

PLAINTIFF/PETITIONER: EAGLE BROADBAND, INC.	CASE NUMBER: 1-05-CV-050179
DEFENDANT/RESPONDENT: DOES 1 through 25, inclusive	

**PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR
PRODUCTION OF BUSINESS RECORDS**

1. I served this *Deposition Subpoena for Production of Business Records* by personally delivering a copy to the person served as follows:

- a. Person served (*name*):
- b. Address where served:
- c. Date of delivery:
- d. Time of delivery:
- e. (1) Witness fees were paid.
Amount: \$ _____
- (2) Copying fees were paid.
Amount: \$ _____
- f. Fee for service: \$ _____

2. I received this subpoena for service on (*date*):

3. Person serving:

- a. Not a registered California process server.
- b. California sheriff or marshal.
- c. Registered California process server.
- d. Employee or independent contractor of a registered California process server.
- e. Exempt from registration under Business and Professions Code section 22350(b).
- f. Registered professional photocopier.
- g. Exempt from registration under Business and Professions Code section 22451.
- h. Name, address, telephone number, and, if applicable, county of registration and number:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct.

Date:

▶ _____
(SIGNATURE)

▶ _____
(SIGNATURE)

ATTACHMENT 3 TO DEPOSITION SUBPOENA TO YAHOO!

INSTRUCTIONS

A. Unless otherwise noted, this subpoena requires the production of documents or tangible things that were prepared, created, written, sent, dated or received at any time until the present.

B. In producing documents or tangible things pursuant to these demands, please identify the following:

1. the paragraphs or subparts of the demand to which each document or tangible thing corresponds; and
2. the location from Yahoo!'s files which the document or tangible thing was produced, including address, file, drawer, or cabinet name and number.

C. If you withhold any documents or tangible things under a claim of privilege, furnish with your response the statement required by Code of Civil Procedure § 2031.240(b), identifying each document or tangible thing for which privilege is claimed, including the following information:

1. the date, sender, recipient, and subject matter of the document or tangible thing;
2. the basis upon which privilege is claimed; and
3. the paragraphs or subparts of the demand to which the document or tangible thing corresponds.

D. If any document or tangible thing described in a demand was, but no longer is, in Yahoo!'s possession, custody or control, provide the statement required by Code of Civil Procedure § 2031.240(b).

E. As used herein, the singular shall always include the plural and the present tense shall also include the past tense.

DEFINITIONS

The following terms as used herein have the following meanings:

A. "EAGLE BROADBAND," means plaintiff Eagle Broadband and any of its predecessors, successors, assigns, agents, employees, officers, former employees, former officers, directors, affiliates, partners, subsidiaries, parent corporations, attorneys or other persons or entities acting on its behalf.

B. "YAHOO!" means third party Yahoo!, Inc., any of its predecessors, successors, assigns, agents, employees, officers, former employees, former officers, directors, affiliates, partners, subsidiaries, parent corporations, attorneys or other persons or entities acting on its behalf.

C. "DOCUMENTS" means any "writing", including "hard copy" or electronic form, as defined by Evidence Code § 250, in Yahoo!'s possession, custody or control (including the original and all non-identical copies thereof), regardless of where located and including without limitation files, file folders, contracts, agreements, financial statements, drafts, ledger sheets or other accounting records, loan papers, inventory records, tape recordings, transcripts, drawings, correspondence, communications, reports, studies, summaries, indices, memoranda, calendar or diary entries, handwritten notes, working papers, minutes, agenda, bulletins, notices, announcements, instructions, charts, manuals, brochures, schedules, telegrams, teletypes, films, videotapes, photographs, microfilm or microfiche, letters, faxes, computer records, computer disks, magnetic tape, electronic mail, meta data, telephone voicemails, optical disks and any other means of recording and preserving words, data or information.

D. "COMMUNICATION" and "COMMUNICATIONS" includes any transfer of information, ideas, opinions or thoughts by any means, written, oral or otherwise, at any time or place under any circumstances and is not limited to transfers between persons but includes other transfers, such as records and memoranda to file, any written letter, memorandum, or other document which was sent by one or more individuals to another or others; any telephone call between one or more individual and another or others, whether or not such call was by chance or prearranged, formal or informal; and any conversation or meeting between one or more individuals and another, whether or not such contact was by chance or prearranged, formal or informal.

E. "REFER" or "REFERRING" means evidencing, supporting, disproving, negating, refuting, including, constituting, memorializing, embodying, containing, identifying, stating, mentioning, describing, or in any other way referencing, no matter how small or insignificant the reference may be, and/or relevant to, either directly or indirectly, that subject.

F. "DOE 1" means the individual or entity with the YAHOO! username "advanced_headlines."

G. "DOE 2" means the individual or entity with the YAHOO! username "team_3339."

H. "DOE 3" means the individual or entity with the YAHOO! username "upanddown100."

I. "DOE 4" means the individual or entity with the YAHOO! username "richwill21."

J. "DOE 5" means the individual or entity with the YAHOO! username "benderanddundat."

K. "DOE 6" means the individual or entity with the YAHOO! username "phil_phd2003."

L. "DOE 7" means the individual or entity with the YAHOO! username "bubba2o."

M. "DEFENDANTS" collectively means those individuals and/or entities using the YAHOO! usernames defined above and are otherwise identified in the Complaint as DOES 1 – DOES 7.

N. "COMPLAINT" means the lawsuit filed on October 5, 2005 by Eagle Broadband against DOES 1-25 in Santa Clara Superior Court.

REQUESTS FOR PRODUCTION

REQUEST NO. 1:

All DOCUMENTS sufficient to reflect all of the DEFENDANTS personally identifiable YAHOO! User information, including, but not limited to, the DEFENDANTS' true names, alternate e-mail addresses, telephone numbers, birth dates, gender, zip code, occupation and industry.

REQUEST NO. 2:

All DOCUMENTS sufficient to reflect the DEFENDANTS' alternative YAHOO! Usernames, Profiles and/or Yahoo! User IDs.

REQUEST NO. 3:

All DOCUMENTS sufficient to identify the DEFENDANTS' computer internet protocol addresses.

REQUEST NO. 4:

All DOCUMENTS REFFERING to any complaints made to YAHOO! about the Communications or postings on YAHOO! by the DEFENDANTS or anyone referring to EAGLE BROADBAND.

REQUEST NO. 5:

A copy of DEFENDANTS' YAHOO! ID Cards.

REQUEST NO. 6:

All DOCUMENTS REFERRING to any wallet, email, personals, groups, finance, classifieds, calendar, auctions, or address book activities on YAHOO! sufficient to identify DEFENDANTS' true identities and contact information.