

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

THE WEATHER UNDERGROUND, INC.,
a Michigan corporation,

Plaintiff,

vs.

Case No. 2:09-CV-10756
Hon. Marianne O. Battani

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.

Enrico Schaefer (P43506)
Brian A. Hall (P70865)
TRAVERSE LEGAL, PLC
810 Cottageview Drive, Unit G-20
Traverse City, MI 49686
231-932-0411
enrico.schaefer@traverselegal.com
brianhall@traverselegal.com
Lead Attorneys for Plaintiff

Anthony P. Patti (P43729)
HOOPER HATHAWAY, PC
126 South Main Street
Ann Arbor, MI 48104
734-662-4426
apatti@hooperhathaway.com
Attorneys for Plaintiff

William A. Delgado (*pro hac vice*)
WILLENKEN WILSON LOH & LIEB LLP
707 Wilshire Boulevard, Suite 3850
Los Angeles, CA 90017
(213) 955-9240
williamdelgado@willenken.com
Lead Counsel for Defendants

Nicholas J. Stasevich (P41896)
Benjamin K. Steffans (P69712)
BUTZEL LONG, P.C.
150 West Jefferson, Suite 100
Detroit, MI 48226
(313) 225-7000
stasevich@butzel.com
steffans@butzel.com
Local Counsel for Defendants

**NAVIGATION CATALYST SYSTEMS, INC.'S SUPPLEMENTAL RESPONSES TO
FIRST SET OF REQUESTS FOR PRODUCTION**

Pursuant to Federal Rule of Civil Procedure 34, defendant Navigation Catalyst Systems, Inc. (“NCS”) hereby supplements its responses to Plaintiff The Weather Underground, Inc.’s (“WU”) First Set of Requests for Production (“Requests”) as follows:

General Objections

NCS confirms that, when indicated that NCS would produce responsive, non-privileged documents in response to a Request, no responsive, non-privileged document was withheld pursuant to a General Objection.

Specific Requests for Production

2. Produce all Communications between Defendant and anyone, internal or external to Defendant, regarding or relating to the claims asserted in the above-captioned Complaint.

RESPONSE:

In addition to the foregoing general objections which are expressly incorporated herein, NCS objects to this Request on the bases and to the extent that: it is overly broad, unduly burdensome and harassing; it calls for the production of documents that are neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence; and it calls for the production of documents protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving the foregoing objections, NCS responds as follows: NCS is searching for non-privileged, responsive documents in its possession, custody, and/or control and will produce such documents, if any.

SUPPLEMENTAL RESPONSE:

After a reasonable and diligent search, NCS confirms that it does not have any non-privileged documents in its possession, custody, and/or control.

15. Produce corporate records of Defendant, including bylaws, articles, membership agreements, certificates of incorporation, stock certificates, license resolutions, minutes and all Documents which evidence that Defendant has obeyed the corporate formalities in the operation of their business from inception to present.

RESPONSE:

In addition to the foregoing general objections which are expressly incorporated herein, NCS objects to this Request on the bases and to the extent that: it is vague and ambiguous; it is overly broad, unduly burdensome and harassing; it calls for the production of documents that are neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence; and it calls for the production of documents protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving the foregoing objections, NCS responds as follows: NCS has produced responsive documents together with these responses and is searching for additional responsive documents.

SUPPLEMENTAL RESPONSE:

NCS has located and is concurrently producing additional documents that are responsive and non-privileged in its possession, custody, and/or control.

16. Produce all Documents related to the business relationship between NCS and Basic Fusion. Inc., NCS and Connexus Corp., and NCS and Firstlook, Inc., including but not limited to:

- a. Documents showing money paid to or between each company for each year from inception to the present;
- b. Contracts and other agreements between the Companies;
- c. Invoices by and between the Companies;
- d. Any and all correspondence, faxes, or written documents relating to business between the companies.

RESPONSE:

In addition to the foregoing general objections which are expressly incorporated herein, NCS objects to this Request on the bases and to the extent that: it is vague and ambiguous; it is overly broad, unduly burdensome and harassing; it calls for the production of documents that are neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence; and it calls for the production of documents protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving the foregoing objections, NCS responds as follows: NCS is searching for and will produce its registration agreement with Basic Fusion and its parking agreement with Firstlook.

SUPPLEMENTAL RESPONSE:

NCS has located and is concurrently producing the registration agreement with Basic Fusion and the parking agreement with Firstlook.

21. Produce any and all Software code identified by you in Plaintiffs First Interrogatories, Interrogatory Numbers 3-5.

RESPONSE: NCS is preparing its own internal registration software modules for production. The blacklist database accompanies these responses.

SUPPLEMENTAL RESPONSE:

The software code has been produced as NCS000188.

23. Produce all Documents which constitute, refer to or relate to written policies, procedures, processes, metrics, and/or guidelines as they relate to the Software identified in Plaintiffs First Interrogatories, Interrogatory Numbers 3-5.

RESPONSE:

In addition to the foregoing general objections which are expressly incorporated herein, NCS objects to this Request on the bases and to the extent that: it is vague and ambiguous; it is overly broad, unduly burdensome and harassing; and it calls for the production of documents protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving the foregoing objections, NCS responds as follows: The Trademark Review Instructions document which is responsive to this request has been produced together with these responses.

SUPPLEMENTAL RESPONSE:

As NCS understands this request, it has no further responsive, non-privileged documents in its possession, custody, and/or control to produce.

24. Produce all Documents which constitute, refer to or relate to written policies, procedures, processes, metrics, and/or guidelines as they relate to Your registration of domain names.

RESPONSE:

In addition to the foregoing general objections which are expressly incorporated herein, NCS objects to this Request on the bases and to the extent that: it is vague and ambiguous; and it calls for the production of documents protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving the foregoing objections, NCS responds as follows: The Trademark Review Instructions document which is responsive to this request has been produced together with these responses.

SUPPLEMENTAL RESPONSE:

As NCS understands this request, it has no further responsive, non-privileged documents in its possession, custody, and/or control to produce.

25. Produce all Documents which constitute, refer to or relate to written policies, procedures, processes, metrics, and/or guidelines as they relate to Your selection of web site content, parked pages, hyperlinks, or other content displayed at domain names registered by NCS.

RESPONSE:

In addition to the foregoing general objections which are expressly incorporated herein, NCS objects to this Request on the bases and to the extent that: it is vague and ambiguous; it is

overly broad, unduly burdensome and harassing; and it calls for the production of documents protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving the foregoing objections, NCS responds as follows: The Trademark Review Instructions document which is responsive to this request has been produced together with these responses.

SUPPLEMENTAL RESPONSE:

As NCS understands this request, it has no further responsive, non-privileged documents in its possession, custody, and/or control to produce.

26. Produce all Documents which constitute, refer to or relate to the policy, procedure, process, and/or guideline used to ensure domain names do not incorporate, or are confusingly similar to, third party trademarks.

RESPONSE:

In addition to the foregoing general objections which are expressly incorporated herein, NCS objects to this Request on the bases and to the extent that: it is vague and ambiguous; and it calls for the production of documents protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving the foregoing objections, NCS responds as follows: The Trademark Review Instructions document which is responsive to this request has been produced together with these responses.

SUPPLEMENTAL RESPONSE:

As NCS understands this request, it has no further responsive, non-privileged documents in its possession, custody, and/or control to produce.

27. Produce all Documents which constitute, refer or relate to the policy, procedure, process, and/or guideline used to ensure domain names that incorporate, or are confusingly similar to, a third party trademark are "blacklisted", or otherwise identified so as to preclude registration, from registration.

RESPONSE:

In addition to the foregoing general objections which are expressly incorporated herein, NCS objects to this Request on the bases and to the extent that: it is vague and ambiguous; and it calls for the production of documents protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving the foregoing objections, NCS responds as follows: The Trademark Review Instructions document which is responsive to this request has been produced together with these responses.

SUPPLEMENTAL RESPONSE:

As NCS understands this request, it has no further responsive, non-privileged documents in its possession, custody, and/or control to produce.

28. Produce all Documents related to the purchase and/or use of the United States Patent and Trademark Office database of trademarks and service marks.

RESPONSE:

In addition to the foregoing general objections which are expressly incorporated herein, NCS objects to this Request on the bases and to the extent that it calls for the production of documents protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving the foregoing objections, NCS responds as follows: Documents responsive to this request accompany these responses.

SUPPLEMENTAL RESPONSE:

Other than the documents already produced in response to this request, NCS has no other responsive documents to produce in response hereto.

29. Produce all Documents which constitute, refer to or relate to the policy, procedure, process and/or guideline used to "purge," or otherwise delete, domain names You register that incorporate, or are confusingly similar to, a trademark owned by a third party.

RESPONSE:

In addition to the foregoing general objections which are expressly incorporated herein, NCS objects to this Request on the bases and to the extent that: it is vague and ambiguous; and it calls for the production of documents protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving the foregoing objections, NCS responds as follows: The Trademark Review Instructions document which is responsive to this request has been produced together with these responses.

SUPPLEMENTAL RESPONSE:

As NCS understands this request, it has no further responsive, non-privileged documents in its possession, custody, and/or control to produce.

32. Produce all Documents related to web traffic statistics for each Domain At Issue, including but not limited to:

- a. referring links;
- b. page views;
- c. internal and external search queries;
- d. user locations;
- e. IP addresses;
- f. keyword use;
- g. visitor paths;
- h. entry pages; and
- i. exit pages.

RESPONSE:

In addition to the foregoing general objections which are expressly incorporated herein, NCS objects to this Request on the bases and to the extent that: it is vague and ambiguous; it is overly broad, unduly burdensome and harassing; it calls for the production of documents that are neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence; and it calls for the production of documents protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving the foregoing objections, NCS responds as follows: NCS is searching for non-privileged, responsive documents in its possession, custody, and/or control. Once such documents are located, if any, NCS can supplement this response to indicate what it has and does not have and what it can produce.

SUPPLEMENTAL RESPONSE:

The responsive documents that NCS has in its possession, custody, and/or control have been produced (Bates No. NCS000186-187).

33. Produce all Documents identifying what advertisement links on each Domain At Issue were clicked and for each click:

- a. The advertisement text;
- b. The advertisement hyperlink;
- c. The entrance and navigation path for each visitor.

RESPONSE:

In addition to the foregoing general objections which are expressly incorporated herein, NCS objects to this Request on the bases and to the extent that: it is vague and ambiguous; it is overly broad, unduly burdensome and harassing; it calls for the production of documents that are neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence; and it calls for the production of documents protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving the foregoing objections, NCS responds as follows: NCS is searching for non-privileged, responsive documents in its possession, custody, and/or control.

Once such documents are located, if any, NCS can supplement this response to indicate what it has and does not have and what it can produce.

SUPPLEMENTAL RESPONSE:

After a reasonable and diligent search, NCS confirms that it has no responsive documents in its possession, custody, and/or control.

42. Produce all internal and external Communications regarding or relating to the Domains At Issue.

RESPONSE:

In addition to the foregoing general objections which are expressly incorporated herein, NCS objects to this Request on the bases and to the extent that: it calls for the production of documents that are neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence; and it calls for the production of documents protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving the foregoing objections, NCS responds as follows: NCS has no external, responsive documents in its possession, custody, and/or control. NCS is searching for internal, non-privileged responsive documents and will produce non-privileged documents in its possession, custody, and/or control, if any.

SUPPLEMENTAL RESPONSE:

After a reasonable and diligent search, NCS confirms that it has no non-privileged documents in its possession, custody, and/or control.

43. Produce all Documents regarding or relating to domain purchase others, complaints, questions or any feedback concerning or relating to:

- a. the Domains At Issue, and
- b. each domain identified in response to Request # 35.

RESPONSE:

In addition to the foregoing general objections which are expressly incorporated herein, NCS objects to this Request on the bases and to the extent that: it is overly broad, unduly burdensome and harassing; it calls for the production of documents that are neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence; and it calls for the production of documents protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving the foregoing objections, NCS responds as follows: NCS is searching for responsive, non-privileged documents for the Domains at Issue, which it may have in its possession, custody, and/or control, if any.

SUPPLEMENTAL RESPONSE:

NCS has produced its document for tracking third party complaints, which is the document responsive to this request (Bates No. NCS000189-190).

51. Produce all agreements between Defendant and any provider of internet advertising services, including drafts, and all Documents regarding or relating to the agreement.

RESPONSE:

In addition to the foregoing general objections which are expressly incorporated herein, NCS objects to this Request on the bases and to the extent that: it is vague and ambiguous; it is overly broad, unduly burdensome and harassing; it calls for the production of documents that are neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence; and it calls for the production of documents protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving the foregoing objections, NCS responds as follows: NCS is searching for its parking agreement with Firstlook and will produce such agreement.

SUPPLEMENTAL RESPONSE:

NCS has located and is concurrently producing the registration agreement with Basic Fusion and the parking agreement with Firstlook.

52. Produce all agreements between Defendant and any provider of web page 'parking' services, including drafts, and all Documents regarding or relating to the agreement.

RESPONSE:

In addition to the foregoing general objections which are expressly incorporated herein, NCS objects to this Request on the bases and to the extent that: it is vague and ambiguous; it is overly broad, unduly burdensome and harassing; it calls for the production of documents that are neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence; and it calls for the production of documents protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving the foregoing objections, NCS responds as follows: NCS is searching for its parking agreement with Firstlook and will produce such agreement.

SUPPLEMENTAL RESPONSE:

NCS has located and is concurrently producing the registration agreement with Basic Fusion and the parking agreement with Firstlook.

62. Produce all Documents concerning Your policy(ies) with respect to retention or disposition of documents and all data.

RESPONSE:

Subject to and without waiving the foregoing objections, NCS responds as follows: The relevant document retention policy accompanies these responses.

SUPPLEMENTAL RESPONSE:

NCS confirms that, aside from documents already produced, it has no further responsive documents in its possession, custody, and/or control.

April 5, 2010



William A. Delgado (admitted *pro hac vice*)
WILLENKEN WILSON LOH & LIEB, LLP
707 Wilshire Boulevard, Suite 3850
Los Angeles, CA 90017
(213) 955-9240
williamdelgado@willenken.com
Lead Counsel for Defendants

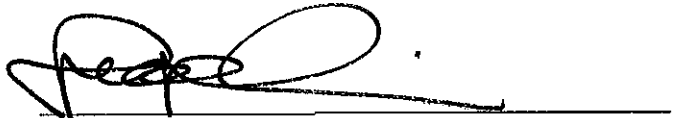
CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of April, 2010, I served Defendant Navigation Catalyst Systems, Inc.'s Supplemental Responses to First Set of Requests for Production via electronic mail and U.S. Mail, first-class, postage prepaid on:

Enrico Schaefer (P43506)
Brian A. Hall (P70865)
TRAVERSE LEGAL, PLC
810 Cottageview Drive, Unit G-20
Traverse City, MI 49686
231-932-0411
enrico.schaefer@traverselegal.com
brianhall@traverselegal.com
Lead Attorneys for Plaintiff

Benjamin K. Steffans (P69712)
BUTZEL LONG, P.C.
150 West Jefferson, Suite 100
Detroit, MI 48226
(313) 225-7000
stasevich@butzel.com
steffans@butzel.com
Local Counsel for Defendants

Anthony P. Patti (P43729)
HOOPER HATHAWAY, PC
126 South Main Street
Ann Arbor, MI 48104
734-662-4426
apatti@hooperhathaway.com
Attorneys for Plaintiff



Helen Hsiao
Assistant to William A. Delgado