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7 Attorney for  
8 ECLIPSE AVIATION CORPORATION

FILED Santa Clara Co  
04/14/08 1:59pm  
Kiri Torre  
Chief Executive Offic  
By: bettyc DTSCIV0101  
R#200800038064  
OK \$320.00  
TL \$320.00  
Case: 1-08-CV-110380

9 SUPERIOR COURT OF CALIFORNIA  
10 SANTA CLARA COUNTY  
11 UNLIMITED JURISDICTION

12 ECLIPSE AVIATION CORPORATION, a  
13 Delaware corporation,

14 Plaintiff,

15 vs.

16 JOHN DOE; JANE DOE; and various other  
17 unknown individuals designated VARIOUS  
18 DOES, and DOES 1 through 500

19 Defendants.

Case No.: **108CV 110380**

DECLARATION OF ANGELA F. STOREY  
IN SUPPORT OF ORDER TO ISSUE  
SUBPOENA IN CALIFORNIA FOR  
ACTION OUTSIDE STATE

C.C.P. §2029.010

20 I, ANGELA F. STOREY, declare as follows:

21 1. I am an attorney at law licensed to practice before this Court and am an attorney  
22 with the law firm of Miller, Morton, Caillat & Nevis, LLP, attorneys for ECLIPSE  
23 AVIATION CORPORATION (hereinafter "ECLIPSE"), the Plaintiff in the above-entitled  
24 action, and I have personal knowledge of the facts stated herein and if called as a witness,  
25 will be able to testify competently to such facts, except as to those alleged on information  
26 and belief, and as to those facts, I believe them to be true.

27 2. ECLIPSE has filed a lawsuit in the Second Judicial District Court, County of  
28 Bernalillo in the State of New Mexico, Case Number CV 2008 02624.

//

MILLER, MORTON, CAILLAT & NEVIS, LLP  
25 Metro Drive, 7<sup>th</sup> Floor  
San Jose, CA 95110



SECOND JUDICIAL DISTRICT COURT  
COUNTY OF BERNALILLO  
STATE OF NEW MEXICO

ENDORSED  
FILED IN MY OFFICE THIS

APR 10 2008

*Juanita M. Duan*  
CLERK DISTRICT COURT

KENDRA GOERS

ECLIPSE AVIATION CORPORATION,  
a Delaware corporation,

Plaintiff,

vs.

Case No. CV 2008 02624

JOHN DOE; JANE DOE;  
And various other unknown individuals designated  
VARIOUS DOES,

Defendants.

**COMMISSION TO ISSUE AND/OR OBTAIN SUBPOENA IN CALIFORNIA**

This matter came before the Court on Eclipse Aviation Corporation's ("Eclipse's") Motion For Commission to Issue and/or Obtain Subpoena in California (the "Motion") and the Court, being duly advised in the premises,

HEREBY FINDS that the Motion is well taken and should be granted;

THE COURT FURTHER FINDS that Google, Inc., Google Blogspot, and/or affiliates thereof (together "Google") may have information that is relevant to the action current pending in this Court between Eclipse and John Doe, et al.;

THE COURT FURTHER FINDS that Google has refused to comply with a subpoena issued in this action, a copy of which is attached hereto as Exhibit A (the "New Mexico Subpoena"), and insists that it will only respond to a subpoena issued by the Superior Court of California, County of Santa Clara;

IT IS THEREFORE ORDERED, that in confidence of your prudence and fidelity, the Court appoints Eclipse (acting through its California counsel, Miller, Morton, Caillat & Nevis, LLP, 25 Metro Drive, 7th Floor, San Jose, California 95110), to issue and/or request the issuance

EXHIBIT A

of a subpoena from the Superior Court of California, County of Santa Clara, in accordance with the law and practice of said court, in the general form and with the general content of the New Mexico Subpoena.

IT IS FURTHER ORDERED that this Commission will expire three months from the date hereof.

**LINDA M. VANZI**

Hon. Linda M. Vanzi, Second Judicial District Court Judge

Submitted and approved:

JACOBVITZ, THUMA & WALKER  
a Professional Corporation

By: \_\_\_\_\_

Robert H. Jacobvitz

David T. Thuma

500 Marquette Ave. N.W., Suite 650

Albuquerque, NM 87102

(505) 766-9272

Attorneys for Eclipse Aviation Corporation

FOR COURT USE ONLY

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Angela F. Storey, Esq. (State Bar # 217942)

Miller, Morton, Caillat & Nevis, LLP

25 Metro Drive, 7th Floor

San Jose, CA 95110

TELEPHONE NO.: (408) 292-1765 FAX NO. (Optional): (408) 436-8272

E-MAIL ADDRESS (Optional):

ATTORNEY FOR (Name): Plaintiff Eclipse Aviation Corporation

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA

STREET ADDRESS: 191 North First Street

MAILING ADDRESS:

CITY AND ZIP CODE: San Jose, CA 95113

BRANCH NAME:

PLAINTIFF/PETITIONER: Eclipse Aviation Corporation

DEFENDANT/RESPONDENT: John Doe; Jane Doe; et al.

DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

CASE NUMBER:

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of deponent, if known): Google Legal Support, Blogger CMCA Complaints

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To (name of deposition officer): Angela F. Storey, Esq., Miller, Morton, Caillat & Nevis, LLP

On (date): May 14, 2008

At (time): 10:00 a.m.

Location (address): 25 Metro Drive, 7th Floor, San Jose, CA 95110

Do not release the requested records to the deposition officer prior to the date and time stated above.

- a. [X] by delivering a true, legible, and durable copy of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.
b. [ ] by delivering a true, legible, and durable copy of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).
c. [ ] by making the original business records described in item 3 available for inspection at your business address by the attorney's representative and permitting copying at your business address under reasonable conditions during normal business hours.

2. The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.

3. The records to be produced are described as follows: See Attachment 3

[X] Continued on Attachment 3.

4. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: April \_\_\_\_, 2008

(TYPE OR PRINT NAME)

(SIGNATURE OF PERSON ISSUING SUBPOENA)

Clerk of the Santa Clara County Superior Court

(Proof of service on reverse)

(TITLE)

DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

ATTACHMENT 3

Subscriber, Poster, or Member information and details from the Web Log  
(BLOG) account of ECLIPSE AVIATION CRITIC NG  
([HTTP://WWW.ECLIPSECRITICNG.BLOGSPOT.COM/](http://www.eclipsecriticng.blogspot.com/)) for the individual or individuals  
using the posting identity/identities of:

TURN-AND-BURN  
COLDWETMACKARELOFREality  
NINER ZULU  
BLACKTULIP  
FLIGHTCENTERGADFLY  
AIRTAXIMAN  
FLIGHTGUY  
ECLIPSO  
RINGTAIL  
METALGUY  
TURBOPROP\_PILOT  
BRICKLINNG  
FREEDOMSJAMTARTS  
EXEAC  
EASYBAKEPLANE  
PLUMER  
VOVA\_K  
AIRSAFETYMAN  
CARLOS  
FRED  
BILL E.GOAT  
MOUNTAINHIGH  
PLASTIC\_PLANES  
AGROTH  
EXPILOT  
THE REAL FRANK CASTLE  
WHYTECH  
ISPACE

including, but not limited to: first name, last name, zip code, and email address given when  
registering the account and also any and all records pertaining to user login information  
including, but not limited to: all remote IP addresses with corresponding dates and times logged  
by your system on each occurrence of the account being accessed, and remote IP address, date  
and time logged by your system when the account was created and all other information  
pertaining to the account in the custody of Google, Inc. and/or Blogger.com.