

EXHIBIT E

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Attorneys for Defendants

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

**WHITNEY INFORMATION NETWORK,
INC.;** a Colorado corporation,

Plaintiffs,

v.

XCENTRIC VENTURES, LLC, an
Arizona limited liability company;
BADBUSINESSBUREAU.ORG, an
Arizona limited liability company; and **ED
MAGEDSON,** an individual,

Defendants.

Case No: 2:04-CV-47-ftm-29

DECLARATION OF BEN SMITH

I, Ben Smith, declare the following to be true under penalty of perjury:

1. I am the Vice President of technical services for TecServ, Inc.
2. TecServ provides technology services to Xcentric Ventures, LLC.
3. I have provided technology services to the operator of Rip-off Report for over six years.
4. Since early 2003, the program that operates the Rip-off Report website has captured the IP address of everyone who posts on the Rip-off Report website.
5. An IP address is a unique address that identifies the computer that the submission came from.

6. The Report numbers listed in Exhibit 1 are the report numbers for each of the postings on Rip-off Report about Whitney Information Systems or Russ Whitney.
7. We captured IP addresses on all but three of the reports in Exhibit 1.
8. Xcentric was able to capture IP addresses for all postings submitted after early 2003.
9. The three submissions that we do not have IP addresses for are 14776, posted in April of 2002, 19270, posted in April of 2002 and 32721, posted in October of 2002.
10. For report number 14776, the author failed to provide a name, address, or telephone number. The e-mail address provided was invalid. The same email address was used to file later rebuttals for which we did capture an IP address.
11. For report number 19270 and 32721, the authors provided what appear to be valid names, email addresses, mailing addresses and telephone numbers. None of this identifying information is that of any person who I know to be an agent of Xcentric.
12. For each of the reports and all associated rebuttals that are listed in Exhibit 1, I compared the IP address of the person submitting the posting to the IP addresses of the computers used by Xcentric Ventures and its agents, including Ed Magedson.
13. None of the IP addresses of any the computers that posted any of the reports listed in Exhibit 1 or any rebuttal to any report listed in Exhibit 1 match the IP address of any computer used by Xcentric or its agents, including the computers used by anyone at my office, the mail server used by Xcentric, the remote access server used by Xcentric, the computers used by agents of Xcentric, and Ed Magedson's personal and work computers.

14. For each of the reports and all associated rebuttals that are listed in Exhibit 1, I reviewed the contact information provided by the author, including the name, email address, mailing address, and telephone number. None of this identifying information is that of any person who I know to be an agent of Xcentric.
15. There are 24 reports in Exhibit 1, and there are 50 total postings including rebuttals to reports.
16. 4 of these submissions were made by authors who identified their state of residence as Florida. Other states listed by authors of postings included California, Colorado, Ohio, Alberta Canada, Washington, Arizona, Illinois, Michigan, New Jersey, Ohio, and West Virginia.
17. Since 2004, a report cannot be filed on Rip-off Report without a valid email address.
18. None of the email addresses of any of the reports in Exhibit 1 or any rebuttal to any of those reports match any email address of Xcentric or its agents.

The foregoing is based on my personal knowledge and investigation.



Ben Smith

10/21/05
Date

Exhibit I

160273
143014
142368
14776
129021
127344
108988
108161
102227
97292
91217
89063
88058
86576
78421
59693
67532
67097
60657
52981
52044
43714
32721
19270