

# EXHIBIT H

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

--oOo--

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.

\_\_\_\_\_/

VIDEOTAPED DEPOSITION OF CHRISTOPHER SCHWERZLER

Monday, December 6, 2010

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SHEILA CHASE & ASSOCIATES  
REPORTING FOR:  
Westlaw Reporting Service  
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Reported by:  
DAWN E. HOWARD, CSR #13201

1 believe that I did not find that one in the trademark  
2 database, so it may not be a registered USPTO trademark.  
3 It may be a common law trademark. It may be a fair use  
4 trademark, but I'm not a trademark expert.

5 Q. Okay. Is it your opinion that there's -- is  
6 there any part of the code at all that is set up to  
7 actually affirmatively register a domain name if in fact  
8 it matches a trademark in the PTO database?

9 A. Repeat the question.

10 MR. DELGADO: Sure. Can you --

11 (Reporter reads the record.)

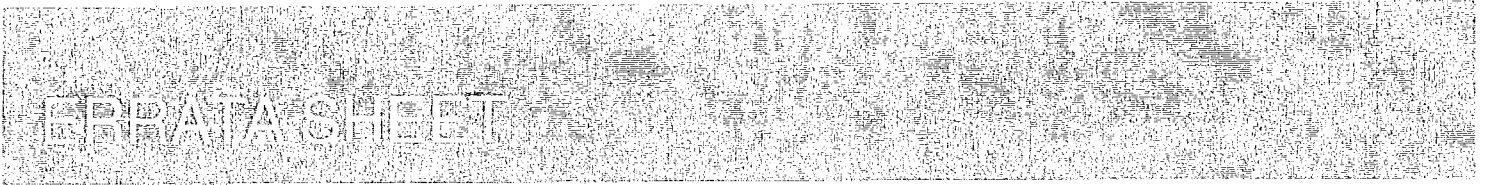
12 MR. DELGADO: I think I may have said, "PTO  
13 database."

14 THE WITNESS: I don't believe that I've  
15 identified code that takes exact trademark matches and  
16 registers them. I think I have identified the

17 comparison results of domains that are 100 percent  
18 trademarks, that were scanned and then registered or  
19 registered and then scanned for trademarks. An example  
20 thereof would be amybrownfantasyart.com or the exact  
21 trademark, as in the USPTO, I believe, registered in  
22 2003, was registered by Firstlook in the name of  
23 Navigation Catalyst Systems.

24 MR. DELGADO: Can I have that answer read back.

25 Sorry.



Westlaw Deposition Services

Deposition of: Christopher Schwerzler Expert Witness

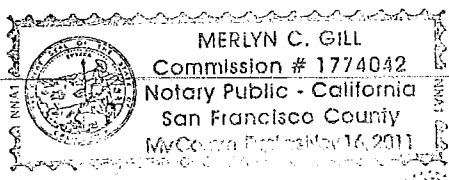
I wish to make the following changes for the following reasons:

Page	Line	Change	Reason

*See attached*

Witness Signature/Date *[Signature]* 12/20/10

Notary Stamp and Signature *[Signature]*  
*(As may be required in certain jurisdictions)*



Edits for my Expert Deposition on 2010-12-06

8 21 "gofer" to "Gopher"  
8 22 "K through 12" to "K-12"  
9 2 "gofer" to "Gopher"  
9 7 "gofer" to "Gopher"  
9 13 "Graphical Gofer" to "graphical Gopher"  
10 25 "their titles" to "the titles"  
11 1 "come" to "gone". (twice)  
11 2 "Director of Llama Wrangling"  
    (I've also used the title "Operations" thinking back now)  
11 12 "software" to "servers"  
11 13 "Radar" to "radar ingest program"  
15 1 "as the" to "as a"  
17 13 "and" to "about"  
21 5 "Sue-Kun" to "Soo Kon" (I think)  
21 24 "A degree"  
22 3 (This was actually the Apple Cool Tools award, probably 1994)  
Confusing that with a press piece Sun wrote around the same time.  
<http://www.savetz.com/topten/showpage.php?page=9826>  
24 24 "my --" to "my take"  
25 1 "and that" to "in that"  
27 1 "206.87.149.250"  
27 20 "we're" to "we were"  
29 16 "we" to "they"  
29 16 "System" to "Systems"  
30 14 "logs" to "blogs" (2x)  
31 1 "L-I-T-E-S-P-E-E-D"  
(looking back this may have been the source  
<http://weblogs.sqlteam.com/tarad/archive/2004/09/23/2102.aspx>)  
33 7 remove the "@"  
33 11 "R." to "R"  
34 19 "MYS - --" to "my expert report and"  
35 11 "conversations" to "observations"  
41 24 "note" to "number"  
42 13 "I'd say" to "I'd use the same notebooks for day-to-day operations"  
46 13 "infective" to "ineffective"  
46 14 "identify a 100"  
46 16 "registered, in examples."  
47 3 "infective" to "ineffective"  
47 5 "that a 100"  
47 11 "infective" to "ineffective"  
47 21 "matching 100" to "making a 100"  
51 3 "it's more similar to"  
66 21 "I think the ACPA allows for such"  
68 15 "People" to "People have"  
79 4 "MYSQL" to "MSSQL"  
79 15 "Allen's" to "Alan's"  
80 17 "Allen" to "Alan"  
81 2 "Allen's" to "Alan's"  
91 18 "in change" to "and change"  
95 3 "illusions" to "allusions"  
107 16 "is -- speaks " to "is -- it speaks "  
113 10 "Allen" to "Alan"  
120 24 "UltraDNS" (but now after further rec, I meant NetZero at the time)

CM5 1/2

121 3 "DomainTools"  
125 1 "determination that all examples that I could actually pull up the  
registration records for bared the"  
to "determination that for all examples, that I could pull up the  
registration records for, they bore the"  
128 17 "20080715"  
133 9 "into a privacy"  
133 15 "seek legal actions"  
135 6 "service domainnametools, which is LLC" to "Domain Name Proxy, LLC"  
144 11 "It's not really my responsibility to screen for trademarks."  
144 22 "informal" to "formal"  
144 4 "use, of how you use that domain, and ..."  
144 11 "unusage" to "own usage"  
149 11 "first" to "source"  
152 2 "Allen" to "Alan"  
154 24 "ultimate-guitar and plentyoffish"  
166 23 "recognize" to "recognized"  
168 25 "party" to "person"  
179 3 "was" to "were"  
179 19 "were" to "we were"  
185 10 "Characterization" to "Categorization"  
185 16 "characterization" to "categorization"  
191 24 "hadn't" to "had"  
199 2 "the depositions have"  
201 1 "culled" to "pulled"  
208 5 "the." to "the dot"  
208 8 "facially" to "appear to be"  
222 20 "domain\_reverse.php"  
223 10 "what you argue" to "would you argue"  
224 12 "ultimateguitar" to "ultimate-guitar"  
224 14 "teammate" to "timate"  
224 20 "ultimate-guitar.com"  
225 2 "timate-guitar.com" (missing the u and l)  
228 14 "350 -- East" to "3 East 54th Street"  
235 7 "dp\_trademarkblacklist\_queue\_match for term of wunderground"

CMS 2/2

# CALIFORNIA JURAT WITH AFFIANT STATEMENT

- See Attached Document (Notary to cross out lines 1-6 below)  
 See Statement Below (Lines 1-5 to be completed only by document signer[s], *not* Notary)

1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_

Signature of Document Signer No. 1 \_\_\_\_\_ Signature of Document Signer No. 2 (if any) \_\_\_\_\_

State of California

County of San Francisco

Subscribed and sworn to (or affirmed) before me on this

20 day of December, 2010, by  
Date Month Year

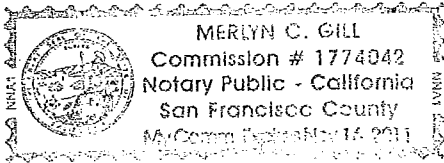
(1) Christopher Schwertler  
Name of Signer

proved to me on the basis of satisfactory evidence to be the person who appeared before me (.) (,)

(and  
(2) N/A  
Name of Signer

proved to me on the basis of satisfactory evidence to be the person who appeared before me.)

Signature [Signature]  
Signature of Notary Public



Place Notary Seal Above

## OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

### Further Description of Any Attached Document

Title or Type of Document: Errata Sheet

Document Date: 12/20/10 Number of Pages: 4

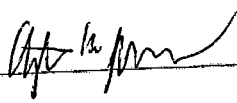
Signer(s) Other Than Named Above: \_\_\_\_\_

RIGHT THUMBPRINT OF SIGNER #1  
Top of thumb here

RIGHT THUMBPRINT OF SIGNER #2  
Top of thumb here

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I declare under penalty of perjury that the  
foregoing is true and correct. Subscribed at  
San Francisco, California, this 20<sup>th</sup>  
day of 12/20 December, 2010.

  
\_\_\_\_\_  
CHRISTOPHER SCHWERZLER