

## EXHIBIT E



**WILLENKEN**  
WILLENKEN WILSON LOH & LIEB LLP

December 29, 2010

VIA ELECTRONIC MAIL AND  
U.S. MAIL

Enrico Schaefer, Esq.  
Traverse Legal  
810 Cottageview Drive, Suite G-20  
Traverse City, MI 49684

Re: *Weather Underground v. Navigation Catalyst Systems, Inc.*

Dear Enrico:

I refer to your letter of December 28, 2010 in which you designated certain portions of the Expert Deposition of Chris Schwerzler. I am writing to request that you reconsider the following designations:

62:17-63:9

Presumably, you have designated this testimony as CONFIDENTIAL because it contains Mr. Schwerzler's billing rate for work performed as an expert. However, the Federal Rules specifically require the disclosure, not protection, of this information. Fed. R. Civ. P. 26(a)(2)(B)(vi). In light of this rule, I would request that you de-designate this testimony.

67:13-22

This information is publicly available at <http://www.wunderground.com/about/background.asp>. Please remove this designation.

219-8:11

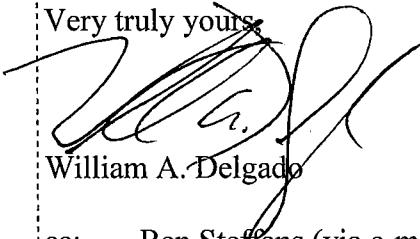
You have designated this testimony as both CONFIDENTIAL and privileged. However, I do not believe it is appropriate to designate this testimony as CONFIDENTIAL under the protective order as it does not contain any type of sensitive business information. Accordingly, please remove the CONFIDENTIAL designation.



As to the designation of this information as privileged, the privileged extended to communications between your firm and Mr. Schwerzler would have been waived when you designated Mr. Schwerzler as your expert witness under the Federal Rules that were in effect when the documents were scheduled to be produced. *Rochow v. Life Ins. Co. of North America*, 2010 WL 100633 (E.D. Mich. 2010). As such, I would ask that you retract the designation of this information (both testimony and document) as privileged.

Further, your attempt to designate this testimony as privileged now raises a question in my mind as to whether other communications between your firm and Mr. Schwerzler were not produced in reliance on an attorney-client privilege which has been waived. Please confirm whether that is the case. If it is, we may need to meet and confer regarding a motion to compel

Very truly yours,



William A. Delgado

cc: Ben Steffans (via e-mail)