

## ORDERS

### COURT DETAILS

Court	Supreme Court of New South Wales
Division	Common law division
List	Registry list
Registry	Sydney
Case number	

### TITLE OF PROCEEDINGS

First Plaintiff	The Thomson Corporation
Second Plaintiff	West Publishing Corporation
Third Plaintiff	West Services, Inc
Defendant	None

### PREPARATION DETAILS

Prepared for	The First, Second and Third Plaintiffs
Prepared in relation to	Plaintiffs' application for the examination of witnesses pursuant to the Letters of Request issued by the United States District Court of Minnesota and pursuant to Part 4 of the Evidence on Commission Act (1950) and Part 52 of the Uniform Civil Procedure Rules 2005.
Legal representative	Kerin Forstmanis, Norton Rose Australia [#or counsel?]
Legal representative reference	2650115
Contact name and telephone	Kerin Forstmanis
Contact email	Kerin.forstmanis@nortonrose.com.au

### PROPOSED FORM OF ORDER

1. Ms Abha (Nicola) Lessing (**Ms Lessing**) of 280 Burringbar Road, Burringbar New South Wales, attend the offices of Norton Rose Australia Level 18, Grosvenor Place, 225 George Street, Sydney New South Wales 2000 at 9:00am on 10 August 2010, or such other place and time as the examiner appointed pursuant to order 3 may direct, from day to day until complete to be examined in relation to the matters referred to in Exhibit A of the Letter of Request issued on 30 June 2010 by the United States District Court of Minnesota to the Registrar of Supreme Court of New South Wales, a copy being attached and marked "A".
2. Mr Christoph Schnelle (**Mr Schnelle**) of 280 Burringbar Road, Burringbar New South Wales attend the offices of Norton Rose Australia, Level 18, Grosvenor Place, 225 George Street, Sydney New South Wales 2000 at 9:00am on 11 August 2010, or such other place and time as the examiner appointed pursuant to order 3 may direct,

from day to day until complete to be examined in relation to the matters referred to in Exhibit A of the Letter of Requested issued on 30 June 2010 by the United States District Court of Minnesota to the Supreme Court of New South Wales, a copy being attached and marked "B".

3. Mr David Studdy SC be appointed examiner to administer the taking of an oath or affirmation and to conduct the examinations referred to in orders 1 and 2 above (together, the **Examinations**).
4. Leave be granted for Mr Schnelle to be represented at the Examinations by Australian legal practitioners and, or in the alternative, legal practitioners designated to practice in the District Court of Minnesota in the United States of America (**US Court**).
5. Leave be granted for Ms Lessing to be represented at the Examinations by Australian legal practitioners and, or in the alternative, legal practitioners designated to practice in the US Court.
6. Leave be granted for the Plaintiffs to be represented at the Examinations by Australian legal practitioners and, or in the alternative, legal practitioners designated to practice in the US Court.
7. Leave be granted for TimeBase Pty Ltd (**Timebase**) to be represented at the Examinations by Australian legal practitioners and, or in the alternative, legal practitioners designated to practice in the US Court.
8. The Examinations be transcribed and videotaped and/or recorded orally and that the transcripts (and any annexures), video tapes and/or audio tapes be signed and certified as correct and authenticated by the Examiner and forwarded to the Principal Registrar of the Supreme Court of New South Wales for certification in accordance with Rules 24.14(1) to (3) and 52.5(a) of the Uniform Civil Procedure Rules by no later than a date to be determined by the Court.
9. Once certified, the Principal Registrar send the certified transcript of the testimony (and any annexures), video tapes and/or audio tapes (if any) to Nigel Jones of Norton Rose Australia at 485 Bourke Street, Melbourne 3000 in the State of Victoria in accordance with Rule 52.5(b) of the Rules by no later than a date to be determined by the Court.
10. Leave be granted to the Plaintiffs to issue a Subpoena to Give Evidence to each of Mr Schnelle and Ms Lessing compelling their attendance at their respective Examinations.
11. The costs and expenses of the Examinations be met by the Plaintiffs.

12. The Plaintiffs meet the cost of travelling or loss of time reasonably incurred by Mr Schnelle and Ms Lessing in complying with these orders upon the provision of evidence by Mr Schnelle and Ms Lessing as to such costs, pursuant to section 33(7) of the *Evidence on Commission Act 1995*.
13. A copy of this Order be served on each of Mr Schnelle and Ms Lessing on or before 4pm on 23 July 2010.
14. The Plaintiffs have liberty to apply on 2 days' notice.
15. Such further orders as the Court sees fit.

**SIGNATURE**

Signature of legal representative

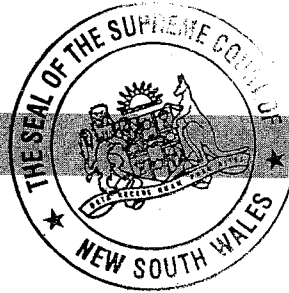
Capacity

*Judge*

Solicitor

Date of signature

*[Signature]* 13 July 2010



"A"

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

TIMEBASE PTY LTD.,

Civil No. 07-1687 (JNE/JJG)

Plaintiff,

vs.

THE THOMSON CORPORATION, WEST  
PUBLISHING CORPORATION, and  
WEST SERVICES, INC.,

**DEFENDANTS' REQUEST FOR  
INTERNATIONAL JUDICIAL  
ASSISTANCE PURSUANT TO THE  
HAGUE CONVENTION ON THE  
TAKING OF EVIDENCE IN CIVIL OR  
COMMERCIAL MATTERS**

Defendants.

**District Court of Minnesota to the Secretary to the Attorney-General's  
Department, Commonwealth of Australia**

To the alternate central authority (Article  
24) and competent judicial authority in  
Australia:

Registrar of the Supreme Court of New  
South Wales  
GPO Box 3  
Sydney NSW 2001  
Australia  
**(Competent Judicial Authority in  
Australia)**

From requesting judicial authority:

Magistrate Judge Jeanne J. Graham  
United States District Court  
District of Minnesota  
342 Federal Building  
316 North Robert Street  
St. Paul, Minnesota 55101  
**(Requesting Judicial Authority)**

Return executed request to:

Magistrate Judge Jeanne J. Graham  
United States District Court  
District of Minnesota  
342 Federal Building  
316 North Robert Street  
St. Paul, Minnesota 55101

Plaintiff:

Timebase Pty Ltd  
Level 1  
362 Kent Street  
Sydney, NSW 2000  
Australia

Counsel for Plaintiff:

Mr. Joseph N. Hosteny  
Mr. Arthur A. Gasey  
Niro, Scavone, Haller & Niro  
181 West Madison, Suite 4690  
Chicago, Illinois 60602  
USA

Defendants:

The Thomson Corporation  
Suite 2706  
Toronto Dominion Bank Tower  
P.O. Box 24  
Toronto-Dominion Centre  
Toronto, Ontario M5K 1A1  
Canada

West Publishing Corporation  
610 Opperman Drive  
Eagan, Minnesota 55123  
USA

West Services, Inc.  
610 Opperman Drive  
Eagan, Minnesota 55123  
USA

Counsel for Defendants:

Mr. Calvin L. Litsey  
Mr. David J. Gross  
Mr. Theodore M. Budd  
Ms. Mary V. Sooter  
Mr. Kevin P. Wagner  
Ms. Katherine S. Razavi  
Faegre & Benson LLP  
2200 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, Minnesota 55402  
USA

Associated Counsel in Australia:

Mr. Nigel Jones  
Partner  
Norton Rose Australia  
Level 15, 485 Bourke Street  
Melbourne VIC 3000  
Australia

In conformity with Article 3 of the Hague Convention of March 19, 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters, the District Court of Minnesota submits the following request for assistance to the Competent Judicial Authority of Australia:

1. **Nature and purpose of the proceedings and summary of the facts**

This is a patent infringement action currently pending before the Requesting Judicial Authority. Set out in Exhibit A is a detailed summary of the nature and purpose of the proceedings and a summary of the facts.

2. **Identity and address of any person to be examined or whose records are sought**

Ms. Abha Lessing (also known as "Nicky Lessing" and "Nicola Jane Lessing")  
280 Burringbar Road  
Burringbar NSW 2483  
Australia  
(the **Witness**)

3. **Evidence to be obtained or other judicial act to be performed**

The Requesting Judicial Authority seeks oral evidence or testimony to be given by the Witness on the subject matter or topics set out in Exhibit A.

4. **Questions to be put to the persons to be examined or statement of the subject matter about which they are to be examined**

The Requesting Judicial Authority requests that an attorney for the Defendants be permitted to examine the Witness regarding the subject matter or topics set out in Exhibit A.

5. **Documents or other property to be inspected**

Documentary evidence is not required at this time, but may be sought at a later time after examination of the Witness.

6. **Any requirement that the evidence be on oath or affirmation and any special form to be used**

It is requested that the evidence be given under oath or affirmation to be administered by the appointed examiner.

7. **Special methods or procedures to be followed**

It is requested that the following special methods and procedures be followed:

- (1) that counsel for the Plaintiff and counsel for the Defendants to the action now pending in the District Court of Minnesota be permitted to use the oral testimony or evidence pertaining to the subjects described above at paragraph 3 for the purposes of the Lawsuit;
- (2) Associate Counsel in Australia be appointed agents of the Defendants authorised to act on behalf of the Defendants in this matter, including being nominated pursuant to Rule 52.1 of the *Uniform Civil Procedure Rules 2005* (NSW) (**Rules**) for the purposes of making an application in the Supreme Court of New South Wales for an order under section 33 of the *Evidence on Commission Act 1995* (NSW) (**Act**) in respect of the examination of the Witness in New South Wales in relation to a matter pending before a court or tribunal in a place outside of New South Wales;
- (3) the examiner be a barrister and solicitor of the State of New South Wales nominated by the Defendants, or such other qualified person as the Supreme Court of New South Wales appoints for this purpose;
- (4) leave be granted to the Witness to be represented at the examination by legal practitioners of the Supreme Court of the New South Wales and, or in the alternative, legal practitioners designated to practice before the District Court of Minnesota;
- (5) leave be granted to the Defendants to be represented at the examination by legal practitioners of the Supreme Court of the New South Wales and, or in the alternative, legal practitioners designated to practice before the District Court of Minnesota;
- (6) leave be granted to the Plaintiff to be represented at the examination by legal practitioners of the Supreme Court of the New South Wales and, or in the alternative, legal practitioners designated to practice before the District Court of Minnesota;
- (7) the testimony of the Witness be taken orally, and be videotaped and/or recorded verbatim in writing and that the transcript of the testimony be certified as correct and authenticated by the appointed examiner and forwarded to the Principal Registrar of the Supreme Court of New South Wales for certification in accordance with Rules 24.14(1) to (3) and 52.5(a) of the Rules, or otherwise in accordance with the procedure of the Supreme Court of New South Wales; and
- (8) once certified, the Principal Registrar send the certified transcript of the testimony (and annexures) to Associate Counsel in Australia in accordance with Rule 52.5(b) of the Rules.

**8. Request for notification of the time and place for the Execution of the Request and identity and address of any person to be notified**

- 8.1 Time and place for oral evidence or testimony: Through the Defendants, the Plaintiff and Defendants will consult with the Witness (or with the Witness's counsel, if the Witness is represented by counsel) regarding a date and time agreed upon by the Witness, the Plaintiff and Defendants, and the examiner for the purpose of giving oral evidence or testimony, provided that the examination commences no later than August 20, 2010 and continues at such place and time as the examiner may direct from day to day until complete. Neither Defendants nor the Plaintiff is barred from communicating with the Witness, except that communications shall be made through the Witness's counsel if the Witness is represented by counsel.
- 8.2 In the absence of such agreement the Witness shall be examined prior to September 1, 2010, at a date, time, or place nominated by the Supreme Court of New South Wales or, alternatively, by the examiner in accordance with Rule 24.8(3) of the Rules.
- 8.3 The Requesting Judicial Authority, the Plaintiff and their representatives, Defendants and their representatives, and the Witness are to be notified of the time and place for the application to the Supreme Court of New South Wales for orders giving effect to this letter of request.

**9. Specification of privilege or duty to give evidence under the law of the State of origin**

Under the laws of the United States, the Witness may refuse to give any evidence which calls for the disclosure of any confidential communications between the Witness and the Witness's counsel wherein such communications are made in the course of a request for legal advice. In addition, under the laws of the United States, the Witness shall not give any evidence which calls for the disclosure of any confidential communications between the Witness and counsel for TimeBase made in the scope of Witness's work on behalf of TimeBase, wherein such communications are made in the course of request for legal advice by TimeBase. This privilege is known as the attorney-client privilege.

In addition, if the Witness performed work at the direction of the Witness's counsel (or work at the direction of TimeBase's counsel in the scope of the Witness's work on behalf of TimeBase) for the purposes of assisting such counsel in anticipation of litigation or the furtherance of litigation, the witness may refuse to answer questions concerning such reviews, unless: (1) the answers do not involve the mental impressions of such counsel; and (2) the examining party can show a substantial need for the evidence and an inability to obtain the substantive equivalent of the evidence by other means without undue hardship. This privilege is known as the work product privilege. If testimony or production of documents is withheld on either of these grounds, a statement



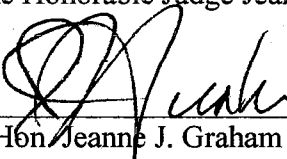
to that effect must be made at the time of the taking of the testimony or production of documents.

Unless prohibited by the procedures and laws of Australia, any dispute regarding the application of the attorney-client privilege or work product privilege may be referred to the District Court of Minnesota by telephone conference at the time the dispute arises.

10. **Fees and costs**

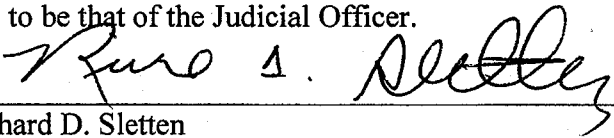
The fees and costs incurred which are reimbursable under the second paragraph of Article 14 or under Article 26 of the Convention will be borne by the Defendants up to a total of \$500.00. Beyond \$500.00, fees and costs which are reimbursable under the Convention will be borne by the Defendants with prior consent of the Defendants. When seeking this consent, the Witness shall indicate the approximate costs which would result from this procedure. If the Defendants give consent, they shall reimburse any costs incurred; without such consent, the Defendants shall not be liable for the costs otherwise than in accordance with section 33(7) of the Act.

Witnessed by The Honorable Judge Jeanne J. Graham

Signed:   
Hon. Jeanne J. Graham  
Magistrate Judge, District Court of Minnesota

Dated: 6/24/, 2010


I, Richard D. Sletten, Clerk of this United States District Court, keeper of the records and seal, certify that the Honorable Judge Jeanne J. Graham is and was on this very day noted a Judicial Officer of the Court, duly appointed, sworn, and qualified, and that I am well acquainted with the Judicial Officer's official signature and know and certify the above signature to be that of the Judicial Officer.

Signed:   
Richard D. Sletten  
Clerk of the United States District Court for the District of Minnesota

Dated: 6-28, 2010

I, Judge Jeanne J. Graham, a Judicial Officer of this Court, certify that Richard D. Sletten, the above-named, is and was on the date noted, the Clerk of this Court, duly appointed and sworn, and keeper of the records and seals.

Signed: \_\_\_\_\_

  
Hon. Jeanne J. Graham  
Magistrate Judge, District Court of Minnesota

Dated: 6/30, 2010

## EXHIBIT A

### **Nature and purpose of the proceedings and summary of the facts**

This is a patent infringement action currently pending before the United States District Court for the District of Minnesota, captioned as *TimeBase Pty Ltd. v. The Thomson Corporation, et al.*, Case No. 07-cv-1687 (JNE/JJG) (D. Minn.) (“**Lawsuit**”). The plaintiff in this Lawsuit is TimeBase Pty Ltd. (“**TimeBase**”), an Australian corporation. TimeBase brought this Lawsuit against the Thomson Corporation, West Publishing Corporation, and West Services, Inc. (collectively “**Defendants**”) under the patent laws of the United States – United States Code, Title 35.

There are two patents at issue in this action: United States Patent No. 7,293,228 (“**the ‘228 patent**”) and United States Patent No. 6,233,592 (“**the ‘592 patent**”), which are collectively referred to as the “Patents-in-Suit.” TimeBase alleges that the Patents-in-Suit are related to and claim priority to Australian patent application AU 04892 filed on January 31, 1997 (“**the Australian patent**”). TimeBase alleges that Defendants infringe both of the Patents-in-Suit. Defendants deny all allegations of infringement and further aver that the asserted claims of the Patents-in-Suit are invalid.

TimeBase filed an initial complaint against Defendants on January 24, 2007, alleging infringement of claims of the ‘592 patent. After the case was transferred to the District of Minnesota, Defendants filed their initial answer on June 18, 2007. On June 29, 2007, the Lawsuit was stayed pending re-examination of the ‘592 patent. On November 7, 2007, TimeBase filed a second complaint, alleging infringement of claims of the ‘228 patent. Defendants filed their answer to the second complaint on November 29, 2007. On February 12, 2008, the District of Minnesota consolidated the actions for the first and second complaints into the Lawsuit and issued a stay of the Lawsuit pending re-examination of the ‘592 patent. On June 4, 2009, the District of Minnesota ordered the stay lifted. A scheduling conference was held on July 8, 2009 and the District of Minnesota issued a pre-trial scheduling order on July 17, 2009. The District of Minnesota issued an amended pre-trial scheduling order on December 8, 2009. Pursuant to that order, fact discovery in this Lawsuit will close on August 31, 2010. Parties must be trial ready by June 1, 2011.

### **The Witness**

Abha Lessing (“**Ms. Lessing**”) is a named inventor on both the ‘228 patent and the ‘592 patent. Defendants are informed that Ms. Lessing is a former employee of TimeBase, having been the co-founder and Chief Executive Officer of the company during the period in which the Patents-in-Suit were filed, prosecuted, and issued. Additionally, Ms. Lessing’s husband, Mr. Christoph Schnelle, was the co-founder of TimeBase and served as President of the company during the period in which the Patents-in-Suit were filed, prosecuted, and issued.

Defendants are informed Ms. Lessing is no longer employed by or has an ownership interest in TimeBase. Specifically, in TimeBase’s Response to the Defendants’

Interrogatories 1-5 (served on August 17, 2009), TimeBase confirmed that Ms. Lessing was a TimeBase shareholder from 1994 to November 7, 2003.

TimeBase has confirmed that Ms. Lessing is relevant to the Lawsuit. In TimeBase's Rule 26(a)(1) Initial Disclosures (served on April 17, 2008), TimeBase identified Ms. Lessing as "likely to have discoverable information that [TimeBase] may use to support its claim or defences". Specifically, TimeBase identified Ms. Lessing as likely to have discoverable information on the "[t]echnology at issue; possibly the inventions and patent."

TimeBase's statements in its Initial Disclosures are consistent with what Defendants know to be true about Ms. Lessing's key role at TimeBase from 1994 to 2003: (1) she was a founder, owner, and director of TimeBase during the period in which the Invention was developed and patented, and (2) she is a named inventor on both of the Patents-in-Suit. Given these key roles, Defendants believe that Ms. Lessing is likely to have knowledge of subject matter, events, and communications that are directly relevant to this Lawsuit, including the scope and validity of the Patents-in-Suit. Defendants therefore seek to examine Ms. Lessing on the following topics, including events and communications that relate to the following topics:

In interpreting the requests below, the following definitions should apply:

1. As used herein, the term "TimeBase" shall mean and include TimeBase Pty Ltd. and all predecessors (merged, acquired, or otherwise, and specifically including Aunty Abha Electronic Publishing), subsidiaries, parents, joint ventures, and affiliates thereof, and all current and former directors, officers, agents, employees, attorneys and other persons acting on its behalf.
2. As used herein, "Invention" means the conception of the invention(s) disclosed in or claimed by the Patents-in-Suit.

### **Testimony Sought**

Defendants believe that Ms. Lessing has knowledge of:

1. Matters relating to the Patents-in-Suit or the Australian patent, namely:
  - (1) The circumstances surrounding the conception, development, and reduction to practice of the Invention;
  - (2) The role played by Abha Lessing, Christoph Schnelle, Paul William Leslie, Geoffrey John Nolan, and Peter Mariani in the conception, development, and reduction to practice of the Invention;
  - (3) The Witness's knowledge and understanding of the state of the art of the fields of electronic publishing or database management at the time of the Invention, in particular the Witness's views regarding:

- (a) the ways in which the Invention advanced the art of the fields of electronic publishing or database management;
  - (b) the meaning of terms used within the Patents-in-Suit;
  - (4) The Witness's knowledge of the prosecution of the Patents-in-Suit and the Australian patent;
  - (5) The Witness's knowledge of any re-examination of the Patents-in-Suit and the Australian patent;
  - (6) Any attempts to or decisions to license the Patents-in-Suit or the Australian patent during the period from 1999 to 2003; and
  - (7) Information regarding the calculation of the value or anticipated value of the Patents-in-Suit or the Australian patent.
2. Matters relating to the fields of electronic publishing or database management, namely:
- (1) The information contained in presentations or marketing materials authored by TimeBase or the Witness, and the circumstances surrounding their publication;
  - (2) The Witness's understanding of the meaning and disclosure made in articles, publications, presentations, or papers related to the fields of electronic publishing or database management, authored by a third party; and
  - (3) The work of Royal Melbourne Institute of Technology ("RMIT"), the Collaborative Information Technology Research Institute ("CITRI"), or the University of Melbourne related to electronic publishing or database management.
3. Matters relating to TimeBase, namely:
- (1) Descriptions of the Witness's work performed, job duties and responsibilities, and titles held while employed at TimeBase;
  - (2) The Witness's ownership interest in TimeBase, between 1994 to the present;
  - (3) The history of TimeBase as a company, including how it began and how the business evolved from 1994 to 2003;
  - (4) TimeBase's finances and funding from 1994 to 2003;
  - (5) People employed at TimeBase and involved with the conception or reduction to practice of the Invention, the application or prosecution of

the Patents-in-Suit or the Australian Patent, or development of TimeBase products or services at any time during the period from 1994 to 2003, their titles, and job duties and responsibilities;

- (6) TimeBase's products and services related to electronic publishing or database management which were developed, marketed, or sold between 1994 and 2003;
- (7) TimeBase's or any third party characterizations of any products or services offered by TimeBase in electronic publishing or database management from 1994 to 2003, including MALT products or services for legislation;
- (8) Discussions between the Witness and any other person or organization regarding the technology behind or value of the products or services offered by TimeBase in electronic publishing or database management from 1994 to present, including any MALT products or services for legislation;
- (9) The sale of TimeBase in 2003, and any attempts to or decisions to sell the company between 1994 and 2003;
- (10) Any ongoing interest that the Witness held or still holds in TimeBase, following the 2003 sale of TimeBase;
- (11) Any attempts to or decisions to sell TimeBase's assets during the period of 1994 to 2003;
- (12) Any attempts to or decisions to seek investors to invest in TimeBase during the period of 1994 to 2003;
- (13) Negotiations, agreements, or promises related to the Patents-in-Suit or the Australian Patent between TimeBase and RMIT, CITRI, or the University of Melbourne during the period of 1994 to 2003;
- (14) Any calculation of the value or anticipated value of TimeBase;
- (15) Any calculation of the value or anticipated value of TimeBase's products or services, including MALT products or services for legislation;
- (16) Any calculation of the value or anticipated value of the Patents-in-Suit or the Australian Patent;
- (17) Discussions between TimeBase and any of the Defendants regarding licensing TimeBase's technology, investing in TimeBase, buying TimeBase, or buying TimeBase's assets during the period of 1994 to 2003; and

- (18) Discussions between TimeBase and any Thomson companies in Australia regarding licensing TimeBase's technology, investing in TimeBase, buying TimeBase, or buying TimeBase's assets during the period of 1994 to 2003.

4. Matters relating to this Lawsuit, namely:

- (1) The Witness's knowledge of the factual basis for TimeBase's accusations of infringement against the Defendants;
- (2) The interest the Witness has in this Lawsuit;
- (3) Discussions between the Witness or TimeBase and any of the Defendants during the period of 2007 to the present about the Lawsuit, and any evidence the Witness may be able to give in proceedings related to the Lawsuit;
- (4) Discussions between the Witness or TimeBase and Thomson companies in Australia during the period of 2007 to the present about the Lawsuit, and any evidence the Witness may be able to give in proceedings related to the Lawsuit; and
- (5) Discussions between the Witness or TimeBase and any other person regarding this Lawsuit during the period of 2007 to the present about the Lawsuit, and any evidence the Witness may be able to give in proceedings related to the Lawsuit.
- (6) Discussions between the Witness and TimeBase regarding this Lawsuit during the period of 2007 to the present about the Lawsuit, and any evidence the Witness may be able to give in proceedings related to the Lawsuit.

"B"

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

TIMEBASE PTY LTD.,

**Civil No. 07-1687 (JNE/JJG)**

Plaintiff,

vs.

THE THOMSON CORPORATION, WEST  
PUBLISHING CORPORATION, and  
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**DEFENDANTS' REQUEST FOR  
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**District Court of Minnesota to the Secretary to the Attorney-General's  
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Registrar of the Supreme Court of New  
South Wales  
GPO Box 3  
Sydney NSW 2001  
Australia  
**(Competent Judicial Authority in  
Australia)**

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Plaintiff:

Timebase Pty Ltd  
Level 1  
362 Kent Street  
Sydney, NSW 2000  
Australia



Counsel for Plaintiff:

Mr. Joseph N. Hosteny  
Mr. Arthur A. Gasey  
Niro, Scavone, Haller & Niro  
181 West Madison, Suite 4690  
Chicago, Illinois 60602  
USA

Defendants:

The Thomson Corporation  
Suite 2706  
Toronto Dominion Bank Tower  
P.O. Box 24  
Toronto-Dominion Centre  
Toronto, Ontario M5K 1A1  
Canada

West Publishing Corporation  
610 Opperman Drive  
Eagan, Minnesota 55123  
USA

West Services, Inc.  
610 Opperman Drive  
Eagan, Minnesota 55123  
USA

Counsel for Defendants:

Mr. Calvin L. Litsey  
Mr. David J. Gross  
Mr. Theodore M. Budd  
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Mr. Kevin P. Wagner  
Ms. Katherine S. Razavi  
Faegre & Benson LLP  
2200 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, Minnesota 55402  
USA

Associated Counsel in Australia:

Mr. Nigel Jones  
Partner  
Norton Rose Australia  
Level 15, 485 Bourke Street  
Melbourne VIC 3000  
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Mr. Christoph Schnelle  
280 Burringbar Road  
Burringbar NSW 2483  
Australia  
(the Witness)

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- (3) the examiner be a barrister and solicitor of the State of New South Wales nominated by the Defendants, or such other qualified person as the Supreme Court of New South Wales appoints for this purpose;
- (4) leave be granted to the Witness to be represented at the examination by legal practitioners of the Supreme Court of the New South Wales and, or in the alternative, legal practitioners designated to practice before the District Court of Minnesota;
- (5) leave be granted to the Defendants to be represented at the examination by legal practitioners of the Supreme Court of the New South Wales and, or in the alternative, legal practitioners designated to practice before the District Court of Minnesota;
- (6) leave be granted to the Plaintiff to be represented at the examination by legal practitioners of the Supreme Court of the New South Wales and, or in the alternative, legal practitioners designated to practice before the District Court of Minnesota;
- (7) the testimony of the Witness be taken orally and be videotaped, and/or be recorded verbatim in writing and that the transcript of the testimony be certified as correct and authenticated by the appointed examiner and forwarded to the Principal Registrar of the Supreme Court of New South Wales for certification in accordance with Rules 24.14(1) to (3) and 52.5(a) of the Rules, or otherwise in accordance with the procedure of the Supreme Court of New South Wales; and
- (8) once certified, the Principal Registrar send the certified transcript of the testimony (and annexures) to Associate Counsel in Australia in accordance with Rule 52.5(b) of the Rules.

**8. Request for notification of the time and place for the Execution of the Request and identity and address of any person to be notified**

8.1 Time and place for oral evidence or testimony: Through the Defendants, the Plaintiff and Defendants will consult with the Witness (or with the Witness's counsel, if the Witness is represented by counsel) regarding a date and time agreed upon by the Witness, the Plaintiff and Defendants, and the examiner for the purpose of giving oral evidence or testimony, provided that the examination commences no later than August 20, 2010 and continues at such place and time as the examiner may direct from day to day until complete. Neither Defendants nor the Plaintiff is barred from communicating with the Witness, except that communications shall be made through the Witness's counsel if the Witness is represented by counsel.

8.2 In the absence of such agreement the Witness shall be examined prior to September 1, 2010, at a date, time, or place nominated by the Supreme Court of New South Wales or, alternatively, by the examiner in accordance with Rule 24.8(3) of the Rules.

8.3 The Requesting Judicial Authority, the Plaintiff and their representatives, Defendants and their representatives, and the Witness are to be notified of the time and place for the application to the Supreme Court of New South Wales for orders giving effect to this letter of request.

**9. Specification of privilege or duty to give evidence under the law of the State of origin**

Under the laws of the United States, the Witness may refuse to give any evidence which calls for the disclosure of any confidential communications between the Witness and the Witness's counsel wherein such communications are made in the course of a request for legal advice. In addition, under the laws of the United States, the Witness shall not give any evidence which calls for the disclosure of any confidential communications between the Witness and counsel for TimeBase made in the scope of Witness's work on behalf of TimeBase, wherein such communications are made in the course of request for legal advice by TimeBase. This privilege is known as the attorney-client privilege.

In addition, if the Witness performed work at the direction of the Witness's counsel (or work at the direction of TimeBase's counsel in the scope of the Witness's work on behalf of TimeBase) for the purposes of assisting such counsel in anticipation of litigation or the furtherance of litigation, the witness may refuse to answer questions concerning such reviews, unless: (1) the answers do not involve the mental impressions of such counsel; and (2) the examining party can show a substantial need for the evidence and an inability to obtain the substantive equivalent of the evidence by other means without undue hardship. This privilege is known as the work product privilege. If testimony or production of documents is withheld on either of these grounds, a statement

to that effect must be made at the time of the taking of the testimony or production of documents.


Unless prohibited by the procedures and laws of Australia, any dispute regarding the application of the attorney-client privilege or work product privilege may be referred to the District Court of Minnesota by telephone conference at the time the dispute arises.

10. **Fees and costs**

The fees and costs incurred which are reimbursable under the second paragraph of Article 14 or under Article 26 of the Convention will be borne by the Defendants up to a total of \$500.00. Beyond \$500.00, fees and costs which are reimbursable under the Convention will be borne by the Defendants with prior consent of the Defendants. When seeking this consent, the Witness shall indicate the approximate costs which would result from this procedure. If the Defendants give consent, they shall reimburse any costs incurred; without such consent, the Defendants shall not be liable for the costs otherwise than in accordance with section 33(7) of the Act.

Witnessed by The Honorable Judge Jeanne J. Graham

Signed: \_\_\_\_\_

  
Hon. Jeanne J. Graham  
Magistrate Judge, District Court of Minnesota

Dated: 6/24, 2010

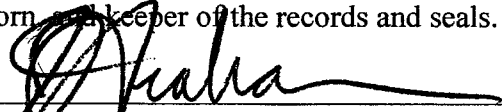
I, Richard D. Sletten, Clerk of this United States District Court, keeper of the records and seal, certify that the Honorable Judge Jeanne J. Graham is and was on this very day noted a Judicial Officer of the Court, duly appointed, sworn, and qualified, and that I am well acquainted with the Judicial Officer's official signature and know and certify the above signature to be that of the Judicial Officer.

Signed: \_\_\_\_\_

  
Richard D. Sletten  
Clerk of the United States District Court for the District of Minnesota

Dated: 6.28, 2010

I, Judge Jeanne J. Graham, a Judicial Officer of this Court, certify that Richard D. Sletten, the above-named, is and was on the date noted, the Clerk of this Court, duly appointed and sworn as keeper of the records and seals.

Signed:   
\_\_\_\_\_  
Hon. Jeanne J. Graham  
Magistrate Judge, District Court of Minnesota

Dated: 6/30, 2010

## EXHIBIT A

### **Nature and purpose of the proceedings and summary of the facts**

This is a patent infringement action currently pending before the United States District Court for the District of Minnesota, captioned as *TimeBase Pty Ltd. v. The Thomson Corporation, et al.*, Case No. 07-cv-1687 (JNE/JJG) (D. Minn.) (“**Lawsuit**”). The plaintiff in this Lawsuit is TimeBase Pty Ltd. (“**TimeBase**”), an Australian corporation. TimeBase brought this Lawsuit against the Thomson Corporation, West Publishing Corporation, and West Services, Inc. (collectively “**Defendants**”) under the patent laws of the United States – United States Code, Title 35.

There are two patents at issue in this action: United States Patent No. 7,293,228 (“**the ‘228 patent**”) and United States Patent No. 6,233,592 (“**the ‘592 patent**”), which are collectively referred to as the “**Patents-in-Suit**.” TimeBase alleges that the Patents-in-Suit are related to and claim priority to Australian patent application AU 04892 filed on January 31, 1997 (“**the Australian patent**”). TimeBase alleges that Defendants infringe both of the Patents-in-Suit. Defendants deny all allegations of infringement and further aver that the asserted claims of the Patents-in-Suit are invalid.

TimeBase filed an initial complaint against Defendants on January 24, 2007, alleging infringement of claims of the ‘592 patent. After the case was transferred to the District of Minnesota, Defendants filed their initial answer on June 18, 2007. On June 29, 2007, the Lawsuit was stayed pending re-examination of the ‘592 patent. On November 7, 2007, TimeBase filed a second complaint, alleging infringement of claims of the ‘228 patent. Defendants filed their answer to the second complaint on November 29, 2007. On February 12, 2008, the District of Minnesota consolidated the actions for the first and second complaints into the Lawsuit and issued a stay of the Lawsuit pending re-examination of the ‘592 patent. On June 4, 2009, the District of Minnesota ordered the stay lifted. A scheduling conference was held on July 8, 2009 and the District of Minnesota issued a pre-trial scheduling order on July 17, 2009. The District of Minnesota issued an amended pre-trial scheduling order on December 8, 2009. Pursuant to that order, fact discovery in this Lawsuit will close on August 31, 2010. Parties must be trial ready by June 1, 2011.

### **The Witness**

Christoph Schnelle (“**Mr. Schnelle**”) is a named inventor on both the ‘228 patent and the ‘592 patent. Defendants are informed that Mr. Schnelle, was the co-founder of TimeBase and served as President of the company during the period in which the Patents-in-Suit were filed, prosecuted, and issued. Defendants are informed that Mr. Schnelle’s wife, Ms. Abha Lessing is a former employee of TimeBase, having been the co-founder and Chief Executive Officer of the company during the period in which the Patents-in-Suit were filed, prosecuted, and issued.

Defendants are informed Mr. Schnelle is no longer employed by or has an ownership interest in TimeBase. Specifically, in TimeBase’s Response to the Defendants’

Interrogatories 1-5 (served on August 17, 2009), TimeBase confirmed that Mr. Schnelle was a TimeBase shareholder from 1994 to November 7, 2003.

TimeBase has confirmed that Mr. Schnelle is relevant to the Lawsuit. In TimeBase's Rule 26(a)(1) Initial Disclosures (served on April 17, 2008), TimeBase identified Mr. Schnelle as "likely to have discoverable information that [TimeBase] may use to support its claim or defences". Specifically, TimeBase identified Mr. Schnelle as likely to have discoverable information on the "[t]echnology at issue; possibly the inventions and patent."

TimeBase's statements in its Initial Disclosures are consistent with what Defendants know to be true about Mr. Schnelle's key role at TimeBase from 1994 to 2003: (1) he was a founder, owner, and director of TimeBase during the period in which the Invention was developed and patented, and (2) he is a named inventor on both of the Patents-in-Suit. Given these key roles, Defendants believe that Mr. Schnelle is likely to have knowledge of subject matter, events, and communications that are directly relevant to this Lawsuit, including the scope and validity of the Patents-in-Suit. Defendants therefore seek to examine Mr. Schnelle on the following topics, including events and communications that relate to the following topics:

In interpreting the requests below, the following definitions should apply:

1. As used herein, the term "TimeBase" shall mean and include TimeBase Pty Ltd. and all predecessors (merged, acquired, or otherwise, and specifically including Aunty Abha Electronic Publishing), subsidiaries, parents, joint ventures, and affiliates thereof, and all current and former directors, officers, agents, employees, attorneys and other persons acting on its behalf.
2. As used herein, "Invention" means the conception of the invention(s) disclosed in or claimed by the Patents-in-Suit.

### **Testimony Sought**

Defendants believe that Mr. Schnelle has knowledge of:

1. Matters relating to the Patents-in-Suit or the Australian patent, namely:
  - (1) The circumstances surrounding the conception, development, and reduction to practice of the Invention;
  - (2) The role played by Christoph Schnelle, Paul William Leslie, Abha Lessing, Geoffrey John Nolan, and Peter Mariani in the conception, development, and reduction to practice of the Invention;
  - (3) The Witness's knowledge and understanding of the state of the art of the fields of electronic publishing or database management at the time of the Invention, in particular the Witness's views regarding:



- (a) the ways in which the Invention advanced the art of the fields of electronic publishing or database management;
  - (b) the meaning of terms used within the Patents-in-Suit;
  - (4) The Witness's knowledge of the prosecution of the Patents-in-Suit and the Australian patent;
  - (5) The Witness's knowledge of any re-examination of the Patents-in-Suit and the Australian patent;
  - (6) Any attempts to or decisions to license the Patents-in-Suit or the Australian patent during the period from 1999 to 2003; and
  - (7) Information regarding the calculation of the value or anticipated value of the Patents-in-Suit or the Australian patent.
2. Matters relating to the fields of electronic publishing or database management, namely:
- (1) The information contained in presentations or marketing materials authored by TimeBase or the Witness, and the circumstances surrounding their publication;
  - (2) The Witness's understanding of the meaning and disclosure made in articles, publications, presentations, or papers related to the fields of electronic publishing or database management, authored by a third party; and
  - (3) The work of Royal Melbourne Institute of Technology ("RMIT"), the Collaborative Information Technology Research Institute ("CITRI"), or the University of Melbourne related to electronic publishing or database management.
3. Matters relating to TimeBase, namely:
- (1) Descriptions of the Witness's work performed, job duties and responsibilities, and titles held while employed at TimeBase;
  - (2) The Witness's ownership interest in TimeBase, between 1994 to the present;
  - (3) The history of TimeBase as a company, including how it began and how the business evolved from 1994 to 2003;
  - (4) TimeBase's finances and funding from 1994 to 2003;
  - (5) People employed at TimeBase and involved with the conception or reduction to practice of the Invention, the application or prosecution of

the Patents-in-Suit or the Australian Patent, or development of TimeBase products or services at any time during the period from 1994 to 2003, their titles, and job duties and responsibilities;

- (6) TimeBase's products and services related to electronic publishing or database management which were developed, marketed, or sold between 1994 and 2003;
- (7) TimeBase's or any third party characterizations of any products or services offered by TimeBase in electronic publishing or database management from 1994 to 2003, including MALT products or services for legislation;
- (8) Discussions between the Witness and any other person or organization regarding the technology behind or value of the products or services offered by TimeBase in electronic publishing or database management from 1994 to present, including any MALT products or services for legislation;
- (9) The sale of TimeBase in 2003, and any attempts to or decisions to sell the company between 1994 and 2003;
- (10) Any ongoing interest that the Witness held or still holds in TimeBase, following the 2003 sale of TimeBase;
- (11) Any attempts to or decisions to sell TimeBase's assets during the period of 1994 to 2003;
- (12) Any attempts to or decisions to seek investors to invest in TimeBase during the period of 1994 to 2003;
- (13) Negotiations, agreements, or promises related to the Patents-in-Suit or the Australian Patent between TimeBase and RMIT, CITRI, or the University of Melbourne during the period of 1994 to 2003;
- (14) Any calculation of the value or anticipated value of TimeBase;
- (15) Any calculation of the value or anticipated value of TimeBase's products or services, including MALT products or services for legislation;
- (16) Any calculation of the value or anticipated value of the Patents-in-Suit or the Australian Patent;
- (17) Discussions between TimeBase and any of the Defendants regarding licensing TimeBase's technology, investing in TimeBase, buying TimeBase, or buying TimeBase's assets during the period of 1994 to 2003; and

- (18) Discussions between TimeBase and any Thomson companies in Australia regarding licensing TimeBase's technology, investing in TimeBase, buying TimeBase, or buying TimeBase's assets during the period of 1994 to 2003.

4. Matters relating to this Lawsuit, namely:

- (1) The Witness's knowledge of the factual basis for TimeBase's accusations of infringement against the Defendants;
- (2) The interest the Witness has in this Lawsuit;
- (3) Discussions between the Witness or TimeBase and any of the Defendants during the period of 2007 to the present about the Lawsuit, and any evidence the Witness may be able to give in proceedings related to the Lawsuit;
- (4) Discussions between the Witness or TimeBase and Thomson companies in Australia during the period of 2007 to the present about the Lawsuit, and any evidence the Witness may be able to give in proceedings related to the Lawsuit; and
- (5) Discussions between the Witness or TimeBase and any other person regarding this Lawsuit during the period of 2007 to the present about the Lawsuit, and any evidence the Witness may be able to give in proceedings related to the Lawsuit.
- (6) Discussions between the Witness and TimeBase regarding this Lawsuit during the period of 2007 to the present about the Lawsuit, and any evidence the Witness may be able to give in proceedings related to the Lawsuit.