

## **EXHIBIT K (CONT.)**

JAMES P. NAUGHTON

1 thinking at the time, I would have believed that Mr.  
2 Davis was not at the -- the company GoTo.com when it  
3 first began.

4 Q. Why did you think that?

5 A. I believe early on in my discussions with Mr.  
6 Davis --

7 MS. THAYER: Well, I'm going to instruct you you  
8 should not reveal very specific conversations you had  
9 with Mr. Davis. That's privileged information. But you  
10 can testify generally as to your understanding of certain  
11 factual matters.

12 BY THE WITNESS:

13 A. Yes. At some point, I think early on, I had  
14 come to the understanding that for some period of time  
15 Mr. Davis was employed elsewhere and had actually used  
16 GoTo.com search engine available on its website from the  
17 standpoint of a searcher or advertiser, I forget which,  
18 and that was prior to the time he became employed at  
19 GoTo.com.

20 BY MS. DURIE:

21 Q. When did you come to that understanding?

22 A. Early on, likely in 1999.

23 Q. Can you be more specific as to when in 1999?

24 A. Not at present.

JAMES P. NAUGHTON

1 Q. Okay. Are there any documents that you could  
2 review that might help?

3 A. Not on that point.

4 Q. Okay. Now, when you say that you came to the  
5 understanding that Mr. Davis was employed somewhere else  
6 and used the GoTo search engine from the standpoint of an  
7 advertiser or a searcher, did you have an understanding  
8 as to the time frame in which Mr. Davis was using that  
9 search engine as an advertiser or a searcher?

10 A. All I can recall now, all I can say now is  
11 that I understood it was prior to the time he became  
12 employed at GoTo.com.

13 Actually, I can probably go further. I think  
14 it likely -- well, strike that.

15 Yeah, on that at this point my recollection is  
16 hazy.

17 Q. Okay. Did you have any understanding in this  
18 1999 time frame about when Mr. Davis had become employed  
19 at GoTo.com?

20 A. I don't recall if I knew the specific date or  
21 time frame at that time.

22 Q. Okay. When was it that -- as you sit here  
23 today, do you know when Mr. Davis became employed at  
24 GoTo.com?

JAMES P. NAUGHTON

1 A. I don't have personal knowledge of that.

2 Q. Okay. Have you read Mr. Davis' deposition  
3 testimony?

4 A. I'm not sure if I did.

5 Q. Okay.

6 A. I may have.

7 Q. Do you have some general understanding of when  
8 Mr. Davis became employed at GoTo.com?

9 A. Perhaps in one of the other transcripts I  
10 read. Maybe in Mr. Davis' transcript. Somehow I  
11 think -- well, I'm thinking of October of 1998, something  
12 like that, as being said by somebody.

13 Q. When was it that you first learned that Mr.  
14 Davis became employed by GoTo.com sometime in the fall of  
15 1998?

16 A. I don't recall.

17 Q. Okay. Is there any way that you can place  
18 that in time?

19 A. Not that I'm aware of.

20 Q. Do you know whether you knew that fact before  
21 you read the deposition transcripts of the depositions  
22 that were taken in this case?

23 A. I don't recall if I knew that at any time  
24 prior to then.

JAMES P. NAUGHTON

1 Q. Okay. When you met with Tom Soulanille in  
2 1999, did you have an understanding that Mr. Soulanille  
3 was, if not technically one of the founders of the  
4 company, at least with Overture from a very early point  
5 in time?

6 MS. THAYER: Objection. Asked and answered.

7 BY THE WITNESS:

8 A. I don't recall what I was told or understood  
9 at that time of first meeting Mr. Soulanille.

10 BY MS. DURIE:

11 Q. Did there come a time when you arrived at the  
12 understanding that Mr. Soulanille's employment at  
13 Overture predated Mr. Davis' employment?

14 A. I'm not sure if I ever put 2 and 2 together,  
15 but there did come a time when I became aware of more  
16 details of Mr. Soulanille's work history in this regard.

17 Q. When was that?

18 A. It may have been told to me early on in the  
19 1999 time frame. I don't recall. But I also knew about  
20 it from later events.

21 Q. When you refer to "later events," what are you  
22 talking about?

23 A. After 1999, after the initial work leading up  
24 to the filing of this patent application.

JAMES P. NAUGHTON

1 Q. Okay. So, can you give me the earliest date  
2 at which you can say with some confidence that you knew  
3 when Tom Soulanille started working at GoTo.com?

4 A. No. The most recent and the clearest  
5 recollection I have on this point would be probably 2001,  
6 2002.

7 Q. Okay. Was there a point in time prior to  
8 2001 -- first of all, let's break that down.

9 You say, "2001, 2002." Can you be more  
10 specific?

11 A. Second half of 2001, first half of 2002.

12 Q. Okay. And was there a point in time prior to  
13 the second half of 2001 where you learned that Tom  
14 Soulanille had been with GoTo.com essentially from the  
15 very early days without necessarily knowing his precise  
16 date of first employment?

17 A. I don't have a specific recollection.

18 Q. Do you have a general recollection?

19 A. I would believe that I generally knew through  
20 many interactions we had had with Mr. Soulanille that he  
21 was present at an early stage of GoTo.com.

22 Q. Okay. Would the same be true of Jeffrey  
23 Brewer? Had you had sufficient interactions with Jeffrey  
24 Brewer to know, let's say in the 1999 time frame, that he

JAMES P. NAUGHTON

1 don't recall that, though.

2 BY MS. DURIE:

3 Q. Do you remember reviewing press releases that  
4 set forth revenues that GoTo.com had received?

5 A. I don't recall.

6 Q. When you visited GoTo.com's website prior to  
7 the filing of the initial patent application, what did  
8 you see on the website? How did it look?

9 A. I don't recall.

10 Q. Do you remember whether you conducted any  
11 searches?

12 A. I don't recall specifically.

13 Q. Okay. Do you remember seeing any search  
14 listing pages?

15 A. Likely. I don't recall specifically.

16 Q. Okay. Were you certainly aware at the time  
17 that you filed the patent application that GoTo.com did  
18 have a system on the Internet that allowed users to make  
19 searches and obtain search page results in response?

20 A. I believe so.

21 Q. Okay. Did you have an understanding at the  
22 time you filed that patent application as to how that  
23 user-accessible system differed from what you've  
24 described as the beta system that was in use prior to May

JAMES P. NAUGHTON

1 28th, 1998?

2 A. To my understanding innumerable differences  
3 from large to small.

4 Q. Okay. What were the differences that you  
5 understood to exist?

6 MS. THAYER: If you need to look at any exhibits,  
7 that's a big question, feel free.

8 MS. DURIE: Sure.

9 BY THE WITNESS:

10 A. Do we have three months?

11 BY MS. DURIE:

12 Q. Well, why don't you start?

13 A. You have to give me some help. I don't even  
14 know where to begin. It's two different things separated  
15 in time. I don't even know which -- which documents, if  
16 any, to ask for that would reflect the commercial  
17 operation of those two systems that you could give me so  
18 I could start comparing those.

19 Q. Well, I want to start by -- with what you  
20 remember understanding the differences to be at that time  
21 frame before you filed the patent application.

22 A. Well, at a minimum everything we sought to  
23 patent in the '361 patent to my understanding was not in  
24 the beta system.