

# EXHIBIT B

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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**PLAINTIFF'S ANSWERS TO DEFENDANT'S  
THIRD SET OF REQUESTS FOR PRODUCTION**

## REQUESTS FOR PRODUCTION

**REQUEST FOR PRODUCTION NO. 48:** All Documents which evidence, reflect, or relate to any of the services rendered by, any of the work done by, or any of the work product produced by Christopher Schwerzler, in his role as Plaintiff's expert witness, which relate in any way to this litigation.

**RESPONSE:** Christopher Schwerzler has reviewed most of the pleadings, correspondence and discovery between the parties in this case, including the databases produced by Defendant. He also attended a demonstration of the software on November 29, 2010. However, the following is a list of documents which were primary in forming his expert opinions. These documents are attached.

1. 10-26-10 NCS's Third Set of Requests for Production
2. Reverse IP listing of 208.87.149.250 from May 10th 2010 produced by Domain Tools.
3. Discovery-notes
4. Discovery-timeline
5. Discovery – domain - park
6. Expert2-draft
7. Expert2-draft2
8. Expert2-signed
9. code/string.c
10. code/levenshtein.c
11. code/domain.php
12. code/domain-reverse.php
13. Notebooks
14. Emails
15. Results
16. Prep

**REQUEST FOR PRODUCTION NO. 49:** All Documents evidencing, reflecting, or relating to the creation, drafting, or development of any expert declaration or report of Christopher Schwerzler in this litigation.

NOW COMES Plaintiff, The Weather Underground, Inc. ("Plaintiff"), by and through it's counsel, Traverse Legal, PLC, and answers Defendant's Third Set of Requests for Production as follows:

### **GENERAL OBJECTIONS**

1. Plaintiff objects to Defendant's "Instructions" and "Definitions" to the extent they purport to impose discovery obligations that differ from or exceed the discovery obligations imposed by the Federal Rules of Civil Procedure or the local rules.

2. Plaintiff objects to these Interrogatories to the extent that they seek information protected by the attorney-client privilege, the work-product privilege, or any other privilege, protection, or immunity applicable under the governing law. While Christopher Schwerzler is a named expert and fact witness, he is also the client. All attorney-client information and work product information is not produced.

3. To the extent Defendants seek user information, such as emails, logins, user data or other information subject to privacy terms or laws, Plaintiff will produce responsive information subject to a separate appropriate agreement which will protect that highly sensitive and private information.

4. These General Objections are made, to the extent applicable, in response to each of the Requests for Production as if the objections were fully set forth therein. Plaintiff responds to each of the Requests for Production based upon information and documentation available as of the date hereof and reserves the right to supplement and amend their responses.

**RESPONSE:** See response to Request for Production No. 48.

**REQUEST FOR PRODUCTION NO. 50:** All Documents evidencing, reflecting, or relating to Christopher Schwerzler's qualifications to testify as an expert witness in this matter.

**RESPONSE:** Below is a list of Christopher Schwerzler's qualifications to testify as an expert witness in this matter:

SE Computer Engineering 1996 University of Michigan Ann Arbor

19 years experience working with C programming language  
University of Michigan AOSS  
Adobe Systems  
Weather Underground Inc.

15 years experience working with SQL and data stores  
Weather Underground Inc.

**REQUEST FOR PRODUCTION NO. 51:** All Documents evidencing, reflecting, or relating to any drafts or versions (or any elements or subparts thereof) of any expert declaration or report of Christopher Schwerzler in this litigation.

**RESPONSE:** Please see the document entitled Expert2-signed which is attached to these responses.

**REQUEST FOR PRODUCTION NO. 52:** All Documents evidencing, reflecting, or relating to any written or oral communication or correspondence between Plaintiff, including, without limitation, Plaintiff's attorney(s), and Christopher Schwerzler related to or regarding his role as Plaintiff's expert, the topics of expert testimony, the opinions to be proffered, and/or any draft of the expert reports provided by Plaintiff including, but not limited to, e-mails, faxes, reports, engagement letters, invoices, and computer discs.

**RESPONSE:** Please see the document entitled Prep which is attached to these responses.

**REQUEST FOR PRODUCTION NO. 53:** All Documents constituting, evidencing, reflecting, or relating to any expert reports drafted by Christopher Schwerzler in other trademark litigation matters in the past ten years.

**RESPONSE:** This is the only trademark litigation which Christopher Schwerzler has dealt with in the past ten (10) years.

**REQUEST FOR PRODUCTION NO. 54:** All Documents seen or reviewed by Christopher Schwerzler or relied upon by Schwerzler in the course of rendering services relating to this litigation, preparing his expert reports, or otherwise forming an opinion in this matter.

**RESPONSE:** Christopher Schwerzler has reviewed the pleadings filed in this case, some correspondence between counsel, the discovery responses of Defendant with all documents produced, the depositions of Donnie Misino, Lilly Stevenson, Seth Jacoby, Mavi Llamas and Dennis Rhee (rough draft), printed and scanned copies of the source code provided by the Defendant, various tables and data retrieved from NCS058791 Appendix B, Defendant's Designation of Expert Witnesses, the Expert Reports of Richard Korf, the Expert Report of John Berryhill, and archival whois records of DomainTools.com.

**REQUEST FOR PRODUCTION NO. 55:** All Documents evidencing, reflecting, or relating to any review or consideration, at any time, of any aspect of the business of Defendant or of the industry in which Defendant operates by Christopher Schwerzler.

**RESPONSE:** Plaintiff objects to this request as vague and overly broad. Christopher Schwerzler has reviewed the pleadings, some correspondence and documents produced in this matter, including various web sites registered to NCS and its related companies. Christopher Schwerzler has further reviewed the following websites, among others:

[http://en.wikipedia.org/wiki/Anticybersquatting\\_Consumer\\_Protection\\_Act](http://en.wikipedia.org/wiki/Anticybersquatting_Consumer_Protection_Act)  
[http://en.wikipedia.org/wiki/Navigation\\_Catalyst\\_Systems](http://en.wikipedia.org/wiki/Navigation_Catalyst_Systems)  
[http://www.law.cornell.edu/uscode/15/usc\\_sec\\_15\\_00001125----000-.html](http://www.law.cornell.edu/uscode/15/usc_sec_15_00001125----000-.html)  
[http://www.law.cornell.edu/uscode/html/uscode15/usc\\_sec\\_15\\_00001117----000-.html](http://www.law.cornell.edu/uscode/html/uscode15/usc_sec_15_00001117----000-.html)

**REQUEST FOR PRODUCTION NO. 56:** All Documents constituting, evidencing, reflecting, or relating to instructions or guidance provided by Christopher Schwerzler to any person(s) who assisted him providing services related to this litigation, preparing the expert reports, and/or otherwise forming an opinion in this matter, and any written or oral communications to or from, or involving any such person(s).

**RESPONSE:** Please see the document entitled Emails attached to these responses.

**REQUEST FOR PRODUCTION NO. 57:** All Documents which refer or relate to the function "similar\_text" which appears in Appendix B of Schwerzler's Supplemental Expert Report dated October 10, 2010, including a copy of the code itself.

**RESPONSE:** Please see the documents entitled String.c, code/domain.php and code/domain-reverse.php attached to these responses.

**REQUEST FOR PRODUCTION NO. 58:** All Documents which refer or relate to the function "levenshtein" which appears in Appendix B of Schwerzler's Supplemental Expert Report dated October 10, 2010, including a copy of the code itself.

**RESPONSE:** Please see the documents entitled levenshtein.c, code/domain.php and cod/domain-reverse.php attached to these responses. Also, please go to [http://en.wikipedia.org/wiki/Levenshtein\\_distance](http://en.wikipedia.org/wiki/Levenshtein_distance).

Respectfully submitted this 30<sup>th</sup> day of November, 2010.



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## CERTIFICATE OF SERVICE

I hereby certify that on the 30<sup>th</sup> day of November, 2010, I served the foregoing to the following by email and U.S. Mail, postage prepaid:

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