

# Exhibit F

**Matt Rappaport**

**From:** Matt Rappaport  
**Sent:** Friday, March 04, 2011 1:29 PM  
**To:** 'Proshanto Mukherji'  
**Cc:** Go Daddy/Eolas Internal; Eolas  
**Subject:** RE: Eolas: Go Daddy source code  
 Proshanto --

As previously requested, please provide two dates/times when lead and local counsel are available to meet and confer on this issue, in advance of Eolas bringing it before the Court.

We disagree with your characterization of the situation surrounding Go Daddy's production of source code.

Regards,

Matt

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**From:** Proshanto Mukherji [mailto:Mukherji@fr.com]  
**Sent:** Wednesday, February 23, 2011 4:10 PM  
**To:** Matt Rappaport  
**Cc:** Go Daddy/Eolas Internal; Eolas  
**Subject:** RE: Eolas: Go Daddy source code

Dear Matt:

Go Daddy finds it hard to understand the aggressive and accusatory tone of Eolas's communication quoted below. From the beginning, Go Daddy has endeavored to work with Eolas in good faith to streamline the discovery process for both parties. Go Daddy has gone out of its way numerous times to accommodate Eolas's requests, even those in direct contradiction to the parties' previous agreements, and even though all three of the accused websites run Microsoft Internet Information Services (IIS) web server software, Microsoft .NET framework code interpreters, and Microsoft Windows operating systems and thus are licensed and have little or no probative value to any claim or defense in the case. (See Go Daddy's Objections and Responses to Eolas's First Set of Interrogatories, dated July 9, 2010, at 9).

- On August 3, 2010, as Eolas admits, Go Daddy and Eolas agreed upon a mutually satisfactory protocol for the production of archived source-code for the three accused websites. Under this protocol, Go Daddy would produce a current version of code for the accused websites; Eolas would identify specific portions of code for which it believed that it needed additional versions, if any; and Go Daddy would then work with Eolas to accommodate such requests and/or designate "representative" code as reasonable.
- In accordance with this agreement, Go Daddy made its source code available in advance of the source-code inspection deadline. Eolas reviewed the code on November 17, 2010. During Eolas's inspection, I spoke with one of Eolas's reviewers, Harish, who, when asked, told me that he had not had any difficulty finding files he was looking for.
- Go Daddy heard no complaints from Eolas about its source code production for over a month. Then, on December 26, 2010, we received Eolas's email taking issue with the form in which the source code had been produced. Making no reference to the parties' previously discussions on this topic, or to the agreed protocol, Eolas wrote:
 

"[P]lease respond indicating whether the produced code is meant to be representative of Go Daddy's source code for the accused products over the damages period (October 2003 to present). As we have indicated over the past months, absent a stipulation to this effect, Go Daddy must produce all code for the accused products over the damages period. We have yet to hear from you on this issue. In this vein, the date of the already-produced code is not apparent to Eolas, but it appears that code for only a single date was produced."

This was our first indication that Eolas did not intend to live up to its part of the parties' bargain.

- The parties met and conferred about the source-code format issue on January 5. Although Go Daddy did and continues to believe that the format of its source-code production fully complies with the protective order – as evidenced by the fact that the actual reviewer expressed no difficulty finding relevant materials – Go Daddy nevertheless agreed to provide an additional copy of the code with the directory structure of the code as Eolas requested.
- At the meet-and-confer, Eolas mentioned that it would be conducting an additional review of this material in early February. The agreed version of Go Daddy's code, formatted as Eolas requested, was available for inspection on the February 22-23 dates that Eolas eventually requested. It remains available.
- Under the agreed protocol, Go Daddy has no obligation to produce any further code until Eolas

identifies specific portions of interest. Nevertheless, continuing its efforts to work with Eolas on this issue, and at Eolas's request in contradiction to the terms of the parties' agreement, Go Daddy has voluntarily begun working to collect all versions of source code for the accused websites, to the extent that they are maintained in the ordinary course of business and are reasonably accessible. This process involves not only the collection of a large amount of such code, but also requires Go Daddy to obtain and install additional software to make the archival code accessible. Go Daddy's engineers are currently working on obtaining this code and software.

- Go Daddy has noted that certain older code is not reasonably accessible, in part because it is stored on tapes and other such backup media. It also requires other additional software to make it accessible. It would be unreasonably burdensome for Go Daddy to have to collect this code, especially given the fact that all three of the accused websites use Microsoft IIS, .NET and Windows, and thus are licensed and have little or no probative value to any claim or defense in the case. That said, Go Daddy has stated that it will make this earlier code available to Eolas if Eolas is willing to pay for the costs of retrieving the code.

We are working with Go Daddy to meet the source-code inspection dates Eolas has requested but also want to let you know that it is taking longer than originally anticipated to gather the additional code. Go Daddy still believes the code will be available on the requested dates but will let you know if for any reason that does not turn out to be the case. We will let you know when we have further information in this regard. Amalia Macias will be the reviewers' contact person at our Dallas office.

Please let us know if you have any further questions.

Regards,

Proshanto

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**From:** Matt Rappaport [mailto:mrappaport@McKoolSmith.com]

**Sent:** Tuesday, February 15, 2011 8:50 PM

**To:** Proshanto Mukherji

**Cc:** Eolas; Go Daddy/Eolas Internal

**Subject:** RE: Eolas: Go Daddy source code

Dear Proshanto,

It is February 15, 2011 and Go Daddy has yet to produce any of its source code for inspection in the form it is maintained by Go Daddy in the ordinary course of business.

As we discussed during our January 5, 2011 meet and confer, and as set out in my December 26, 2010 email, the issues with Go Daddy's source code production during Eolas' November 17, 2010 inspection largely concerned the form of the production. Sifting through the production of Go Daddy's source code as it was produced—in no less than 70,221 separate folders, each containing a single file — was so cumbersome that Eolas could not perform a meaningful source code review. Also, as discussed, this manner of production made it impossible for us to use our source code review tools.

Eolas maintains that Go Daddy's production violated section paragraph 13(b)(ii) of the protective order, which states "[t]he Producing Party may not configure its Confidential Source Code or Restricted Material in a manner that unreasonably impedes or slows the Receiving Party's ability to inspect the Confidential Source Code or Restricted Material." This was detailed in my December 26, 2010 email.

Thus, as set out in my email of December 26, 2010 and Josh Budwin's email of January 6, 2011, you are correct that Eolas demands production of all versions of source code for the accused products over the damages period. To reiterate, the protocol you refer to for producing source-code (as expressed in emails between Nick Bunch and Josh Budwin on August 3-4, 2010) is not tenable because of the manner in which Go Daddy chose to produce its source code during Eolas' initial inspection. We are at a loss as to why Go Daddy has not already made all such code available, as it is obligated to do so within twenty-one days under section 13(a) of the protective order.

By its own actions, Go Daddy has chosen to go down the costly road of producing all versions of its code for the accused products, including its archived source code. Eolas is not inclined to reimburse Go Daddy for its compliance with its discovery obligations. Eolas has offered Go Daddy the opportunity to stipulate that even a single, complete, version of its source code, produced in the form that it is maintained in the ordinary course of business, may be identified as representative. Go Daddy has chosen not to do so, though Eolas remains willing to accept a such a stipulation from Go Daddy.

In light of the above we will delay our source code inspection until Friday March 10-11. The delay associated with rescheduling this review, though necessary due to Go Daddy's failure to comply with section 13(a) of the protective order and produce source code in the form maintained in the ordinary course of business, is prejudicial to Eolas as it hinders our ability to prepare for trial. Eolas has no intention of bearing the time and expense of inspecting a Go Daddy source code production that Go Daddy has indicated remains deficient. The March 10-11, 2011 date for Eolas' next inspection should give Go Daddy the time to correct the issues identified herein and in our prior correspondence. At that time we expect the source code to be produced as it is kept by Go Daddy in the ordinary course of its business.

Rather than continue to incur delays in Go Daddy's source code production, by Friday, February 18 please provide Eolas with a statement indicating whether Go Daddy will provide all versions of the source code for the accused products over the damages period or a complete representative version as kept in the ordinary course of business; such code to be made available for review during Eolas' March 10-11, 2011 inspection. If Go Daddy declines to make such code available, please provide two dates/times when lead and local counsel are available to meet and confer on this issue, in advance of Eolas bringing it before the Court.

Please also provide the name of an on-site contact for Eolas' March 10-11 source code inspection.

3/7/2011

Sincerely,

Matt

**From:** Proshanto Mukherji [mailto:Mukherji@fr.com]  
**Sent:** Monday, February 14, 2011 2:26 PM  
**To:** Matt Rappaport  
**Cc:** Eolas; Go Daddy/Eolas Internal  
**Subject:** Eolas: Go Daddy source code

Dear Matt:

I write in response to your February 7, 2011 email regarding Eolas's planned review of Go Daddy's source code.

On August 3, 2010, Eolas and Go Daddy agreed to a protocol for the production of archived source-code for the three accused websites. Under this protocol, Go Daddy would produce the current version of code for the accused websites. Eolas agreed to identify specific portions of code for which it believed that it needed additional versions, if any, and Go Daddy agreed to work with Eolas to accommodate such requests and/or designate "representative" code as reasonable. Go Daddy reiterated its intention to abide by this agreement at our meet and confer on January 5, 2011 as well as in subsequent correspondence on January 6 and January 14.

Go Daddy provided the current version of the code as agreed. During Eolas's review of the code, Eolas's representatives stated that they had been able to find everything that they needed. Eolas later objected to the format in which the code had been produced and requested that Go Daddy reproduce the code in original folder format instead of separately numbered folders with a spreadsheet identifying the original folder structure. Go Daddy has done this and is willing to host Eolas's inspection of the code on the requested dates.

That said, it now appears that Eolas does not intend to abide by the parties' agreement and instead now demands all versions of all portions of the source code for the accused websites. This is precisely the sort of overbroad request that the protocol that the parties agreed to was designed to avoid, and Go Daddy objects to this late, unilateral modification to the agreed-upon parameters of discovery.

Despite this, in a continuing effort to work with Eolas on discovery issues, Go Daddy is working to produce all versions of source code for the accused websites, to the extent that they are maintained in the ordinary course of business and are reasonably accessible. **Certain code from 2007 and before is not reasonably accessible, in part because it is stored on tapes and other such backup media, and Go Daddy will collect it only if Eolas pays the costs of doing so.** Collection of other reasonably-accessible archival code is in progress. This process, however, involves not only the collection of a large amount of such code, but also requires obtaining and installing additional software on the source-code computer to make the archival code accessible. Go Daddy's engineers have advised us that they expect to have all this material ready by early March.

In light of the fact that archival source code will not be available until early March, please let us know whether Eolas still wants to conduct its code review this month or wants to postpone its review until Go Daddy has been able to provide its archival code as well.

Regards,

Proshanto

**Proshanto Mukherji**

~ Associate  
(617) 368-2179

[vcard](#) | [bio](#) | [email](#)

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