

# UNITED STATES DISTRICT COURT

for the

District of Delaware

Callwave Communications LLC

*Plaintiff*

v.

AT&T Inc., AT&T Mobility, LLC, and Google, Inc.

*Defendant*

Civil Action No. 12-cv-1701

## SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Wavemarket, Inc., d/b/a LocationLabs, 5980 Horton Street, Suite 675, Emeryville, CA 94608

*(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. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

See Attachment B

Place: Pepper Hamilton, LLP, 555 Twin Dolphin Drive Suite 310 Redwood City California, 94065	Date and Time:  03/07/2014 9:00 am
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The deposition will be recorded by this method: Steographer and videographer.

**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: See Attachment A.

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: 02/10/2014

CLERK OF COURT

OR

/s/ Benjamin Snitkoff

*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)* Callwave Communications LLC, who issues or requests this subpoena, are:

Benjamin Snitkoff, 125 High Street, 19th Floor, High St. Tower, Boston, MA 02143  
617-204-5114 [snitkoffb@pepperlaw.com](mailto:snitkoffb@pepperlaw.com)

### Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, a notice

Attorney or Party without Attorney: PEPPER HAMILTON LLP 125 HIGH STREET OLIVER STREET TOWER, 15TH FLOOR BOSTON, MA 02110 Telephone No: (617) 204-5158			For Court Use Only		
Attorney for: Plaintiff			Ref. No. or File No.:		
Insert name of Court, and Judicial District and Branch Court: United States District Court For The District Of Delaware					
Plaintiff: CALLWAVE COMMUNICATIONS LLC Defendant: AT&T INC., ET AL.					
<b>PROOF OF SERVICE SUBPOENA</b>		Hearing Date: Fri, Mar. 07, 2014	Time: 9:00AM	Dept/Div:	Case Number: 12-CV-1701

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION.
3.
  - a. Party served: WAVEMARKET, INC., D/B/A LOCATIONLABS
  - b. Person served: CRISTINE BYON, PERSON IN CHARGE
4. Address where the party was served: 5980 HORTON ST.  
SUITE 675  
EMERYVILLE, CA 94608
5. I served the party:
  - a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive process for the party (1) on: Mon., Feb. 10, 2014 (2) at: 4:00PM
  - b. I received this subpoena for service on: Monday, February 10, 2014
6. Witness fees were not demanded or paid.
7. Person Who Served Papers:
  - a. Tony Lowe
  - d. *The Fee for Service was:* Recoverable Cost Per CCP 1033.5(a)(4)(B)



1138 Howard Street  
 San Francisco, CA 94103  
 Telephone (415) 626-3111  
 Fax (415) 626-1331  
 www.firstlegallnetwork.com

- e. I am: (3) registered California process server
  - (i) Independent Contractor
  - (ii) Registration No.: 2010-0001046
  - (iii) County: San Francisco

8. I declare under penalty of perjury under the laws of the State of California and under the laws of the United States Of America that the foregoing is true and correct.  
 Date: Fri, Feb. 14, 2014

*Tony Lowe*  
 \_\_\_\_\_  
 (Tony Lowe)

**ATTACHMENT A**

**DEFINITIONS**

1. The terms “Plaintiff” or “Callwave” refer to Callwave Communications, LLC, including any of its past and present affiliates, operating divisions, parent corporations, subsidiaries, directors, officers, agents, employees, representatives, and all Persons acting on its behalf.
2. The terms “Defendant” or “Defendants” mean Google, Inc., AT&T Mobility, LLC, Sprint Nextel Corp., T-Mobile USA Inc., Verizon Communication, Inc. Cellco Partnership, d.b.a. Verizon Wireless, Blackberry Corp., and Blackberry Ltd., on an individual basis, and includes any and all affiliates, divisions, successors, predecessors, agents, employees, representatives, directors, officers, trustees, and attorneys, or any other Person or entity acting on behalf of the foregoing, directly or indirectly.
3. The terms “You”, or “Your” mean WaveMarket, Inc. d/b/a LocationLabs, and includes any and all affiliates, divisions, successors, predecessors, agents, employees, representatives, directors, officers, trustees, and attorneys, or any other Person or entity acting on behalf of the foregoing, directly or indirectly.
4. The term “’970 Patent” refers to U.S. Patent No. 6,771,970.
5. The term “Patent-in-Suit” refers to the ’970 Patent.
6. The term “Prior Art” means all categories of prior art that may be applied under 35 U.S.C. §102 or §103.
7. The term “Litigation” means, either individually or collectively, the cases filed in the Federal District Court for the District of Delaware with the following docket numbers: 12-cv-1701, 12-cv-1702, 12-cv-1703, 12-cv-1704, and 12-cv-1788.

8. The term “Accused Product(s)” means Google’s location services, including but not limited to Google Maps, Google Latitude, and Google Mobile Search, AT&T Family Map, Sprint Family Locator, T-Mobile Family Where, T-Mobile MobiControl, Verizon Family Location, BlackBerry Maps, and/or BlackBerry Protect, and any related or substantially similar product or service made, used, offered for sale, sold and/or imported into the United States by a Defendant.

9. The term “Your Product(s)” means the WaveMarket Locator product, any private label or branded versions of the Wave Market Locator, any component thereof, and any related or substantially similar product or service made, used, offered for sale, sold and/or imported into the United States.

10. The term “Person” refers both to natural Persons and entities including individual proprietorships, partnerships, corporations, associations, joint ventures and other organizations, and the acts and knowledge of a Person include the acts and knowledge of that Person’s directors, officers, members, employees, representatives, agents, and attorneys.

11. The term “Document(s)” means Documents and tangible things, including electronically stored information, and includes the full scope of the definition of such term as provided by the Federal Rules of Civil Procedure.

12. The term “Communication” includes, without limitation, every manner or means of statement, utterance, notation, disclaimer, transfer, or exchange of information of any nature whatsoever, by or to whomever, whether oral or written or whether face to face, by telephone, mail, e-mail, personal delivery or otherwise, including by not limited to letters, correspondence, conversations, memoranda, e-mail, dialogue, discussions, meetings, interviews, consultations, agreements, and other understandings.

13. “Technical Document(s)” or “Technical Documentation” means Document(s), including Documents from third parties in Your possession, custody, or control, describing and/or identifying the design, structure, layout, development, function, implementation, and/or operation of the Accused Products. Technical Document(s) include, but are not limited to, software, Source Code, firmware, datasheets, digital or analog schematics, block diagrams, circuit diagrams, technical drawings, testing and verification procedures or manuals, layouts, layout specifications, computer aided design (“CAD”) Documents, design and/or functional specifications, process designs, software interface specifications, software specifications, software architecture Documents, software development kits (SDKs), white papers, testing Documents, performance optimization and/or tuning Documents, tutorials, presentations, hardware and/or firmware specifications, hardware and/or firmware architecture Documents, reference designs, technical reference manuals, engineering specifications, requirements specifications, maintenance manuals, user installation or operation manuals, installation or operation manuals, third-party APIs and interfaces, development and/or technology presentations for internal use, investors, customers, or suppliers, white papers, case studies, and functional specifications.

14. The term “Source Code” means human-readable programming language text that defines software, firmware (collectively “Software Source Code”) and/or integrated circuits (“Hardware Source Code”). Source Code further includes the text of any comments associated with any of the foregoing, any files containing any of the foregoing, and all directory and folder structures in which such files are maintained. Software Source Code includes, but is not limited to, any text written in any high-level programming language defining firmware and/or software functionalities implemented on an integrated circuit, files containing text written in C, C++, C#,

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