision to adopt the ANDROID DATA mark.

**REQUEST NO. 17**

Any and all documents and/or things which record, refer or relate to any analysis, investigation or due diligence conducted by Plaintiffs and/or anyone acting on their behalf prior to the filing of Specht's Complaint.

**REQUEST NO. 18**

Any and all documents and/or things which record, refer or relate to Plaintiffs' efforts to maintain U.S. Trademark Reg. No. 2639556 including any communication between any of the Plaintiffs and any person, including counsel, relating to any use of the ANDROID DATA mark.



**REQUEST NO. 19**

Any and all documents and/or things which record, refer or relate to any promotional materials or efforts undertaken by each of the Plaintiffs that relate to the advertising, marketing, promotion, offering for sale, sale, licensing and/or distribution of any products or services in association with the ANDROID DATA mark or any other mark incorporating the term "android," including, but not limited to, attendance at trade shows, promotional videos, catalogs, brochures, fliers, print advertisements, radio and/or television advertisements, web sites, specification sheets, promotional literature, point-of-purchase displays, banners, and/or billboards.

**REQUEST NO. 20**

Any and all documents and/or things which record, refer or relate to the preparation and/or approval of any advertising and/or promotional materials utilized or disseminated by each of the Plaintiffs in association with products sold and/or services provided under the ANDROID DATA mark.

**REQUEST NO. 21**

Any and all documents and/or things that record, refer or relate to the dollar amount of each Plaintiff's respective advertising and promotional expenditures for its products and/or services associated with the ANDROID DATA mark.

**REQUEST NO. 22**

Any and all documents and/or things which record, refer or relate to each Plaintiffs' customer service or customer support logs or records, including but not limited to telephone records and records of support inquiries received by any Plaintiff.

**REQUEST NO. 23**

Any and all documents and/or things which include, refer or relate to communications (direct or indirect) between any Plaintiff and any person concerning the ANDROID DATA mark and/or products bearing that mark.

**REQUEST NO. 24**

All documents and/or things which include, refer or relate to any sketches, diagrams, drawings, prototypes, mock-ups, displays and/or descriptions of any of Plaintiffs' products showing the use or proposed use of the ANDROID DATA mark.

**REQUEST NO. 25**

All documents and/or things which include, refer or relate to estimates, projections, forecasts, budgets, marketing plans, strategic plans, research and development and/or capital expenditures relating to the production, sale, license or distribution of any of Plaintiffs' products and/or services offered under the ANDROID DATA mark.

**REQUEST NO. 26**

All documents and/or things which record, refer or relate to the channels of trade through which Plaintiffs' products and/or services are offered in association with the ANDROID DATA mark.

**REQUEST NO. 27**

Any and all documents and/or things which include, refer or relate to annual or midterm corporate reports for each of the Plaintiffs and/or any related, parent or subsidiary companies for each year from 1998 to the present.

**REQUEST NO. 28**

Any and all financial statements for each of the Plaintiffs for each year from 1998 to the present.

**REQUEST NO. 29**

Any and all state, federal and local income tax returns for each of the Plaintiffs for each year from 1998 to the present.

**REQUEST NO. 30**

Any and all documents and/or things which record, refer or relate to state, federal and local sales taxes reported by each of the Plaintiffs for each year from 1998 to the present.

**REQUEST NO. 31**

Any and all state, federal and local income tax returns for Meghan Specht from 1998 to the present.

**REQUEST NO. 32**

Any and all documents and/or things that record, refer or relate to any attempt to obtain an initial mortgage loan and/or alter or refinance property by Meghan Specht from 1998 to the present.

**REQUEST NO. 33**

Any and all documents and/or things that record, refer or relate to any attempt to obtain an initial mortgage loan and/or alter or refinance a prior loan by Erich Specht from 1998 to the present.

**REQUEST NO. 34**

Any and all documents and/or things which record, refer or relate to any board of director meetings, corporate meetings, sales meetings, seminars, workshops, sales reports and marketing reports for each Plaintiff and/or any related, parent or subsidiary companies where the ANDROID DATA mark, products bearing the ANDROID DATA mark, and/or services provided under the ANDROID DATA mark were discussed.

**REQUEST NO. 35**

Any and all documents and/or things which record, refer or relate to any consumer surveys, studies, focus groups, polls, interviews, marketing research or other communications with consumers, at any point in time, relating in any way to the use of the ANDROID DATA mark.

**REQUEST NO. 36**

Any and all documents and/or things which record, refer or relate to any and all domain names that were previously or are currently owned by any of the Plaintiffs at any time from 1998 to date on which any of Plaintiffs' products and/or services were offered, sold, licensed and/or distributed in association with the ANDROID DATA mark.

**REQUEST NO. 37**

Any and all documents and/or things which record, refer or relate to Design Toscano.

**REQUEST NO. 38**

Any and all documents and/or things which record, refer or relate to Summit Recruiting Corporation.

**REQUEST NO. 39**

Any and all documents and/or things which record, refer or relate to the “testimonial” received from Erik Martinez of Design Toscano as posted at <http://android-data.com/testimonials.html>.

**REQUEST NO. 40**

Any and all documents and/or things which record, refer or relate to “testimonial” received from John DeAno of Summit Recruiting Corporation as posted at <http://android-data.com/testimonials.html>.

**REQUEST NO. 41**

Any and all documents and/or things which record, refer or relate to any agreements, contracts and/or licenses transferring or granting any rights in and to the ANDROID DATA mark, products bearing the ANDROID DATA mark and/or services provided under the ANDROID DATA mark.

**REQUEST NO. 42**

Any and all documents and/or things which record, refer or relate to any agreements, contracts and/or licenses between any of the Plaintiffs and third parties relating to the ANDROID DATA mark.

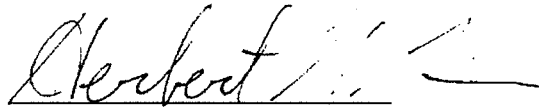
**REQUEST NO. 43**

All documents and/or things not specifically requested elsewhere herein, which are identified in, or otherwise refer or relate to, Plaintiffs’ responses to Google’s First Set of Interrogatories.

**REQUEST NO. 44**

Any and all documents and/or things identified by, referred to or relied upon by Plaintiffs in responding to Google's First Set of Interrogatories.

Dated: June 22, 2009



Herbert H. Finn  
Richard D. Harris  
Jeffrey P. Dunning  
GREENBERG TRAURIG, LLP  
77 West Wacker Drive, Suite 3100  
Chicago, IL 60660

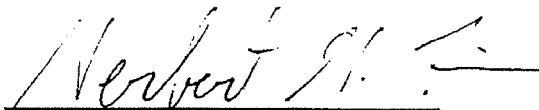
COUNSEL FOR GOOGLE INC.

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a true and correct copy of the foregoing on the following counsel, by personal service and electronic mail to:

Martin J. Murphy, Esq.  
2811 RFD  
Long Grove, IL 60047  
martym@villageinvestments.com

Dated: June 22, 2009



Herbert H. Finn  
Richard D. Harris  
Jeffrey P. Dunning  
GREENBERG TRAURIG, LLP  
77 West Wacker Drive, Suite 3100  
Chicago, IL 60660

COUNSEL FOR GOOGLE INC.

**J**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

ERICH SPECHT, et al.,	)	
	)	Civil Action No. 09-cv-2572
Plaintiffs,	)	
v.	)	Judge Leinenweber
	)	
GOOGLE INC.,	)	Magistrate Judge Cole
	)	
Defendant.	)	

**GOOGLE INC.'S SECOND SET OF REQUESTS FOR  
DOCUMENTS AND/OR THINGS TO PLAINTIFFS**

Defendant GOOGLE INC. ("Google"), pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Plaintiffs ERICH SPECHT ("Specht"), doing business as ANDROID DATA CORPORATION ("ADC"), and THE ANDROID'S DUNGEON INCORPORATED ("ADI") (collectively "Plaintiffs") produce within thirty (30) days of service of these requests, the following documents that are in Plaintiffs' possession, custody or control, at the offices of GREENBERG TRAURIG, LLP, 77 West Wacker Drive, Suite 3100, Chicago, IL 60601, or at such other time and place as may be agreed upon by the parties.

**DEFINITIONS AND INSTRUCTIONS**

The Definitions and Instructions set forth in Google's First Set of Requests for Documents and/or Things to Plaintiffs shall likewise apply to these requests. In addition:

As used herein:

A. "Document" shall mean any writing, record and/or electronically stored information ("ESI") of every type and description in the possession, custody or control of Plaintiffs including, without limitation, correspondence; memoranda; stenographic or handwritten notes; studies; books, charts; agreements; communications, including intra-company



communications and correspondence; e-mails; cablegrams; faxes; radiograms and telegrams; summaries, minutes and records or telephone conversations, meetings and conferences; summaries and records of personal conversations or interviews; manuals, publications and diaries; computer readable media; laboratory and engineering reports and notebooks; plans; sketches and drawings; photographs; reports and/or summaries of investigations and/or surveys, opinions and reports of consultants; opinions of counsel; reports and summaries of negotiations; brochures; pamphlets; catalogs and catalog sheets; advertisements, including story-boards, mock-ups, blueprints, layout schematics and/or scripts for television, radio, magazine commercials, trade show publications, and/or trade displays of any kind; circulars, trade letters; press or trade publicity and releases; drafts of original or preliminary notes on and marginal comments appearing on any document; graphs; maps, pictures and voice recordings (including but not limited to video tapes, film clips and audio tapes); computer software; voicemails; podcasts; audio or video files; digital photographs; instant messages; and electronic data of any kind; and shall mean a copy where the original is not in possession, custody or control of Plaintiffs and shall mean each copy of every document where such copy is not an identical copy of an original.

B. "Person" shall mean an individual, firm, partnership, corporation or other organization.

C. "Identify", when used in reference to documents and/or electronically stored information shall mean to state:

(i) The nature or type of documents or electronically stored information (e.g., letter, contract, memorandum, catalog, advertisement, package, e-mail, word processing document, spreadsheet, etc.);

- (ii) A brief description of its contents;
- (iii) The name, business address, job title and responsibilities of the author and of each person who has made any notation thereon, or who has signed or initialed the document;
- (iv) The date of the document;
- (v) The name, business address, job title and responsibilities of each recipient and designated recipient of the document or any copy thereof;
- (vi) The name, business address, job title and responsibilities of any person who now has (or is last known to have had) possession, custody, or control of the original document; and
- (vii) Whether Plaintiffs will claim the document as privileged or otherwise not a proper subject of discovery, and the legal or factual basis for any such claim.

D. "Identify", when used in reference to a (an):

- (i) Natural person means to state his/her full name, present or last known business address and home address, employer, or business, or professional affiliations, job title, position, vocation, and associated responsibilities;
- (ii) Corporation means to state its full name, date and State of its incorporation, and the address of its principal office or place of business;
- (iii) Partnership, association, or other legal entity means to state the full name, date of formation and the address of its principal office or place of business; and
- (iv) Act shall mean to state a description of the act; when it occurred; the identity of the person or persons performing said act (or in the case of an omission, the identity of the person or persons failing to act); and the identity of all Persons who have knowledge, information or belief about the act.

E. "Communicate" or "communication" includes written or oral communications. "Oral communication" includes any utterance heard by any person, electronic device or otherwise.

F. "Specht" shall refer to Plaintiff ERICH SPECHT.

G. "ADC" shall refer to ANDROID DATA CORPORATION, and any predecessors, successors, parent corporations, subsidiaries, affiliates, segments or divisions thereof, any present or former members of its Board of Directors, and any present or former officers, employees, agents, representatives, attorneys, accountants or other persons acting or purporting to act on its behalf.

H. "ADI" shall refer to THE ANDROID'S DUNGEON INCORPORATED, and any predecessors, successors, parent corporations, subsidiaries, affiliates, segments or divisions thereof, any present or former members of its Board of Directors, and any present or former officers, employees, agents, representatives, attorneys, accountants or other persons acting or purporting to act on its behalf.

I. "Plaintiffs" shall refer collectively to ERICH SPECHT, ANDROID DATA CORPORATION, and THE ANDROID'S DUNGEON INCORPORATED.

J. "Google" shall refer to Defendant GOOGLE INC. and any predecessors, successors, parent corporations, subsidiaries, affiliates, segments or divisions thereof, any present or former members of its Board of Directors, and any present or former officers, employees, agents, representatives, attorneys, accountants or other persons acting or purporting to act on its behalf.

K. The "Original Defendant[s]" shall refer to the persons and entities, other than Google, named as Defendants in Plaintiffs' First Amended Complaint filed with the Court on June 4, 2009.

L. Unless otherwise indicated, the relevant time period for the information requested herein shall be from January 1, 1998 to the present date.

### **DOCUMENT REQUESTS**

#### **REQUEST NO. 1**

Any and all Documents and/or things which refer or relate to Kenneth Robblee.

#### **REQUEST NO. 2**

All Documents and/or things which record, refer or relate to any communication or correspondence between Plaintiffs (and/or anyone acting on their behalf) and Kenneth Robblee (and/or anyone acting on his behalf).

#### **REQUEST NO. 3**

Any and all Documents and/or things which support, refute or relate to the "Proposed Motion to Intervene As An Additional Plaintiff and Motion for Joinder" filed with the Court by Kenneth Robblee on May 7, 2009.

#### **REQUEST NO. 4**

Any and all Documents and/or things which record, refer or relate to any offers, agreements or understandings for any party other than Plaintiffs to share in the costs or proceeds, if any, associated with this lawsuit.

**REQUEST NO. 5**

Any and all Documents and/or things which record, refer or relate to any communications or discussions between any of the Plaintiffs and any other person or entity regarding any actual or contemplated assignment, license or transfer of any rights in the ANDROID DATA mark.

**REQUEST NO. 6**

Any and all Documents and/or things which record, refer or relate to the circumstances under which any Plaintiff first became aware of any Original Defendant's use of the ANDROID mark.

**REQUEST NO. 7**

Any and all Documents and/or things which record, refer or relate to the circumstances under which any Plaintiff first became aware of Google's use of the ANDROID mark.

**REQUEST NO. 8**

Any and all Documents and/or things which record, refer or relate to the Plaintiffs' investigation into the purported use of the ANDROID mark by any Original Defendant.

**REQUEST NO. 9**

Any and all Documents and/or things which record, refer or relate to any instances of which Defendant is aware in which any person has expressed confusion or uncertainty or has inquired regarding the origin, source, sponsorship, affiliation or approval of Plaintiffs' products and services offered under the ANDROID DATA mark.

**REQUEST NO. 10**

Any and all Documents and/or things which record, refer or relate to any instances of which Plaintiffs are aware in which any person has expressed confusion or uncertainty or has

inquired regarding the origin, source, sponsorship, affiliation or approval of any Original Defendant's products or services, if any, offered under the ANDROID mark.

**REQUEST NO. 11**

Any and all Documents and/or things which record, refer or relate to any instances of communication directed to any of the Plaintiffs from customers of any Original Defendant or concerning products or services sold by any Original Defendant.

**REQUEST NO. 12**

Any and all Documents and/or things which record, refer or relate to any instances of communication directed to any of the Plaintiffs that were intended for any Original Defendant.

**REQUEST NO. 13**

Any and all Documents and/or things which record, refer or relate to any usage by any party of the term "android" in association with computer software, computer hardware, and/or any services relating to the provision or use of computer software or hardware.

**REQUEST NO. 14**

Any and all Documents and/or things which record, refer or relate to any usage by any party of the term "android" in association any goods or services other than those identified in Request No. 13.

**REQUEST NO. 15**

Any and all Documents and/or things which include, refer or relate to communications between any Plaintiff and any other person or entity concerning any product or service sold or offered for sale by any Plaintiff under the term android.

**REQUEST NO. 16**

Any and all Documents and/or things which include, refer or relate to communications between any Plaintiff and any other person or entity concerning the ANDROID DATA mark.

**REQUEST NO. 17**

Any and all Documents and/or things which include, refer or relate to communications between any Plaintiff and any person concerning any of the Original Defendants, any product or service sold or offered for sale by any Original Defendant, and/or the ANDROID mark.

**REQUEST NO. 18**

Any and all Documents and/or things which include, refer or relate to communications between any of the Plaintiffs, or any person acting on their behalf, and any of the Original Defendants, or any person acting on their behalf referring or relating to the term android.

**REQUEST NO. 19**

Any and all Documents and/or things which include, refer or relate to any of the Original Defendants' respective ANDROID products, and/or the ANDROID mark in any way.

**REQUEST NO. 20**

Any and all Documents and/or things which include, refer or relate to any product or service sold, promoted, advertised and/or offered for sale by any person or entity in association with the term "android."

**REQUEST NO. 21**

Any and all Documents and/or things which record, refer or relate to any efforts undertaken by Plaintiffs and/or anyone acting on its behalf to investigate any of the facts or circumstances alleged or described in Plaintiffs' Complaint, First Amended Complaint, and/or Motion for a Temporary Restraining Order and Preliminary Injunction.

**REQUEST NO. 22**

Any and all Documents and/or things which record, refer or relate to Plaintiffs' decision to name each of the Original Defendants as a defendant in Plaintiffs' Complaint and/or First Amended Complaint.

**REQUEST NO. 23**

Any and all Documents and/or things which support, refute or relate to the factual and legal allegations contained in Plaintiffs' Complaint for Trademark Infringement, filed on April 29, 2009.

**REQUEST NO. 24**

Any and all Documents and/or things which support, refute or relate to Plaintiffs' allegation in their First Amended Complaint that Google has engaged in trademark infringement in violation of 15 U.S.C. §§1114(1) and 1125(a).

**REQUEST NO. 25**

Any and all Documents and/or things which support, refute or relate to Plaintiffs' claim for monetary damages as a result of the actions alleged in Plaintiffs' First Amended Complaint, including the nature of the alleged injury to Plaintiffs, the amount of damages which Plaintiffs claim to have suffered, and the method(s) by which those claimed damages were calculated.

**REQUEST NO. 26**

Any and all Documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶7 of Plaintiffs' First Amended Complaint that "the amount in controversy exceeds \$75,000."



**REQUEST NO. 27**

Any and all Documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶8 of Plaintiffs' First Amended Complaint that the "Open Handset Alliance maintains a headquarter [sic] in Schaumburg, Illinois."

**REQUEST NO. 28**

Any and all Documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶10 of Plaintiffs' First Amended Complaint that Erich Specht is the "sole officer, director and shareholder" of Android Data Corporation.

**REQUEST NO. 29**

Any and all Documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶11 of Plaintiffs' First Amended Complaint that Erich Specht is the "sole officer, director and shareholder" of The Android's Dungeon Incorporated.

**REQUEST NO. 30**

Any and all Documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶13 of Plaintiffs' First Amended Complaint that Erich Specht "has and continues to develop software and offer computer software and hardware related products under the Android Data® mark."

**REQUEST NO. 31**

Any and all Documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶15 of Plaintiffs' First Amended Complaint that Plaintiffs' "Android Data software was intended to and has been used in commerce by customers who transact hundreds of millions of dollars in world wide transactions including tens of millions in e-commerce over the world wide web using Plaintiff's [sic] software."

**REQUEST NO. 32**

Any and all Documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶17 of Plaintiffs' First Amended Complaint that "Plaintiff [sic] is and has been further developing the original Android Data software suite product as well as preparing to release additional products in the near future under the Android Data product mark."

**REQUEST NO. 33**

Any and all Documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶43 of Plaintiffs' First Amended Complaint that "[t]he defendants have created and control an extensive and integrated worldwide network of companies that pool resources to enable them to market various types of infringing products and services."

**REQUEST NO. 34**

Any and all Documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶43 of Plaintiffs' First Amended Complaint that "[b]ased upon information and belief, defendants control over 15% of all American commerce."

**REQUEST NO. 35**

Any and all Documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶52 of Plaintiffs' First Amended Complaint that the Plaintiffs have continuously used the ANDROID DATA mark in interstate commerce.

**REQUEST NO. 36**

Any and all Documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶56 of Plaintiffs' First Amended Complaint that "[p]rior to filing it's trademark application, Google did not conduct a thorough trademark search of the Android mark."

**REQUEST NO. 37**

Any and all Documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶57 of Plaintiffs' First Amended Complaint that "[p]rior to joining the OHA, the OHA members did not conduct a thorough trademark search of the Android mark."

**REQUEST NO. 38**

Any and all Documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶58 of Plaintiffs' First Amended Complaint that "[p]rior to incorporating Android, Inc., the defendants did not conduct a thorough search of the Android mark."

**REQUEST NO. 39**

Any and all Documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶60 of Plaintiffs' First Amended Complaint that any of the defendants were "fully aware" of Plaintiffs' rights, if any, in the ANDROID DATA mark.

**REQUEST NO. 40**

Any and all Documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶65 of Plaintiffs' First Amended Complaint that "Defendants [sic] infringement constitutes a willful and malicious violation of Plaintiff's trademark rights."

**REQUEST NO. 41**

Any and all Documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶66 of Plaintiffs' First Amended Complaint that "[u]pon learning of Defendant's actions, Plaintiffs have moved as expeditiously as possible to protect their mark."

**REQUEST NO. 42**

Any and all Documents and/or things which support, refute or relate to Plaintiffs' allegation in ¶69 of Plaintiffs' First Amended Complaint that "[t]he contemporaneous use by

both parties of the Android mark in commerce is likely to cause confusion among consuming public [sic] into believing that the goods they identify come from the same source.”

**REQUEST NO. 43**

Any and all Documents and/or things which support, refute or relate to Plaintiffs’ allegation in ¶75 of Plaintiffs’ First Amended Complaint that “Plaintiffs have expended considerable resources marketing, advertising and promoting its [sic] goods and services under its Android Data mark.”

**REQUEST NO. 44**

Any and all Documents and/or things which support, refute or relate to Plaintiffs’ allegation in ¶78 of Plaintiffs’ First Amended Complaint that “[t]his is a reverse confusion case where defendants’ [sic] are not seeking to trade off of Plaintiffs goodwill, rather defendants are over saturating the market with infringing products and services which will undoubtedly lead to deception, confusion and mistake among the consuming public and trade creating the erroneous impression that the goods created by Plaintiffs come from the same origin, or that Plaintiffs [sic] products are some type of knock-off of defendants [sic] products, services, or name.”

**REQUEST NO. 45**

Any and all Documents and/or things which support, refute or relate to Plaintiffs’ allegation in ¶80 of Plaintiffs’ First Amended Complaint that “Defendants have intentionally used in commerce a counterfeit of Plaintiffs’ mark.”

**REQUEST NO. 46**

Any and all Documents and/or things which support, refute or relate to Plaintiffs’ allegation in ¶81 of Plaintiffs’ First Amended Complaint that “Defendants have provided goods or services necessary to the commission of’ counterfeiting under the Lanham Act.

**REQUEST NO. 47**

Any and all Documents and/or things which support, refute or relate to the legal and factual allegations contained in the "Affidavit of Erich Specht," dated April 30, 2009 and filed with the Court on May 4, 2009 ("Specht Affidavit").

**REQUEST NO. 48**

Any and all Documents and/or things which support, refute or relate to the allegation in ¶3 of the Specht Affidavit that Erich and Megan Specht "are the sole officers, shareholders, and directors" of The Android's Dungeon Incorporated.

**REQUEST NO. 49**

Any and all Documents and/or things which record, refer or relate to Erich Specht's knowledge of Google's "Android product," as that term is used in ¶10 of the Specht Affidavit, prior to April 20, 2009.

**REQUEST NO. 50**

Any and all Documents and/or things which record, refer or relate to the actions that Erich Specht, or any of the Plaintiffs, took to preserve Plaintiffs' trademark rights, as identified in ¶11 of the Specht Affidavit.

**REQUEST NO. 51**

Any and all Documents and/or things which record, refer or relate to the organization and structure of each Plaintiff, including any and all parents and subsidiaries of Plaintiffs, any and all places of business maintained, utilized, or operated by each Plaintiff and/or any of its employees or agents, and the individuals responsible for each Plaintiffs' business decision-making.

**REQUEST NO. 52**

Any and all Documents and/or things which record, refer or relate to the characteristics or demographics of customers or potential customers for any of Plaintiffs' products or services.

**REQUEST NO. 53**

Any and all invoices, sales receipts and/or purchase orders issued to or received from any of Plaintiffs' customers for any products and/or services offered in association with the ANDROID DATA mark.

**REQUEST NO. 54**

Any and all Documents and/or things which record, refer or relate to any investigation conducted by Plaintiffs, their employees or agents, and/or anyone acting on their behalf regarding any of the Original Defendants.

**REQUEST NO. 55**

Any and all Documents and/or things which record, refer or relate to any investigation conducted by Plaintiffs, their employees or agents, and/or anyone acting on their behalf regarding the use and/or registration of the term "android" by any person or entity.

**REQUEST NO. 56**

Any and all Documents and/or things which record, refer or relate to the preparation and/or filing of the "Declaration of Use of Mark in Commerce Under Section 8" for U.S. Trademark Registration No. 2,639,556, which was submitted to the U.S. Patent and Trademark Office by The Android's Dungeon Incorporated on or about April 21, 2009.

**REQUEST NO. 57**

Any and all Documents and/or things which record, refer or relate to ownership of the ANDROID DATA mark.

**REQUEST NO. 58**

Any and all Documents and/or things which record, refer or relate to the preparation, execution, and/or recordation of the purported assignment of the ANDROID DATA trademark from Android Data Corporation to The Android's Dungeon Incorporated on or about December 28, 2002, which was submitted to the U.S. Patent and Trademark Office for recordation on or about August 15, 2009, and any other Documents relating thereto.

**REQUEST NO. 59**

Any and all Documents and/or things which record, refer or relate to the preparation, execution, and/or recordation of the purported assignment of the ANDROID DATA trademark from Android Data Corporation to The Android's Dungeon Incorporated, on or about April 26, 2004, which was submitted to the U.S. Patent and Trademark Office for recordation on or about April 21, 2009, and any other Documents relating thereto.

**REQUEST NO. 60**

Any and all Documents and/or things which record, refer or relate to the preparation and/or filing of the "Application for Reinstatement – Domestic/Foreign Corporations" for Android Data Corporation, which was filed with the Illinois Secretary of State on or about April 24, 2009.

**REQUEST NO. 61**

Any and all Documents and/or things which record, refer or relate to the preparation and/or filing with the Illinois Secretary of State and/or any other government body of any annual corporate report for Android Data Corporation.

**REQUEST NO. 62**

Any and all Documents and/or things which record, refer or relate to the preparation and/or filing with the Illinois Secretary of State and/or any other government body of any annual corporate report for The Android's Dungeon Incorporated.

**REQUEST NO. 63**

Any and all Documents and/or things which record, refer or relate to Android Data Corporation's failure to file an annual corporate report with the Illinois Secretary of State for the years 2003, 2004, 2005, 2006, 2007 and 2008.

**REQUEST NO. 64**

Any and all Documents and/or things which record, refer or relate to any and all domain names that were owned by any of the Plaintiffs at any time from 1998 to date.

**REQUEST NO. 65**

Any and all Documents and/or things which record, refer or relate to any and all domain names that were used by any of the Plaintiffs at any time from 1998 to date.

**REQUEST NO. 66**

Any and all Documents and/or things which record, refer or relate to any communications or discussions between anyone associated with or acting on behalf of Plaintiffs, including but not limited to Specht and Plaintiffs' counsel, and any third person or entity, including but not limited to representatives of newspapers, magazines, television, radio, and Internet media, regarding Google, the ANDROID software platform, the OHA or its members, the ANDROID DATA mark, Plaintiffs and/or this litigation.



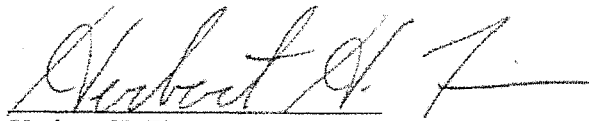
**REQUEST NO. 67**

Any and all Documents and/or things provided by Plaintiffs to any consultant or other expert consulted or retained by any Plaintiff in connection with this litigation.

**REQUEST NO. 68**

All Documents and/or things not specifically requested elsewhere, which are identified in, or otherwise refer or relate to, or relied upon by Plaintiffs in responding to Google's First Set of Interrogatories.

Dated: September 18, 2009



Herbert H. Finn  
Richard D. Harris  
Jeffrey P. Dunning  
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COUNSEL FOR GOOGLE INC.

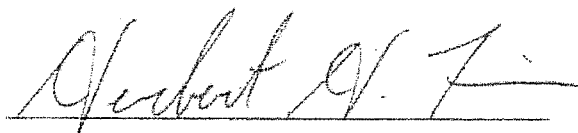
**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of GOOGLE INC.'S SECOND SET OF REQUESTS FOR DOCUMENTS AND/OR THINGS TO PLAINTIFFS was served upon counsel for Plaintiffs on the date set forth below, via electronic mail and first-class mail addressed to:

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100 North Riverside Plaza  
Chicago, IL 60606-1501

Dated: September 18, 2009



**CERTIFICATE OF SERVICE**

Eric N. Macey, an attorney, certifies that he caused copies of the foregoing **Appendix of Exhibits in Support of P. Andrew Fleming and Novack and Macey LLP's Response in Opposition to Google Inc.'s Motion for Attorney's Fees and Sanctions** to be served by electronically filing the document with the Clerk of Court using the ECF system this 19th day of May 2011.

/s/ Eric N. Macey