

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

SOFTWARE RIGHTS ARCHIVE, LLC §
§
Plaintiff, §
§
v. §
§
GOOGLE INC., YAHOO! INC., §
IAC SEARCH & MEDIA, INC., AOL LLC, §
and LYCOS, INC. §
§
Defendants. §

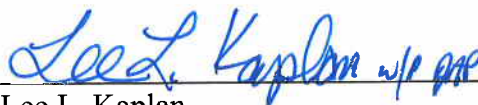
Civil Action No. 2:07-cv-511-CE

JURY TRIAL DEMANDED

**NOTICE OF SUBPOENA COMMANDING PRODUCTION
OF DOCUMENTS TO HARRITY & HARRITY, LLP**

PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Federal Rules of Civil Procedure, plaintiff Software Rights Archive, LLC intends to serve the attached subpoena on Harrity & Harrity, LLP, 11350 Random Hills Road, Suite 600, Fairfax, VA 22030, commanding the production of documents specified therein.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on June 15th, 2010.



Lee L. Kaplan

UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

Software Rights Archive, LLC

Plaintiff

v.

Google Inc., Yahoo! Inc., IAC Search & Media, Inc., AOL, LLC, and Lycos, Inc.

Defendant

Civil Action No. Civil Case No. 2:07-cv-511(CE)

(If the action is pending in another district, state where: Eastern District of Texas)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Paul A. Harrity, Harrity & Harrity, LLP, 11350 Random Hills Road, Suite 600, Fairfax, VA 22030

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: See attached Appendix A.

Place: J.M. & Associates, 2121 Eisenhower Ave., Ste. 200, Alexandria, VA 22314. Date and Time: 06/30/2010 10:00 am

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place: Date and Time:

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: 6-15-2010

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Lee L. Kaplan up att Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Software Rights Archive, LLC, who issues or requests this subpoena, are: Lee L. Kaplan, Smyser, Kaplan & Veselka, L.L.P., 700 Louisiana Street, Suite 2300, Houston, Texas 77002, lkaplan@skv.com, telephone: (713) 221-2323, Facsimile: (713) 221-2320.

Civil Action No. Civil Case No. 2:07-cv-511(CE)

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 served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

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

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

APPENDIX A

You are requested to produce and/or permit inspection and copying of all the following documents and things¹ (which include electronically stored information and tangible things) as permitted under Fed. R. Civ. Proc. 45 at the time and place noted on the attached subpoena.

1. All documents and things concerning the invention, development, investigation, application, prosecution, examination and issuance of U.S. Patent No. 6,285,999 (“the ‘999 Patent”), including without limitation (a) invention disclosures, (b) communications to, from, between, or among all persons or entities involved in the invention, development, investigation, application, prosecution, examination and issuance of the ‘999 Patent, including Lawrence Page, any other inventor of the ‘999 Patent, Google Inc. (including all affiliates, agents, and representatives thereof), Stanford University (including all agents and representatives thereof), any other assignee of the ‘999 Patent, the prosecuting attorney(s) and persons working under their direction, patent agent(s) and persons working under their direction, the United States Patent and Trademark Office (including all agents and Examiners thereof), and (c) internal memoranda, billing records, emails, notes, tests, diagrams, calculations, drawings, and all other documents relating to the invention, development, investigation, application, prosecution, examination and issuance of the ‘999 Patent, and (d) references to any patents for which Daniel Egger is listed as an inventor or co-inventor, including U.S. Patent Nos. 5,544,352; 5,832,494; and 6,233,571.

2. All documents and things concerning the invention, development, investigation, application, prosecution, examination and issuance of U.S. Patent No. 6,799,176 (“the ‘176 Patent”), including without limitation (a) invention disclosures, (b) communications to, from, between, or among all persons or entities involved in the invention, development, investigation, application, prosecution, examination and issuance of the ‘176 Patent, including Lawrence Page, any other inventor of the ‘176 Patent, Google Inc. (including all affiliates, agents, and representatives thereof), Stanford University (including all agents and representatives thereof), any other assignee of the ‘176 Patent, the prosecuting attorney(s) and persons working under their direction, patent agent(s) and persons working under their direction, the United States Patent and Trademark Office (including all agents and Examiners thereof), and (c) internal memoranda, billing records, emails, notes, tests, diagrams, calculations, drawings, and all other documents relating to the invention, development, investigation, application, prosecution, examination and issuance of the ‘176 Patent, and (d) references to any patents for which Daniel Egger is listed as an inventor or co-inventor, including U.S. Patent Nos. 5,544,352; 5,832,494; and 6,233,571.

3. All documents and things concerning the invention, development, investigation, application, prosecution, examination and issuance of U.S. Patent No. 7,058,628 (“the ‘628 Patent”), including without limitation (a) invention disclosures, (b) communications to, from,

¹ For the purpose of this subpoena, “documents and things” include, without limitation, information in any form, whether in hard copy or electronic form. This includes, by way of example and not by way of limitation all of the following: agreements, articles, accounts, agendas, calendars, charts, checks, contracts, correspondence, deal memoranda, diaries, drafts, drawings, emails, letters, lists, logs, memoranda, messages, notes, notices, orders, papers, pleadings, press releases, publications, questionnaires, reports, resolutions, studies, testimony, trade letters, voice mail and all items discoverable pursuant to the Federal Rules of Civil Procedure.

between, or among all persons or entities involved in the invention, development, investigation, application, prosecution, examination and issuance of the '628 Patent, including Lawrence Page, any other inventor of the '628 Patent, Google Inc. (including all affiliates, agents, and representatives thereof), Stanford University (including all agents and representatives thereof), any other assignee of the '628 Patent, the prosecuting attorney(s) and persons working under their direction, patent agent(s) and persons working under their direction, the United States Patent and Trademark Office (including all agents and Examiners thereof), and (c) internal memoranda, billing records, emails, notes, tests, diagrams, calculations, drawings, and all other documents relating to the invention, development, investigation, application, prosecution, examination and issuance of the '628 Patent, and (d) references to any patents for which Daniel Egger is listed as an inventor or co-inventor, including U.S. Patent Nos. 5,544,352; 5,832,494; and 6,233,571.

4. All documents and things concerning the invention, development, investigation, application, prosecution, examination and issuance of U.S. Patent No. 7,269,587 ("the '587 Patent"), including without limitation (a) invention disclosures, (b) communications to, from, between, or among all persons or entities involved in the invention, development, investigation, application, prosecution, examination and issuance of the '587 Patent, including Lawrence Page, any other inventor of the '587 Patent, Google Inc. (including all affiliates, agents, and representatives thereof), Stanford University (including all agents and representatives thereof), any other assignee of the '587 Patent, the prosecuting attorney(s) and persons working under their direction, patent agent(s) and persons working under their direction, the United States Patent and Trademark Office (including all agents and Examiners thereof), and (c) internal memoranda, billing records, emails, notes, tests, diagrams, calculations, drawings, and all other documents relating to the invention, development, investigation, application, prosecution, examination and issuance of the '587 Patent, and (d) references to any patents for which Daniel Egger is listed as an inventor or co-inventor, including U.S. Patent Nos. 5,544,352; 5,832,494; and 6,233,571.

5. All documents and things concerning the invention, development, investigation, application, prosecution, examination and issuance of U.S. Patent No. 7,434,351 ("the '351 Patent"), including without limitation (a) invention disclosures, (b) communications to, from, between, or among all persons or entities involved in the invention, development, investigation, application, prosecution, examination and issuance of the '351 Patent, including Lawrence Page, any other inventor of the '351 Patent, Google Inc. (including all affiliates, agents, and representatives thereof), Stanford University (including all agents and representatives thereof), any other assignee of the '351 Patent, the prosecuting attorney(s) and persons working under their direction, patent agent(s) and persons working under their direction, the United States Patent and Trademark Office (including all agents and Examiners thereof), and (c) internal memoranda, billing records, emails, notes, tests, diagrams, calculations, drawings, and all other documents relating to the invention, development, investigation, application, prosecution, examination and issuance of the '351 Patent, and (d) references to any patents for which Daniel Egger is listed as an inventor or co-inventor, including U.S. Patent Nos. 5,544,352; 5,832,494; and 6,233,571.

6. All documents and things relating to or discussing in whole or in part (1) Daniel Egger; (2) any patents, patent applications, or publications naming Egger as an inventor or author

(including without limitation United States Patent Nos. 5,544,352; 5,832,494; or 6,233,571), and/or (3) any technical or legal significance of any patents, patent applications, or publications naming Egger as an inventor or author (including without limitation United States Patent Nos. 5,544,352; 5,832,494; or 6,233,571).