

EXHIBIT D



WILLENKEN

WILLENKEN WILSON LOH & LIEB LLP

February 7, 2012

VIA ELECTRONIC MAIL AND
U.S. MAIL

Enrico Schaefer, Esq.
Traverse Legal
810 Cottageview Drive, Suite G-20
Traverse City, MI 49684

Re: *Weather Underground v. Navigation Catalyst Systems, Inc.*

Dear Mr. Schaefer:

I write in response to your letter of February 3, 2012 as well as to address various upcoming deadlines with which all the parties must comply.

Response to Your Letter

In your letter, you seek the contact information for various trial witnesses so that you can send them subpoenas. I do not understand this request. The various witnesses are all outside the trial subpoena power of the Eastern District of Michigan so it is unclear what you intend to send them. Nevertheless, and without acquiescing that we have any obligation to provide this information, I have provided the last contact information for the various witnesses who are no longer employed by my client:

Donnie Misino: 7033 Shade Tree Lane, West Hills, CA 91307
Mavi Llamas: 812 Orange Grove Avenue #7, South Pasadena, CA 91030
Dennis Rhee: 38 Garden Place, #14, Edgewater, NJ 07020
Chris Pirrone: 612 17th Street, Santa Monica, CA 90402
Art Shaw: 7 Oakhill Drive, Woodside, CA 94062
Seth Jacoby: 1385 York Avenue, Apt. 16B, New York, NY 10021

With respect to Messrs. Shaw and Jacoby, your letter alludes to the possibility of deposing them a second time. Nevertheless, to date you have not sought leave to depose them as required by Fed. R. Civ. P. 30(a)(2)(A)(ii). Given the availability of previous deposition testimony and the prejudice to Defendants in having to prepare for and attend additional depositions while simultaneously preparing for the trial which is set to start in a matter of weeks, Defendants will oppose any such motion, absent a continuance of the trial date.



Lastly, you have asked that Defendants verify whether they are amenable to supplementing their discovery responses with regards to identifying all current “related companies” as defined by the Magistrate Judge’s ruling for purposes of discovery by December 12, 2011. Given that your letter was sent on February 3rd, we are presently unable to comply with your unilaterally selected deadline. Nevertheless, I can confirm that, as the corporate structure of Connexus Corporation has not changed, and Epic has no other subsidiaries engaged in the practices at issue in this case, no further supplementation is necessary.

Upcoming Deadlines

We have various items that must be filed or otherwise submitted to the Court in advance of the pretrial conference on February 28, 2012, many of which require our cooperation. Here is the schedule I would propose:

No later than February 15, 2012:

- Plaintiff will provide to Defendants the following:
 - A draft theory of the case for Defendant’s review and mark-up.
 - A draft pretrial order for Defendant’s review and mark-up.
 - A draft set of jury instructions for Defendant’s review and objections.
 - A draft set of verdict forms for Defendant’s review and objections.
- The parties shall exchange witness lists with the time anticipated for direct examinations.
- The parties shall exchange exhibit lists.

No later than February 22, 2012:

- Defendant will provide to Plaintiff the following:
 - A marked-up version of the theory of the case.
 - A marked-up version of the draft pretrial order.
 - A list of jury instructions on which Defendants agree, a set of objections to any instruction offered by Plaintiff with which Defendants do not agree, and a list of alternative or additional instructions offered by Defendants.
 - Any objections to the verdict forms and/or alternative verdict forms proposed by Plaintiff.
- The parties shall exchange final witness lists noting the cross-examination times anticipated for each witness they anticipate cross-examining.
- The parties shall exchange final witness lists indicating those exhibits to which they will stipulate as having been entered into evidence.

No later than February 24, 2012, the parties will exchange the remaining items for the Bench Book (i.e., the Administrative Section, the Voir Dire Questions, the Evidentiary Issues, etc.).



Between February 24, 2012 and February 27, 2012, the parties will meet and confer in good faith to try to find as much common agreement as possible for purposes of the items to be presented in the Bench Book. If no agreement can be reached (e.g., the parties are offering differing jury instructions), then the Bench Book shall contain (i) the items on which there is joint agreement and (ii) both Plaintiff's and Defendants' proposals for items on which there is disagreement.

Since Plaintiff will be taking the laboring oar on preparing the first draft of the pretrial order, Defendants will volunteer to prepare the final copy of the Bench Book for presentation to the judge on February 28, 2012.

I will be on vacation between February 9th through February 20th so please let me know as soon as possible whether Plaintiff is amenable to this proposal. If Plaintiff is not so amenable, please provide me with an alternative proposal as soon as possible.

Very truly yours,

William A. Delgado