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

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

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

Plaintiffs,

vs.

FEDERAL INSURANCE COMPANY, an Indiana corporation; et al.,

Defendants.

CASE NO. 5:06-CV-00198 JW (PVT)
AFFIDAVIT OF MARSH CUSTODIAN OF RECORDS

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

1. I, Alec Setten, am a legal assistant for Marsh USA, Inc. ("Marsh"), and in that capacity make the statements set forth here. These statements are based upon my personal knowledge unless indicated to be based upon information and belief.

2. St. Paul Mercury Insurance Company ("St. Paul") served Marsh with a subpoena for certain documents. A copy of that subpoena is attached here as Exhibit "A."

3. Marsh produced, in response to St. Paul's subpoena certain documents which are designated by bates range numbers as Marsh 00001 through 06230 (referred to here as the "Marsh Documents").

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1 4. Marsh was unable to locate any other documents responsive to the
2 subpoena.

3 5. The Marsh Documents are true and correct copies of records kept in the
4 course of the regularly conducted activities of Marsh.

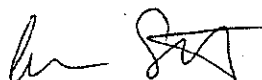
5 6. Marsh Documents created by Marsh employees were created at or near
6 the date of the document and were created in the course of the regularly conducted
7 activities of Marsh.

8 7. Marsh Documents received by Marsh employees were received at or near
9 the date of the document and in the course of the regularly conducted activities of
10 Marsh.

11 8. The Marsh Documents that are email communications to or by Marsh
12 employees are email messages received or sent by Marsh in the ordinary course of
13 Marsh's business activities.

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

16 Dated: November 22, 2006



Alec Setten
Legal Assistant

SHELLEY L. EVANS
Notary Public, State of New York
No. 01EV6140114
Qualified in New York County
Commission Expires Jan. 17, 2010

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