

D-1-GN-13-004232

Cause No. \_\_\_\_\_

GENEVA MANAGEMENT GROUP (SWITZERLAND) S.A.,	§	IN THE DISTRICT COURT
	§	
<i>Petitioner,</i>	§	
	§	TRAVIS COUNTY, TEXAS
	§	
Seeking the Deposition of	§	201st
GOOGLE, INC.	§	_____ JUDICIAL DISTRICT

**VERIFIED PETITION OF GENEVA MANAGEMENT GROUP (SWITZERLAND)  
S.A. FOR AN ORDER AUTHORIZING THE TAKING OF A DEPOSITION ON  
ORAL EXAMINATION TO INVESTIGATE A POTENTIAL CLAIM**

TO THE HONORABLE COURT:

Pursuant to Rule 202 of the Texas Rules of Civil Procedure, Petitioner Geneva Management Group (Switzerland) S.A., which does business as GMG Wealth ("GMG") requests an Order authorizing the taking of the deposition on oral examination of Google, Inc. ("Google") to investigate a potential claim by GMG. In support of this request, GMG respectfully shows the Court as follows:

1. Google is a Delaware corporation registered to transact business in the State of Texas whose registered agent is Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company and whose registered office is 211 E. 7<sup>th</sup> Street, Suite 620, Austin, Travis County, Texas, 78701.
2. GMG seeks to investigate potential claims that it may have against an unknown person ("John Doe") who registered a domain name using a Google Mail account. GMG requests an order authorizing the deposition on oral examination of Google by and through its designated corporate representative.

3. GMG is a trust and corporate services company. GMG provides financial services related to trusts, formation of trusts, corporate services, management of trusts, accounting and corporate management. GMG owns and uses the domain GMGwealth.com.

4. A John Doe bought and registered the domain gmgwealth.net on November 2, 2012. As part of the identification information submitted to register and thereafter host the domain, the John Doe submitted the Google Mail address jayne.sharpe62@googlemail.com. The John Doe used the domain gmgwealth.net to email an employee of Osiris International Trustees Limited (“Osiris”), a fiduciary and managerial entity for GMG in the British Virgin Islands, under false pretenses, misrepresenting him or herself as a GMG employee and seeking confidential information relating to a client of GMG. (See Fraudulent Email, dated November 5, 2012, attached hereto as Exhibit A.)

5. GMG reported the fraudulent attack to the UK police (Fraud Attack department) on November 12, 2012 (crime reference number NFRC 121100355494).

6. GMG employed a digital forensic investigator to investigate the matter, who reviewed the *electronic header information* from the fraudulent email. The only lead the investigator was able to uncover as to the location and identity of the John Doe is that he or she submitted the name Jayne Sharpe, the telephone number 447092859665, the address 6 Bishopsgate, London, England EC2N 4DA, and the Google Mail address jayne.sharpe62@googlemail.com. The address was revealed to be fraudulent, and GMG has been unable to identify the John Doe simply on the basis of the name Jayne Sharpe and the telephone number 447092859665 after conducting a thorough search. Thus, Google is a potential source of further information regarding the identity of the John Doe.

7. GMG's undersigned counsel contacted Google on November 8, 2013, explained the fraudulent use of gmgwealth.net, and requested information concerning the Google Mail account. Google refused to provide GMG with any information regarding the Google Mail account without a third party subpoena or other appropriate legal process, which necessitated the filing of this Verified Petition. (See Google Legal Support Email, dated November 13, 2013, attached hereto as Exhibit B.)

8. GMG seeks to take the deposition of Google to assist GMG in determining the identity of the John Doe who sent the fraudulent email to the Osiris employee. *See Doe v. Haddock*, No. 2-06-402-CV, 2007 Tex. App. LEXIS 2532, at \*2 (Tex. App.—Fort Worth Mar. 29, 2007, no pet.) (denying appeal of order granting Rule 202 Petition to take deposition of internet hosting company Yahoo to discover identities of John Does using fictitious usernames online). GMG expects to elicit testimony from Google on the following subjects:

- (i) Any and all identifying information of the account holder for the Google Mail account jayne.sharpe62@googlemail.com, including but not limited to the following:
  - a. Names, addresses, telephone numbers, email addresses and other contact information for the account holder; and
  - b. Any information regarding the IP address(es) from which the account holder accessed the Google Mail account jayne.sharpe62@googlemail.com.

9. GMG is seeking very limited and precise information to identify, locate and trace the John Doe responsible for the fraudulent email. Assuming the cooperation of Google, the deposition will likely take no more than a few hours of time of a Google representative. The benefits to GMG of obtaining the deposition testimony outweigh the burden or expense of the procedure.

10. Unless the Court orders the deposition of Google, GMG will be unable to identify and locate the John Doe and will consequently be unable to prevent the future use of the domain

for fraudulent purposes.<sup>1</sup> Unless GMG is able to take the deposition of Google, there will be a delay of justice and likely a failure of justice, because GMG will be unable to investigate its potential claims against the wrongdoer.

11. Pursuant to Rule 202.3(a), GMG will serve, at least fifteen (15) days prior to the hearing on this Verified Petition, a copy of the Verified Petition and Notice of Hearing on the following: Google, Inc., a Delaware for-profit corporation whose phone number is 866-846-8765 and whose registered agent for service of process in Texas is Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, 211 E. 7<sup>th</sup> Street, Suite 620, Austin, TX 78701.

WHEREFORE, GMG prays that the Court set this matter for hearing and, upon such hearing, issue an Order authorizing GMG to take the deposition on oral examination of Google, with the time, place, and subjects of examination to be specified through a notice of deposition to be issued in accordance with the Texas Rules of Civil Procedure.

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<sup>1</sup> As of the date of this filing, the hosting service for the domain name gmgwealth.net has terminated the John Doe's hosting account. However, GMG does not know how long the domain name will remain inactive, and it could be reinstated at any time and used fraudulently again.

Respectfully submitted,



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## General Information

<b>Court</b>	Texas District Court, Travis County
<b>Docket Number</b>	D-1-GN-13-004232
<b>Status</b>	Open