

EXHIBIT 3

Evidence Supporting "Markup Language"

1. NetJumper's asserts at page 37 of its Opposition Brief is that "Google never actually provides evidence that the initial data file displayed in whatever window Google decides is the 'search window' is in a markup language." [Opp. at 37.]

2. The evidence Google submitted to support its conclusion, in the record, is as follows:

(a) Prof. Hardin's declaration explains the various types of files presented in a Web browser or "browser window (400)" include HTML files. [Hardin Dec. ¶¶ 22, 23, 32 ("URLs found in the WebMap were extracted from a HTML file presented in the browser window."); *compare* Galler Dec. ¶ 18 (referencing HTML files shown in "browsers" from the '172 Patent).] This limitation is analyzed at Hardin, Dec., Ex. F at 3 (claim [2]).

(b) Mr. Stark's unopposed declaration at paragraph 5, explains that CyberPilot was used in conjunction with a Web browser and functioned as a graphical user interface to assist in the navigation of HTML files. [Stark Dec., ¶ 5 ("parse the hyperlinks from the HTML file"); see also Stark Dec. Ex. B, at 4 ("since the tutorial is an HTML file, it will open automatically in your browser window"), as well as 7, 16, and 24.]

(c) The '172 Patent states that HTML files are a form of markup language. See, '172 Patent, Col. 1, lines 41-43 ("The most popular encoding of Internet files is the HTML (hypertext markup language)." A HTML file is shown in Figure 4 of the '172 Patent, identified as the prior art. ['172 Patent, Figure 4, file "netsearch1.html" in element 404.]

3. Regarding NetJumper's citation to Prof. Galler's declaration to support its statement that "Plaintiff's expert opines it is not," Prof. Galler testified as follows:

A. All right. My point here in Paragraph 41 is that I don't know from looking at it without looking at the source code exactly what it's interpreting, what it's -- what it brings in and what it -- whether initial data file is in a markup language. All I'm saying is **I don't know that it is, I don't know that it isn't.**

Q. Because when you ran the software you couldn't see the markup?

A. That's right.

Q. Okay. But did you try to open up the page that was displayed in the web browser?

A. I didn't.

Q. Why not?

A. I wasn't particularly interested in it at the time.

[Exhibit 1 (Galler Depo. Tr.) 165:6-21 (emphasis added).]