

# Exhibit A

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

THE WEATHER UNDERGROUND, INC.,  
a Michigan corporation,

Plaintiff,

vs.

Case No. 2:09-CV-10756  
Hon. Marianne O. Battani

NAVIGATION CATALYST SYSTEMS, INC.,  
a Delaware corporation; BASIC FUSION, INC.,  
a Delaware corporation; CONNEXUS CORP.,  
a Delaware corporation; and FIRSTLOOK, INC.,  
a Delaware corporation,

Defendants.

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Local Counsel for Defendants

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**DECLARATION OF WILLIAM A. DELGADO**

I, William A. Delgado, declare as follows:

1. I am over the age of eighteen and am lead counsel for Navigation Catalyst Systems, Inc. (“NCS”), defendant in this matter. I have personal knowledge of the facts stated herein except where stated on information and belief, and, as to those matters, I believe them to be true.

2. After NCS sent out its Objections and Responses to Plaintiff’s First Set of Requests for Production, I received a meet and confer letter from Plaintiff’s counsel. I attempted, via telephone and written correspondence, to have a meaningful meet and confer with counsel; to wit, Plaintiff would narrow the scope of certain requests, and NCS would agree to produce documents in response to these narrower requests. I continued this attempt even *after* Plaintiff filed a Motion to Compel. Nevertheless, Plaintiff’s counsel refused to have any meaningful meet and confer conversation and did not meaningfully narrow the scope of any request whatsoever prior to May 12, 2010.

3. On May 12, 2010, the parties had their first hearing on Plaintiff’s Motion to Compel and Defendant’s Cross-Motion to Compel. The hearing quickly turned into a day-long meet and confer conference between lead counsel for both parties.

4. While the parties were able to resolve many issues on May 12<sup>th</sup>, Plaintiff refused to narrow the scope of Request No. 36 despite knowing that it was impossible for NCS to comply with the Request as written.

5. Plaintiff never met and conferred with me as to whether Plaintiff wanted the domain name lists maintained by Verisign and never requested NCS to seek those lists from Verisign.

6. I prepared the Iron Mountain deposits for production and produced those to Plaintiff's counsel on August 20, 2010, the same date on which Donnie J. Misino appeared at deposition as a designee of Navigation Catalyst Systems, Inc. The deposition lasted approximately six hours and fourteen minutes.

7. I prepared the domain name lists provided by Verisign for the dates July 23, 2010, July 30, 2010 and August 6, 2010 for production and provided them to Plaintiff's counsel on August 20, 2010.

8. At the request of Plaintiff's counsel, I contacted DomainTools.com to determine the cost of having them provide a Registrant Report for registrations by NCS for each of January 1<sup>st</sup> and July 1<sup>st</sup> from 2004 to 2009. I was informed that the "retail" price for such reports would be upwards of \$2.5 Million. I was further informed that a "fair" price could be negotiated but, to date, have not been informed what that fair price would be.

9. Plaintiff never accepted my proposal from the May 19<sup>th</sup> hearing to run several search queries against the NCS portfolio and never provided me with a list of potential queries.

10. I prepared the backup of the Internal Firstlook Database for production and know that it consists of approximately 408 GB of data. I also prepared the third party data for production and know that it consists of another (approximately) 40 GB of data. If one assumes that this data is most akin to a Microsoft Excel spreadsheet, 448 GB of data would be equivalent to approximately 74,274,368 pages, according to a White Paper issued by LexisNexis found at <http://www.lexisnexis.com>.

11. The request for the internal and third party data was made by Enrico Schaefer on August 4, 2010 after the deposition of Jeff Masters. It was followed up with a letter by Mr.

Schaefer on Thursday, August 5, 2010, demanding compliance upon pain of motion to compel to be filed on Monday. On Friday, August 6, 2010, I responded to Mr. Schaefer, noting that I had just returned to Los Angeles, after a week in Michigan, and asked that the parties meet and confer further after I had a chance to speak to my client and attend to my other cases that day. My letter to Mr. Schaefer is attached as Exhibit D to the Opposition. No such opportunity was provided. On Monday, August 9, 2010, Plaintiff filed the present Motion.

12. In any event, on August 20, 2010, NCS produced the Internal and Third Party Data to Plaintiff.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 23<sup>rd</sup> day of August 2010 at Los Angeles, California.

/s/William A. Delgado.  
William A. Delgado