

# Exhibit I

(Letters of June 11, 2010 and July 2, 2010 from  
Defendants to Plaintiffs)

to

TimeBase's Response to Defendants'  
Motion for Summary Judgment



UNITED STATES | ENGLAND | GERMANY | CHINA

CALVIN L. LITSEY  
CLitsey@faegre.com  
612-766-8608

June 11, 2010

Joseph N. Hosteny  
Niro, Haller & Niro, Ltd.  
181 West Madison Street, Suite 4600  
Chicago, IL 60602

Re: TimeBase Pty Ltd. v. The Thomson Corporation, et al.  
Case No.: 07-cv-01687-JNE/JJG

Dear Joe:

As previously discussed, on behalf of The Thomson Corporation, West Publishing Corporation, and West Services, Inc., we object on several grounds to the deposition notices and topics set forth in TimeBase's Notices of Deposition Pursuant to Federal Rules of Civil Procedure Rule 30(b)(6).

We had previously objected to TimeBase's noticing three separate Rule 30(b)(6) depositions (in which TimeBase listed the same forty deposition topics for each defendant). Our position was that TimeBase is only entitled to a single Rule 30(b)(6) deposition of defendants, not three, under the Pretrial Scheduling Order. Based on our recent communications, I do not believe this is any longer an issue. Accordingly, we will prepare witnesses for a single 30(b)(6) deposition for all of the defendants.

Second, a number of the topics TimeBase has identified seek information about defendants' legal contentions. Because these contentions already have been addressed in defendants' interrogatory answers or in other pleadings (or in some cases have not yet been formed), and because they are not appropriate topics for a Rule 30(b)(6) deposition, we will not be providing witnesses to address those topics. *See, e.g., Kinetic Concepts, Inc. v. Convatec Inc.*, 2010 WL 1957595 (M.D.N.C. 2010); *Nycomed U.S. Inc. v. Glenmark Generics Ltd.*, 2009 WL 3463912 (E.D.N.Y. 2009); *McCormick-Morgan, Inc. v. Teledyne Indus., Inc.*, 134 F.R.D. 275 (ND. Cal. 1991). These topics include topics 4, 5, 7, 9, 31, 32, 33, 34, and 35.

Third, many of TimeBase's deposition topics fail to describe the matters for examination with reasonable particularity, as required by Rule 30(b)(6). The lack of particularity makes it difficult, if not impossible, for defendants to designate witnesses to be

adequately prepared. In those instances where TimeBase has not identified the topic with sufficient particularity, defendants will prepare one or more witnesses to address the topic generally.

Fourth, where the topic is cumulative or duplicative of other deposition topics or information already obtained through other means, or where the topic seeks all information when a limited amount or representative sample of information would be sufficient, the topic is unreasonably burdensome.

Without waiving any of these general objections, defendants also note the following more specific objections to the topics listed in TimeBase's Rule 30(b)(6) Deposition Notices:

**TOPIC NO. 1:**

**Communications and meetings with TimeBase or its representatives or agents including, for example, BMG and Jon Klemens.**

**RESPONSE:**

Defendants understand this topic to seek general information about communications and meetings between defendants and TimeBase, BMG, or Jon Klemens. Based on this understanding, defendants will produce one or more witnesses to provide non-privileged general information on communications and meetings between defendants and TimeBase, BMG, or Jon Klemens.

**TOPIC NO. 2:**

**Information possessed or obtained about TimeBase from any source, including third parties.**

**RESPONSE:**

This topic fails to describe the information being sought with reasonable particularity and is duplicative of information already furnished to TimeBase in response to TimeBase's document requests. Nonetheless, based on defendants' understanding of this topic, defendants will produce one or more witnesses to address at a general level the kinds of non-privileged information that defendants are aware of about TimeBase.

**TOPIC NO. 3:**

**Knowledge of TimeBase's intellectual property including the patents asserted in this litigation.**

**RESPONSE:**

This topic fails to describe the information being sought with reasonable particularity and is duplicative of information already furnished to TimeBase in response to TimeBase's written discovery requests. Nonetheless, based on defendants' understanding of this topic, defendants will produce one or more witnesses to address at a general level non-privileged information regarding defendants' awareness of the patents-in-suit.

**TOPIC NO. 4:**

**Any analysis of TimeBase's intellectual property, including any advice, opinions, studies or communications regarding the infringement, validity, or enforceability of the patents asserted in this litigation.**

**RESPONSE:**

This topic is vague, ambiguous, and overly broad to the extent it does not define TimeBase's "intellectual property." Defendants also object to this topic on the grounds that it seeks privileged materials and/or defendants' legal contentions, which are not appropriate topics for a Rule 30(b)(6) deposition. (See cases cited above.) Defendants further note that defendants have addressed part or all of this topic in defendants' pleadings, defendants' responses to TimeBase's written discovery requests (*e.g.*, Interrogatories Nos. 2, 3, and 8; Document Request Nos. 3, 5, 19, and 21), defendants' Non-Infringement Contentions, and defendants' Prior Art Statements. Under these circumstances, defendants will not be producing a witness to address this topic.

**TOPIC NO. 5:**

**Facts relevant to willful infringement, and any actions taken in response to steps taken to avoid infringement.**

**RESPONSE:**

This topic is vague and ambiguous and improperly calls for the disclosure of privileged materials to the extent it purports to require defendants to determine what facts are “relevant” to willful infringement. Defendants also object to this topic on the grounds that it seeks privileged materials and/or defendants’ legal contentions, which are not appropriate topics for a Rule 30(b)(6) deposition. (See cases cited above.) Defendants further note that defendants have addressed part or all of this topic in defendants’ pleadings, defendants’ responses to TimeBase’s written discovery requests (*e.g.*, Interrogatories Nos. 2, 3, and 8; Document Request Nos. 3, 5, 19, and 21), defendants’ Non-Infringement Contentions, and defendants’ Prior Art Statements. Under these circumstances, defendants will not be producing a witness to address this topic.

**TOPIC NO. 6:**

**Any attempts to design around the patents in suit, including any consideration of alternative(s) to any accused products or services.**

**RESPONSE:**

This topic is vague and ambiguous. To the extent defendants understand the topic, defendants have not been involved in “any attempts to design around the patents in suit.” Accordingly, this topic is moot and defendants will not be producing a witness to address this topic.

**TOPIC NO. 7:**

**The basis for filing any request to reexamine the patents in suit, and the selection of document(s) submitted with such requests.**

**RESPONSE:**

This topic is vague and ambiguous and improperly calls for the disclosure of privileged materials to the extent it purports to require defendants to determine and disclose what the “basis” may have been for filing a reexamination request or for selecting particular documents to submit with such a request. Defendants also object to this topic on the grounds that it seeks privileged materials and/or defendants’ legal contentions, which are not appropriate topics for a Rule 30(b)(6) deposition. (See cases cited above.) In any event, because none of the defendants have filed a request for reexamination, this topic is moot and defendants will not be producing a witness to address this topic.

**TOPIC NO. 8:**

**The design and operation of each accused product or service.**

**RESPONSE:**

This topic is overly broad and is duplicative of information defendants already have provided in response to written discovery requests (*e.g.*, Interrogatory No. 10; Document Request No. 9). Nonetheless, based on defendants’ understanding of this topic, defendants will produce one or more witnesses to address the general design and operation of the four accused products—Graphical Statutes, PastStat Locator, RegulationsPlus, and Graphical Bills.

**TOPIC NO. 9:**

**The facts supporting the defendants’ contentions of non-infringement and invalidity.**

**RESPONSE:**

Defendants object to this topic on the grounds that it seeks privileged materials and/or defendants’ legal contentions, which are not appropriate topics for a Rule 30(b)(6) deposition. (See cases cited above.) Defendants further note that defendants have addressed part or all of this topic in defendants’ pleadings, defendants’ responses to TimeBase’s written discovery requests (*e.g.*, Interrogatories Nos. 2, 3, and 8, Document Request Nos. 3, 5, 19,

and 21), defendants' Non-Infringement Contentions, and defendants' Prior Art Statements. Under these circumstances, defendants are unable to prepare and produce a witness to address this topic.

**TOPIC NO. 10:**

**The physical location of and configuration of databases used with any accused product or service, and the division and storage approach to data held in them.**

**RESPONSE:**

This topic is vague and ambiguous to the extent it seeks information about the "division and storage approach" to data held in databases used with the accused products. In addition, the topic is overly broad and is duplicative of information defendants already have provided in response to written discovery requests (*e.g.*, Interrogatory No. 10; Document Request No. 8). Nonetheless, based on defendants' understanding of this topic, defendants will produce one or more witnesses to address the general physical location and general configuration of databases used with Graphical Statutes, PastStat Locator, RegulationsPlus, and Graphical Bills.

**TOPIC NO. 11:**

**The differences between versioned and non-versioned databases.**

**RESPONSE:**

Defendants object to this topic as vague and ambiguous and as failing to describe the information being sought with reasonable particularity. It is unclear, for example, whether this topic seeks testimony regarding versioned and non-versioned databases generally, or regarding particular databases owned by TimeBase or defendants. It is also unclear what types of differences are of interest. Accordingly, defendants are unable to produce a witness to address this topic.

**TOPIC NO. 12:**

**The buy-versus-develop analysis during the design and development of each accused product or service.**

**RESPONSE:**

This topic is vague and ambiguous and fails to describe the information being sought with reasonable particularity. It simply is unclear what specific information TimeBase is seeking under this topic. Accordingly, defendants are unable to produce a witness to address this topic.

**TOPIC NO. 13:**

**A description and explanation of Magellan, OSR, OSR II, Bermuda, Novus, Ampex, Xanadu, Xena, Statmark, ELVIS, DEPTH, Stable table, CP record, RC record, KCITEi record and FINDORIG record, and seven field mark-up or query.**

**RESPONSE:**

This topic is overly broad and is duplicative of information defendants already have provided in response to written discovery requests (*e.g.*, Document Request Nos. 42, 43, and 44). Nonetheless, based on defendants' understanding of this topic, defendants will produce one or more witnesses to address these terms at a general level and what they relate to generally with respect to the four accused products.

**TOPIC NO. 14:**

**The earliest date when each accused product or service was available to a customer or user.**

**RESPONSE:**

This topic is duplicative of information defendants already have provided in response to written discovery requests (*e.g.*, Interrogatory No. 1). Nonetheless, based on defendants' understanding of this topic, defendants will produce one or more witnesses to address at a general level when each of the four accused products was available to a customer.



**TOPIC NO. 15:**

**The patenting activities relevant to any accused product or service, including 7,085,755, and any applications including Mr. Spencer or Ms. Agard as an inventor.**

**RESPONSE:**

This topic is vague and ambiguous to the extent it seeks information about “patenting activities” and which of those activities are “relevant” to any of the four accused products. The topic also improperly calls for the disclosure of privileged materials to the extent it purports to require defendants to determine what is legally “relevant.” Notwithstanding these objections, defendants will produce one or more witnesses to identify the status of any of defendants’ patents or patent applications listing David Spencer and/or Darla Agard as a named inventor.

**TOPIC NO. 16:**

**The accused products and services that are accessible through WestlawNext.**

**RESPONSE:**

This topic is vague and ambiguous and fails to describe the information being sought with reasonable particularity. It is unclear what specific information TimeBase is seeking about the four accused products under this topic. Notwithstanding these objections, defendants will produce one or more witnesses to address whether any of the four accused products is accessible through Westlaw Next.

**TOPIC NO. 17:**

**Licenses, contracts or other agreements entered into or acquired that are relevant to the design, development or use of any accused product or service, including the identification of the relevant documents and parties involved, and including the Shasta license and any other licenses.**

**RESPONSE:**

This topic is vague and ambiguous and fails to describe the information being sought with reasonable particularity. The topic also is overly broad, unduly burdensome, and seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. To the extent it purports to require defendants to determine what is legally “relevant,” it improperly seeks the disclosure of privileged materials. The topic is also duplicative of information defendants already have provided in response to written discovery requests (*e.g.*, Document Request Nos. 39, 83, 84, and 85). Nonetheless, based on defendants’ understanding of this topic, defendants will produce one or more witnesses to address generally the nature of customer contracts and the contracts that are the produced response to Document Request No. 83.

**TOPIC NO. 18:**

**Filings with the Securities and Exchange Commission.**

**RESPONSE:**

This topic is vague and ambiguous and fails to describe the information being sought with reasonable particularity. The topic is also overly broad, unduly burdensome, and seeks information not reasonably calculated to lead to the discovery of admissible evidence. Under these circumstances, defendants are unable to prepare and produce a witness to address this topic.

**TOPIC NO. 19:**

**Acquisitions, investments in, licenses with, or purchases of assets or companies relevant to the design, development or use of any accused product or service, for example, NetScan, including the identification of the asset or company, and the cost.**

**RESPONSE:**

This topic is vague and ambiguous and fails to describe the information being sought with reasonable particularity. The topic also is overly broad, unduly burdensome, and seeks

information that is not reasonably calculated to lead to the discovery of admissible evidence. To the extent it purports to require defendants to determine what is legally “relevant,” it improperly seeks the disclosure of privileged materials. Under these circumstances, defendants are unable to prepare and produce a witness to address this topic.

**TOPIC NO. 20:**

**The revenues and profits related to or produced by the accused products or services, including from customers or users outside the United States.**

**RESPONSE:**

The topic is duplicative of information defendants already have provided in response to written discovery requests (*e.g.*, Interrogatory No. 1; Document Request Nos. 35, 36, 37, 69, and 79). Nonetheless, based on defendants’ understanding of this topic, defendants will produce one or more witnesses to explain the revenue and profit information produced by defendants in response to TimeBase’s written discovery requests.

**TOPIC NO. 21:**

**Any analysis of the percentage of customer use or revenue or anticipated use or revenue related to any accused product or service broken down on a feature by feature basis.**

**RESPONSE:**

This topic is vague and ambiguous and fails to describe the information being sought with reasonable particularity. The topic also is duplicative of information defendants already have provided in response to written discovery requests (*e.g.*, Interrogatory Nos. 1 and 8; Document Request Nos. 35, 26, 37, 69, and 79). Nonetheless, based on defendants’ understanding of this topic, defendants will produce one or more witnesses to explain the usage statistics produced by defendants in response to TimeBase’s written discovery requests.

**TOPIC NO. 22:**

**Forecasts, projections, estimates, strategic plans or the like relevant to the accused products or services, including anticipated costs, profits and benefits of any kind.**

**RESPONSE:**

This topic is vague and ambiguous and fails to describe the information being sought with reasonable particularity. Nonetheless, based on defendants' understanding of this topic, defendants will produce one or more witnesses to generally address forecasts relating to any of the four accused products.

**TOPIC NO. 23:**

**Any analysis, including but not limited to any surveys, of customer demand or customer use related to any accused product or service.**

**RESPONSE:**

This topic is vague and ambiguous and fails to describe the information being sought with reasonable particularity. The topic also is duplicative of information defendants already have provided in response to written discovery requests (*e.g.*, Interrogatory No. 1; Document Request Nos. 35, 36, 37, 69, and 79). Nonetheless, based on defendants' understanding of this topic, defendants will produce one or more witnesses to explain the usage statistics produced by defendants in response to TimeBase's written discovery requests.

**TOPIC NO. 24:**

**Contracts with customers or users, for example, El Paso, Fresno County or Tarrant County, including customers or users outside the United States.**

**RESPONSE:**

This topic is vague and ambiguous and fails to describe the information being sought with reasonable particularity. The topic also is overly broad, unduly burdensome, and seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. The topic is also duplicative of information defendants already have provided in response to

written discovery requests (*e.g.*, Document Request No. 83). Nonetheless, based on defendants' understanding of this topic, defendants will produce one or more witnesses to address generally the nature of customer contracts and the contracts that are the produced response to Document Request No. 83.

**TOPIC NO. 25:**

**Communications with customers or users, or potential customers or users, including customers or users outside the United States.**

**RESPONSE:**

This topic is vague and ambiguous and fails to describe the information being sought with reasonable particularity. The topic also is overly broad, unduly burdensome, and seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. The topic is also duplicative of information defendants already have provided in response to written discovery requests (*e.g.*, Document Request No. 84). Nonetheless, based on defendants' understanding of this topic, defendants will produce one or more witnesses to address generally the nature of customer contracts and the contracts that are produced in response to Document Request No. 84.

**TOPIC NO. 26:**

**The identities of customers for or users of the accused products or services, including customers or users outside the United States.**

**RESPONSE:**

This topic is vague and ambiguous and fails to describe the information being sought with reasonable particularity. The topic also is overly broad, unduly burdensome, and seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. The topic is also duplicative of information defendants already have provided in response to written discovery requests (*e.g.*, Document Request Nos. 61, 63, 65, 67, and 83). Defendants nonetheless will produce one or more witnesses to address generally the contracts that are the produced in response to Document Request No. 83.

**TOPIC NO. 27:**

**Marketing and advertising activities and communications relevant to the accused products and services.**

**RESPONSE:**

This topic fails to describe the information being sought with reasonable particularity. To the extent the topic purports to require defendants to determine what is legally “relevant,” it improperly seeks the disclosure of privileged materials. Nonetheless, based on defendants’ understanding of this topic, defendants will produce one or more witnesses to provide general information regarding defendants’ marketing and advertising activities relating to the four accused products.

**TOPIC NO. 28:**

**The pricing strategy, pricing plans, subscriptions, bundles, and discounts for the accused products and services.**

**RESPONSE:**

The topic is duplicative of information defendants already have provided in response to written discovery requests (*e.g.*, Interrogatory No. 1). Nonetheless, based on defendants’ understanding of this topic, defendants will produce one or more witnesses to provide general information regarding the pricing plans, subscriptions, bundles, and discounts for the four accused products.

**TOPIC NO. 29:**

**An explanation of master brands, features, product brands and sunsets.**

**RESPONSE:**

This topic is vague and ambiguous and fails to describe the information being sought with reasonable particularity. The topic also is overly broad, unduly burdensome, and seeks information that is not reasonably calculated to lead to the discovery of admissible evidence.

Under these circumstances, defendants are unable to prepare and produce a witness to address this topic.

**TOPIC NO. 30:**

**Activities designed to distinguish any accused product or service from services offered by competitors, such as Lexis.**

**RESPONSE:**

This topic fails to describe the information being sought with reasonable particularity. The topic also is overly broad, unduly burdensome, and seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. Nonetheless, based on defendants' understanding of this topic, defendants will produce one or more witnesses to provide general information regarding defendants' marketing and advertising activities relating to the four accused products.

**TOPIC NO. 31:**

**Facts bearing on the timing and content of a hypothetical negotiation to determine a reasonable royalty, for example, as discussed in TimeBase's response to the defendants' Interrogatory 4.**

**RESPONSE:**

This topic is vague and ambiguous and fails to describe the information being sought with reasonable particularity. The topic also is overly broad, unduly burdensome, and seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. To the extent it purports to require defendants to determine what facts legally "bear on" a damages calculation in this case, it improperly seeks the disclosure of privileged materials. Furthermore, as a general matter, defendants object to this topic on the grounds that it seeks privileged materials and/or defendants' legal contentions, which are not appropriate topics for a Rule 30(b)(6) deposition. (See cases cited above.) Defendants further note that defendants have addressed part or all of this topic in defendants' responses to TimeBase's written discovery requests (*e.g.*, Interrogatory No. 4; Document Request No. 8). Finally, defendants have not yet formed their contentions on all facts that may bear on the

determination of a reasonable royalty in this case, and expect that such facts will be the subject of expert testimony. Under these circumstances, defendants will not be producing a witness to address this topic.

**TOPIC NO. 32:**

**Facts relevant to the amount of damages should the defendant be found liable for infringement.**

**RESPONSE:**

This topic is vague and ambiguous and fails to describe the information being sought with reasonable particularity. The topic also is overly broad, unduly burdensome, and seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. To the extent it purports to require defendants to determine what facts are legally “relevant” to a damages calculation in this case, it improperly seeks the disclosure of privileged materials. Furthermore, as a general matter, defendants object to this topic on the grounds that it seeks privileged materials and/or defendants’ legal contentions, which are not appropriate topics for a Rule 30(b)(6) deposition. (See cases cited above.) Defendants further note that defendants have addressed part or all of this topic in defendants’ responses to TimeBase’s written discovery requests (*e.g.*, Interrogatory No. 4; Document Request No. 8). Finally, defendants have not yet formed their contentions on all facts that may bear on damages in this case, and expect that such facts will be the subject of expert testimony. Under these circumstances, defendants will not be producing a witness to address this topic.

**TOPIC NO. 33:**

**Knowledge of the references cited in Thomson’s original and supplemental prior art statements, including when the defendant learned of any of the references.**

**RESPONSE:**

This topic is vague and ambiguous and fails to describe the information being sought with reasonable particularity. Defendants also object to this topic to the extent it seeks privileged materials and/or defendants’ legal contentions, which are not appropriate topics



for a Rule 30(b)(6) deposition. (See cases cited above.) Under these circumstances, defendants are unable to produce a witness to address this topic.

**TOPIC NO. 34:**

**The level of ordinary skill in the art for the patents asserted in this litigation.**

**RESPONSE:**

Defendants object to this topic on the grounds that it seeks privileged materials and/or defendants' legal contentions, which are not appropriate topics for a Rule 30(b)(6) deposition. (See cases cited above.) Defendants further note that defendants have addressed part or all of this topic in defendants' responses to TimeBase's written discovery requests (e.g., Interrogatory No. 2). Under these circumstances, defendants will not be producing a witness to address this topic.

**TOPIC NO. 35:**

**The factual basis for the answer and affirmative defenses, including the steps or structure in any accused product or service that is a basis for non-infringement.**

**RESPONSE:**

Defendants object to this topic on the grounds that it seeks privileged materials and/or defendants' legal contentions, which are not appropriate topics for a Rule 30(b)(6) deposition. (See cases cited above.) Defendants further note that defendants have addressed part or all of this topic in defendants' pleadings, defendants' responses to TimeBase's written discovery requests (e.g., Interrogatories Nos. 2, 3, and 8, Document Request Nos. 3, 5, 19, and 21), defendants' Non-Infringement Contentions, and defendants' Prior Art Statements. Under these circumstances, defendants will not be producing a witness to address this topic.

**TOPIC NO. 36:**

**Contacts with SAIC or Timothy Arnold-Moore.**

**RESPONSE:**

Defendants understand this topic to seek general information about contacts between defendants and SAIC or Timothy Arnold-Moore. Based on this understanding, defendants will produce one or more witnesses to provide non-privileged general information about such contacts.

**TOPIC NO. 37:**

**The documents produced by Thomson, including the search for and collection of documents in response to TimeBase's requests.**

**RESPONSE:**

This topic is vague, ambiguous, and overly broad to the extent it does not define which documents TimeBase is seeking information about. Defendants also object to this topic to the extent it seeks the disclosure of privileged information. Nonetheless, based on defendants' understanding of this topic, defendants will produce one or more witnesses to address the general process of collecting documents in response to TimeBase's document requests.

**TOPIC NO. 38:**

**Thomson's responses to TimeBase's interrogatories, including all aspects of subscription, revenue and usage based figures provided including formulas collection methodology and accuracy.**

**RESPONSE:**

This topic is vague and ambiguous. To the extent it seeks privileged materials and/or defendants' legal contentions, it is not an appropriate topic for a Rule 30(b)(6) deposition. (See cases cited above.) The topic also is duplicative of information defendants already have provided in response to written discovery requests (*e.g.*, Interrogatory No. 1; Document Request Nos. 35, 36, 37, 69, and 79). Nonetheless, based on defendants' understanding of

this topic, defendants will produce one or more witnesses to explain the revenue and profit information produced by defendants in response to TimeBase's written discovery requests.

**TOPIC NO. 39:**

**The organization and types of documents maintained by the defendant, either electronically or in paper form, that specify the design, construction and use of the accused products and services, and the databases used with them, including DTDs, schemas, software specifications and the like.**

**RESPONSE:**

This topic is vague and ambiguous and fails to describe the information being sought with reasonable particularity. The topic is also duplicative of information already furnished to TimeBase in response to TimeBase's discovery requests (*e.g.*, Interrogatory No. 9). Nonetheless, based on defendants' understanding of this topic, defendants will produce one or more witnesses to address at a general level the kinds of non-privileged documents that may exist regarding the four accused products.

**TOPIC NO. 40:**

**Communications with, benefits offered or provided to, or payments offered or made to witnesses, deponents, any potential witness or potential deponent, including Mr. Schnelle, Ms. Lessing, or Mr. Arnold-Moore.**

**RESPONSE:**

This topic is vague and ambiguous and fails to describe the information being sought with reasonable particularity. Nonetheless, based on defendants' understanding of this topic, defendants will produce one or more witnesses to provide non-privileged general information about defendants' communications with Christoph Schnelle, Abha Lessing, or Timothy Arnold Moore.

\* \* \*

Except where noted above, and subject to any applicable objections, defendants will make reasonable efforts to prepare one or more witnesses to testify to each of TimeBase's deposition topics, as defendants understand and interpret the topic. Because many of

Letter to Joseph N. Hosteny

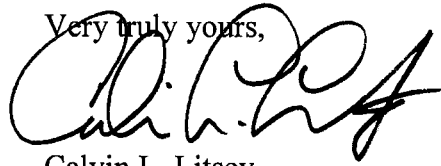
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TimeBase's topics are vague, ambiguous, and overly broad, it is impossible for defendants to anticipate, let alone prepare a witness to testify knowledgeably about, every question that might possibly be contemplated by each such topic. Unless otherwise noted, defendants will prepare witnesses generally for vague and overbroad topics, but if TimeBase wants specific answers, TimeBase will need to specify the particular information it is seeking well in advance of the scheduled deposition. If TimeBase subsequently asserts any interpretation of any topic that differs from defendants' interpretation, defendants reserve the right to alter, amend, or supplement their objections and responses.

Please let me know if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Calvin L. Litsey". The signature is stylized and cursive, with a large initial "C" and "L".

Calvin L. Litsey

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UNITED STATES | ENGLAND | GERMANY | CHINA

CALVIN L. LITSEY  
CLitsey@faegre.com  
612-766-8608

July 2, 2010

Joseph N. Hosteny  
Niro, Haller & Niro, Ltd.  
181 West Madison Street, Suite 4600  
Chicago, IL 60602

Re: TimeBase Pty Ltd. v. The Thomson Corporation, et al.  
Case No.: 07-cv-01687-JNE/JJG

Dear Joe:

I am writing to follow up on the conversations, letters, and e-mails we have exchanged this past week relating to a number of discovery issues.

**TimeBase's Rule 30(b)(6) Deposition of Defendants**

On June 11, 2010, I wrote to you setting forth defendants' objections to TimeBase's Rule 30(b)(6) deposition notices and topics. Those objections fell into three main categories: (1) the number of depositions; (2) objections to topics seeking legal contentions; and (3) other objections.

*Number of Depositions.* On Monday, we discussed whether we could reach a resolution on the issue of the number of depositions. Defendants proposed that each side get a day and a half (about 11-12 hours) of deposition time to cover its topics; you suggested that two days might be more appropriate. In your letter from yesterday (July 1), you stated "we'll go with one day if you remove the two West entities from the suit." I am not sure what you mean by this statement. TimeBase is free to seek a voluntary dismissal of any of the defendants from this lawsuit at any time. Furthermore, contrary to your statement, we did not seek to add any parties to the lawsuit. When the case was transferred to Minnesota, we simply identified the entities who had some role in offering the products and services that TimeBase accused of infringement. TimeBase chose which entities to sue. Defendants obviously would prefer not to be involved in this lawsuit at all.

In any event, TimeBase has noticed the same forty topics for each of the defendants. The Pretrial Scheduling Order contemplates "a 30(b)(6) deposition" for each side. We have told you repeatedly that defendants will be producing the same corporate representative on

behalf of each of the defendants to address the topics that you have repeated for each of the defendants. Please let us know whether a compromise of 12 hours per day is acceptable. Otherwise, by TimeBase's logic, each defendant also would be entitled to take a one-day deposition of TimeBase. We do not think needlessly expanding the deposition time is to anyone's benefit. If we cannot reach an agreement on this issue, we will ask the Court to resolve it.

*Legal Contentions.* On the topics that call for legal contentions, defendants will not be producing anyone to address those topics for the reasons stated in my letter of June 11, 2010. In your letter of July 1, 2010, you asked us to provide a designee on willfulness to the extent TimeBase is seeking information regarding defendants' knowledge of TimeBase's patents. We already have stated that we will produce a witness in connection with topic 3 to address at a general level non-privileged information regarding defendants' awareness of the patents-in-suit.

*Other Deposition Topics.* Defendants will produce witnesses to address the other topics, all subject to the objections and understandings in my letter of June 11, 2010. In particular, defendants have offered to produce Mark Hoffman for a deposition on July 27, 2010 on topics 20, 21, and the portion of 28 that relates to revenue and usage figures. Defendants also have offered to produce Darla Agard on August 17 on topics 8, 10, 11, 13, 14, 17, 19, 22, 23, 27, 28, 30, and 39. Defendants also are willing to produce Andrew Martens on August 26 to address topics 1, 2, 3, 6, 7, 15, 16, 18, 24, 25, 26, 36, 37, and 40.

In your letter of July 1, 2010, you stated that you have a concern about moving forward with Mr. Hoffman on July 27 because of issues that may need to be resolved regarding customer contracts and communications. Mr. Hoffman, however, is not designated on that topic. In any event, as you requested, we will continue to hold the July 27 deposition date and make Mr. Hoffman available on July 27 to address topics 20, 21, and the portion of 28 that relates to revenue and usage figures.

You also raised a concern in your letter of July 1, 2010 about moving forward with Ms. Agard on August 17. We thought it would be most convenient to make Ms. Agard available on August 17 because you already had noticed her individual deposition for August 18. Contrary to your suggestion, the August 18 date was not a date we chose; this was a date you chose. In any event, please let us know if you would like for us to check on new dates for Ms. Agard's Rule 30(b)(6) topics and her individual deposition. We can see if she might be available the following week. Please also confirm that you will proceed with Mr. Martens on his Rule 30(b)(6) topics on August 26.

**Defendants' Rule 30(b)(6) Deposition of TimeBase**

Defendants have noticed a Rule 30(b)(6) deposition of TimeBase for July 22, 2010. TimeBase stated a number of objections to the topics listed in defendants' notice, but defendants disagree with those objections. Nonetheless, in order to clarify some of the topics, defendant Thomson will send out an amended notice of Rule 30(b)(6) of TimeBase today.

Defendants understand that Leonie Muldoon may be designated to appear on a number of the Rule 30(b)(6) deposition topics. Defendants ask that TimeBase identify those topics to us so that defendants can cover those topics on July 22. Assuming the parties reach an agreement on the total hours issue, defendants will have a total of 12 hours in which to cover all of their topics. If TimeBase will be designating other persons on the remaining topics, defendants need to know when this will occur. Defendants are open to having a discussion about completing the Rule 30(b)(6) deposition of TimeBase on the remaining topics in Australia. Please let us know by next Wednesday (July 7) who will be appearing on behalf of TimeBase to address the topics listed in defendant Thomson's Amended Rule 30(b)(6) Notice of TimeBase.

### **Other Depositions**

We previously confirmed with you the following deposition dates and locations:

July 13, 2010 – Roger Gerdes in Seattle  
July 21, 2010 – Peter Dowding in Minneapolis  
July 23, 2010 – Leonie Muldoon (individual deposition) in Minneapolis  
July 26, 2010 – Vishal Khatri in Washington, D.C.  
August 18, 2010 – Darla Agard (individual deposition) in Minneapolis  
August 19, 2010 – David Spencer in Minneapolis  
August 20, 2010 – Mark Capaldini in Minneapolis  
August 25, 2010 – John Becker in Minneapolis

In your letter of July 1, 2010, you suggested that you may want to change the deposition dates you had selected for the individual depositions of Ms. Agard and Mr. Spencer. We will check on their availability for sometime later in August. Meanwhile, we are planning to proceed with the other depositions as noticed on the dates identified above.

### **Australian Depositions**

We understand that Peter Mariani will appear voluntarily for a deposition in Sydney on August 5, 2010. We understand that you are still working on confirming the voluntary appearance of Geoff Nolan on August 6 and Paul Leslie on August 9, also in Sydney. However, because you still have not heard from Mr. Nolan and Mr. Leslie to confirm their voluntary appearance despite our efforts to get this resolved for several weeks, we will go

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ahead and issue letters rogatory for their appearance. In the meantime, we will continue to work with you to secure their voluntary appearance.

As you know, the Court has issued letters rogatory for Abha Lessing and Christoph Schnelle. We are trying to schedule those depositions for the second week of August in Sydney and will let you know as soon as we can confirm those dates. We are not in a position to confirm other dates for any additional witnesses in Australia until we hear back from DAMA. We are trying to communicate with DAMA's in-house counsel since we were suddenly informed by you that you no longer represent DAMA. We have received your letter of June 30, 2010 with the names of counsel who we should contact at DAMA, and we will let you know as soon as we have something arranged.

### **Pretrial Schedule**

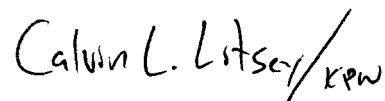
Given that Judge Ericksen will have the *Markman* hearing on September 23, 2010, we suggested that the expert report schedule would need to be changed. We suggested that the expert schedule and remaining dates be pushed back approximately 120 days to give Judge Ericksen sufficient time in which to issue her *Markman* order and for the experts to then prepare their reports based on the *Markman* ruling. In our conversation yesterday, you suggested that 120 days was too long and that you would be discussing the issue with your client in a phone call last night. Please let us know what time period you would suggest.

### **Back-Up Tapes**

As you know, we are seeking to move forward with extracting data from TimeBase's back-up tapes. Kate Razavi's letter of July 2, 2010 addresses this issue.

Please let me know if you have any questions. I look forward to hearing from you on these issues as soon as possible.

Very truly yours,



Calvin L. Litsey

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