

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

NETSPHERE, INC.,	§
MANILA INDUSTRIES, INC., and	§
MUNISH KRISHAN,	§
Plaintiffs.	§
	§ Civil Action No. 3-09CV0988-F
v.	§
	§ Motion for Expedited Relief
JEFFREY BARON, and	§
ONDOVA LIMITED COMPANY,	§
Defendants.	§

**MOTION FOR LEAVE TO FILE: EXPEDITED MOTION TO COMPEL  
PETER VOGEL TO PRODUCE RECORDS OF TWO E-MAILS**

TO THE HONORABLE JUDGE ROYAL FURGESON:

COMES NOW JEFF BARON, and moves this Court to grant leave to file the following expedited motion to compel Peter Vogel to produce records of two e-mails. The records have been subpoenaed from the receiver, but he has refused to produce them. (See Exhibit A).

**A. BACKGROUND**

The background of this motion is as follows:

The receiver represented to this Court that they did not circulate a conference number to Jeff. The receiver represented that Jeff got the number (supposedly via a conspiracy with Harbin) and called uninvited to the conference call in a “despicable” effort to threaten and harass. Then, the undersigned counsel produced two e-mails proving that the receiver's story was a fabrication. The e-mails proved that the receiver (1) had directed Jeff first on March 30, 2010 to call the phone conference to be held on

April 1st, and then (2) again on April 1st directed Jeff to call a new number for the conference.

The receiver is an official of the Court. Accordingly, **a receiver who makes false representations to the Court has lost all legitimacy as a receiver.** Further, if a receiver falsely represents the facts in carrying out the official business of the Court, the integrity of the Court is itself threatened. The matter is relevant and serious.

At this point the receiver has been confronted with the evidence against them, and has had the full opportunity to investigate and formulate their response. The receiver has filed a least two 'explanations' (one under seal) digging in as to their position.

The evidence and the receiver's explanation do not reconcile. On one side is the evidence. The evidence includes an e-mail sent from the receiver on **March 30, 2011** directing Jeff to call a conference call on April 1st. There is no ambiguity. The e-mail was clearly sent on March 30. On the other side is the receiver, who insists that “what actually happened” was that on April 1st a conference number was circulated and Mr. Baron was “inadvertently included”. The timing clearly does not line up. Someone is not telling the truth— if the e-mails are authentic, the receiver has been caught in a pattern of false representations to this Court.

Notably, there is no confusion over the date of the first e-mail evidence. The e-mail clearly states it was received March 30th. The receiver has been requested to produce the e-mail log for the dalexht2 Gardere e-mail server (that appears in the e-mail’s “fingerprint”) for March 30, 2011. **The receiver has refused.**

The receiver has steadfastly denied the timing of the first e-mail and steadfastly denies sending the second email. Yet, the receiver offers no credible explanation for the e-mail evidence. When asked to produce copies of the two e-mails and the server logs for the two dates on which the e-mails were sent, **the receiver has refused.**

If the e-mails are authentic, the receiver has been caught not telling the truth. In the face of the email evidence, the receiver's response has been to insist more fervently in the 'truth' of their position: 'We swear, we didn't send that email.' As for explaining the black and white evidence that they did, the receiver can only offer us a "Mystery" (the receiver's own words). While they seem to deny the authenticity of the e-mail, the receiver speculates that maybe 'The computer went and sent the second email to Jeff all by itself.' (the receiver's own explanation).

Peter Vogel and his firm put themselves forth as experts on computer technology, the forensics of electronic discovery, and the like. Yet, the best explanation the receiver has to offer for the email evidence proving that they misrepresented the truth to the Court is that it is a "Mystery". Anyone who has used a computer understands that there is a sent mail box. The receiver noticeably failed to mention whether they have a copy of the 'mystery' e-mail in their sent mail box.

The receiver clearly did not understand that their E-mail has fingerprints. Specifically, the receiver's e-mail has both a thread index, <AcvvChO6Zczmw3xlQPK2Qv1TKFaqkABgJY8g> and <AcvvChPDNJD+wBrwQiGLidYCi7IzIg==> and a unique message ID, <B984C59883B3594BA31144D0472BDF1C8024B9B5@dalexm

b2.Gardere.com> and <B984C59883B3594BA31144D0472BDF1C8024B94E@daleymb2.Gardere.com>.

These unique numbers will locate the e-mail within 10 seconds of effort by doing a search for them in the receiver's e-mail. These unique numbers will also be found in the receiver's e-mail server logs, showing information about the e-mail including when the e-mails were sent, from whom, and to whom. The receiver has been requested to produce those logs, and **the receiver has refused**. In the end, the receiver's attempt to hide the evidence will be futile. Google mail has a copy of Google's server logs, which, if necessary, will prove the authenticity of the e-mail exhibits including the date and origin of the e-mails. The receiver has been caught red handed, and in the end, there is no way out of the falsehoods they have put forth to this Court.

## **B. THE PRODUCTION REQUEST**

The receiver has been requested to produce a copy of the e-mail with Message-IDs <B984C59883B3594BA31144D0472BDF1C8024B9B5@daleymb2.Gardere.com> and <B984C59883B3594BA31144D0472BDF1C8024B94E@daleymb2.Gardere.com>. These are the two unique fingerprints of the two e-mails in question. These can be found easily by the date of the e-mails, or by a search based on the ID numbers. **The receiver has refused to produce the e-mails**.

The receiver was also requested to produce the e-mail threads to which those emails belong. Those threads will show the exact sequencing of the e-mails within the thread. Each thread covers the same topic, so that no information beyond the subject of

the e-mails and proof of their authenticity would be disclosed by such a production. The receiver has refused to produce the e-mail threads.

The receiver was requested to produce the logs of its e-mail sending program, which tracks by Message-ID who sent each email, when, to whom (what IP and server) the e-mail message was delivered. The logs would provide a list of Message-ID numbers and technical information about the sending of those messages. The logs are useless for discovering information about the content of any e-mail unless someone is in possession of a specific email and can track the Message-ID in the log. That is the case here. The logs themselves reveal no confidential information or the contents of any correspondence. However, the logs' checksum information can be used to establish the authenticity of any particular e-mail if that e-mail is also available. The log file is readily available and can be copied by a server technician in less than three minutes of effort. **The receiver has refused to produce the e-mail server logs.**

### C. THE RECEIVER'S PATTERN OF FABRICATION

The receiver filed a motion with the court affirmatively representing they did not set up Mr. Baron to join the conference call, and he did so as part of a pattern of intimidation. The receiver used the words "scare" and "intimidate" almost a dozen times in their motion to discredit Mr. Baron and his counsel. The e-mail evidence is significant because it proves (1) Mr. Baron was set up by the receiver—the call was placed because the receiver made repeated efforts for Mr. Baron to place the call and (2) the receiver has made repeated untrue representations to this Court. When confronted with the hard evidence, the best the receiver could come up with is an entrenched denial. The

receiver implies that the email evidence is fake. When requested to produce the e-mail, the logs of the specific e-mail fingerprints, etc., the receiver has stonewalled and refused to produce.

This incident is part of a pattern of fabrication on the part of the receiver. For example, the receiver came up with the accusation against the undersigned counsel of calling the Court a nazi officer. The receiver in multiple filings repeatedly made that accusation to this Court. As another example, the receiver fabricated a claim that Mr. Baron created and controls the Cook Islands manager of the LLC companies (CMDS). The receiver just made up that claim out of thin air and falsely represented the receiver's fabricated 'fact' to the Court.

Here, once again, the receiver has continued that same pattern: fabrication combined with the characterization of facts stretched beyond the point of legitimacy. This includes also the following:

(1) The receiver's characterization as a "threat and intimidation" an email sent to Ms. Schurig clarifying that Mr. Baron was not authorizing waiver of attorney-client privilege. The text of the e-mail sent by Ms. Schurig, does not match the recitations of the receiver of 'threat and intimidation'.

(2) The receiver's representation that Jeff sent an email "threatening them not to provide the Receiver with privileged information". The evidence discredits the receiver's representation. Jeff never told anyone not to provide information, and he never threatened anyone with anything. The only thing Jeff has ever done was, through his counsel, to state his position on the key issues— in

response to written requests inquiring as to his position – and to notify those holding his privilege that he was not authorizing waiver of that privilege. **Not only was there no threat, no position was expressed as to the attorney’s obligations.**

(3) The receiver’s representation that Jeff accused “Ms. Schurig of stealing \$2 million from Mr. Baron [Docket No. 337] (“Felony Threat”)”. Again the receiver is fabricating accusations. Jeff took no position as to culpability or the cause of the missing funds.

#### **D. THE RELIEF REQUESTED**

Jeff Baron moves jointly and in the alternative for the Court to order the receiver to immediately:

- (1) Produce copies of the emails with the message-id’s <B984C59883B3594BA31144D0472BDF1C8024B9B5@dalexm b2.Gardere.com> and <B984C59883B3594BA31144D0472BDF1C80 24B94E@daleymb2.Gardere.com>;
- (2) produce the receiver’s e-mail server logs for two specific days: March 30, 2011 and April 1, 2011, specifically the logs of dalexht1.Gardere.com and dalexmb2.Gardere.com for April 1 and dalexht2.Gardere.com for March 30.
- (3) produce a copy of all emails, and all server logs containing the email Thread Indexes <AcvvCh06Zczmw3xlQPK2Qv1TKFaqk ABgJY8g> or <AcvvChPDNJD+wBrwQiGLidYCi7IzIg==>;

and

- (4) produce the server logs containing the e-mail message-IDs:
- a. <B984C59883B3594BA31144D0472BDF1C8024B9B5@dale  
xmb2.Gardere.com> or
  - b. <B984C59883B3594BA31144D0472BDF1C8024B94E@dalexmb2  
.Gardere.com>.

Respectfully submitted,

/s/ Gary N. Schepps

Gary N. Schepps  
Texas State Bar No. 00791608  
5400 LBJ Freeway, Suite 1200  
Dallas, Texas 75240  
(214) 210-5940 - Telephone  
(214) 347-4031 - Facsimile  
E-mail: legal@schepps.net  
**COURT ORDERED TRIAL  
COUNSEL FOR JEFF BARON**

**CERTIFICATE OF SERVICE**

This is to certify that this brief was served this day on all parties who receive notification through the Court's electronic filing system.

**CERTIFICATE OF CONFERENCE**

This is to certify that I was unable to obtain the receiver's agreement to produce the requested documents.

CERTIFIED BY: /s/ Gary N. Schepps  
Gary N. Schepps





**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served via hand delivery on Mr. Gary Schepps on April 15, 2011.

/s/ Peter L. Loh  
Peter L. Loh

**A. BACKGROUND RELATING TO REQUESTS AND OBJECTIONS.**

On April 4, 2011, the Receiver filed *The Receiver's Motion to Compel Information for Preparation of Tax Filings and Request for Expedited Relief* (the "Motion to Compel"). [Docket No. 431.] In the Motion to Compel, the Receiver advised the Court that the Receiver lacks certain key information necessary to complete the Baron Form 7004s, and that the only person who appeared to have that information (other than Mr. Baron, himself) was one of Mr. Baron's former attorneys, Elizabeth Schurig (and possibly other members of her law firm). [Docket No. 431.] However, Ms. Schurig was refusing to assist the Receiver until the Court issued an order requiring her assistance and thus, protecting her from a lawsuit or a grievance from Mr. Baron. Ms. Schurig took this position after Mr. Baron and his counsel performed four specific acts of intimidation:

- (1) On February 10, 2011, Mr. Baron's counsel sent an e-mail to former Baron attorneys threatening them not to provide the Receiver with privileged information [Docket No. 432, Ex. B] ("February 10 E-mail Threat");
- (2) On March 2, 2011, Mr. Baron filed a brief accusing Ms. Schurig of stealing \$2 million from Mr. Baron [Docket No. 337] ("Felony Threat");
- (3) On April 1, 2011, Mr. Baron's counsel sent an e-mail to Ms. Schurig threatening her not to provide the Receiver with the requested tax information [Docket No. 432, Ex. A] ("April 1 E-mail Threat"); and
- (4) Also on April 1, 2011, Mr. Baron's counsel appeared uninvited on a conference call with the Receiver's counsel and Ms. Schurig (the "April 1 Telephone Incident"). [Docket No. 431.]

In recent filings, Mr. Baron did not deny sending the February 10 E-mail Threat, making the Felony Threat, or sending the April 1 E-mail Threat. [Docket Nos. 440-41.] Instead, Mr. Baron only addressed the fourth tactic—the April 1 Telephone Incident. Mr. Baron claims that the Receiver invited Mr. Baron to participate in the calls. [Docket No. 440.] Here is what actually happened.

On April 1, 2011, the Receiver's counsel circulated a conference number via Microsoft Outlook to Ms. Schurig and others, and inadvertently included Mr. Baron (the "First Conference E-mail"). Mr. Baron, after receiving the First Conference E-mail, apparently shared it with his counsel, who then sent the Receiver an e-mail threatening the Receiver with ethical violations for communicating directly with Mr. Baron. [*Sealed Appendix in Support of the Receiver's Sealed Motion to Confirm Propriety Relating to Tax Filings and Request for Expedited Consideration* ("Appx." or "Appendix") at Exhibit A, Appx. 1-2.] The Receiver immediately responded to that e-mail by sending two e-mails to Mr. Baron's counsel. The first e-mail stated that the Receiver's counsel sent the First Conference E-mail to Mr. Baron inadvertently and in error, and that Mr. Baron should disregard it. [Exhibit B, Appx. 3-5.] The second e-mail went a step further, asserting that the First Conference E-mail was attorney work product and demanding through a clawback that Mr. Baron and his counsel return or delete the First Conference E-mail. [Exhibit C, Appx. 6-9.]

Next, the Receiver circulated a new conference number to Ms. Schurig and others—and specifically excluded Mr. Baron and his counsel (the "Second Conference E-mail"). [Exhibit D, Appx. 10-11.] Although the Receiver did not send Mr. Baron or his counsel the Second Conference E-mail, Mr. Baron's counsel, nevertheless, appeared uninvited on the call. [Docket No. 431.] Mr. Baron alleges that, in an attempt to "set up" Mr. Baron, the Receiver's counsel

actually sent a third conference e-mail—this one only to Mr. Baron (the “Mystery E-mail”). [Docket No. 440, Ex. E.] While the Receiver’s counsel cannot dismiss the possibility that something in Outlook caused the Receiver’s counsel’s computer to spontaneously and automatically send Mr. Baron the Mystery E-mail without the Receiver’s counsel’s knowledge or intention, the Receiver’s counsel can state the following for a certainty:

- (1) He did not create or intentionally cause to be created the Mystery E-mail;
- (2) He did not intentionally send or cause to be sent to Mr. Baron the Mystery E-mail; and
- (3) He was absolutely unaware of the possibility of the transmission of any kind of message to Mr. Baron until the allegation concerning the Mystery E-Mail arose and, in fact, saw the Mystery E-Mail for the first time in Mr. Baron’s *Motion for Leave to File: Motion to Stay Order to Disclose Attorney-Client Materials*. [Id.]

(collectively, the “Receiver’s Counsel’s Statement”).

The Court granted the Motion to Compel. [Docket No. 435], and the Receiver interviewed Ms. Schurig and obtained what relevant information she possessed. Unfortunately, after speaking with Ms. Schurig, the Receiver realized that essential tax information regarding Mr. Baron and other Receivership Parties is still highly deficient. Apparently, the only person who could fill in the blanks is Mr. Baron himself, and the Receiver doubts that Mr. Baron’s cooperation is forthcoming. Thus, on April 11, 2011, the Receiver filed *The Receiver’s Motion to Confirm Propriety Relating to Tax Filings and Request for Expedited Consideration* (“Motion to Confirm”) in which the Receiver advises the Court that assuming that Mr. Baron does not provide this information, and based on tax advice of an accounting firm, the Receiver intends not to make filings after all (rather than guess and make incorrect tax filings). Through the Motion to Confirm, the Receiver seeks an Order of this Court confirming the Court’s assent. As of today, April 15, 2011, the Court has not ruled on the Motion to Confirm.

**B. GENERAL OBJECTIONS.**

The following objections apply to all of the document requests in the subpoena.

**1. GENERAL OBJECTIONS AS TO RELEVANCY AND HARASSING IN NATURE.**

On April 15, 2011, Mr. Baron sent a .pdf to the Receiver, attached hereto as Exhibit A. The .pdf (for which the Receiver's counsel agreed to accept service on the Receiver's behalf) did not contain the missing information. Instead, it contained a subpoena to the Receiver demanding that he produce documents. The requests appear to be geared solely documents relating to the Receiver's Counsel's Statement. These requests are irrelevant for at least two reasons. First, even if the April 1 Telephone Incident was not something Mr. Baron or his counsel did for the purpose of intimidating with Mr. Schurig's assistance. Second, the Receiver already interviewed Ms. Schurig and made the decision not to make the tax filings. Thus, the April 1 Telephone Incident bears little relevancy anymore. Clearly, the point of the subpoena is to harass the Receiver. The Receiver generally objects to all of the requests as irrelevant and harrasing.

**2. GENERAL OBJECTIONS AS TO UNDUE BURDEN AND HARASSING IN NATURE.**

The Court has repeatedly advised the Receiver to minimize expenses, the most recent of which occurred in an order dated April 1, 2011: "As previously stated the Court is seriously concerned about the cost of this Receivership and again encourages the Receiver to minimize expenses in every way possible." [Docket No. 427.] Based on the Court's requests that the Receiver minimize its expenses, the Receiver views responding to the document requests (collecting documents, reviewing documents, producing documents, creating privilege logs, etc.) to be unduly burdensome. This is especially the case since the document requests appear to require the Receiver to determine how to obtain e-mail and server logs of the Gardere Wynne Sewell LLP law firm—documents that are not readily obtainable, that are voluminous, and that

will necessarily require a massive and time-intensive privilege log. The Receiver generally objects to all of the requests as unduly burdensome and harassing in nature.

**3. GENERAL OBJECTIONS AS TO PRODUCTION DATE AND HARASSMENT.**

Federal Rule of Civil Procedure 34(b)(2)(A) provides that absent a court order to the contrary, the party responding to document requests is permitted 30 days for his response. Baron served the subpoena on the afternoon of Friday, April 15, 2011, with a demand for production by 2:00 p.m. on the very next business day, April 18, 2011. Thus, the document requests do not permit the Receiver with the requisite time prescribed under the Federal Rules and, giving the Receiver a single business day to comply is facially harassing. The Receiver generally objects to all of the requests based on the production date and as harassing.

**4. GENERAL OBJECTIONS AS TO PRIVILEGE AND CONFIDENTIALITY.**

Each of the document requests appears to seek the disclosure of information or material protected from disclosure under, without limitation, the attorney-client privilege, the work product doctrine, or any other statutory or common-law privilege, prohibition, limitation, or immunity from disclosure. The requests also appear to seek documents that contain confidential, commercial, proprietary, and/or trade secret information. The Receiver generally objects to producing privileged or confidential documents.

**5. GENERAL OBJECTIONS AS TO VAGUENESS, AMBIGUITY, AND CONFUSION.**

The Receiver generally objects to the document requests because they are all so vague, ambiguous, and confusing as not to be susceptible to a reasoned interpretation or response and would require the Receiver to ponder, speculate, or subjectively determine what information may, or may not, be responsive.

**D. SPECIFIC OBJECTIONS.**

**REQUEST NUMBER 1:**

**A copy of all emails, and all server logs containing the email Thread Indexes <AcvvChO6Zczmw3xlQPK2Qv1TKFaqqABgJY8g> and <AcvvChPDNJD+wBrwQiGLidYCi7IzIg==>.**

**RESPONSE AND OBJECTION:**

In addition to the General Objections set forth above, which the Receiver incorporates into these objections by reference, the Receiver objects to this document request because it requests information that is neither relevant to the subject matter of the above-captioned action nor reasonably calculated to lead to the discovery of admissible evidence therein. The Receiver further objects to the request as overbroad and unduly burdensome. The Receiver further objects to producing documents prior to the time permitted in the Federal Rules of Civil Procedure. The Receiver further objects because the request seeks the disclosure of information or material protected from disclosure under, without limitation, the attorney-client privilege, the work product doctrine, or any other statutory or common-law privilege, prohibition, limitation, or immunity from disclosure, as well as confidential, commercial, proprietary, and/or trade secret information. The Receiver further objects to the document requests because it is so vague, ambiguous, or confusing as not to be susceptible to a reasoned interpretation or response and would require the Receiver to ponder, speculate, or subjectively determine what information may, or may not, be responsive. The Receiver objects because the request is harassing.

**REQUEST NUMBER 2:**

**A copy of all emails, and all server logs containing the email Message-ID <B984C59883B3594BA31144D0472BDF1C8024B9B5@daleymb2.Gardere.com>.**

**RESPONSE AND OBJECTION:**

In addition to the General Objections set forth above, which the Receiver incorporates into these objections by reference, the Receiver objects to this document request because it requests information that is neither relevant to the subject matter of the above-captioned action nor reasonably calculated to lead to the discovery of admissible evidence therein. The Receiver further objects to the request as overbroad and unduly burdensome. The Receiver further objects to producing documents prior to the time permitted in the Federal Rules of Civil Procedure. The Receiver further objects because the request seeks the disclosure of information or material protected from disclosure under, without limitation, the attorney-client privilege, the work product doctrine, or any other statutory or common-law privilege, prohibition, limitation, or immunity from disclosure, as well as confidential, commercial, proprietary, and/or trade secret information. The Receiver further objects to the document requests because it is so vague, ambiguous, or confusing as not to be susceptible to a reasoned interpretation or response and would require the Receiver to ponder, speculate, or subjectively determine what information may, or may not, be responsive. The Receiver objects because the request is harassing.



**REQUEST NUMBER 4 [sic]:**

**A copy of all emails, and all server logs containing the email Message-ID <B984C59883B3594BA31144D0472BDF1C8024B94E@daleymb2.Gardere.com>.**

**RESPONSE AND OBJECTION:**

In addition to the General Objections set forth above, which the Receiver incorporates into these objections by reference, the Receiver objects to this document request because it requests information that is neither relevant to the subject matter of the above-captioned action nor reasonably calculated to lead to the discovery of admissible evidence therein. The Receiver further objects to the request as overbroad and unduly burdensome. The Receiver further objects to producing documents prior to the time permitted in the Federal Rules of Civil Procedure. The Receiver further objects because the request seeks the disclosure of information or material protected from disclosure under, without limitation, the attorney-client privilege, the work product doctrine, or any other statutory or common-law privilege, prohibition, limitation, or immunity from disclosure, as well as confidential, commercial, proprietary, and/or trade secret information. The Receiver further objects to the document requests because it is so vague, ambiguous, or confusing as not to be susceptible to a reasoned interpretation or response and would require the Receiver to ponder, speculate, or subjectively determine what information may, or may not, be responsive. The Receiver objects because the request is harassing.

**REQUEST NUMBER 5 [sic]:**

**The complete email (mapi and smtp) logs of dalexmb2.Gardere.com for April 1, 2011.**

**RESPONSE AND OBJECTION:**

In addition to the General Objections set forth above, which the Receiver incorporates into these objections by reference, the Receiver objects to this document request because it requests information that is neither relevant to the subject matter of the above-captioned action nor reasonably calculated to lead to the discovery of admissible evidence therein. The Receiver further objects to the request as overbroad and unduly burdensome. The Receiver further objects to producing documents prior to the time permitted in the Federal Rules of Civil Procedure. The Receiver further objects because the request seeks the disclosure of information or material protected from disclosure under, without limitation, the attorney-client privilege, the work product doctrine, or any other statutory or common-law privilege, prohibition, limitation, or immunity from disclosure, as well as confidential, commercial, proprietary, and/or trade secret information. The Receiver further objects to the document requests because it is so vague, ambiguous, or confusing as not to be susceptible to a reasoned interpretation or response and would require the Receiver to ponder, speculate, or subjectively determine what information may, or may not, be responsive. The Receiver objects because the request is harassing.

**REQUEST NUMBER 6 [sic]:**

**The complete email (mapi and smtp) logs of dalexht1.Gardere.com for April 1, 2011.**

**RESPONSE AND OBJECTION:**

In addition to the General Objections set forth above, which the Receiver incorporates into these objections by reference, the Receiver objects to this document request because it requests information that is neither relevant to the subject matter of the above-captioned action nor reasonably calculated to lead to the discovery of admissible evidence therein. The Receiver further objects to the request as overbroad and unduly burdensome. The Receiver further objects to producing documents prior to the time permitted in the Federal Rules of Civil Procedure. The Receiver further objects because the request seeks the disclosure of information or material protected from disclosure under, without limitation, the attorney-client privilege, the work product doctrine, or any other statutory or common-law privilege, prohibition, limitation, or immunity from disclosure, as well as confidential, commercial, proprietary, and/or trade secret information. The Receiver further objects to the document requests because it is so vague, ambiguous, or confusing as not to be susceptible to a reasoned interpretation or response and would require the Receiver to ponder, speculate, or subjectively determine what information may, or may not, be responsive. The Receiver objects because the request is harassing.

**REQUEST NUMBER 7 [sic]:**

**The complete email (mapi and smtp) logs of dalexht2.Gardere.com for March 30, 2011.**

**RESPONSE AND OBJECTION:**

In addition to the General Objections set forth above, which the Receiver incorporates into these objections by reference, the Receiver objects to this document request because it requests information that is neither relevant to the subject matter of the above-captioned action nor reasonably calculated to lead to the discovery of admissible evidence therein. The Receiver further objects to the request as overbroad and unduly burdensome. The Receiver further objects to producing documents prior to the time permitted in the Federal Rules of Civil Procedure. The Receiver further objects because the request seeks the disclosure of information or material protected from disclosure under, without limitation, the attorney-client privilege, the work product doctrine, or any other statutory or common-law privilege, prohibition, limitation, or immunity from disclosure, as well as confidential, commercial, proprietary, and/or trade secret information. The Receiver further objects to the document requests because it is so vague, ambiguous, or confusing as not to be susceptible to a reasoned interpretation or response and would require the Receiver to ponder, speculate, or subjectively determine what information may, or may not, be responsive. The Receiver objects because the request is harassing.

# EXHIBIT A

0AO88 (Rev. 1/94) Subpoena in a Civil Case

**Issued by the**  
**UNITED STATES DISTRICT COURT**  
 NORTHERN DISTRICT OF TEXAS

NETSPHERE, INC., ET AL  
 V.  
 JEFFREY BARON, ET AL

SUBPOENA IN A CIVIL CASE

Case Number:<sup>1</sup> 3-09CV0988-F

TO: **Peter Vogel**  
**1601 Elm Street, Suite 3000**  
**Dallas, Texas 75201**

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
---------------------	---------------

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

ALL ITEMS LISTED IN THE ATTACHED EXHIBIT "A"

PLACE: SCHEPPS LAW OFFICES , 5400 LBJ Freeway, Suite 1200, Dallas, Texas 75240	DATE AND TIME  April 18, 2011 at 2:00 pm
---	--

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)  /s/ Gary N. Schepps Attorney for Defendant Baron	DATE  April 15, 2011
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER Gary N. Schepps, (214) 210-5940 - Telephone 5400 LBJ Freeway, Suite 1200 Dallas, Texas 75240	

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

AO88 (Rev. 1/94) Subpoena in a Civil Case

PROOF OF SERVICE

DATE PLACE

SERVED

SERVED ON (PRINT NAME) MANNER OF SERVICE

SERVED BY (PRINT NAME) TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on \_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF SERVER

\_\_\_\_\_  
ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to comply production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance,
- (ii) requires a person who is not a party or an officer of a

party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in who behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand,

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

**EXHIBIT "A"**

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

1) A copy of all emails, and all server logs containing the email Thread Indexes <AcvvChO6Zczmw3xlQPK2Qv1TKFaqkABgJY8g> and <AcvvChPDNJD+wBrwQiGLidYCi7IzIg==>.

2) A copy of all emails, and all server logs containing the email Message-ID <B984C59883B3594BA31144D0472BDF1C8024B9B5@daleymb2.Gardere.com>.

4) A copy of all emails, and all server logs containing the email Message-ID <B984C59883B3594BA31144D0472BDF1C8024B94E@daleymb2.Gardere.com>.

5) The complete email (mapi and smtp) logs of daleymb2.Gardere.com for April 1, 2011.

6) The complete email (mapi and smtp) logs of dalexht1.Gardere.com for April 1, 2011.

7) The complete email (mapi and smtp) logs of dalexht2.Gardere.com for March 30, 2011.