

EXHIBIT 9

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:09-CV-00636-REB-KLM

VIDEO PROFESSOR, INC.
Plaintiff,

v.

AMAZON.COM, INC.
Defendant.

**RESPONSES OF AMAZON.COM, INC., TO
PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS**

Pursuant to the Federal Rules of Civil Procedure, Defendant Amazon.com, Inc. ("Amazon"), submits its objections and responses to Plaintiff's First Set of Discovery Requests, as follows:

GENERAL OBJECTIONS AND QUALIFICATIONS

These General Objections and Qualifications apply to each of Amazon's responses to the individual discovery requests of Plaintiff Video Professor, Inc. ("VPI").

Amazon submits these responses to VPI's discovery requests subject to the objections set forth herein, and without waiving and expressly preserving (a) any objections as to competency, relevancy, materiality, privilege and admissibility of any of the responses; and (b) the right to object to other discovery requests involving or relating to the subject matter of the discovery requests responded to herein. Discovery in this matter is ongoing and Amazon reserves its right

to supplement or amend these responses if additional or different information is hereafter discovered;

1. Amazon objects to the requests insofar as they seek to impose burdens and obligations greater than those imposed by the Federal Rules of Civil Procedure.
2. Amazon objects to the requests insofar as they seek the discovery of privileged information protected by the attorney-client privilege and/or work product doctrine.
3. Amazon objects to the definition of "Relevant Period" to the extent it precedes the date of the start of any of the activities by Amazon alleged by VPI to create liability.
4. Amazon specifically objects to instructions B, D and F as they exceed the requirements of the Federal Rules of Civil Procedure.
5. Amazon objects to the production of documents or information containing confidential or proprietary information of Amazon before the entry of a mutually satisfactory protective order.

RESPONSES TO SPECIFIC REQUESTS

Subject to the foregoing general objections, each of which is incorporated by reference into each of the following responses to specific requests, and in addition thereto, Amazon responds as follows:

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1:

State the name, address, telephone number, and relationship to you of each Person who prepared or assisted in the preparation of the responses to these Interrogatories. (Do not identify anyone who simply typed or reproduced the responses.)

ANSWER:

Kathryn Sheehan, Associate General Counsel, Amazon. Ms. Sheehan should be contacted only through Amazon's outside counsel.

Fay Kelley, Senior Paralegal, Amazon. Ms. Kelley should be contacted only through Amazon's outside counsel.

Eric Herrmann, Senior Manager of Software Development, Search Traffic, Amazon. Mr. Herrmann should be contacted only through Amazon's outside counsel.

Attorneys at the law firm of Faegre & Benson, LLP, which serves as Amazon's outside counsel in this matter.

INTERROGATORY NO. 2:

Identify each denial of a material allegation and each affirmative defense in your pleadings and for each:

- a. State all facts upon which you base the denial or affirmative defense;
- b. State the names, addresses, and telephone numbers of all Persons who have knowledge of those facts;
- c. Identify all Documents and other tangible things, which support your denial or affirmative defense, and the Person who has possession of same.

ANSWER:

Amazon further objects to this interrogatory because it is vague as to the meaning of “material allegation.” Amazon also objects to this request because it impermissibly joins as subparts questions that seek information about discrete separate subjects and therefore causes VPI to exceed the limit on the number of interrogatories it may serve on Amazon pursuant to Fed. R. Civ. P. 33. If VPI identifies the particular “material allegations” to which it seeks responses and if those allegations, plus Amazon’s affirmative defenses, plus the remainder of VPI’s interrogatories do not exceed twenty-five, Amazon will answer this interrogatory as amended.

INTERROGATORY NO. 3:

Identify all employees, officers, and directors, past and present, of Amazon that had any involvement with Amazon’s Sponsored Ads and Links displayed in response to the search terms “video professor,” during the Relevant Period and describe for each the nature of the involvement.

ANSWER:

Amazon further objects to this interrogatory because it is vague as to the meaning of “in response to the search terms ‘video professor.’” Subject to these objections, Amazon responds as follows. The following individuals are knowledgeable about Amazon’s practices in bidding on keywords to display Amazon advertising, including the keyword “video professor.” There are no particular individuals among the following who had specific involvement with Amazon’s Sponsored Ads and Links displayed in response to Amazon’s bids on the keyword “video professor.”

Name	Title	Employment Status
Eric Herrmann	Senior Manager of Software Development, Search Traffic	Current Amazon employee; should be contacted only through Amazon's outside counsel
Kishore Thota	Senior Product Manager	Current Amazon employee; should be contacted only through Amazon's outside counsel
David Langrock	Software Development Manager	Current Amazon employee; should be contacted only through Amazon's outside counsel
Luke Snyder	Software Development Engineer	Current Amazon employee; should be contacted only through Amazon's outside counsel
Will Esdaile	Paid Search Marketing Manager	Current Amazon employee; should be contacted only through Amazon's outside counsel
Paul Echevarria	Software Development Engineer	Current Amazon employee; should be contacted only through Amazon's outside counsel
David Brandt	Software Development Engineer	Current Amazon employee; should be contacted only through Amazon's outside counsel
Luke Hansen	Software Development Engineer	Current Amazon employee; should be contacted only through Amazon's outside counsel
Rob Reid	Software Development Engineer	Current Amazon employee; should be contacted only through Amazon's outside counsel

Name	Title	Employment Status
Stephan Betz	Senior Manager, Software Development	Current Amazon employee; should be contacted only through Amazon's outside counsel
Joel Shapiro	Senior Software Engineer	Current Amazon employee; should be contacted only through Amazon's outside counsel
Todd Larson	Senior Software Design Engineer	Current Amazon employee; should be contacted only through Amazon's outside counsel
Frank Sprague	Software Development Engineer	Left Amazon August 2007
Benjamin Krauskopf	Product Manager	Left Amazon June 2007

INTERROGATORY NO. 4:

Identify all efforts taken by Amazon to avoid its purchase of Sponsored Ads and Links displayed in response to trademarked search terms.

ANSWER:

This interrogatory seeks confidential information, which Amazon will provide only after entry of a mutually satisfactory protective order.

INTERROGATORY NO. 5:

State in detail Amazon's current policy regarding its purchase of Sponsored Ads and Links displayed in response to trademarked search terms.

ANSWER:

This interrogatory seeks confidential information, which Amazon will provide only after entry of a mutually satisfactory protective order.

INTERROGATORY NO. 6:

State whether Amazon's current policy referred to in the preceding interrogatory changed during the Relevant Period and how it differed from its current policy.

ANSWER:

This interrogatory seeks confidential information, which Amazon will provide only after entry of a mutually satisfactory protective order.

INTERROGATORY NO. 7:

With regard to the Requests for Admissions set forth below, state the following for each response that is not an unqualified admission:

- (a) State the number of the request;
- (b) State all facts upon which Amazon bases its response;
- (c) Identify all Persons who have knowledge of those facts; and
- (d) Identify all Documents including drafts and other tangible things that support Amazon's response and the Person who has each Document or thing.

ANSWER:

Amazon further objects to this interrogatory because it impermissibly joins as subparts questions that seek information about fifteen discrete separate subjects and therefore causes VPI to exceed the limit on the number of interrogatories it may serve on Amazon pursuant to Fed. R. Civ. P. 33. If VPI has not already satisfied its twenty-five interrogatory limit excluding this interrogatory and VPI identifies particular Requests for Admission which together with the remainder of VPI's interrogatories do not exceed twenty-five, Amazon will answer this interrogatory as amended.

INTERROGATORY NO. 8:

State the amount of Amazon's receipts from ISI during the Relevant Period relating to the sale of Professor Teaches products.

ANSWER:

Amazon further objects to this interrogatory because it is overbroad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Amazon will answer this interrogatory with respect to Amazon's receipts from ISI as a result of consumers purchasing Professor Teaches products after clicking on an Amazon Sponsored Ad or Link generated by Amazon's bid on the keyword "video professor," if any, but only after entry of a mutually satisfactory protective order as the amount received from ISI, if any, is confidential.

INTERROGATORY NO. 9:

Set forth the amount Amazon has paid each and every search engine operator for Sponsored Ads and Links displayed in response to the search terms "video professor" during the Relevant Period.

ANSWER:

Amazon further objects to this interrogatory because it is vague as to the meaning of "in response to the search terms 'video professor.'" Amazon will answer this interrogatory with respect to the amount Amazon has paid search engine operators for Sponsored Ads or Links displayed in response to Amazon's bids on the keyword "video professor" but only after entry of a mutually satisfactory protective order.

INTERROGATORY NO. 10:

Set forth the number of hits on or click-throughs to Amazon's Web site during the Relevant Period originating from an Amazon Sponsored Ad and Link displayed in response to the search terms "video professor."

ANSWER:

Amazon further objects to this interrogatory because it is vague as to the meaning of "in response to the search terms 'video professor.'" Amazon will answer this interrogatory with respect to the number of hits on or click-throughs to Amazon's Web site during the Relevant Period originating from an Amazon Sponsored Ad or Link displayed in response to Amazon's bid on the keyword "video professor" but only after entry of a mutually satisfactory protective order.

INTERROGATORY NO. 11:

Identify all agreements between Amazon and Google, Inc. whereby Google agrees not to sell the words "amazon" or "amazon.com" as keywords to third parties.

ANSWER:

Amazon further objects to this interrogatory because it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

RESPONSES TO DOCUMENT REQUESTS

DOCUMENT REQUEST NO. 1:

All Documents identified as part of Amazon's Initial Disclosures pursuant to Rule 26(a)(1).

RESPONSE:

Amazon will produce nonprivileged documents responsive to this request at a time and place to be agreed upon by the parties, after entry of a mutually satisfactory protective order.

DOCUMENT REQUEST NO. 2:

All Documents relating to Amazon's Sponsored Ads or Links displayed in response to the search terms "video professor" during the Relevant Period including the ads themselves, all Communications relating to the ads, and billing and payment information.

RESPONSE:

Amazon further objects to this interrogatory because it is vague as to the meaning of "in response to the search terms 'video professor.'" Subject to these objections, Amazon states that it will produce nonprivileged documents relating to Amazon's Sponsored Ads or Links displayed in response to Amazon's bids on the keyword "video professor" during the Relevant Period.

Amazon will produce such documents at a time and place to be agreed upon by the parties, after entry of a mutually satisfactory protective order.

DOCUMENT REQUEST NO. 3:

All Documents relating to Amazon's sales of the "Professor Teaches" instructional computer software products during the Relevant Period.

RESPONSE:

Amazon further objects to this request because it is vague as to the meaning of "Amazon's sales," and because it is overbroad and seeks information that is neither relevant nor

reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, Amazon states that it will interpret the phrase "Amazon's sales" as referring to sales of "Professor Teaches" products on www.amazon.com both by Amazon itself and by third party resellers, and that it will produce nonprivileged documents sufficient to identify such sales where those sales resulted from the purchaser first clicking on an Amazon Sponsored Ad or Link that had been generated by Amazon's bids on the keyword "video professor." Amazon will produce such documents at a time and place to be agreed upon by the parties, after entry of a mutually satisfactory protective order.

DOCUMENT REQUEST NO. 4:

All Documents relating to Amazon's Communications with ISI relating to its "Professor Teaches" instructional computer software products during the Relevant Period.

RESPONSE:

Amazon further objects to this request because it is overbroad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, Amazon states that it will produce nonprivileged documents, if any, relating to its communications with ISI concerning Amazon's bids on the keyword "video professor," if any. Amazon will produce such documents at a time and place to be agreed upon by the parties, after entry of a suitable protective order.

DOCUMENT REQUEST NO. 5:

All Documents relating to Amazon's use of the terms "video professor" as metatags and metadata to optimize the ranking of Amazon's advertisements on Internet search engines' search results.

RESPONSE:

Amazon further objects to this request as argumentative and lacking foundation to the extent it assumes metadata is used to optimize the ranking of Amazon advertisements. Amazon further objects to the term "Amazon's advertisements" as vague. Amazon further objects to this request as overbroad and unduly burdensome to the extent it seeks production of Amazon product pages containing metadata which are publicly available to VPI and requests production of redundant and repetitive information. Subject to these objections, Amazon will produce nonprivileged documents sufficient to show how metadata is populated on Amazon product pages, at a time and place to be agreed upon by the parties, after entry of a suitable protective order.

DOCUMENT REQUEST NO. 6:

All Documents relating to the number of hits on or click-throughs to Amazon's Web site originating from an Amazon Sponsored Ad or Link displayed in response to the search terms "video professor" during the Relevant Period.

RESPONSE:

Amazon further objects to this request because it is overbroad and unduly burdensome in that it seeks redundant and repetitive information. Amazon further objects to this request because it is vague as to the meaning of "in response to the search terms 'video professor.'" Subject to these objections, Amazon states that it will produce nonprivileged documents sufficient to show the number of hits on or click-throughs to its website originating from a Sponsored Ad or Link displayed in response to Amazon's bids on the keyword "video professor." Amazon will produce such documents at a time and place to be agreed upon by the parties, after entry of a suitable protective order.

DOCUMENT REQUEST NO. 7:

All Documents relating to Amazon's Communications with Google and other search engine operators regarding its Sponsored Ads or Links displayed in response to the search terms "video professor" during the Relevant Period.

RESPONSE:

Amazon further objects to this request because it is vague as to the meaning of "in response to the search terms 'video professor.'" Subject to these objections, Amazon states that it will produce nonprivileged documents, if any, relating to Amazon's Communications with Google and other search operators regarding its Sponsored Ads or Links displayed in response to Amazon's bids on the keyword "video professor," if any. Amazon will produce such documents at a time and place to be agreed upon by the parties, after entry of a suitable protective order.

DOCUMENT REQUEST NO. 8:

All Documents identified or relied upon in responding to these discovery requests, including all Documents which were reviewed or consulted in any manner in the preparation of your answers to the Interrogatories or Requests for Admissions.

RESPONSE:

To the extent this request seeks documents "which were reviewed or consulted in any manner in the preparation of [Amazon's] answers to the Interrogatories or Requests for Admissions," Amazon further objects to this request insofar as it seeks the discovery of information protected by the attorney-client privilege and/or work product doctrine. Subject to these objections, Amazon states that it will produce any nonprivileged documents identified in its responses to the Interrogatories or Requests for Admission, if any, at a time and place to be agreed upon by the parties, after entry of a suitable protective order.

DOCUMENT REQUEST NO. 9:

All Documents including correspondence, emails, internal memos, and agreements relating to Communications between Amazon and VPI.

RESPONSE:

Amazon will produce nonprivileged documents responsive to this request at a time and place to be agreed upon by the parties, after entry of a suitable protective order.

DOCUMENT REQUEST NO. 10:

All Documents relating to Amazon's policy regarding its purchase of Sponsored Ads and Links displayed in response to trademarked search terms.

RESPONSE:

Amazon will produce nonprivileged documents, if any, responsive to this request at a time and place to be agreed upon by the parties, after entry of a suitable protective order.

RESPONSES TO REQUESTS FOR ADMISSIONS

REQUEST NO. 1

Amazon has paid Google for an Amazon advertisement ("Amazon Ad") to appear in the search results of a user entering the phrase "video professor" into Google's search engine.

RESPONSE:

Amazon admits that from September 28, 2007, until April 15, 2009, www.amazon.com placed bids with Google for the keyword "video professor" to trigger an Amazon advertisement. Amazon otherwise denies this request.

REQUEST NO. 2

One such Amazon Ad contains the following verbiage:

Save at Amazon
Low prices on popular products
Qualified orders over \$25 ship free
Amazon.com

RESPONSE:

Amazon admits that, during the time period it placed bids with Google for the keyword "video professor," if a person typed the words "video professor" in the search box in the Google search engine and Amazon won its bid, at times the Amazon ad referenced in this request appeared to the right of the natural search results in a column identified as "Sponsored Links" and separated from the natural search results by a dividing line. Amazon otherwise denies this request.

REQUEST NO. 3

At the time Amazon paid Google for the Amazon Ad to appear in response to entry the search terms "video professor" into Google's search engine, Amazon knew that "video professor" was a trademarked phrase.

RESPONSE:

Amazon further objects to this request for admission because the term “trademarked phrase” is ambiguous. If VPI intends “trademarked phrase” to mean the subject of a valid federally registered or common law trademark, Amazon answers as follows:

Denied.

REQUEST NO. 4

Amazon has paid Google to display Sponsored Ads and Links in response to a user’s entry of the search terms “video professor” for the purpose of attracting users searching for “video professor” to Amazon’s website.

RESPONSE:

Amazon admits that it has paid Google to display Sponsored Ads or Links, as defined in VPI’s requests, in response to a user’s entry of the search terms “video professor” for the purpose of attracting users who enter the search terms “video professor” on Google to a webpage on Amazon’s website showing the search results for “video professor” on Amazon’s website.

Amazon fails to recognize any distinction being made between “Sponsored Ads” and “Sponsored Links,” and to the extent a meaningful distinction exists, it denies that it paid Google to display both Sponsored Ads and Sponsored Links. Amazon otherwise denies this request.

REQUEST NO. 5

When a user clicked on the Amazon Ad displayed in Request for Admission No. 2 above, a Web page owned by Amazon was displayed (the “Amazon Webpage”).

RESPONSE:

Admitted.

REQUEST NO. 6

The first six products on the Amazon Webpage were labeled "Professor Teaches."

RESPONSE:

Amazon further objects to this request because it is vague and incomprehensible. The nature and contents of the "Amazon Webpage" to which the request refers is not clear because webpages change daily and in some cases automatically tailor their content to a specific request. Also vague and unclear is the reference to the "first six products."

REQUEST NO. 7

"Professor Teaches" products are products of ISI.

RESPONSE:

Admitted.

REQUEST NO. 8

ISI is a competitor of VPI.

RESPONSE:

After a reasonable inquiry, the information Amazon knows or can readily obtain is insufficient to enable it to either admit or deny this request.

REQUEST NO. 9

A Person searching for VPI, entering the search terms "video professor" in a search engine, and clicking on the resulting Amazon Ad or link might reasonably conclude that VPI is the source of the "Professor Teaches" products thereby displayed.

RESPONSE:

Denied.

REQUEST NO. 10

Amazon uses the phrase “video professor” in metatags and metadata for the purpose of optimizing the ranking of its advertisements in the search results of users searching through Internet search engines for “video professor.”

RESPONSE:

Amazon admits that the words “video professor” may be included as metadata on web pages on the Amazon website advertising Video Professor products for sale. Amazon otherwise denies this request.

REQUEST NO. 11

Exhibit A to the complaint contains a true and correct screenshot of an Amazon Ad.

RESPONSE:

Admitted.

REQUEST NO. 12

Exhibit B to the complaint is a true and correct screenshot of the Amazon landing page that appeared when a user clicked on the link in the Amazon Ad.

RESPONSE:

Denied. The landing page that appeared when a user clicked on an Amazon sponsored link was fluid and changed frequently.

REQUEST NO. 13

Amazon received the letter from VPI attached hereto as Exhibit C.

RESPONSE:

Admitted.

REQUEST NO. 14

Amazon never responded to VPI regarding Exhibit C.

RESPONSE:

Amazon admits that it did not send a letter in response to the letter attached as Exhibit C but otherwise denies this request.

REQUEST NO. 15

Amazon received the letter from VPI attached hereto as Exhibit D.


RESPONSE:

Admitted.

**AS TO ALL OBJECTIONS AND
RESPONSES TO REQUESTS FOR
PRODUCTION AND REQUESTS FOR
ADMISSION**

FAEGRE & BENSON LLP

Dated: August 27, 2009



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Phone: (303) 607-3500
Fax: (303) 607-3600
**ATTORNEY FOR DEFENDANT
AMAZON.COM, INC.**

VERIFICATION

_____, being first duly sworn, says:

I am the _____ for Amazon.com, Inc., the defendant in the within action. I have read the foregoing RESPONSES OF AMAZON.COM, INC., TO PLAINTIFF'S FIRST SET OF INTEROGATORIES and I know the contents thereof, and upon information and belief, the statements therein are true and correct.

The grounds of affiant's belief are personal knowledge, discussions with employees of Amazon, and the books and records of Amazon kept in the ordinary course of business.

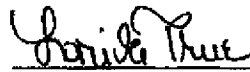
Subscribed and sworn to before me
this _____ day of _____, 2009

Notary Public

CERTIFICATE OF SERVICE

I, Lori E. True, do hereby certify that on August 21, 2009, a true and correct copy of this **RESPONSES OF AMAZON.COM, INC., TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS** was sent via hand delivery to:

Gregory C. Smith
Fairfield & Woods, P.C.
1700 Lincoln Street, Suite 2400
Denver, CO 80203



Lori E. True

fb.us.4289855.09

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:09-CV-00636-REB-KLM

VIDEO PROFESSOR, INC.
Plaintiff,

v.

AMAZON.COM, INC.
Defendant.

**SUPPLEMENTAL RESPONSES OF AMAZON.COM, INC., TO
PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS**

Pursuant to the Federal Rules of Civil Procedure, Defendant Amazon.com, Inc. ("Amazon"), submits its supplemental responses to Plaintiff's First Set of Discovery Requests, as follows:

GENERAL OBJECTIONS AND QUALIFICATIONS

The General Objections and Qualifications incorporated into Amazon's initial responses, served August 27, 2009, are incorporated by reference and apply to these responses as though they were set forth fully herein.

SUPPLEMENTAL RESPONSES TO SPECIFIC REQUESTS

Subject to the foregoing general objections, each of which is incorporated by reference into each of the following responses to specific requests and in addition thereto, Amazon further responds as follows:

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 4:

Identify all efforts taken by Amazon to avoid its purchase of Sponsored Ads and Links displayed in response to trademarked search terms.

ANSWER:

Amazon bids on keywords through an automated computer system which selects keywords to bid on based on consumer purchase behavior on the Amazon.com website. Amazon does not undertake efforts to avoid bidding on keywords which happen to be trademarks of products which are available for sale on the Amazon.com Web site.

INTERROGATORY NO. 5:

State in detail Amazon's current policy regarding its purchase of Sponsored Ads and Links displayed in response to trademarked search terms.

ANSWER:

See response to Interrogatory No. 4 for Amazon's current policy and practice concerning Amazon's bids on keywords which happen to be trademarks.

INTERROGATORY NO. 6:

State whether Amazon's current policy referred to in the preceding interrogatory changed during the Relevant Period and how it differed from its current policy.

ANSWER:

Amazon's current policy and practice referenced in the preceding interrogatory has not changed during the Relevant Period.

INTERROGATORY NO. 8:

State the amount of Amazon's receipts from ISI during the Relevant Period relating to the sale of Professor Teaches products.

ANSWER:

Amazon further objects to this interrogatory because it is overbroad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Amazon will answer this Interrogatory with respect to Amazon's receipts from ISI as a result of consumers purchasing Professor Teaches products after clicking on an Amazon Sponsored Ad or Link generated by Amazon's bid on the keyword "video professor." Subject to these objections, Amazon has received no money from ISI as a result of consumers purchasing Professor Teaches products after clicking on an Amazon Sponsored Ad or Link generated by Amazon's bid on the keyword "video professor."

INTERROGATORY NO. 9:

Set forth the amount Amazon has paid each and every search engine operator for Sponsored Ads and Links displayed in response to the search terms "video professor" during the Relevant Period.

ANSWER:

Amazon further objects to this interrogatory because it is vague as to the meaning of "in response to the search terms 'video professor.'" Amazon will answer this interrogatory with respect to the amount Amazon has paid search engine operators for Sponsored Ads or Links displayed in response to Amazon's bids on the keyword "video professor." Subject to these objections, Amazon states that from December, 2003, until April, 2009, when Amazon ceased bidding on the keyword "video professor," it paid approximately nine hundred forty six dollars (\$946) to search engine operators for Sponsored Ads or Links displayed in response to Amazon's bids on the keyword "video professor" since December, 2003.

INTERROGATORY NO. 10:

Set forth the number of hits on or click-throughs to Amazon's Web site during the Relevant Period originating from an Amazon Sponsored Ad and Link displayed in response to the search terms "video professor."

ANSWER:

Amazon further objects to this interrogatory because it is vague as to the meaning of "in response to the search terms 'video professor.'" Amazon will answer this interrogatory with respect to the number of hits on or click-throughs to Amazon's Web site during the Relevant Period originating from an Amazon Sponsored Ad or Link displayed in response to Amazon's bid on the keyword "video professor." Subject to these objections, Amazon states that from December, 2003, until April, 2009, when Amazon ceased bidding on the keyword "video professor," there have been six thousand, one hundred and eighty-eight (6188) hits or click-throughs to Amazon's Web site originating from an Amazon Sponsored Ad or Link displayed in response to Amazon's bid on the keyword "video professor."

DOCUMENT REQUEST NO. 3:

All Documents relating to Amazon's sales of the "Professor Teaches" instructional computer software products during the Relevant Period.

RESPONSE:


Amazon further objects to this request because it is vague as to the meaning of "Amazon's sales," and because it is overbroad and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Amazon also objects to this request because it is unduly burdensome as to sales made prior to September 28, 2007, when Amazon began keeping records of the relevant activity. Subject to these objections, Amazon states that it will interpret the phrase "Amazon's sales" as referring to sales of "Professor

Teaches" products on www.amazon.com both by Amazon itself and by third party resellers, and that it will produce nonprivileged documents sufficient to identify such sales where those sales were made on or after September 28, 2007, and resulted from the purchaser first clicking on an Amazon Sponsored Ad or Link that had been generated by Amazon's bids on the keyword "video professor." Amazon will produce such documents at a time and place to be agreed upon by the parties, after entry of a mutually satisfactory protective order.

AS TO ALL OBJECTIONS

FAEGRE & BENSON LLP

Dated: September 21, 2009



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Phone: (303) 607-3500
Fax: (303) 607-3600
ATTORNEY FOR DEFENDANT
AMAZON.COM, INC.

VERIFICATION

Eric Herrmann, being first duly sworn, says:

I am the Sr. Manager, Software Development for Amazon.com, Inc., the defendant in the within action. I have read the foregoing SUPPLEMENTAL RESPONSES OF AMAZON.COM, INC., TO PLAINTIFF'S FIRST SET OF INTEROGATORIES and I know the contents thereof, and upon information and belief, the statements therein are true and correct.

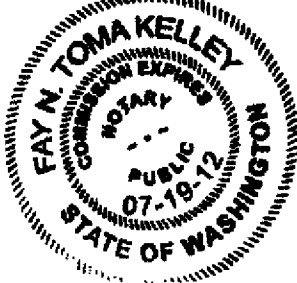
The grounds of affiant's belief are personal knowledge, discussions with employees of Amazon, and the books and records of Amazon kept in the ordinary course of business.

Eric Herrmann

Subscribed and sworn to before me
this 21 day of September, 2009

Fay N. Toma Kelley

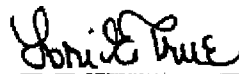
Notary Public, State of Washington



CERTIFICATE OF SERVICE

I, Lori E. True, do hereby certify that on September 21, 2009, a true and correct copy of this **SUPPLEMENTAL RESPONSES OF AMAZON.COM, INC., TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS** was sent via hand delivery to:

Gregory C. Smith
Fairfield & Woods, P.C.
1700 Lincoln Street, Suite 2400
Denver, CO 80203



Lori E. True

fb.us.4384003.03