

Model for Letters of Request recommended for use in applying the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters

Request for International Judicial Assistance pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters

N.B. Under the first paragraph of Article 4, the Letter of Request shall be in the language of the authority requested to execute it or be accompanied by a translation into that language. However, the provisions of the second and third paragraphs may permit use of English, French or another language.

In order to avoid confusion, please spell out the name of the month in each date.

Please fill out an original and one copy of this form (use additional space if required).

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| 1. Sender | Honorable James Larson
United States Magistrate Judge
United States District Court for the Northern District of California
450 Golden Gate Avenue
San Francisco CA 94012
United States of America |
| 2. Central Authority of the Requested State | Obergericht des Kantons Aargau
Obere Vorstadt 40
5000 Aargau
Switzerland |
| 3. Person to whom the executed request is to be returned | Victoria K. Hall
Law Office of Victoria K. Hall
3 Bethesda Metro Suite 700
Bethesda MD 20814
United States of America |
| 4. Specification of the date by which the requesting authority requires receipt of the response to the Letter of Request | |
| Date | 01 February 2010 |
| Reason for urgency* | Trial is scheduled for 22 March 2010. If there are any problems, we prefer time to correct the problems so that we can obtain the evidence. |

* Omit if not applicable.

IN CONFORMITY WITH ARTICLE 3 OF THE CONVENTION, THE UNDERSIGNED APPLICANT HAS THE HONOUR TO SUBMIT THE FOLLOWING REQUEST:

5.	<i>a</i>	Requesting judicial authority (Article 3,a))	Honorable James Larson United States Magistrate Judge United States District Court for the Northern District of California 450 Golden Gate Avenue San Francisco CA 94102 United States of America
	<i>b</i>	To the competent authority of (Article 3, a))	Obergericht des Kantons Aargau Obere Vorstadt 40 5000 Aargau Switzerland
	<i>c</i>	Names of the case and any identifying number	Jacobsen v. Katzer, C06-1905-JSW-JL
6.	Names and addresses of the parties and their representatives (including representatives in the requested State*) (Article 3, b))		
	<i>a</i>	Plaintiff	Robert Jacobsen 1927 Marin Avenue Berkeley CA 94707 United States of America
		Representatives	Victoria K. Hall Law Office of Victoria K. Hall 3 Bethesda Metro Suite 700 Bethesda MD 20814 United States of America
	<i>b</i>	Defendant	Matthew Katzer and KAMIND Associates, Inc. 2373 NW 185th Street Suite 416 Hillsboro OR 97124 United States of America
		Representatives	R. Scott Jerger Field Jerger LLP 621 Morrison Ave. Suite 1225 Portland OR 97205 United States of America
	<i>c</i>	Other parties	None
		Representatives	None

* Omit if not applicable.

7. a	Nature of the proceedings (divorce, paternity, breach of contract, product liability, etc.) (Article 3, c))	Intellectual property dispute
	b	Summary of complaint
	c	Summary of defence and counterclaim*
	d	Other necessary information or documents*
8. a	Evidence to be obtained or other judicial act to be performed (Article 3, d))	Evidence of Matthew Katzer's knowledge of Bouwens' use of Jacobsen's software in KAMIND software.
	b	Purpose of the evidence or judicial act sought
9.	Identity and address of any person to be examined (Article 3, e))*	Robert Bouwens Steigring, 7 5313 Klingnau Switzerland
10.	Questions to be put to the persons to be examined or statement of the subject-matter about which they are to be examined (Article 3, f))*	See attached list.

* Omit if not applicable.

11. Documents or other property to be inspected (Article 3, *g*)*

See attached list.

12. Any requirement that the evidence be given on oath or affirmation and any special form to be used (Article 3, *h*)*

Jacobsen asks that Bouwens be given the standard oath given in United States courts to witnesses prior to giving testimony, unless the oath is inconsistent with local law. If the oath is inconsistent with local law, then Jacobsen asks that the testimony be taken in such manner as provided by local law for the formal taking of evidence.

13. Special methods or procedure to be followed (e.g. oral or in writing, verbatim, transcript or summary, cross-examination, etc.) (Articles 3, *i* and 9)*

Jacobsen asks that Bouwens give testimony by oral examination, and that the Court permit additional questions from the parties based on the answers that Bouwens gives. Jacobsen also asks to be able to bring a court reporter to take a transcript of the proceedings, and to videotape the proceedings. If these requests are inconsistent with local law, then Jacobsen asks testimony to be taken in such manner as provided by local law.

14. Request for notification of the time and place for the execution of the Request and identity and address of any person to be notified (Article 7)*

Please notify the following:
Victoria K. Hall
Law Office of Victoria K. Hall
3 Bethesda Metro Suite 700
Bethesda MD 20814, United States of America

R. Scott Jerger
Field Jerger LLP
621 Morrison Avenue Suite 1225
Portland OR 97205, United States of America

15. Request for attendance or participation of judicial personnel of the requesting authority at the execution of the Letter of Request (Article 8)*

None

16. Specification of privilege or duty to refuse to give evidence under the law of the State of origin (Article 11, b))*

Federal Rules of Evidence 502(g) defines attorney-client privilege and attorney work product privilege. We do not believe these privileges will be in issue here. There is a protective order issued by the U.S. Court, which permits testimony related to confidential matters.

17. The fees and costs incurred which are reimbursable under the second paragraph of Article 14 or under Article 26 of the Convention will be borne by*

Robert Jacobsen
1927 Marin Avenue
Berkeley CA 94707
United States of America

DATE OF REQUEST

SIGNATURE AND SEAL OF THE REQUESTING AUTHORITY

Erase all entries

Print

* Omit if not applicable.

Interrogatories

1. When did you first download JMRI files?
2. When did you first convert JMRI files to the KAMIND format?
3. Did Katzer suggest you convert the files to the KAMIND format?
4. Did Katzer know that you were converting the files to the KAMIND format?
5. Did you send the converted JMRI files to anyone else other than Katzer?
6. You know that JMRI is distributed subject to an open source license?

Request for Production of Documents

1. Emails between Robert Bouwens and Matthew Katzer regarding downloading, converting, and distributing files that were created from JMRI files.
2. Contracts between Robert Bouwens and Matthew Katzer.
3. Emails and documents in Robert Bouwens' possession that show Bouwens' or Matthew Katzer's knowledge of JMRI license requirements.