

# EXHIBIT B

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

THE WEATHER UNDERGROUND, INC., )  
a Michigan Corporation, )  
 )  
Plaintiff, )  
 )  
vs. ) Case No. 2:09-CV-10756  
 )  
NAVIGATION CATALYST SYSTEMS, ) Volume I  
INC., a Delaware corporation; )  
BASIC FUSION, INC., a Delaware )  
corporation; CONNEXUS CORP., a )  
Delaware corporation; and )  
FIRSTLOOK, INC., a Delaware )  
corporation, )  
 )  
Defendants. )  
\_\_\_\_\_ )

- CONFIDENTIAL - UNDER SEAL-

VIDEOTAPED DEPOSITION OF DONNIE J. MISINO  
Los Angeles, California  
Friday, August 20, 2010

Reported by: Judy Samson  
CSR No. 6916

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 tell you what they were because they were with  
2 counsel" or "There were no conversations -- even  
3 though we had general conversations with counsel,  
4 there were no conversations about protecting NCS and  
5 the related entities from potential liability and  
6 discovery."

7 A Right. There were discussions along the  
8 lines of preventing spam and being able to offer  
9 that as a general service. Other registrars do.  
10 Should we choose to?

11 Anything related to trademarks was only  
12 discussed with counsel.

13 Q Okay. Are you aware that Seth Jacoby has  
14 put in multiple previous affidavits saying that one  
15 of the reasons why NCS can't be guilty of  
16 cybersquatting is because they do not proxy their  
17 domain names?

18 MR. DELGADO: Objection; lacks foundation.  
19 BY MR. SCHAEFER:

20 Q Are you aware of Seth Jacoby's prior  
21 position that when you proxy a domain name to hide  
22 your identity, that it is essentially an indication  
23 that you're engaging in bad faith cybersquatting?

24 MR. DELGADO: Object. I don't --  
25 mischaracterization of the declaration.

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

3 BY MR. SCHAEFER:

4 Q Are there other -- any other entities that  
5 we've not discussed and have not been disclosed  
6 besides DomainNameProxy who are related entities as  
7 paragraph 3 definition exists on Exhibit No. 87?

8 So these would be only related companies  
9 with regard to the registration, use, and  
10 trafficking of NCS domain names.

11 A There are none that I can think of.

12 Q What other documents are going to -- are we  
13 going to see out there related to DomainNameProxy  
14 that have not been produced in this case that you've  
15 seen before besides potentially some e-mails?

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 Does that database include all the domain  
6 names that are also proxied through  
7 DomainNameProxyLLC?

8 A Yes.

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.