IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

ALCATEL USA RESOURCES, INC. a Delaware Corporation, and ALCATEL INTERNETWORKING, INC., a California Corporation,	)	
Plaintiffs,	)	Civil Action No. 05-418-SLR
v.	)	(JURY TRIAL DEMANDED)
FOUNDRY NETWORKS, INC., a Delaware Corporation,	)	
Defendant.	)	

NOTICE OF SERVICE OF SUBPOENA

PLEASE TAKE NOTICE that, pursuant to Federal Rule of Civil Procedure 45, a subpoena, attached hereto as Exhibit 1, will be served on John M. May, Fulbright and Jaworski LLP, 865 S. Figueroa Street, 29th Floor, Los Angeles, CA 90017 c/o Niro, Scavone, Haller & Niro.

OF COUNSEL:

William L. Anthony
Matthew H. Poppe
Michael F. Heafey
Orrick, Herrington & Sutcliffe LLP
1000 Marsh Road
Menlo Park, California 94025
(650) 614-7400

(As to Count I of the Amended Complaint)\

Dated: September 18, 2006

750943

POTTER ANDERSON & CORROON LLP

By: /s/ Philip A. Rovner
Philip A. Rovner (#3215)

Hercules Plaza
P.O. Box 951
Wilmington, Delaware 19899-0951
(302) 984-6000
provner@potteranderson.com

Attorneys for Defendant/Counterclaimant Foundry Networks, Inc.

EXHIBIT 1

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

Issued by the

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ALCATEL USA RESOURCES, INC., et al.

V.

FOUNDRY NETWORKS, INC.

SUBPOENA IN A CIVIL CASE
U.S. District Court for the District of Delaware

Case Number: 05-418-SLR

TO: **John M. May, Esq.**
Fulbright and Jaworski LLP
865 S. Figueroa Street, 29th Floor
Los Angeles, CA 90017
c/o Niro, Scavone, Haller & Niro

☐ 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
Orrick, Herrington & Sutcliffe LLP 777 South Figueroa Street, Suite 3200 Los Angeles, CA 90017-5855	October 2, 2006 9:00 a.m.

☐ 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):

PLACE	DATE AND TIME

☐ 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)	DATE
Attorney for Defendant	September 15, 2006

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER
Siddhartha M Venkatesan (650) 614-7400
ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road, Menlo Park, CA 94025,

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

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

PROOF OF SERVICE

DATE TIME

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.

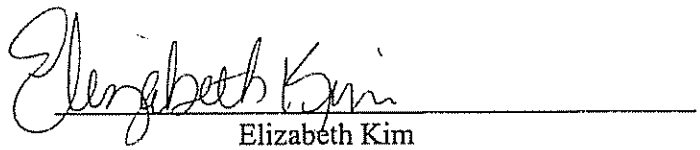
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ALCATEL USA RESOURCES, INC. a Delaware Corporation, and ALCATEL INTERNETWORKING, INC., a California Corporation,	)	
Plaintiffs,	)	Civil Action No. 05-418-SLR
v.	)	(JURY TRIAL DEMANDED)
FOUNDRY NETWORKS, INC., a Delaware Corporation,	)	
Defendant.	)	

CERTIFICATE OF SERVICE

I, Elizabeth Kim, hereby certifies that on September 18, 2006, a true and correct copy of a SUBPOENA IN A CIVIL CASE directed to John M. May, Esq., Fulbright & Jaworski LLP, 865 S. Figueroa Street, 29th Floor, Los Angeles, CA 90017 c/o Niro, Scavone, Haller & Niro was served on counsel representing the deponent, at the address and number and in the manner indicated: By Facsimile and Federal Express.

Sally Wiggins, Esq.
Timothy J. Haller, Esq.
Rob Greenspoon, Esq.
NIRO, SCAVONE, HALLER & NIRO
181 W. Madison Street, Suite 4600
Chicago, IL 60602
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Elizabeth Kim



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FAX TRANSMISSION

DATE September 18, 2006

NO. OF PAGES (INCLUDING COVER SHEET) 4

FROM

Name	tel
Sid Venkatesan	(650) 614-7456

TO

Name	company/firm	tel	Fax
Sally Wiggins, Esq. Timothy J. Haller, Esq. Robert Greenspoon, Esq.	Niro, Scavone, Haller & Niro	(312) 236-0738	(312) 236-3137

RE *Alcatel U.S.A. Resources, Inc. et al. v. Foundry Networks, Inc.*
U.S.D.C. Delaware, Civil Action No. 05-418-SLR

MESSAGE

Pursuant to your agreement to accept service on behalf of third party witness, John M. May, attached is a Subpoena in a Civil Case for the deposition of John M. May. The appearance fee and estimated mileage fee will be sent to you with the hard copies of the attached documents via Federal Express.

C-M-A 15903-8/7664 Original Will Follow

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL ELIZABETH KIM AT (650) 614-7409 AS SOON AS POSSIBLE.

notice to recipient
THE INFORMATION CONTAINED IN THIS FACSIMILE TRANSMISSION IS INTENDED TO BE SENT ONLY TO THE STATED ADDRESSEE OF THE TRANSMISSION. IT MAY BE PROTECTED FROM UNAUTHORIZED USE OR DISSEMINATION BY THE ATTORNEY-CLIENT PRIVILEGE, THE ATTORNEY WORK-PRODUCT DOCTRINE, OR ANY OTHER APPLICABLE PRIVILEGE. IF YOU ARE NOT THE STATED ADDRESSEE, YOUR RECEIPT OF THIS TRANSMISSION WAS UNINTENDED AND INADVERTENT. AND YOU ARE HEREBY NOTIFIED THAT ANY REVIEW, USE, DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. YOU ARE ALSO ASKED TO NOTIFY US IMMEDIATELY BY TELEPHONE AND TO RETURN THE ORIGINAL DOCUMENT TO US IMMEDIATELY BY MAIL AT THE ADDRESS ABOVE. THANK YOU IN ADVANCE FOR YOUR COOPERATION

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

CERTIFICATE OF SERVICE

I, Philip A. Rovner, hereby certify that on September 18, 2006, the within document was filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following; that the document was served on the following counsel as indicated; and that the document is available for viewing and downloading from CM/ECF.

BY HAND DELIVERY AND E-MAIL

Josy W. Ingersoll, Esq.
Karen L. Pascale, Esq.
Young Conaway Stargatt & Taylor, LLP
The Brandywine Building
1000 West Street, 17th Floor
Wilmington, DE 19899-0391

I hereby certify that on September 18, 2006 I have sent by E-mail foregoing document to the following non-registered participants:

Timothy J. Haller, Esq.
Robert Greenspoon, Esq.
Sally Wiggins, Esq.
Niro, Scavone, Haller & Niro
181 W. Madison Street, Suite 4600
Chicago, IL 60602

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