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UNITED STATES DISTRICT COURT  
IN THE EASTERN DISTRICT OF MICHIGAN

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THE WEATHER UNDERGROUND, INC.,  
a Michigan corporation,

Plaintiff,

vs.

Case No. 09-10756

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.

SCHEDULING CONFERENCE

BEFORE THE HONORABLE MARIANNE O. BATTANI

Detroit, Michigan • Monday, January 11, 2010

APPEARANCES:

For the Plaintiff: ANTHONY P. PATTI (P43729)  
126 South Main Street  
Ann Arbor, MI 48104  
(734) 662-4426

For the Defendant: WILLIAM A. DELGADO  
707 Wilshire Boulevard, Suite 3850  
Los Angeles, CA 90017  
(213) 955-9240

*To obtain a copy of this official transcript, contact:  
Robert L. Smith, Official Court Reporter  
(313) 964-3303 • Rob Smith@mied.uscourts.gov*

1 to follow up on their services and then I need to follow up  
2 on what kind of secondary meaning they might have in that.

3           So there is -- so the first thing that I'm saying  
4 is, it is not just a four-piece written deposition that we  
5 are talking about. In terms of scheduling, you know, 75  
6 written depositions is still 75 written depositions. That's  
7 still a lot to go through. I still don't think it can be  
8 done in six months, especially if we have on top of that  
9 another 20 oral depositions. That's still, at the end of the  
10 day, 85 total depositions in addition to written discovery.  
11 Let me just point out this is not a case where all the  
12 witnesses are going to be in the same part of the country;  
13 they have witnesses in Michigan, in northern California, my  
14 witnesses are in New York. We are going to be travelling  
15 extensively to be taking these depositions. So it is not as  
16 though everybody is here in Detroit and we can just set up  
17 the depositions and crank them out. There is going to be a  
18 lot of travelling involved, and a lot of coordination  
19 involved.

20           THE COURT: Okay. I will allow seven oral  
21 depositions on each side, and 30 written depositions to be  
22 completed in six months, and I will set a status conference  
23 in four months. I will send an order with the dates in it  
24 but I'm just trying to think how to keep track of it. We'll  
25 do a status conference in four months to check on your

1 progress, and at that point we will set the remainder of the  
2 schedule. I'm not going to do any other dates but this  
3 discovery and a date for the conference, all right? That way  
4 there I'm hoping that you will have the majority of the  
5 discovery allowed complete and you will have a better feeling  
6 as to what you need. So I'm not saying I'm going to give  
7 more time, I'm not going to give you more time, but obviously  
8 you're going to have to convince me why you will need more  
9 time, okay?

10 MR. PATTI: So at the status conference we'll set  
11 the remainder of the dates?

12 THE COURT: Yes. We'll talk at the status  
13 conference for the remainder of dates, for instance, the  
14 summary judgment motions. Of course, the summary judgment  
15 motion can be brought at any time, but I'm not setting a  
16 deadline at this time.

17 MR. PATTI: And to understand, Your Honor, on the  
18 30 written depositions, I haven't heard the Defendant say  
19 they wanted any, but I assume that's per side as well.

20 THE COURT: Correct, and it sounds like it is going  
21 to be a very interesting case.

22 MR. PATTI: I think it will be.

23 MR. DELGADO: It should be.

24 THE COURT: But somehow we are going to have to  
25 contain it because we can't do what I think I'm hearing