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NETSCAPE COMMUNICATIONS
CORPORATION and AMERICA ONLINE, INC.

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

NETSCAPE COMMUNICATIONS CORPORATION, et al., Plaintiffs, v. FEDERAL INSURANCE COMPANY, et al., Defendants.	CASE NO. 5:06-CV-00198 JW (PVT) Case Filed: December 12, 2005 Assigned to: Hon. James Ware Courtroom: 8 **SUPPLEMENTAL DECLARATION OF LESLIE A. PEREIRA IN SUPPORT OF PLAINTIFFS' REPLY RE: CROSS-MOTIONS FOR PARTIAL SUMMARY JUDGMENT [WITH EXHIBITS K-N]** Date: March 26, 2007 Time: 9:00 a.m. Judge: Hon. James Ware Place: 8, 4th Floor, San Jose

DECLARATION OF LESLIE A. PEREIRA

I, Leslie A. Pereira, declare as follows:

1. I am an attorney duly licensed to practice law in the State of California and before the bar of this Court. I am of counsel to the law firm of Abelson | Herron LLP and, in that capacity, I am counsel of record for Plaintiffs Netscape Communications Corporation and America Online, Inc. (collectively, the "Plaintiffs") in this action. I have personal knowledge of the matters stated herein, except as to matters upon which I state are based upon information and belief. I could and would competently testify to the same.

2. Attached hereto as Exhibit K is a true and correct copy of the online entry in Wikipedia for "Internet access." This entry can be found online at http://en.wikipedia.org.

3. Attached hereto as Exhibit L is a true and correct copy of the online entry in the High-Tech Dictionary at http://www.computeruser.com for the term "Internet access."

4. Attached hereto as Exhibit M is a true and correct copy of the definition of "Internet access" found at page 491 in Newton's Telecom Dictionary, 22nd Edition, 2006.

5. Attached hereto as Exhibit N is a true and correct copy of the online results of a search for the term "Internet access" on http://www.google.com – a commonly-used Internet search engine.

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

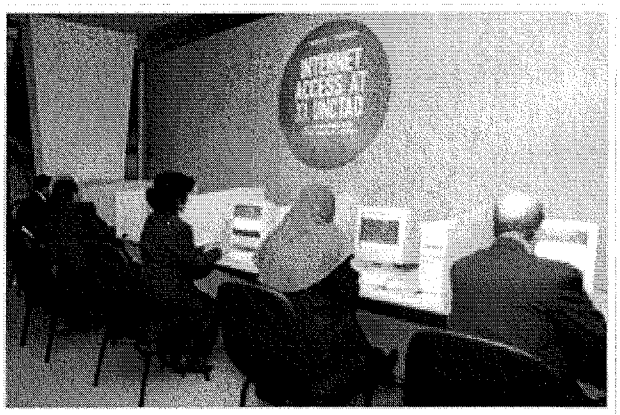
Executed this 2d day of March 2007 at Los Angeles, California.

Leslie A. Pereira

EXHIBIT K

Internet access

From Wikipedia, the free encyclopedia



Internet public access point.

Internet access refers to the means by which users connect to the Internet.

Common methods of internet access include dial-up, landline, (over coaxial cable, fiber optic or copper wires), T- lines, Wi-Fi, satellite and cell phones.

Public places to use the Internet include libraries and Internet cafes, and various Kmarts located in the US, where computers with Internet connections are available. Some libraries provide stations that provide facilities for hooking up public-owned laptops to Local Area Networks (LANs). There are also wireless Internet access points in many public places like airport halls, in some cases just for brief use while standing. These Access points may provide coin operated computers or Wi-Fi hot spots* that enable specially equipped laptops to pick up internet service signals. Various terms are used, such as "public Internet kiosk", "public access terminal", and "Web payphone". Many hotels now also have public terminals, though these are usually fee based.

- Wi-Fi provides wireless access to computer networks, and therefore can do so to the Internet itself. Hotspots providing such access include Wi-Fi-cafes, where a would-be user needs to bring their own wireless-enabled devices such as a laptop or PDA. These services may be free to all, free to customers only, or fee-based. A hotspot need not be limited to a confined location. The whole campus or park, or even the entire city can be enabled. Grassroots efforts have led to wireless community networks.

Apart from Wi-Fi, there have been experiments with proprietary mobile wireless networks like Richochet, various high-speed data services over cellular or mobile phone networks, and fixed wireless services. These services have not enjoyed widespread success due to their high cost of deployment, which is passed on to users in high usage fees. New wireless technologies such as WiMAX have the potential to alleviate these concerns and enable simple and cost effective deployment of metropolitan area networks covering large, urban areas. There is a growing trend towards wireless mesh networks, which offer a decentralized and redundant infrastructure and are often considered the future of the Internet.

Broadband access over power lines was approved in 2004 in the United States in the face of stiff resistance from the amateur radio community. The problem with modulating a carrier signal below 100 MHz onto power lines is that an above-ground power line can act as a giant antenna and jam long-distance radio frequencies used by amateurs, seafarers and others. A recent discovery, called "E-Line" allows propagating much higher frequency carriers, from 100 MHz through at least 10 GHz, onto a single conductor of a power line and offers the possibility of very high speed fixed and mobile information services at very low cost without the problems associated with the lower frequency signals.

Countries where Internet access is available to a majority of the population include Germany, India, China, Chile, Iceland, Finland, Sweden, France, Greece, Bulgaria, Italy, Australia, Denmark, the United States, Canada, the United Kingdom, Ireland, Portugal, The Netherlands, Japan, Singapore, Taiwan, Thailand, South Korea, Philippines and Norway. The use of the Internet around the world has been growing rapidly over the last decade, although the growth rate seems to have slowed somewhat after 2000. The phase of rapid growth is ending in industrialized countries, as usage becomes ubiquitous there, but the spread continues in Africa, Latin America, the Caribbean and the Middle East. One example of a great number of people gaining access to the internet, is in Brazil, thanks to lowering taxes on computers and in dial-up providers, Brazilians are growing significantly on the internet in the past 2 years.

However, there are still problems for many. ADSL and other broadband access are rare or nonexistent in most developing countries. Even in developed countries, high prices, mediocre performance and access restrictions often limit its uptake. Within individual countries, wide differences may exist between larger cities (often having multiple providers of broadband access) and some rural areas, where no broadband access may be available at all.

The expansion of the availability of Internet access is a way to bridge the so-called digital divide.

External links

- CIA World Fact Book: Number of Internet users by country (https://www.cia.gov/cia/publications/factbook/rankorder/2153rank.html)

Retrieved from "http://en.wikipedia.org/wiki/Internet_access"

Category: Internet access

EXHIBIT L

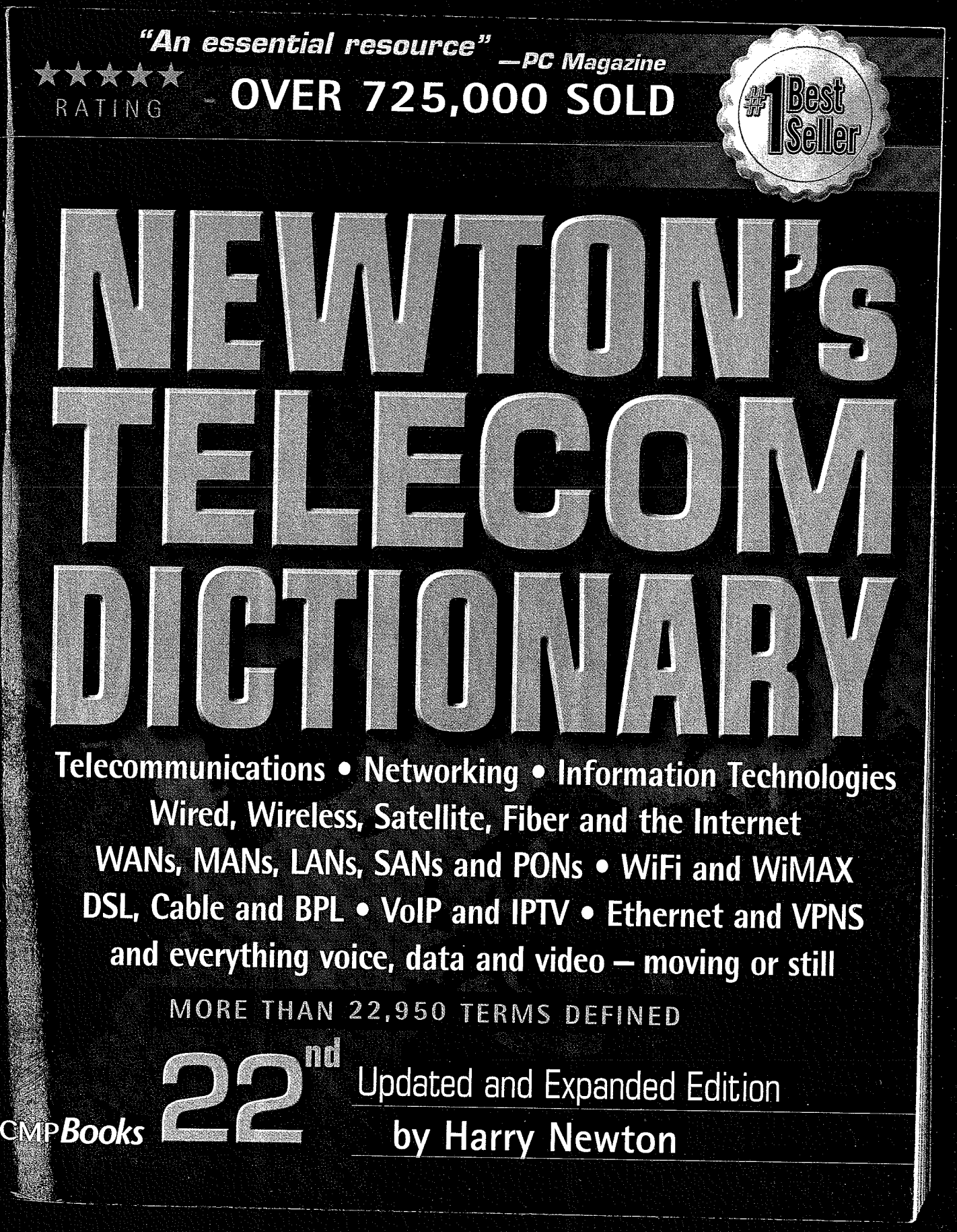
Definition for: Internet access

Access to the Internet via a dial-up account or direct connection.

SEARCH

Look Up

EXHIBIT M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ing protocols providing communication across interconnected networks, between computers with diverse hardware architectures and between various computer operating systems. Most PCs, including Windows-based machines and Macintoshes, will happily communicate using TCP/IP.

How TCP Works: TCP is a reliable, connection-oriented protocol. Connection-oriented implies that TCP first establishes a connection between the two computer systems that intend to exchange data (e.g. your PC and the host computer you're trying to reach, which may be thousands of miles away). Since most networks are built on shared media (for example, several systems sharing the same cabling), it is necessary to break chunks of data into manageable pieces so that no two communicating computers monopolize the network. These pieces are called packets. When an application sends a message to TCP for transmission, TCP breaks the message into packets, sized appropriately for the network, and sends them over the network. Because a single message is often broken into many packets, TCP marks these packets with sequence numbers before sending them. The sequence numbers allow the receiving system to properly reassemble the packets into the original original order, i.e. the original message. TCP checks for errors. And finally, TCP uses port IDs to specify which application running on the system is sending or receiving the data. The port ID, checksum, and sequence number are inserted into the TCP packet in a special section called the header. The header is at the beginning of the packet containing this and other "control" information for TCP.

How IP Works: IP is the messenger protocol of TCP/IP. The IP protocol, much simpler than TCP, basically addresses and sends packets. IP relies on three pieces of information, which you provide, to receive and deliver packets successfully: IP address, subnet mask, and default gateway. The IP address identifies your system on the TCP/IP network. IP addresses are 32-bit addresses that are globally unique on a network. There's much more on TCP/IP in my definition on TCP/IP and on Internet Addresses in that definition.

Here's how the Internet is used: As a computer network joining two (or more) computers together in a session, it is basically transparent to what it carries. It doesn't care if it carries electronic mail, research material, shopping requests, video, images, voice phone calls, requests for information, faxes ... or anything that can be digitized, placed in a packet of information and sent. A packet-switched network like the Internet injects short delays into its communications as it disassembles and assembles the packets of information it sends. And while these short delays are not a problem for non-real time communications, like email, they present a problem for "real-time" information such as voice and video. The Internet can inject a delay of as much as half a second between speaking and being heard at the other end. This makes conversation difficult. Internet telephony, as it's called when it runs on the Internet, is getting better, however, as the Internet improves and voice coding and compression techniques improve. I've enjoyed some relatively decent conversations to distant places

Probably the most famous quote about the Internet is one from John Doerr, one of Silicon Valley's most famous venture capitalists. He said, "The Internet is the greatest legal creation of wealth in the history of the planet." Later, after the dot com bust he came to regret his words. By hyping wealth rather than invention, he has confessed, he distracted the industry from pursuing revolutionary technologies.

Now for a little history on the Internet. In the early 1990s the Internet was run by and for the United States government. There was no public use of the Internet. There were no commercial applications. In fact it wasn't even clear to the Federal Government what the Internet actually was. So an organization called the Federal Networking Council (FNC), which actually managed networking for the Federal Government, on October 24, 1995, unanimously passed a resolution defining the term Internet. This definition was developed in consultation with the leadership of the Internet and Intellectual Property Rights (IPR) Communities. RESOLUTION:

"The Federal Networking Council (FNC) agrees that the following language reflects our definition of the term "Internet". "Internet" refers to the global information system that —(i) is logically linked together by a globally unique address space based on the Internet Protocol (IP) or its subsequent extensions/follow-ons;

(ii) is able to support communications using the Transmission Control Protocol/Internet Protocol (TCP/IP) suite or its subsequent extensions/follow-ons, and/or other IP-compatible protocols; and

(iii) provides, uses or makes accessible, either publicly or privately, high level services layered on the communications and related infrastructure described herein."

MCI Mail was the first commercial application attached to the Internet. Once it got one, all the other email services wanted on...and the rest is history. See various Internet definitions following. See also Berners-Lee, Domain, Domain Naming System, Grid Computing, gTLD, ICANN, Internet2, Internet Appliance, Internet Protocol, Internet Telephony, Intranet, IP Telephony, Surf, TCP/IP, Web Browser and Web Services

Internet access The method by which users connect to the Internet, usually through the service of an Internet Service Provider (ISP).

Internet access provider See IAP.

Internet address When you travel the Internet or its World Wide Web area, you need an address to get to where you want to go—just like you need an address on a letter you mail or a phone number you wish to reach. All Internet addresses are expressed in dotted decimal notation of four fields of eight bits. In binary code, each bit has two possible values, 0 or 1. Therefore, each 8-bit field yield two to the eighth power, or 256 possible combinations. Since one of the possible combinations is 000, which means nothing, it is not used, thereby leaving 255 possible numbers in each field. IP addresses are written as XXX.XXX.XXX.XXX, where X is any number between 0 and 9, and where each 3-digit field has a value between 001 (i.e., 1) and 256. Internet addresses currently are based on the IPv4 (Internet Protocol version 4 protocol), which uses a 32-bit code in the 20-octet IP header to identify host addresses. A 32-bit address field yields 2 to the 32nd power possible addresses—that's 4,294,967,296 addresses that seems like a lot of addresses, but it's not enough in the context of the commercialized Internet. Note that IPv6 has been standardized by the IETF (Internet Engineering Task Force), but has yet to be widely implemented, as equipment upgrades generally are required. Among the advantages of IPv6 is an address field expanded to 128 bits. A 128-bit address field yields 2 to the 128 power addresses—that's 340,282,366,920,939,463,463,374,607,431,768,211,456 distinct addresses. That's enough for approximately 32 addresses for every square inch of dry land on the Earth's surface, which should be enough for a while. No one wants to remember all those numbers when they go checking out their favorite site. So they came up with a neat idea of naming sites and having a bunch of computers do the translation, very similar to what happens with 800 toll-free numbers in North America. As a result Web URLs (Uniform Resource Locators) and e-mail addresses (such as www.harrynewton.com and harry@harrynewton.com) are textual addresses that are translated into correlating IP addresses through DNSs (Domain Name Servers, i.e. dedicated translation computers), which maintain tables of both domain names and IP addresses. For example, if you wish to reach www.Javanet.com, you can type www.Javanet.com in your browser or you can simply type 209.94.128.8. But www.Javanet.com is easier to remember. Internet addresses are organized into hierarchical "classes," as follows:

Class A Addresses: Begin with a "0" bit. Of a possible 128 Class A networks, only 51 networks exist. Examples include General Electric Company, IBM Corporation, AT&T, Hewlett-Packard Company, Ford Motor Company, and the Defense Information Systems Agency. They all are huge organizations, and require the highest possible categorization.

Class B Addresses: Begin with a "10" bit sequence. Of a possible 65,536 Class B networks, only about 12,000 exist.

Class C Addresses: Begin with a "110" binary bit sequence. Most applicants are assigned Class C addresses in blocks of 255 IP addresses. As of January 1998, about 800,000 Class C addresses were assigned.

Class D Addresses: Begin with a "1110" bit sequence. They are intended for multicast purposes

Class E Addresses: Begin with a "1111" bit sequence. They are reserved for future use.

Now, the term "Internet Address" can be a bit misleading. As we have seen, it actually refers to an "IP Address," unless it's a URL, of course. Even if it's a URL, it's translated into an IP address. IP addresses often are used in the LAN (Local Area Network), as well as in the Internet and other public packet data networks. In such a case, one IP address often is used internal to the LAN domain, and another in the Internet domain, in order to mask the internal IP subnet address from the outside world. Masking the internal IP address essentially "masks," or hides, the true IP address of your workstation from the outside world. You may do this for one simple reason—you don't want the outside world to be able to get to your PC. The internal IP address might be either IPv4 or IPv6, while the Internet "outside world" address currently is always IPv4. In either event, the IP addresses are translated, one to the other, through a process of NAT (Network Address Translation), which is accomplished in an access router. On the outbound side, your true IP address is translated into an Internet IP address associated with the router. Responses to your transmissions are addressed to the router, which then translates them back into your true IP address for successful delivery. This translation and masking process secures and protects your identity. See NAT for a full explanation of this process. See also Subnet Mask.

EXHIBIT N

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