

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.

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Local Counsel for Defendants

DECLARATION OF WILLIAM A. DELGADO

I, William A. Delgado, declare as follows:

1. I am an attorney duly licensed to practice in the State of California and have been admitted to this Court for purposes of this case. I make this declaration in support of Defendant Navigation Catalyst Systems, Inc.'s Motion to Compel Further Responses and Production of Documents. Except where otherwise indicated, I have personal knowledge of the facts stated herein and, if called as a witness, I could competently testify hereto.

2. NCS issued a First Set of Interrogatories and a First Set of Requests for Production to Plaintiff on January 21, 2010.

3. Plaintiff responded to NCS's discovery on February 22, 2010 but did not provide a verification for its response to NCS's interrogatories and provided no documents. Attached as Exhibit A are true and correct copies of Plaintiff's Responses to NCS's First Set of Requests for Production.

4. Plaintiff produced documents on March 22, 2010 and again on April 12, 2010.

5. Plaintiff's production was disorganized. There was no attempt to categorize or label, and the documents did not appear to be produced in the manner kept in the ordinary course of business. For example, letters to third parties and subpoenas were interspersed in the production in the midst of other documents such as screenshots and newspaper articles.

6. Many of the documents were not legible. Attached as Exhibit B are exemplars of documents which were not legible.

7. Attached as Exhibit C are exemplars of screenshots produced by Plaintiff. While some items are legible, other items are not legible at all. In addition, because these screenshots

are in black-and-white, information that was present in the original documents is missing in this copy (e.g., colors, details in photos, graphical design, etc.).

8. Attached as Exhibit D is a true and correct copy of my letter to Enrico Schaefer dated March 5, 2010.

9. Attached as Exhibit E is a true and correct copy of my letter to Enrico Schaefer dated March 11, 2010.

10. Attached as Exhibit F is a true and correct copy of my letter to Enrico Schaefer dated April 12, 2010.

11. Attached as Exhibit G is a true and correct copy of my letter to Enrico Schaefer dated April 15, 2010.

12. I have personally reviewed Plaintiff's entire document production. To date, Plaintiff has not produced documents in response to Request Nos. 1, 2, 18, 24, 25, 30, 31 or 34 nor has it supplemented its discovery responses to indicate that such documents have not been located.

13. Attached as Exhibit H is a true and correct copy of the document produced as WU03946-3958.

14. Plaintiff has produced some limited documentation in response to Request Nos. 6 and 28 but it has not produced the complete USPTO files or all communications with USPTO such as Office Actions during registration.

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15. Attached as Exhibit I is a true and correct copy of Plaintiff's Initial Disclosures.

Executed on this 21st day of April 2010 at Los Angeles, California.

*/s/William A. Delgado*_____.

William A. Delgado

CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2010, I electronically filed the foregoing paper with the Court using the ECF system which will send notification of such filing to the following:

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