



3. Michael Johnson via Deposition Testimony – Defendant Bright Builders intends to offer and read into the record the entire deposition testimony of Mr. Johnson at the trial of this case and therefore identifies the entire deposition transcript of Mr. Johnson.

4. Emily Davies via Deposition Testimony - Defendant Bright Builders intends to offer and read into the record the entire deposition testimony of Ms. Davies at the trial of this case and therefore identifies the entire deposition transcript of Ms. Davies.

5. Brigham Budd via Videoconference – As previously noted, Defendant Bright Builders disclosed Mr. Budd to Plaintiffs in its Answers to Plaintiffs First Set of Interrogatories served on Plaintiffs on July 14, 2010. Defendant Bright Builders requires the use of providing Mr. Budd’s testimony via videoconference due to the limited funds available and stressed financial position of Defendant Bright Builders. Mr. Budd lives and works in the State of Utah which is outside the subpoena power of this Court and Defendant Bright Builders lacks the financial resources to afford to fly him to the trial of this case.

Defendant Bright Builders Proposed Documents

Defendant Bright Builders assumes the Plaintiff’s heading labeled “Proposed Witnesses” in its Objections to Defendant Bright Builders’ proposed documents is a typographical error and was intended to say “Proposed Documents”.

1. Bright Building Hosting Agreement – Defendant Bright Builders produced and/or identified the referenced document in its Answers to Plaintiff’s First Set of Interrogatories as well as its response to Plaintiff’s First Set of Request for Production. Defendant Bright Builders agrees that this document is a duplicate of the Account No. 170729 Agreement. 170729 was the number Defendant Bright Builders assigned to the account for Mr. Christopher Prince and was referenced on multiple occasions in Defendant Bright Builders’ production of documents. In the

interest of full disclosure, Defendant Bright Builders will produce an additional copy of the referenced document to Plaintiff at the exhibit exchange which is scheduled to take place Friday, February 18, 2011.

2. Account No. 170729 Notes – the identified documents are not hearsay as they are records of regularly conducted activity of Defendant Bright Builders. In addition, the documents contain records of direct statements against an interest by a party opponent in the present case. The referenced documents are relevant to the present action as they are transcriptions of telephonic and email contact between Defendant Bright Builders and Mr. Prince and directly relate to the basis for which the Plaintiff asserts its claims in this action.

3. Corporate Structure – Defendant Bright Builders respectfully withdraws the referenced document.

4. Phone Call Transcripts and Audio – The identified documents are not hearsay as they are records of regularly conducted activity of Defendant Bright Builders. In addition, the documents contain records of direct statements against an interest by a party opponent in the present case. The referenced documents are transcriptions of conversations conducted between Defendant Bright Builders and Mr. Prince and directly relate to the basis for which the Plaintiff asserts its claims in this action.

5. Webinar-Product Sourcing 101 #4 – Defendant Bright Builders produced the identified document to Plaintiffs in its responses to Plaintiff's First Request for Production of Documents which was served on Plaintiff on May 27, 2010. In the interest of full disclosure, Defendant Bright Builders will produce an additional copy of the referenced document to Plaintiffs at the exhibit exchange which is scheduled to take place Friday, February 18, 2011.

6. Coaching\Instruction Outline – Defendant Bright Builders produced the identified documents to Plaintiffs in its Response to Plaintiff’s First Set of Requests for Production of Documents which was served on Plaintiff on May 27, 2010. In the interest of full disclosure, Defendant Bright Builders will produce an additional copy of the referenced document to Plaintiff at the exhibit exchange which is scheduled to take place Friday, February 18, 2011.

7. All Account Information for Account No. 170729 – Defendant Bright Builders identified the documents accordingly in abundance of caution and in the interest of full disclosure to Plaintiffs to ensure every document that is relevant to the account has been identified. Specifically, Defendant Bright Builders is identifying all documents included in the file it maintained for Account No. 170729. As previously noted, 170729 was the number Defendant Bright Builders assigned to the account for Mr. Prince and all information included in the account file is specifically related to Mr. Prince and the basis for which Plaintiff asserts its claims in this action.

8. Printout of Account No. 170729 E-Commerce Website Builder Content on Servers at Present – The identified documents are not hearsay as they are records of regularly conducted activity of Defendant Bright Builders. Mr. Greg Cole will testify as to the authenticity of the documents such that they contain a listing of the images remaining on Defendant Bright Builders server for Mr. Prince’s website at the time of production and a record of user statistics for Mr. Prince’s website. Mr. Cole can testify that the computer code he drafted performed a process or system to produce the referenced documents and the process or system produced an accurate result.

9. Employee List – Defendant Bright Builders respectfully withdraws the identified document.

10. Screen Shot of “Free Search Engine Submission” – Defendant Bright Builders produced the identified document in its Response to Plaintiff’s Second Set of Request for Production of Documents. In the interest of full disclosure, Defendant Bright Builders will produce an additional copy of the referenced document to Plaintiff at the exhibit exchange which is scheduled to take place Friday, February 18, 2011.

11. Prince Audio and Prince WAV Cds – The identified documents are not hearsay as they are direct recordings of statements against an interest by a party opponent in the present case.. Furthermore, the CDs contain direct conversation between two parties in the present action and relate to the basis for which the Plaintiff asserts its claims in the present action.

WHEREFORE, having replied to Plaintiff’s Objections to Defendant Bright Builders Rule 26(a)(3) Pretrial Disclosures, Defendant Bright Builders prays for an Order of this Court overruling the Plaintiff’s objections and further finding the witnesses and documents identified in Defendant Bright Builders Rule 26(a)(3) Pretrial Disclosures are admissible.

s/ Paul J. Doolittle

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