

# EXHIBIT A

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF MICHIGAN  
3 SOUTHERN DIVISION

4 WEATHER UNDERGROUND,  
5 INCORPORATED,

6 Plaintiff,

7 v

8 NAVIGATION CATALYST SYSTEMS,  
9 INCORPORATED,

10 Defendant.

11 Case No. 09-CV-10756  
12 U.S. Magistrate Judge  
13 Virginia M. Morgan  
14 Detroit, Michigan  
15 May 19, 2010  
16 2:29 p.m.

17 Ordered By:

18 ENRICO SCHAEFER, ESQ.

19 MOTION HEARING

20 APPEARANCES:

21 For the Plaintiff:

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34 Court Recorder:

35 N/A

36 Transcriber:

37 Deborah Kremlick

38 Proceedings recorded by electronic sound recording, transcript  
39 produced by transcription service.

1 production number 40, Your Honor. And I didn't do a print out  
2 separately on this, but it's all documents or communications  
3 where they either --

4 THE COURT: I thought we just ruled on request for  
5 production 40. That was produce the emails or in box history  
6 to or from the email for purchasing domain names --

7 MR. SCHAEFER: You are correct, Your Honor.

8 THE COURT: -- shown on the web site.

9 MR. SCHAEFER: This is the one where we've ask for  
10 the threat letters by and between NCS and third parties.

11 THE COURT: What request for production is that?

12 MR. SCHAEFER: I'm getting it. Okay, it's 45, Your  
13 Honor. And here it is.

14 THE COURT: Forty-five. Do we -- do we have a color  
15 -- a red and green

16 MR. SCHAEFER: We don't, Your Honor.

17 THE COURT: Okay.

18 MR. SCHAEFER: That one didn't print for some  
19 reason. I wish they did, but --

20 THE COURT: Okay.

21 MR. SCHAEFER: So our position is, Your Honor, we're  
22 -- their position is they -- the automated software registers  
23 the domain so they don't have any notice of trademarks. And  
24 if they ever receive a threat letter, then they're on notice  
25 and they never register another infringing mark again.

1 Well, these threat letters by and between them and these  
2 third parties then become critical evidence of notice. They  
3 produced a spreadsheet that had a log of what they say they  
4 received in terms of notice, but no detail as to what -- not  
5 the underlying correspondence, not the underlying emails, not  
6 the responses. We think we're absolutely entitled to that  
7 under the ACPA especially since they put in a motion for  
8 protective order saying we should get that from third parties  
9 because we should be required to get it from them. And now  
10 they're saying no, we can't have it.

11 THE COURT: Mr. Delgado.

12 MR. DELGADO: Well, Your Honor, candidly I'm not  
13 sure why we're disputing this. I've already explained this to  
14 Mr. Schaefer. It was the company's policy that once they got  
15 these threat letters they would basically incorporate the  
16 information from the letter into these logs and we produced  
17 all the logs that we had going back to the very first day the  
18 very first thing in the log.

19 So they would capture things like who it came from, what  
20 the domain name was at issue, and what most of what really  
21 happened, well was it transferred, was there a UDRP, was there  
22 a lawsuit, whatever the disposition was. And all that  
23 information was captured in the log. And then the company did  
24 not retain the threat letter.

25 So, you know, I've already explained it to him that I

1 can't produce something I no longer have. I've given you the  
2 logs which -- which is a business record. It's nothing, you  
3 know, we generated for this lawsuit, it was this is how the  
4 company kind of keeps track of these things.

5 I think it was for 2008, for 2009, we'll -- we'll  
6 supplement our production for 2010 and I'll tell my client  
7 hey, going forward if you get these letters, don't throw them  
8 away, they're responses to this litigation and we'll produce  
9 them. I -- I don't have a -- you know, I'm sorry, I don't  
10 want to be flippant about this, but I can't do anything else.

11 THE COURT: Okay. He's given you the logs and if  
12 after review of the logs you determine that there is something  
13 you really have to have and you want to contact the sender of  
14 the letter or whatever, then you can ask for relief from the  
15 protective order.

16 MR. SCHAEFER: Okay.

17 THE COURT: So the 45 is going to be deemed  
18 satisfied at this time by production of the log.

19 MR. SCHAEFER: Okay. And that would be obviously I  
20 think also and we've agreed in the stipulation Your Honor, no  
21 more destruction of information moving forward. So -- and I  
22 would ask only Mr. Delgado, if you will -- you will see if  
23 there's anything more recent because you did produce the one  
24 that we sent in 2008.

25 MR. DELGADO: I'm sorry Mr. Schaefer, I can't hear

1 you.

2 THE COURT: You -- you had the one -- you produced  
3 his letter from 2008.

4 MR. DELGADO: Right. Because there was a lawsuit  
5 attached to it. I mean I think that's the only reason that  
6 that was retained is because it was -- and I'm not even sure  
7 if it was a cease and desist letter. I think it was just a  
8 cover letter coming with a UCRP proceeding.

9 THE COURT: Okay.

10 MR. SCHAEFER: Okay.

11 MR. DELGADO: And I don't know if that pertains --

12 THE COURT: Okay. It's --

13 MR. DELGADO: But -- but if the question is, can I  
14 go back and make sure that there aren't some letters? Yeah,  
15 absolutely. I will -- I will go back and I will state to the  
16 extent that something wasn't destroyed, we'll produce.

17 THE COURT: Okay.

18 MR. SCHAEFER: The last one, Your Honor.

19 THE COURT: Okay.

20 MR. SCHAEFER: It is 50 which asks for any reports  
21 or analysis of domain name registration, trafficking, or  
22 monetization. And so if they actually -- it's hard for us to  
23 believe that they wouldn't know which are their highest profit  
24 domain names for them to analyze things and develop reports on  
25 how they're making money. And we have asked for those reports

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I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

/s/Deborah L. Kremlick, CER-4872

Dated: 6-14-10