

Exhibit A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

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THE WEATHER UNDERGROUND, INC.,
a Michigan corporation,

Plaintiff,

vs.

Case No.
2:09-CV-10756

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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C O N F I D E N T I A L
A T T O R N E Y S ' E Y E S O N L Y

Butzel Long, P.C.
380 Madison Avenue
New York, New York

Wednesday, September 15, 2010
10:03 a.m.

Videotape deposition of SETH JACOBY,
held at the above-mentioned time and place, before
Elizabeth M. Kondor, CCR, CLR and Notary Public.

1 A. Correct -- no, mine said Firstlook --
2 I'm talking about my -- my paycheck was coming
3 from Connexus, correct.

4 Q. Okay. Let me just back up and make
5 sure we got that right.

6 So even though your business card
7 said Firstlook, your paycheck came from Connexus,
8 the parent company?

9 A. Correct.

10 Q. Okay. And would that have been true
11 for the other employees, as far as you understood
12 it, through the years?

13 A. Yes.

14 Q. Now, in terms of someone like Chris
15 Pirrone, in 2008, for instance, do you know
16 whether or not he would have been considered a
17 Firstlook employee or a Connexus employee?

18 A. He was a corporate Connexus employee.

19 Q. Okay. And so someone like Chris
20 Pirrone would have been involved in the domain
21 acquisition side of the business, the search side
22 of the business as well, correct?

23 A. He would have only been involved to
24 the extent that he was providing legal advice.

25 Q. Okay. Would he not have also been

1 involved in the decision as to whether or not to
2 register certain domains?

3 A. He would only be involved in that
4 type of decision if it was escalated to legal to
5 receive legal advice on whether or not to purchase
6 a domain or not.

7 Q. Okay. So the answer is, yes, if
8 there was a -- there are instances where domains
9 were, for instance, flagged as potential trademark
10 issues or threat letters were received concerning
11 trademark issues on domain acquisition, on NCS
12 domains, and Chris Pirrone would have been
13 involved in the handling of those issues in
14 certain instances?

15 A. Well, he would not make a decision,
16 no. He would provide legal advice.

17 Q. Isn't it true that Chris Pirrone, in
18 certain instances, would actually make a decision
19 as to whether or not to register certain domains
20 that are elevated up to his level?

21 A. I mean, ultimately the decision rests
22 in the business of which domain names we keep and
23 we don't keep. If I don't agree with Chris'
24 decision, then I would go to Art, his boss, and
25 say, all right, this is where we are, Chris, as

1 our counsel, believes we don't -- we shouldn't
2 have this name, I think we do, please make a
3 decision, and from there, Art would make that
4 decision.

5 Q. Okay. But I guess back to my
6 original question. I know you want to say, well,
7 that was legal advice. To me, that's not my
8 question, as to what the advice is. Chris
9 Pirrone, through the years, has been involved in
10 the decision-making process as to whether or not
11 to register certain domains, true?

12 MR. DELGADO: Objection; vague and
13 ambiguous.

14 A. He's provided legal advice.

15 Q. Okay. Listen to my question.

16 A. I'm listening.

17 Q. I'm not asking you for what the
18 advice was. Yes or no, what I'm asking is very
19 simple, was Chris Pirrone involved in the
20 decision-making as to whether or not to register
21 certain domains through the years?

22 A. What do you mean by "involved"?

23 MR. DELGADO: Same objection.

24 Q. That he would have been a decision
25 maker as to whether or not to register a --

1 A. The answer is no.

2 Q. Okay. Would he have provided input
3 as to whether or not to register certain domains
4 or not --

5 A. What type of input --

6 Q. -- through the years?

7 A. What type of input?

8 Q. Any input as to whether or not he
9 thought the domain should be registered or not.

10 MR. DELGADO: Well, now you're
11 getting into potentially attorney/client
12 privilege.

13 MR. SCHAEFER: I haven't asked him
14 what the input is. I'm just asking him, did he
15 provide input as to whether or not certain domains
16 should be registered or not.

17 A. I don't understand what you mean by
18 "input." What I can tell you is that Chris, as my
19 attorney, provided legal advice on which
20 names we should -- where there's potential risk in
21 the business, of course.

22 Q. Okay. And the issue here is
23 something that I'm sure your attorney has talked
24 about, that is to say, he has the ability to
25 object to attorney/client privileged information

1 A. Well, advice could mean a lot of
2 things. I mean, are you asking whether or not,
3 hey, Seth, this is a great domain, go register it?
4 I mean, you could mean that. Is that what you're
5 asking me?

6 Q. Any advice.

7 A. Well, I think -- let's narrow it down
8 to exactly what type of advice you're talking
9 about.

10 Q. Any advice.

11 A. Any advice?

12 Q. Any advice, any input.

13 Did he ever provide any advice?

14 A. He provided legal advice, yes.

15 Q. As to whether or not to register
16 certain domains?

17 A. Whether or not to register a domain
18 name? I mean, legal advice, whether or not to
19 register a domain name? If a domain name was a
20 risk that our company should not have had, Chris
21 would provide legal advice that this domain name
22 should be disposed of, yes.

23 Q. Okay. And so maybe we're getting
24 caught up in semantics here, because the next
25 question is going to be: Did Chris Pirrone ever