

UNITED STATES DISTRICT COURT

for the Northern District of Georgia

Datascape, Inc. Plaintiff v. Sprint Spectrum, L.P. and Sprint Solutions, Inc. Defendant Civil Action No. 1:09-CV-0136-CC 07-cv-00640-CC

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: IETF Legal Counsel

(Name of person to whom this subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action.

Table with 2 columns: Place (Contreras Legal Strategy LLC, P.O. Box 4752, St. Louis, M.O. 63108) and Date and Time (04/21/2014 9:00 am)

The deposition will be recorded by this method: Stenographic, real time and audio/video

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material.

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

Date: 03/28/2014

CLERK OF COURT

OR

Handwritten signature of John D. van Loben Sels

John D. van Loben Sels

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Sprint Spectrum, L.P. and Sprint Solutions, Inc., who issues or requests this subpoena, are: John D. van Loben Sels, WHGC, P.L.C., 2570 W. El Camino Real, Suite 440, Mountain View CA 94040. (650) 209-1230.

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:09-CV-0136-CC

PROOF OF SERVICE

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

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

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

I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the 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), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(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 court for the district where compliance is required 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 court for the district where compliance is required 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 court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (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 court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

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

(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.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(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.

(e) 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 under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

Attachment A

- a. *HyperText Markup Language Specification Version 3.0 ("HTML 3.0")* by Raggett, David.
 - b. *Telnet/Remote Job Entry, ARPA, An RJE Protocol for a Resource Sharing Network*, by Day, John; Grossman, Gary R.
 - c. *Telnet Protocol Specification* by J. Postel, J. Reynolds, RFC854
 - d. *A Nonstandard for Transmission of IP Datagrams Over Serial Lines*, J. Romkey, RFC1055.
 - e. *Hypertext Transfer Protocol-HTTP 1.0*, by T. Berners-Lee et al.
 - f. *A Proposed Extension Mechanism for HTTP*, Kristol, David M,
 - g. *A Proposed Extension to HTML: Client-Side Image Maps*, Seidman, James L, et al
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**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DATASCAPE, INC.,)
a Georgia Corporation,)
Plaintiff,)
v.)
SPRINT SPECTRUM, L.P.)
a Delaware Limited Partnership, and)
and)
SPRINT SOLUTIONS, INC.)
A Delaware Corporation,)
Defendants.)

Civil Action File No.:
No. 1:09-CV-0136-CC

DECLARATION OF

I, _____, declare:

1. I have worked at Internet Engineering Task Force ("IETF") since _____,
my position is _____.
2. I am over the age of 21 years, and this declaration is made based on my personal
knowledge and experience working at IETF.
3. IETF received a Subpoena to Testify at a Deposition (the "Subpoena") from

Defendants Sprint Spectrum, L.P. and Sprint Solutions, Inc. for the above-captioned case.

4. I have direct personal knowledge of the IETF's procedures and system regarding the publications listed below in Paragraph 5. The procedures are as follows:

5. I can confirm the following information for these publications:

a. *HyperText Markup Language Specification Version 3.0 ("HTML 3.0")* by Raggett, David, was made available to the public on (date)_____ by way of (describe manner of making it public)_____

b. *Telnet/Remote Job Entry, ARPA, An RJE Protocol for a Resource Sharing Network*, by Day, John; Grossman, Gary R., RFC725, was made available to the public on (date)_____ by way of (describe manner of making it public)_____

c. *Telnet Protocol Specification* by J. Postel, J. Reynolds, RFC854 was made available to the public on (date)_____ by way of (describe manner of

making it public) _____

d. *A Nonstandard for Transmission of IP Datagrams Over Serial Lines*, J. Romkey, RFC1055, was made available to the public on (date) _____ by way of (describe manner of making it public) _____

e. *Hypertext Transfer Protocol-HTTP 1.0*, by T. Berners-Lee et al., was made available to the public on (date) _____ by way of (describe manner of making it public) _____

f. *A Proposed Extension Mechanism for HTTP*, Kristol, David M, was made available to the public on (date) _____ by way of (describe manner of making it public) _____

g. *A Proposed Extension to HTML: Client-Side Image Maps*, Seidman, James L, et al., was made available to the public on (date) _____ by way of (describe manner of making it public) _____

True and correct copies verifying these publication dates are attached hereto as Exhibit A.

I declare under penalty of perjury under the laws of the United States of America the foregoing is true and correct. Executed on March __, 2014, at _____, _____.

(signature)



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March 28, 2014

VIA PERSONAL DELIVERY

IETF Legal Counsel
Contreras Legal Strategy LLC
P.O. Box 4752
St. Louis, M.O. 63108

The Internet Society
1775 Wiehle Ave, Suite 201
Reston, VA 20190

Re: Request for Information Regarding Library Procedures
Datascape v. Sprint, et al. | Case Nos. 07-cv-00640-CC; 09-cv-0136-CC

Dear Sir/Madam:

We represent Sprint Spectrum, L.P. and Sprint Solutions, Inc. in a matter where our clients have been sued for patent infringement.

We need testimony regarding IETF's procedures for making publications available to the public. As IETF is a third party and not involved in this matter, we do not wish to burden you with being deposed. So that we do not have to trouble you by taking your deposition regarding these documents, we have prepared a draft declaration in lieu of the deposition which verifies the date of publication of the article/journal and describes your company's procedures and system for indexing such publications.

Please do not hesitate to contact me if you have any questions or concerns.

Very truly yours,
WHGC, P.L.C.

John D. van Loben Sels
johnvanlobensels@whgclaw.com

Encl.

