

UNITED STATES DISTRICT COURT

for the
District of Delaware

IN RE: APPLICATION OF JUNE WU

Plaintiff

v.

Defendant

Civil Action No.

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Tagboard, Inc.
c/o Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See attached Exhibit A

Place: Ross Aronstam & Moritz LLP
100 S. West Street, Suite 400, Wilmington, DE 19801
Date and Time:

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:
Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 08/25/2017

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk
/s/ Benjamin J. Schladweiler
Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) JUNE WU, who issues or requests this subpoena, are:

BENJAMIN SCHLADWEILER, ROSS ARONSTAM & MORITZ LLP, 100 S. WEST STREET, SUITE 400, WILMINGTON,

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT A

I. Definitions

1. All words, terms, and phrases not specifically defined in this Exhibit A are to be given their normal and customary meaning in the context in which they are used herein.

2. \$3 Million Deposit means the payment of \$3 million remitted by June Wu to a bank account in Taiwan in the name of Tagboard International Ltd on or around May 23, 2016.

3. “And” as well as “or” shall be construed both conjunctively and disjunctively as necessary in order to bring within the scope of the requests all responses which might otherwise be construed outside its scope.

4. “Any,” “all,” and “each” shall each be construed as meaning any, all, and each.

5. “Communication” means the transmittal of information (in the form of facts, ideas, inquiries or otherwise), including, without limitation, all discussions, conversations, negotiations, meetings, telephone conversations, letters, memoranda, notes, e-mails, text messages, or messages delivered through social media or messaging apps (e.g. Twitter, What's App and Facebook), and all other manner or means of transmittal of information, whether oral or written.

6. “Concerning,” “relating to,” “related to,” and “referring to” are used, for the purposes of these requests, as equivalent terms, each including the others.

7. “Document” includes, without limitation, electronically stored information (“ESI”) (as defined below); all drafts; communications; correspondence; electronic mail; social media and messaging apps (e.g., Twitter, What's App and Facebook) messages or “posts”; spreadsheets or accounting ledgers; calendars; memoranda; records; client lists; reports; books; reports and/or summaries of conversations or interviews; diaries; journals;

notebooks; graphs; charts; diagrams; tables; photographs; recordings; audio and video tapes; microfilms; minutes, summaries, reports and records of meetings or conferences; records and reports of consultants; press releases; stenographic, handwritten or other notes; checks, front and back; check vouchers, check stubs or receipts; tape data sheets, data processing cards or discs or any other written, printed, typewritten or otherwise recorded matter, however produced, reproduced, whether or not now in existence; and any paper or writing including files, contracts, correspondence, telegrams, agreements, letters, notes, manuals, employee handbooks, forms, brochures, drawings, and other data or data compilation of any sort, stored in any medium from which information can be obtained either directly or, if necessary, after translation by You into a reasonably usable form. A draft or non-identical copy of any document, whether due to the addition of marginalia or other change, is a separate document within the meaning of this term. Where the electronic and hard copy versions of any document are separate documents per this definition, both the electronic and hard copy versions should be produced.

8. Electronically stored information (“ESI”) includes without limitation:
 - a. information that is generated, received, processed, and recorded by computers and other electronic devices including, without limitation, voicemail, electronic mail, and facsimiles;
 - b. internal or external web sites;
 - c. output resulting from the use of any software program, including, without limitation, word processing documents, spreadsheets, database files, charts, graphs, outlines, electronic mail, chat, instant message or bulletin board programs, operating systems, source code, PRF files, PRC

files, batch files, ASCII files, and all miscellaneous media on which they reside and regardless of whether said electronic data exists in an active file, an archive file, a deleted file, or file fragment;

- d. activity listings of electronic mail receipts and/or transmittals; and any and all items stored on computer memories, flash drives, hard disks, floppy disks, CD-ROM, magnetic tape, microfiche, or on any other media for digital data storage or transmittal such as but not limited to a personal digital assistant, smart phone or tablet and file folder tabs, or containers and labels appended to, or relating to, any physical storage device associated with each original or copy of all documents requested herein; and
- e. information, messages, or “posts” transmitted through, posted to, or stored on any social media website or messaging app including Facebook, Twitter, What's App, Messenger, Snap Chat, Linked In, XboxLive, Foursquare, Gowalla, MySpace, Windows Live Spaces, Instagram, and Pinterest.

9. “Including” has its standard meaning and also means “including, but not limited to” and “including, without limitation.

10. "Tagboard BVI" means Tagboard International Ltd, a company incorporated in the British Virgin Islands, and any of its subsidiaries, affiliates, predecessors, successors, assignees, officers, directors, employees, representatives, and partners or anyone acting for or on its behalf.

11. “Tagboard US” means Tagboard, Inc and any of its subsidiaries, affiliates,

predecessors, successors, assignees, officers, directors, employees, representatives, and partners or anyone acting for or on its behalf.

12. “You” and “Your” refers to Tagboard, Inc and any of its subsidiaries, affiliates, predecessors, successors, assignees, officers, directors, employees, representatives, and partners or anyone acting for or on its behalf.

II. Instructions

1. In this Exhibit A, the singular of any term shall include its plural, and vice-versa.

2. Unless otherwise specified, the requests in Section III below require the production of all responsive Documents and Communications.

3. These requests are continuing in nature, and all responsive Documents and Communications that are created or obtained subsequent to a previous production shall be produced forthwith.

4. Unless otherwise specified, each paragraph and subparagraph hereof and the Definitions herein are to be construed independently and not by or with reference to any other

paragraph or subparagraph or Definition herein for the purposes of limiting the scope of any particular request or the subject matter thereof.

5. All Documents and Communications produced in response to this request shall either (a) be organized and labeled to correspond with the number of the request to which the Documents and Communications are responsive, or (b) be produced as they are kept in the usual course of business and shall be presented in the file folder, envelope, or other container in which the Documents and Communications are maintained. If Documents and

Communications are maintained electronically, they shall be produced in native file format with all associated metadata.

6. If a Document or Communication is redacted or not produced on the ground that it is privileged and therefore not subject to disclosure, a log containing the following information must be supplied for each:

- a. the nature of the privilege being claimed; and
- b. for Documents and ESI, other such information as is sufficient to identify the Document, including, where applicable, the type of Document, the subject matter, the date of the Document (and, in the case of e-mails, the time of transmission), the author(s) of the Document, the recipient(s) of the Document, the identity of any person who had an opportunity to review such Document and, where not apparent, the relationship of the author and the addressee to each other.

7. Each Document and Communication requested herein shall be produced in its entirety without deletion, redaction or exclusions, regardless of whether You consider the entire Document or Communication relevant or responsive; if You have redacted any portion of the Document or Communication, stamp the word “REDACTED” beside the redacted information on each page of the Document or Communication which You have redacted; any redactions to Documents or Communications produced should be identified on a privilege log in accordance with instruction 6.

8. All Documents and Communications (unless they are electronic documents produced in native format) should be “Bates” numbered sequentially with a unique number on each page, and with a prefix identifying the party producing the document.

9. If any of the below-requests cannot be responded to in full, You are to produce Documents and Communications to the extent possible, specify the reason for Your inability to produce further Documents and Communications, and state what knowledge, information or belief You have concerning the unproduced portion.

10. All Documents and Communications that cannot be legibly copied must be produced in their original form.

11. Non-identical copies of Documents and Communications, drafts of copies with annotations, and marks of marginalia shall be treated and produced as separate copies.

12. With respect to electronically stored information (“ESI”):

- a. All spreadsheets responsive to these requests that are maintained in the usual course of business in electronic format shall be produced in their native format along with the software necessary to interpret such files if such software is not readily available.
- b. All other Documents and Communications responsive to these requests that are maintained in the usual course of business in electronic format shall be produced in properly unitized, multi-page TIFF Group IV format complete with full text extracts and all associated metadata.
- c. All Documents and Communications responsive to these requests shall be produced with the metadata normally contained within such Documents and Communications, and any necessary load files. If such metadata is not available, each Document and Communication shall be accompanied by a listing of all file properties concerning such Document or Communication, including, but not limited to, all information

concerning the date(s) the Document or Communication was last accessed, created, modified, or distributed, and the author(s) and recipient(s) of the document.

- d. Under no circumstances should ESI be converted from the form in which it is ordinarily maintained to a different form that makes it more difficult or burdensome to use the ESI. ESI should not be produced in a form that removes or significantly degrades the ability to search the ESI by electronic means where the ESI is ordinarily maintained in a way that makes it searchable by electronic means. Databases or underlying data should not be produced without first discussing production format issues with June Wu's counsel. If You decline to search or produce ESI on the ground that such ESI is not reasonably accessible because of undue burden or cost, identify such information by category or source and provide detailed information regarding the burden or cost You claim is associated with the search or production of such ESI.

13. Documents and Communications in electronic format may be produced in electronic format on disk or other media in the original electronic file format(s) of the Documents and Communications.

14. If a Document or Communication that once existed has subsequently been lost, destroyed or is otherwise unavailable, provide sufficient information to identify the Document or Communication, describe its contents, explain how and when it was lost or destroyed, and identify the person who last possessed the Document or Communication.

15. If no Documents or information responsive to a particular request for

production exist or are within Your possession, custody, or control, You must state so in Your response.

16. If You object to any request on the ground that it is overly broad or unduly burdensome, You are instructed to respond to the request for production as narrowed to conform to Your objection within the period allowed for a response and to state in Your response (a) how You narrowed the request and (b) the reason why You claim the request is overly broad.

17. Any reference to a person who is not an individual (including a corporation, limited liability company, proprietorship, group, association, organization, business entity, partnership, trust, limited partnership or any other artificial or non-natural entity) shall also include a reference to such person's current and former subsidiaries, affiliates, parents, predecessors, successors, divisions, departments, operating units, partners, managers, principals, directors, officers, shareholders, employees, agents, officials, trustees, beneficiaries, administrators, representatives, associates, consultants, contractors, subcontractors, brokers, attorneys, advisors, accountants, consulting actuaries and all persons and entities acting or purporting to act on such person's behalf, unless the context provides otherwise.

III. Documents to be Produced

Pursuant to Federal Rule of Civil Procedure 45 and the Order Granting June Wu's Application for Judicial Assistance under 28 U.S.C. § 1782, attached hereto as Exhibit B, You are hereby commanded to produce the following:

1. All Documents and Communications relating to the \$3 Million Deposit.
2. All Documents from Tagboard US's bank account sufficient to show whether,

and if so, when, the \$3 Million Deposit was transferred to Tagboard US.

3. All Documents and Communications relating to when, why and how Lee and Lin transferred the 3 Million Deposit from Tagboard BVI to Tagboard US.

4. All Documents and Communications (including, without limitation, Documents from Tagboard US's bank accounts) relating to when, why and how the \$3 Million Deposit has been used, by whom, and for what purpose.

5. All Documents and Communications that show how the \$3 Million Deposit has been classified in Tagboard US's records. If there have been any changes in the classification, all Documents and Communications showing the reasons for such changes.

6. All Documents and Communications relating to shares in Tagboard US being issued to June Wu.

7. All Documents and Communications relating to any and all expressions of interest by persons other than June Wu in investing in Tagboard US prior to the remittance of the \$3 Million Deposit by June Wu.