

EXHIBIT B

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN
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4
5 THE WEATHER UNDERGROUND, INC.,)
a Michigan Corporation,)
6)
Plaintiff,)
7)
vs.) Case No. 2:09-CV-10756
8)
NAVIGATION CATALYST SYSTEMS,) Volume I
9 INC., a Delaware corporation;)
BASIC FUSION, INC., a Delaware)
10 corporation; CONNEXUS CORP., a)
Delaware corporation; and)
11 FIRSTLOOK, INC., a Delaware)
corporation,)
12)
Defendants.)
13 _____)
14)

15 - CONFIDENTIAL - UNDER SEAL-

16
17 VIDEOTAPED DEPOSITION OF DONNIE J. MISINO
18 Los Angeles, California
19 Friday, August 20, 2010
20

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22
23
24 Reported by: Judy Samson
CSR No. 6916

25

1 Q And, then, the next paragraph says:

2 "The deponent is asked to
3 produce any and all documents that
4 concern or reflect the discovery
5 responses and production in this
6 case, including, but not limited
7 to, the extent of searches
8 performed."

9 So this particular paragraph is asking you
10 to bring documents to the deposition today to the
11 extent they've not already been produced. Okay.

12 Are you aware of any documents that deal
13 with the issue of what searches were performed in
14 order to comply with the discovery request by
15 Weather Underground?

16 MR. DELGADO: Just so that the record is
17 clear, part of what I gave you today, Enrico, is
18 our formal response to your request for production
19 and the documents that he brought that would be
20 nonprivileged and responsive to this request.

21 MR. SCHAEFER: Okay. So let's just go over
22 that for a second so that the record is clear.

23 So Mr. Delgado just prior to this
24 deposition handed me a -- what appears to be a hard
25 drive and cover letter which contains, I assume, a

1 substantial number of documents --

2 MR. DELGADO: No. The -- the letter and
3 the hard drive are separate and apart.

4 Underneath the letter, there's a -- you see
5 the pink paper clip there?

6 MR. SCHAEFER: Yeah.

7 MR. DELGADO: There's the formal response
8 to this request for production, and paper-clipped to
9 it are documents.

10 MR. SCHAEFER: Okay.

11 MR. DELGADO: So it's kind of two -- it's
12 two different sets of things there. There you go.

13 MR. SCHAEFER: Okay. So let's go ahead and
14 go off the record.

15 THE VIDEOGRAPHER: Going off the record at
16 10:12 a.m.

17 (Pause in proceedings from
18 10:12 a.m. to 10:15 a.m.)

19 THE VIDEOGRAPHER: We're back on the record
20 at 10:15 a.m.

21 MR. SCHAEFER: Okay. I'm going to hand the
22 court reporter a document that is entitled
23 "Navigation Catalyst Systems, Inc.'s Objection to
24 Second Amended Notice of Deposition of Defendant,"
25 which I was just handed this morning.

1 And let's mark that as Exhibit No. 82.
2 (Plaintiff's Exhibit 82 was marked
3 for identification by the deposition
4 reporter and is attached hereto.)

5 BY MR. SCHAEFER:

6 Q Okay. I've handed you what has been marked
7 as Exhibit No. 82, which are NCS -- NCS's response
8 to the deposition notice for today.

9 Have you seen this document before or
10 parts -- any parts of this document before?

11 A I'm sorry. What I have here is e-mails
12 between myself and Iron Mountain.

13 Is that what you're referring to?

14 Q Yeah. There's the -- there's the
15 first two -- the first three pages, which are the
16 pleadings part, and then behind that starting at
17 NCS 058792 and going through 798, there appear to be
18 a number of e-mails.

19 A I see. Yes.

20 Q Okay. Have you ever seen the first three
21 pages of this document before, the pleading part?

22 (Document reviewed by the witness.)

23 THE WITNESS: I believe so.

24 BY MR. SCHAEFER:

25 Q Okay. With regards to the Bates-stamped

1 THE WITNESS: I'm not aware of anything
2 along those lines.

3 BY MR. SCHAEFER:

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 A The only other thing I might be aware of is
17 if I produced, similar to the other documents
18 produced today, a sort of scoping document or a --
19 an "organization of thoughts prior to development"
20 type document.

21 Q Now, I haven't had a chance obviously to
22 take a look, but I'm seeing a big hard drive over
23 there. And I believe on that hard drive is going to
24 be at least some sort of portfolio information over
25 the last 12 months for NCS domains.

1 A Correct.

2 Q And you were involved in actually putting
3 that together; correct?

4 A Yes.

5 Q [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 Q And will it show on that database which
10 domains are proxied?

11 A There are num- -- there are several files,
12 several portfolio snapshots. The two that we
13 received from Iron Mountain, one dating about a year
14 ago and another about six months ago, will show the
15 actual registrant information without any proxy
16 services.

17 The other more recent reports are from
18 VeriSign, which we downloaded, which are
19 registrar-wide listing of domain names without
20 registrant information, these we retrieved from
21 VeriSign, and they don't -- VeriSign doesn't keep
22 track of registrants.

23 Q So you haven't produced any information
24 which would tell us as of any date which domain
25 names are proxied, as I understand it?

1 A I have not.

2 Q How would we get that information?

3 A That -- well, I'm sorry. Let me qualify
4 that.

5 We did produce our entire database in a --
6 one large backup file. All that information is
7 within our production database.

8 Q But I mean, can I actually see this domain
9 was one that was proxied and this domain was not
10 proxied?

11 A Right. If you were to access the table
12 containing that information, it is clearly listed,
13 yes.

14 Q So it's in there?

15 A It's in the database itself. The entire
16 backup of the SQL production database is within it,
17 yes.

18 Q Okay. And will it also tell me what date
19 it was proxied?

20 A I don't recall if that's a column in the
21 table, though likely it would be.

22 Q Okay. Do you believe it also would tell me
23 whether or not that proxy occurred as a -- as a
24 result of a renewal date?

25 A It would not show that.