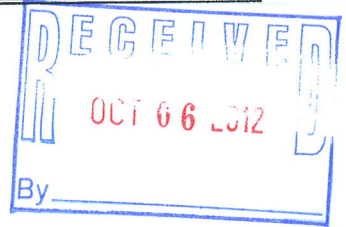


UNITED STATES DISTRICT COURT

for the
Eastern District of Virginia



InNOVA PATENT LICENSING, LLC

Plaintiff

v.

ALCATEL-LUCENT HOLDINGS, et al

Defendant

Civil Action No. 2:10-cv-00251-DF-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: THE INTERNET ENGINEERING TASK FORCE c/o THE INTERNET SOCIETY, 1775 WIEHLE AVENUE,
SUITE 201, RESTON, VA 20190

☒ **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: PLEASE SEE ATTACHED EXHIBIT "A"

Place: THE LANIER LAW FIRM, PC
2200 GENG ROAD, SUITE 200
PALO ALTO, CA 94303

Date and Time:

11/05/2012 9am

☐ **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: 10/05/2012

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk


Attorney's signature

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

InNOVA PATENT LICENSING, LLC, who issues or requests this subpoena, are:

CHRISTOPHER D. BANY
THE LANIER LAW FIRM, PC, 2200 GENG ROAD, SUITE 200, PALO ALTO, CA 94303
cdb@lanierlawfirm.com Tel: (650) 322-9100

Civil Action No. 2:10-cv-00251-DF-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)* THE INTERNET ENGINEERING TASK FORCE
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).

EXHIBIT A

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, other applicable rules and law, and the Instruction and Definitions included hereunder, Plaintiff InNova Patent Licensing, LLC ("Plaintiff") requests that The Internet Engineering Task Force ("IETF") produce the following documents and things.

DEFINITIONS

A. The term "Document" is used herein in its broadest sense, and as in Federal Rule of Civil Procedure 34(a). This term includes all written, printed, or recorded matter of any kind, including without limitation any information that is stored or carried electronically, by means of computer equipment or otherwise, and any information stored on any media accessible by electronic means including information that has been deleted but is still accessible.

B. The singular form of a word should be interpreted in the plural as well. Any pronoun shall be construed to refer to the masculine, feminine, or neuter gender as in each case as most appropriate. The words "and," "or," and "and/or" shall be construed conjunctively or disjunctively, whichever makes the request more inclusive. The terms "any" and "all" should be given their most inclusive meaning and should mean "any and all."

C. "IETF" "You," and "Your" shall refer to The Internet Engineering Task Force, its predecessors, and any past or present subsidiaries or affiliates.

D. "InNova" shall refer to InNova Patent Licensing, LLC.

E. "AOL" shall refer to AOL, Inc.

F. "Google" shall refer to Google Inc.

G. "Person" and "Entity" as used herein are synonymous, and are defined as any natural person or business, legal, or governmental entity or association.

H. The term "Communication" means any document or message received by, transmitted to, conveyed to, or delivered to you from any person or entity or from you to any person or entity, including but not limited to electronic mail and oral communications reduced to writing.

I. "Refer to," "referring to," "relate to," "relating to," and "regarding" means constituting, pertaining to, mentioning, commenting on, concerning, connected with, discussing, describing, identifying, analyzing, explaining, showing, reflecting, dealing with, comprising, consisting of, containing, resulting from, or regarding a particular subject in whole or in part, either directly or indirectly.

J. "DKIM" shall refer to DomainKeys Identified Mail.

K. "Email" and "e-mail" shall refer to electronic mail.

L. "RFC" shall refer to Request for Comments.

INSTRUCTIONS

A. Your response to each Request below shall include all such information that is within your custody, possession, or control, including documents that are available to you upon request.

B. The identification of specific documents or types of documents in any Request below is provided by way of example only, and shall not limit the generality of any such request.

C. Electronic records and computerized information must be produced in an intelligible format or together with a description of the system from which it was derived sufficient to permit rendering the materials intelligible.

D. Documents attached to each other, including, without limitation, cover sheets, must not be separated.

E. The term "all documents" means any and all documents that might reasonably be located through search of all locations reasonably likely to contain the document called for in any Request below.

F. When a time period is not specified, the Request calls for the production of all documents.

DOCUMENT REQUESTS

1. All Communications with AOL, Inc. ("AOL") and/or its counsel of record related to any litigation against AOL.

2. All Communications with Google Inc. ("Google") and/or its counsel of record related to any litigation against Google.

3. All Communications with any person or entity related to any litigation against Google, AOL, and/or any litigation involving DomainKeys Identified Mail ("DKIM").

4. All Documents that you identified, mentioned, and/or provided to AOL or Google related to InNova, Inc. ("InNova") or its lawsuit against AOL and Google.

5. All Documents that relate to any interest, economic or otherwise, that you have in AOL, Google, and/or InNova's lawsuit against AOL and Google.

6. All Documents, including blogs, related to AOL, Google, InNova, Robert Uomini.

7. All Documents, including blogs, containing commentary on patent infringement lawsuits and/or non-practicing entities.

8. All Documents related to any and all problems, issues, and challenges that inbound DKIM processing of email was intended to correct, solve, and/or mitigate.
9. All Documents related to the benefits, usefulness, effectiveness, and/or functionality of inbound DKIM processing of email, including any and all direct, indirect, incremental, and/or relative benefits, usefulness, effectiveness, and/or functionality.
10. All Documents regarding the adoption rate of the DKIM standard in conjunction with email.
11. All Documents related to the value of inbound DKIM processing of email.
12. All Documents related to any and all costs to deploy inbound DKIM processing of emails for large webmail providers such as AOL and/or Google.
13. All Documents related to sales and marketing of DKIM, including services related to developing, deploying, and/or operating inbound DKIM processing of email.
14. All Documents related to volumes of email, volumes and/or percentages of spam, volumes and/or percentages of phishing, volumes and/or percentages of spoofing, and other similar malicious email threats.
15. All Documents regarding any and all licenses (e.g., technology license, software license, and/or litigation license) related to inbound DKIM processing of email.
16. All Documents related to any and all licenses (e.g., technology license, software license, and/or litigation license) of any of the following RFCs: 4870, 4871, 4886, 5672, 6375, 5585, 6376 and/or 5863.
17. All Documents related to AOL's development, deployment, and/or operation of inbound DKIM processing of email.

18. All Documents related to the development, deployment, and/or operation of inbound DKIM processing of email for AOL Mail.

19. All Documents related to Google's development, deployment, and/or operation of inbound DKIM processing of email.

20. All Documents related to the development, deployment, and/or operation of inbound DKIM processing of email for Gmail.

21. All Documents related to the development, deployment, and/or operation of inbound DKIM processing of email for Postini.

22. All Documents related to inbound DKIM processing of email and/or any of the following RFCs: 4870, 4871, 4886, 5672, 6375, 5585, 6376 and/or 5863.

23. Communications, comments and all Documents related thereto, with any person or entity regarding the inbound DKIM processing standard.

24. Communications, comments and all Documents related thereto, with any person or entity regarding any of the following RFCs: 4870, 4871, 4886, 5672, 6375, 5585, 6376 and/or 5863.

25. All Documents sufficient to show all patents known, believed or claimed to cover the inbound DKIM processing standard.

26. All Documents sufficient to show all patents known, believed, and/or claimed to cover any of the following RFCs: 4870, 4871, 4886, 5672, 6375, 5585, 6376 and/or 5863.

27. Press releases, white papers, public statements, and/or analyst reports that relate to the DKIM standard for email, and all Documents related thereto.

28. Press releases, white papers, public statements, and/or analyst reports that relate to any of the following RFCs: 4870, 4871, 4886, 5672, 6375, 5585, 6376 and/or 5863, and all Documents related thereto.

29. All Documents sufficient to show all intellectual property rights associated with DKIM, inbound DKIM processing of email, or any of the following RFCs: 4870, 4871, 4886, 5672, 6375, 5585, 6376 and/or 5863.