

**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.

AMENDED UNDISPUTED FACTS

In accordance with the Scheduling Order (Doc. No. 20), entered July 9, 2009, the Parties supplement Section 4 of the Scheduling Order entitled "Undisputed Facts" by substituting the following for the current Section 4 contained in the Scheduling Order:

4. UNDISPUTED FACTS

1. From September 28, 2007, until April 15, 2009, (the "Relevant Period"), Amazon.com placed bids with Google for the keyword "video professor" to trigger an Amazon advertisement (an "Amazon Ad").

[VPI reserves the right to argue that the Relevant Period may be longer based on facts adduced through discovery.]

2. An example of the Amazon Ad read as follows:

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

3. During the Relevant Period, if a person typed the words "video professor" in the

EXHIBIT

A

search box in the Google search engine and Amazon won its bid for "video professor," an Amazon Ad would appear under a heading identified as "Sponsored Links."

4. When a person clicked on an Amazon Ad during the Relevant Period, the person was taken to a landing page on the Amazon.com website.

5. During the Relevant Period, Video Professor products were available for sale from resellers on the Amazon.com website.

6. At times during the Relevant Period, the landing page presented Video Professor products as well as other products, including "Professor Teaches" products, available for sale from resellers on the Amazon.com website.

7. "Professor Teaches" products are not products of VPI.

8. Amazon is the registrant and owner of the domain name www.amazon.com.

Respectfully submitted this 20th day of August 2009.

s/Gregory C. Smith

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