

EXHIBIT A

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5 Telephone: (415) 986-5900
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6
7 Attorneys for Defendant
ST. PAUL MERCURY
INSURANCE COMPANY
8

9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

11 NETSCAPE COMMUNICATIONS
CORPORATION, a Delaware corporation;
12 and AMERICA ONLINE, INC., a Delaware
corporation;

13 Plaintiffs,

14 v.

15 FEDERAL INSURANCE COMPANY, an
Indiana corporation; ST. PAUL MERCURY
16 INSURANCE COMPANY, a Minnesota
corporation; EXECUTIVE RISK
17 SPECIALTY INSURANCE COMPANY; a
Connecticut corporation, and DOES 1
18 through 50,

19 Defendants.

CASE NO. C-06-00198 JW (PVT)

**DEFENDANT ST. PAUL MERCURY
INSURANCE COMPANY'S
SUPPLEMENTAL RESPONSE TO
PLAINTIFF AMERICA ONLINE INC'S
FIRST SET OF REQUESTS FOR
ADMISSION**

Complaint Filed: 12/12/05
Amended Complaint Filed: 2/24/06

20
21 PROPOUNDING PARTY: Plaintiff AMERICA ONLINE INC.

22 RESPONDING PARTY: Defendant ST. PAUL MERCURY INSURANCE COMPANY

23 SET NO.: ONE [1]

24 Defendant ST. PAUL MERCURY INSURANCE COMPANY ("ST. PAUL")
25 submits the following supplemental objections and responses to Plaintiff AMERICA
26 ONLINE INC.'S ("AOL") Requests for Admissions, Set One. In particular, ST. PAUL
27 supplements its response to Request for Admission No. 4.
28

SUPPLEMENTAL RESPONSE TO REQUESTS FOR ADMISSION**REQUEST FOR ADMISSION NO. 4:**

Admit that the SMARTDOWNLOAD CLAIM does not involve "3rd party advertising."

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Based upon the information provided to St. Paul at the time the class action suits and AG Investigation involving the SmartDownload product were tendered to St. Paul the response was: ADMIT.

St. Paul objects to the consideration of or admission of any information that was not provided to St. Paul at the time the class action suits and AG Investigation involving the SmartDownload product were tendered to St. Paul. Such information is irrelevant and contrary to Virginia and California law. Fed. Rule of Evid. 401, 402. See, e.g., *Resource Bankshares Corp. v. St. Paul Mercury Ins. Co.*, 407 F.3d 631, 636 (4th Cir. 2005) (applying Va. Law); *America Online, Inc. v. St. Paul Mercury Ins. Co.* 347 F.3d 89, 93 (4th Cir. 2003); *Waller v. Truck Ins. Exchg.*, 44 Cal.Rptr.2d 370, 378 (Cal. 1995); *Safeco Ins. Co. v. Parks*, 19 Cal.Rptr.3d 17, 24-25, 27 (Cal.App. 2004); *Haggerty v. Federal Ins. Co.*, 32 Fed.Appx. 845, 848 (9th Cir. 2002). St. Paul further objects to the term "involve" as vague and ambiguous such that Request for Admission No. 4 cannot be meaningfully answered.

Subject to these objections, St. Paul further responds as follows. Based upon the new information plaintiffs provided during discovery in this coverage lawsuit and in the arguments now being advanced in support of their motion for partial summary judgment, the response to the request is: DENY.

Dated: February 9, 2007

GORDON & REES LLP

By: 

Sara M. Thorpe
Attorneys for Defendant
ST. PAUL MERCURY
INSURANCE COMPANY

VERIFICATION

I, Aaron Latto, declare:

1. I am 2nd Vice President, Business Insurance Claim, employed by Travelers Indemnity Company and authorized to make this Verification on behalf of St. Paul Mercury Insurance Company, defendant in this lawsuit ("St. Paul").

2. I have read St. Paul's SUPPLEMENTAL RESPONSE TO PLAINTIFF AMERICA ONLINE, INC.'S FIRST SET OF REQUESTS FOR ADMISSION and know the contents thereof. To the extent I have personal knowledge of the matters set forth therein, the same are true and correct. To the extent said matters are a composite of information from a number of individuals or documents or I do not have personal knowledge thereof, I am informed and believe that the information set forth therein for which I lack personal knowledge is true and correct.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Executed this 9th day of February, 2007, in St. Paul, Minnesota.


AARON LATTO

Gordon & Rees LLP
Embarcadero Center West
275 Battery Street, Suite 2000
San Francisco, CA 94111

1 **PROOF OF SERVICE**

2 *Netscape Communications Corp., v. Federal Ins. Co., et al. Case No. C 06 00198 JW*

3 I am a resident of the State of California, over the age of eighteen years, and not
 4 a party to the within action. My business address is Embarcadero Center West, 275
 Battery Street, Suite 2000, San Francisco, CA 94111. On the date noted below, I
 served the within document(s):

5 **Defendant St. Paul Mercury Insurance Company's Supplemental**
 6 **Response To Plaintiff America Online Inc's First Set Of Requests For**
 7 **Admission**

8 <input type="checkbox"/>	by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.		
9 <input checked="" type="checkbox"/>	by placing a true copy of the document(s) listed above in a sealed envelope with postage thereon fully prepaid or provided for, at a station designated for collection and processing of envelopes and packages for mailing with the United States Post Office, addressed as set forth below.		
10 <input type="checkbox"/>	by placing a true copy of the document(s) listed above in a sealed envelope with postage thereon fully prepaid or provided for, at a station designated for collection and processing of envelopes and packages for mailing by overnight delivery by FedEx, addressed as set forth below.		
11 <input checked="" type="checkbox"/>	by transmitting via the internet the document(s) listed above to the email address(es) set forth below.		
12	<table border="0"> <tr> <td> 13 <u>Attys for Plaintiffs:</u> 14 Michael Bruce Abelson, Esq. 15 Leslie A. Pereira 16 ABELSON HERRON LLP 17 333 South Grand Ave., Suite 650 18 Los Angeles, CA 90071-1559 19 <u>mabelson@abelsonherron.com</u> 20 <u>lpereira@abelsonherron.com</u> 21 (213) 402-1900 ph 22 (213) 402-1901 fax </td> <td> <u>Attys for Plaintiffs:</u> Daniel J. Bergeson, Esq. Marc G. Van Niekerk BERGESON, LLP 303 Almaden Blvd., Suite 500 San Jose, CA 95110-2712 <u>dbergeson@be-law.com</u> <u>mvanniekerk@be-law.com</u> (408) 291-6200 ph (408) 297-6000 fax </td> </tr> </table>	13 <u>Attys for Plaintiffs:</u> 14 Michael Bruce Abelson, Esq. 15 Leslie A. Pereira 16 ABELSON HERRON LLP 17 333 South Grand Ave., Suite 650 18 Los Angeles, CA 90071-1559 19 <u>mabelson@abelsonherron.com</u> 20 <u>lpereira@abelsonherron.com</u> 21 (213) 402-1900 ph 22 (213) 402-1901 fax	<u>Attys for Plaintiffs:</u> Daniel J. Bergeson, Esq. Marc G. Van Niekerk BERGESON, LLP 303 Almaden Blvd., Suite 500 San Jose, CA 95110-2712 <u>dbergeson@be-law.com</u> <u>mvanniekerk@be-law.com</u> (408) 291-6200 ph (408) 297-6000 fax
13 <u>Attys for Plaintiffs:</u> 14 Michael Bruce Abelson, Esq. 15 Leslie A. Pereira 16 ABELSON HERRON LLP 17 333 South Grand Ave., Suite 650 18 Los Angeles, CA 90071-1559 19 <u>mabelson@abelsonherron.com</u> 20 <u>lpereira@abelsonherron.com</u> 21 (213) 402-1900 ph 22 (213) 402-1901 fax	<u>Attys for Plaintiffs:</u> Daniel J. Bergeson, Esq. Marc G. Van Niekerk BERGESON, LLP 303 Almaden Blvd., Suite 500 San Jose, CA 95110-2712 <u>dbergeson@be-law.com</u> <u>mvanniekerk@be-law.com</u> (408) 291-6200 ph (408) 297-6000 fax		

23 I am readily familiar with the firm's practice of collection and processing
 24 correspondence for mailing. Under that practice it would be deposited with the U.S.
 Postal Service and Fed Ex on that same day with postage thereon fully prepaid in the
 ordinary course of business. I am aware that on motion of the party served, service is
 presumed invalid if postal cancellation date or postage meter date is more than one day
 after the date of deposit for mailing in affidavit.

25 I declare under penalty of perjury under the laws of the State of California that
 26 the above is true and correct. Executed on February 9, 2007, at San Francisco,
 California.


27 
 28 Pam Opdy

EXHIBIT B

1 ABELSON | HERRON LLP

2 Michael Bruce Abelson (State Bar No. 130739)

3 Leslie A. Pereira (State Bar No. 180222)

4 333 South Grand Ave, Suite 650

5 Los Angeles, California 90071-1559

6 Telephone: (213) 402-1900

7 Facsimile: (213) 402-1901

8 BERGESON, LLP

9 Daniel J. Bergeson (State Bar No. 105439)

10 Marc Van Niekerk (State Bar No. 201329)

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13 Telephone: (408) 291-6200

14 Facsimile: (408) 297-6000

15 Attorneys for Plaintiffs

16 NETSCAPE COMMUNICATIONS

17 CORPORATION and AMERICA ONLINE, INC.

18 **UNITED STATES DISTRICT COURT**

19 **NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION**

20 NETSCAPE COMMUNICATIONS

21 CORPORATION, a Delaware corporation;
22 and AMERICA ONLINE, INC., a Delaware
23 corporation;

24 Plaintiffs,

25 v.

26 FEDERAL INSURANCE COMPANY, an
27 Indiana corporation; ST. PAUL MERCURY
28 INSURANCE COMPANY, a Minnesota
corporation; EXECUTIVE RISK
SPECIALTY INSURANCE COMPANY; a
Connecticut corporation, and DOES 1
through 50,

Defendants.

CASE NO. C-06-00198 JW (PVT)

**PLAINTIFFS' INITIAL DISCLOSURES
PURSUANT TO RULE 26**

1 Plaintiffs Netscape Communications Corp. and America Online, Inc. ("Plaintiffs") hereby
2 make the following initial disclosures pursuant to Rule 26 of the Federal Rules of Civil
3 Procedure. These initial disclosures are made in good faith and after reasonable inquiry, but
4 without the benefit of having yet engaged in mutual reciprocal discovery. Plaintiffs reserve their
5 rights to modify, supplement, and/or correct these disclosures to the extent additional
6 information becomes available through the course of discovery and/or further investigation.
7 Nothing herein should be construed as a waiver of any objection, including an objection on the
8 basis of the attorney-client privilege and/or work-product doctrine. All such objections are
9 hereby reserved.

10 1. **Potential Witnesses:** Excepting witnesses which may be used solely for
11 impeachment and/or experts as may be later designated in this matter, Plaintiffs are presently
12 aware of the following witnesses likely to have discoverable information Plaintiffs may use to
13 support their claims:

- 14 • Charles Curran, Esq.
15 America Online, 22000 AOL Way, Dulles, VA 20166
16 (703) 265-1000
- 17 • Nancy Perkins
18 America Online, 22000 AOL Way, Dulles, VA 20166
19 (703) 265-1000
- 20 • David Goldberg, Esq.
21 America Online, 22000 AOL Way, Dulles, VA 20166
22 (703) 265-1000
- 23 • Glenn Spencer
24 Lockton Companies, 444 W. 47th Street, Suite 900, Kansas City, MO 64112
25 (816) 960-9000
- 26 • Patrick J. Carome, Esq.
27 Wilmer Cutler Pickering Hale and Dorr, 2445 M Street NW, Wash. DC 20037
28 (202) 663-6610
- Thomas Connell, Esq.
Wilmer Cutler Pickering Hale and Dorr, 2445 M Street NW, Wash. DC 20037
(202) 663-6610


- 1 • Dennis Love
2 Lockton Companies, 901 15th Street NW, Suite 650, Washington DC 20005
(202) 414-2400
- 3 • Keith San Felipe, former Netscape employee
4 Northern California
5 Plaintiffs also believe that other former Netscape employees, not yet identified,
may have information that supports their claims.
- 6 • James V. Bashian, Esq.
7 500 Fifth Ave., Suite 2700, New York, NY 10110
(212) 921-4110
- 8 • Joshua N. Rubin, Esq.
9 212 East 39th Street, New York, NY 10016
(212) 889-3700
- 10 • Michele Midwinter
11 St. Paul Fire & Marine Ins. Co., 385 Washington St., St. Paul, MN 55102
12 (551) 310-7911
- 13 • Bob Ditmore
14 St. Paul Fire & Marine Ins. Co., 385 Washington St., St. Paul, MN 55102
(551) 310-7911
- 15 • Dale J. Evensen
16 St. Paul Fire & Marine Ins. Co., 385 Washington St., St. Paul, MN 55102
(551) 310-7911
- 17 • James Biondolillo
18 Chubb Group of Insurance Companies, 82 Hopmeadow St., Simsbury, CT 06070
(860) 408-2000
- 19 • James Hamilton
20 Chubb Group of Insurance Companies, 55 Water Street, New York, NY 10041
21 (212) 612-4000
- 22 • Alburger Basso De Grosz Ins. Services
23 301 Island Parkway, Belmont, CA 94002
- 24 • Jeffrey C. Leventry
25 American Alternative Ins. Group, 555 College Rd. East, Princeton, NJ 08543
- 26 • Claire L. Winston
27 Employers Reinsurance Corp.
28 5200 Metcalf, P.O. Box 2991, Overland Park, KS 66201

1 2. **Documents**: Excepting documents which may be used solely for impeachment,
2 the following is a description by category and location of documents in Plaintiffs' possession,
3 custody or control that they may use to support their claims: (1) Netscape's insurance files; (2)
4 AOL's insurance files; (3) Litigation files re: SmartDownload litigations; (4) Litigation files re:
5 the New York Attorney General investigation; and (5) Defense cost invoices for SmartDownload
6 litigations and New York Attorney General investigation. All of these documents are in the
7 possession of AOL and/or its attorneys or record. All relevant, non-privileged documents in
8 these categories will be made available to Defendants for inspection and/or copying at a
9 mutually-convenient time. Plaintiffs also believe the following categories of documents will
10 support their claims: (1) St. Paul's underwriting files; (2) St. Paul's claims-handling documents;
11 (3) St. Paul's claims files; (4) Federal's underwriting files; (5) Federal's claims-handling
12 documents; (6) Federal's claims files; (7) Executive Risk's underwriting files; (8) Executive
13 Risk's claims-handling documents; (9) Executive Risk's claims files. Plaintiffs believe these
14 documents are in Defendants' possession.

15 3. **Computation of Damages**: The following is a computation of the compensatory
16 damages claimed by Plaintiffs in this action: Approximately \$4,373,064. At a mutually-
17 convenient time, Plaintiffs will make available for inspection and/or copying the non-privileged
18 documents upon which this computation is based. Plaintiffs have not yet attempted to compute
19 the non-compensatory aspects of the damages they are seeking but will do so when practicable.
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Other than the insurance policies at issue in this lawsuit, Plaintiffs are not aware of any insurance policies which may be liable to satisfy all or part of a judgment which may be entered in this action.

ABELSON | HERRON LLP
Michael Bruce Abelson
Leslie A. Pereira

By 
Leslie A. Pereira
Attorneys for Plaintiffs
Netscape Communications Corporation and
America Online, Inc.

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PROOF OF SERVICE

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION**

I am over the age of 18 and not a party to the within action; I am employed by Abelson | Herron, LLP in the County of Los Angeles at 333 South Grand Avenue, Suite 650, Los Angeles, California, 90071-1559.

On March 17, 2006, I served the foregoing document(s) described as:

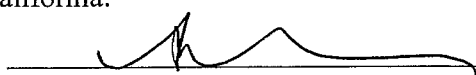
PLAINTIFFS' INITIAL DISCLOSURES PURSUANT TO RULE 26

The document(s) was served by the following means:

- ☐ **BY PERSONAL SERVICE** I personally delivered the documents to the persons at the addresses listed in the attached service list. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age.
- ☒ **BY U.S. MAIL** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses in the attached service list and placed the sealed envelope or package for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the said date, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope or package with postage fully prepaid.
- ☐ **BY OVERNIGHT DELIVERY** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses in the attached service list. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- ☐ **BY MESSENGER SERVICE** I enclosed the documents in an envelope or package addressed to the persons in the attached service list and provided them to a professional messenger service for service. *(A declaration by the messenger is contained in the Declaration of Messenger below.)*
- ☐ **BY FACSIMILE TRANSMISSION** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed in the attached service list. Our facsimile activity report indicated that all pages were transmitted successfully. No error was reported by the fax machine that I used.
- ☐ **BY E-MAIL OR ELECTRONIC TRANSMISSION** Based on the court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of United States of America that the foregoing is true and correct.

Executed on March 17, 2006 at Los Angeles, California.


Soonja Bin

SERVICE LIST

Netscape Communications Corporation, et al. v. Federal Insurance Company, et al.

USDC Case No.: C-06-00198 JW (PVT)

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Terrence R. McInnis, Esq.
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Attorney for Defendants
FEDERAL INSURANCE COMPANY
EXECUTIVE RISK INDEMNITY INC.

Jeffrey M. Ratinoff, Esq.
Gordon I. Endow, Esq.
Sara M. Thorpe, Esq.
GORDON & REES LLP
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275 Battery Street, Suite 2000
San Francisco, CA 94111
Tel: (415) 986-5900
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Attorney for Defendant
ST. PAUL MERCURY INSURANCE COMPANY

EXHIBIT C

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 Telephone: (415) 986-5900
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Attorneys for Defendant
 ST. PAUL MERCURY
 INSURANCE COMPANY

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

NETSCAPE COMMUNICATIONS
 CORPORATION, a Delaware corporation;
 and AMERICA ONLINE, INC., a Delaware
 corporation;

Plaintiffs,

v.

FEDERAL INSURANCE COMPANY, an
 Indiana corporation; ST. PAUL MERCURY
 INSURANCE COMPANY, a Minnesota
 corporation; EXECUTIVE RISK
 SPECIALTY INSURANCE COMPANY; a
 Connecticut corporation, and DOES 1
 through 50,

Defendants.

CASE NO. C-06-00198 JW (PVT)

**ST. PAUL MERCURY INSURANCE
 COMPANY'S SUPPLEMENTAL
 RESPONSE TO PLAINTIFF
 NETSCAPE COMMUNICATIONS
 CORPORATION'S FIRST SET OF
 SPECIALLY PREPARED
 INTERROGATORIES**

Complaint Filed: 12/12/05
 Amended Complaint Filed: 2/24/06

PROPOUNDING PARTY: Plaintiff NETSCAPE COMMUNICATIONS CORPORATION

RESPONDING PARTY: Defendant ST. PAUL MERCURY INSURANCE COMPANY

SET NO.: ONE [1]

Defendant ST. PAUL MERCURY INSURANCE COMPANY ("ST. PAUL") submits
 the following supplemental response to plaintiff NETSCAPE COMMUNICATIONS
 CORPORATION'S ("NETSCAPE") first set of specially prepared interrogatories ("the
 interrogatories").

1 **SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORIES**

2 ST. PAUL supplements its response to Interrogatories 13, 14 and 15 as they
3 specifically relate to Request for Admission No. 4 as follows:

4 **REQUEST FOR ADMISSION NO. 4:**

5 Admit that the SMARTDOWNLOAD CLAIM does not involve "3rd party
6 advertising."

7 **RESPONSE TO REQUEST FOR ADMISSION NO. 4:**

8 Admit.

9 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 4:**

10 Based upon the information provided to St. Paul at the time the class
11 action suits and AG Investigation involving the SmartDownload product were
12 tendered to St. Paul the response was: ADMIT.

13 St. Paul objects to the consideration of or admission of any information
14 that was not provided to St. Paul at the time the class action suits and AG
15 Investigation involving the SmartDownload product were tendered to St. Paul.
16 Such information is irrelevant and contrary to Virginia and California law. Fed.
17 Rule of Evid. 401, 402. See, e.g., *Resource Bankshares Corp. v. St. Paul*
18 *Mercury Ins. Co.*, 407 F.3d 631, 636 (4th Cir. 2005) (applying Va. Law); *America*
19 *Online, Inc. v. St. Paul Mercury Ins. Co* 347 F.3d 89, 93 (4th Cir. 2003); *Waller v.*
20 *Truck Ins. Exchg.*, 44 Cal.Rptr.2d 370, 378 (Cal. 1995); *Safeco Ins. Co. v. Parks*,
21 19 Cal.Rptr.3d 17, 24-25, 27 (Cal.App. 2004); *Haggerty v. Federal Ins. Co.*, 32
22 Fed.Appx. 845, 848 (9th Cir. 2002). St. Paul further objects to the term "involve"
23 as vague and ambiguous such that Request for Admission No. 4 cannot be
24 meaningfully answered.

25 Subject to these objections, St. Paul further responds as follows. Based
26 upon the new information plaintiffs provided during discovery in this coverage
27 lawsuit and in the arguments now being advanced in support of their motion for
28 partial summary judgment, the response to the request is: DENY.

Gordon & Rees LLP
Embarcadero Center West
275 Battery Street, Suite 2000
San Francisco, CA 94111

SPECIAL INTERROGATORY NO. 13:

As to each Request in AOL's Request for Admissions to St Paul that ST. PAUL fails to admit without qualification, identify and describe in detail the information upon which ST. PAUL relies for its response.

SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 13:

Subject to and without waiving the General Objections in response to the original request, and the Objections set forth above, the documents upon which St. Paul relies include the complaints in the underlying lawsuits, the AG investigation letters, ST. PAUL's claim files, the ST. PAUL policy, ST. PAUL's underwriting file, documents produced by Marsh and AOL, new information produced by plaintiffs during the course of this coverage litigation, and the declarations and exhibits upon which plaintiffs rely and arguments advanced by plaintiffs in support of plaintiffs' cross-motion for partial summary judgment (all of which plaintiffs' counsel already have in their possession).

SPECIAL INTERROGATORY NO. 14:

As to each Request in AOL's Request for Admissions to St Paul that ST. PAUL fails to admit without qualification, IDENTIFY the PERSONS with knowledge upon which ST. PAUL relies for its response.

SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 14:

Subject to the General Objections and above noted Objections, Dan Weiss.

SPECIAL INTERROGATORY NO. 15:

As to each Request in AOL's Request for Admissions to St. Paul that ST. PAUL fails to admit without qualification, IDENTIFY the DOCUMENTS upon which ST. PAUL relies for its response.

SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 15:

Subject to and without waiving the General Objections in response to the original request, and the Objections set forth above, the documents upon which St. Paul relies include the complaints in the underlying lawsuits, the AG investigation letters, ST. PAUL's claim files, the ST. PAUL policy, ST. PAUL's underwriting file, documents

1 produced by Marsh and AOL, new information produced by plaintiffs during the course
2 of this coverage litigation, and the declarations and exhibits upon which plaintiffs rely
3 and arguments advanced by plaintiffs in support of plaintiffs' cross-motion for partial
4 summary judgment (all of which plaintiffs' counsel already have in their possession).

5 Dated: February 15, 2007

GORDON & REES LLP

6
7 By: *Sara M. Thorpe*

8 Sara M. Thorpe
9 Attorneys for Defendant
10 ST. PAUL MERCURY
11 INSURANCE COMPANY
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Gordon & Rees LLP
Embarcadero Center West
275 Battery Street, Suite 2000
San Francisco, CA 94111

02/15/2007 15:39 651-310-8272

SPC-CLAIM FAX

PAGE 05

VERIFICATION

1
2 I, Aaron Latto, declare:

3 1. I am 2nd Vice President, Business Insurance Claim, employed by
4 Travelers Indemnity Company and authorized to make this Verification on behalf of St.
5 Paul Mercury Insurance Company, defendant in this lawsuit ("St. Paul").

6 2. I have read St. Paul's SUPPLEMENTAL RESPONSE TO PLAINTIFF
7 NETSCAPE COMMUNICATIONS CORPORATION'S FIRST SET OF SPECIALLY
8 PREPARED INTERROGATORIES, and know the contents thereof. To the extent I
9 have personal knowledge of the matters set forth therein, the same are true and correct.
10 To the extent said matters are a composite of information from a number of individuals
11 or documents or I do not have personal knowledge thereof, I am informed and believe
12 that the information set forth therein for which I lack personal knowledge is true and
13 correct.

14 I declare under penalty of perjury of the laws of the State of California that the
15 foregoing is true and correct.

16 Executed this 15th day of February, 2007, in St. Paul, Minnesota.

17 
18 AARON LATTO

Gordon & Rees LLP
Embarcadero Center West
275 Battery Street, Suite 2000
San Francisco, CA 94111

PROOF OF SERVICE

Netscape Communications Corp., v. Federal Ins. Co., et al. Case No. C 06 00198 JW

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Embarcadero Center West, 275 Battery Street, Suite 2000, San Francisco, CA 94111. On the date noted below, I served the within document(s):

Defendant St. Paul Mercury Insurance Company's Supplemental Response To Plaintiff Netscape Communications Corporation's First Set of Specially Prepared Interrogatories

- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☒ by placing a true copy of the document(s) listed above in a sealed envelope with postage thereon fully prepaid or provided for, at a station designated for collection and processing of envelopes and packages for mailing with the United States Post Office, addressed as set forth below.
- ☐ by placing a true copy of the document(s) listed above in a sealed envelope with postage thereon fully prepaid or provided for, at a station designated for collection and processing of envelopes and packages for mailing by overnight delivery by FedEx, addressed as set forth below.
- ☒ by transmitting via the internet the document(s) listed above to the email address(es) set forth below.

Attys for Plaintiffs:

Michael Bruce Abelson, Esq.
 Leslie A. Pereira
 ABELSON HERRON LLP
 333 South Grand Ave., Suite 650
 Los Angeles, CA 90071-1559

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 (213) 402-1901 fax

(Via FedEx)

Attys for Plaintiffs:

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(Via U.S. Mail)

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service and Fed Ex on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on February 15, 2007, at San Francisco, California.


 Pamela Cody