

# EXHIBIT B

1           \*\*HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY\*\*

2

3       IN THE UNITED STATES DISTRICT COURT

4       FOR THE DISTRICT OF COLORADO

5       Case No. 1:09-CV-00636-REB-KLM

---

6       30(b)(6) DEPOSITION OF DAVID LAUGHLIN

7

March 1, 2010

---

8       VIDEO PROFESSOR, INC.,

9       Plaintiff,

10       vs.

11       AMAZON.COM, INC.,

12       Defendant.

13

---

14       APPEARANCES:

15       Appearing on behalf of Plaintiff:

16           Gregory C. Smith, Esq.   E-mail: gsmith@fwlaw.com

          FAIRFIELD & WOODS, PC

17           1700 Lincoln Street, Suite 2400

          Denver, Colorado 80203

18           Phone: 303.830.2400   Fax: 303.830.1033

          - and -

19           Jean Robertson, Esq.

          VIDEO PROFESSOR, INC.

20           12055 West 2nd Place

          Lakewood, Colorado 80228

21           Phone: 303.232.1244   Fax: 303.232.5442

          Appearing on behalf of Defendant:

22           Marc C. Levy, Esq.   E-mail: mlevy@faegre.com

          Jared B. Briant, Esq.   E-mail: jrbriant@faegre.com

23           FAEGRE & BENSON LLP

          1700 Lincoln Street, Suite 3200

24           Denver, Colorado 80203

25           Phone: 303.607.3500   Fax: 303.607.3600

1 Procedure 30(b)(6).

2 MR. SMITH: Let me suggest something. We  
3 already have an Exhibit 1 in this case. Do you want  
4 to mark consecutively, or what are you doing?

5 MR. LEVY: I intend to mark consecutively  
6 with respect to Amazon exhibits, and so I'm going to  
7 start with my Exhibit 1, and then we'll continue from  
8 there, and I presume that you will do the same with  
9 your exhibits.

10 MR. SMITH: But we're not going to  
11 collectively number consecutively?

12 MR. LEVY: That's not my plan.

13 MR. SMITH: Okay.

14 Q (By Mr. Levy) So, Mr. Laughlin, have you  
15 seen Exhibit 1 before?

16 A I have.

17 Q Is your understanding that you are the  
18 designee of Video Professor, Inc., or VPI -- I'll  
19 refer to Video Professor as VPI. Is that okay?

20 A That's fine.

21 Q All right. Is it your understanding that  
22 you are here as VPI's designee to testify as to  
23 certain topics listed in Exhibit 1?

24 A That's my understanding.

25 Q Okay. Can you identify which topics you

1           A           And those are unauthorized, right.

2           Q           I understand that. From Video Professor's  
3 view, those are unauthorized, and they are violating  
4 these terms of usage, right?

5           A           Exactly.

6           Q           Okay. Are you aware of any other Web  
7 sites or retail stores, brick and mortar stores for  
8 that matter, where a consumer could find Video  
9 Professor products, other than your 800 number, your  
10 Web site, eBay and Amazon?

11          A           You know, there are probably sites like a  
12 Craigslist or something like that where you might run  
13 into that, but again, I think for our part, we  
14 attempt to go after those third parties and take them  
15 down.

16          Q           Yeah. Why do you do that?

17          A           We don't like our product being resold by  
18 anyone other than Video Professor.

19          Q           I understand that, but why don't you like  
20 that?

21          A           As a CD ROM product, it can be duplicated.  
22 It can be -- you know, there's piracy issues related  
23 to it, and so we -- by virtue of your having  
24 purchased and bought the product and using it, we  
25 don't allow you to then take that and resell it.

1 offered the Video Professor product, right?

2 A Not to my knowledge.

3 Q That would -- yeah. Better not, right?

4 A That would be interesting.

5 Q I guess also Video Professor has been  
6 aware that Amazon was bidding on "video professor" as  
7 a keyword. You are aware of that?

8 A We had an agreement.

9 Q What do you mean by that?

10 A The vendor manual, vendor agreement, I  
11 believe, specifically allowed them to utilize the  
12 "video professor" keyword in order to sell Video  
13 professor product.

14 Q And if I understand this right, I mean,  
15 that was Video Professor's understanding so long as  
16 the vendor agreement remained in effect; is that  
17 right?

18 A Correct.

19 MR. LEVY: I see that it's 12:30, and I  
20 probably should have mentioned this earlier, but  
21 would this be a good time to take our lunch break?

22 MR. SMITH: That's fine with me.

23 (The deposition recessed at 12:30 p.m.,  
24 to be reconvened at 1:30 p.m.

25

1 2008, and this invoice is referencing an order -- and  
2 I'm assuming that's an order from Amazon dated  
3 February 3, 2009. Do you make the same conclusion?

4 A Yes.

5 Q And it appears that these products were  
6 shipped and Amazon was invoiced. What's going on  
7 here; do you know?

8 A It looks like even after the termination  
9 of the agreement on another level, Amazon was still  
10 submitting purchase orders, and Video Professor was  
11 fulfilling those purchase orders.

12 Q Do you know why that was being done at  
13 Video Professor?

14 A I don't know why.

15 Q Was it Video Professor's intent in  
16 terminating the vendor manual that it would not be  
17 accepting any more orders from Amazon?

18 A That would be my intent, yes.

19 Q But that's not what happened?

20 A That's not what happened here.

21 Q And if we look through these invoices, if  
22 you go to the very next page, it looks like there was  
23 an order -- this is the page marked VPI 105.

24 A Yeah.

25 Q There was an order for 20 units of Office

1       Essentials. Do you recognize that as a VPI product?

2           A        Sure. Yes, I do.

3           Q        And that apparently was ordered by Amazon  
4       on March 10, 2009, and it was shipped to Amazon on  
5       March 11, 2009. So this indicates that VPI was still  
6       shipping product to Amazon as late as March 2009; is  
7       that right?

8           A        I agree. That's what it's showing.

9           Q        All right. Do you recall ever any  
10      discovery after the fact, oh, my goodness, what are  
11      we doing shipping to Amazon? I thought we ended that  
12      relationship? Was there any discussion at VPI about  
13      that?

14          A        I wasn't involved specifically in any  
15      discussions about discovery of this after the  
16      termination of the agreement. I came to understand a  
17      short while ago that this had actually happened.

18          Q        Okay. So at least as late as March 2009,  
19      Amazon had both received and paid for product from  
20      VPI to sell on its Web site, right?

21          A        Received -- it had its purchase orders  
22      fulfilled, yes.

23          Q        And Amazon's business is selling products,  
24      right?

25          A        Correct.