

# Exhibit 2

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**GEOTAG, INC.,**

*Plaintiff,*

**v.**

**STARBUCKS CORP., et al.,**

*Defendants.*

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§  
§

**Civil Action No. 2:10-cv-00572**

**JURY TRIAL DEMANDED**

**DECLARATION OF STEVENSON MOORE**

I, Stevenson Moore, declare as follows:

1. I am a member of the law firm of the Ni Law Firm, PLLC (“Ni Law”) and one of the attorneys representing GeoTag, Inc., in this and other matters. I have personal knowledge of the facts set forth in this Declaration. I am competent to testify as to all matters stated, and I am not under any legal disability that would in any way preclude me from testifying.

2. Attached as Exhibit A is a printout from the Nebraska Secretary of State for Godfather’s Pizza, Inc.

3. Attached as Exhibit B is a true and correct copy of the rough draft of the July 16, 2012 deposition transcript of Steven Roberts.

4. Plaintiff GeoTag expects to call at least the following persons to testify at the trial of its claims against Godfather’s Pizza, Inc.: John Veenstra; Elizabeth Morgan; and Lawrence Howorth. All of these persons reside in the Eastern District of Texas.

I declare under penalty of perjury that the foregoing is true and correct and that I have signed this declaration in Dallas, Texas on July 20, 2012.

/s/ Stevenson Moore  
Stevenson Moore

# Exhibit A

# Nebraska Secretary of State

- John A. Gale

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Entity Name	SOS Account Number
GODFATHER'S PIZZA, INC.	0886165

### Principal Office Address

2808 N. 108TH ST.  
OMAHA, NE 68164

### Registered Agent and Office Address

CSC-LAWYERS INCORPORATING SERVICE  
COMPANY  
SUITE 1900  
233 SOUTH 13TH STREET  
LINCOLN, NE 685080000

Nature of Business	Entity Type	Date Filed	Account Status
PIZZA RESTAURANTS	Foreign Corp Qualifying State: DE	Feb 13 1987	Active

Corporation Position	Name	Address
<b>President</b>	RONALD B GARTLAN	2808 N. 108TH ST OMAHA, NE 68164
<b>Secretary</b>	KATHLEEN M JOHNSON	2808 N. 108TH ST OMAHA, NE 68164
<b>Treasurer</b>	STEVE ROBERTS	2808 N. 108TH ST OMAHA, NE 68164

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	<b>MI</b>	Merge In	Sep 13 1988	
	<b>PP</b>	Proof of Publication	Oct 11 1988	
	<b>AO</b>	Change of Agent or Office	Dec 12 1996	
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# Exhibit B



1 IN THE UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF TEXAS  
3 MARSHALL DIVISION

4 GEOTAG, INC., ) Case No.  
5 v. )  
6 STARBUCKS CORP., et al. ) 2:10-CV-572-  
 ) MHS  
 )

7 ROUGH DRAFT

8 APPEARANCES:

9 Mr. Hao Ni For Plaintiff  
10 Attorney at Law  
11 NI LAW FIRM, PLLC  
12 3102 Maple Avenue  
13 Suite 400  
14 Dallas, TX 75201

15 Mr. Andre Barry For Defendant  
16 Attorney at Law Godfather's Pizza, Inc.  
17 CLINE WILLIAMS  
18 233 South 13th Street  
19 1900 U.S. Bank Building  
20 Lincoln, NE 68508

21 Also Present: Rebekah Mangrum

22  
23  
24

25 DEPOSITION OF STEVEN M. ROBERTS taken  
at 9:48 a.m. on July 16, 2012, by Caroline L.  
Miller, RPR, NE CCR, IA CSR, and General Notary  
Public in and for the State of Nebraska, taken at  
1125 South 103rd Street, Suite 600, Omaha,  
Nebraska.

1 E X A M I N A T I O N

2 By Mr. Ni:

3 DIRECT.....^  
4 REDIRECT.....^

5 By Mr. Barry:

6 CROSS.....^  
7 RE CROSS.....^

8 E X H I B I T I N D E X

9

10 Ex. No.	Pg. No.	Ref. No.	Description
11 1		^	GeoTag, Inc.'s First Rule 30(B)(6) Deposition Notice to Godfather's Pizza, Inc.
12			
13 2		^	Declaration of Steven M. Roberts
14			
15 3		^	July 10, 2012, letter from Barry to Buether
16 4		^	Godfather's Pizza, Inc., Amended Exhibit Accused Instrumentality: Godfathers
17			
18 5		^	Website Development and Services Agreement

19  
20  
21  
22  
23  
24  
25

ROUGH DRAFT

3

1                   Taken pursuant to the Federal Rules  
2 of Civil Procedure.

3                   (Deposition Exhibit 1 was marked for  
4 identification.)

5                   STEVEN M. ROBERTS

6                   Of lawful age, being first  
7 duly cautioned and solemnly  
8 sworn as hereinafter certified,  
9 was examined and testified as  
10 follows:

11                   DIRECT EXAMINATION

12                   MR. NI: Hao Ni for the plaintiff,  
13 GeoTag, Inc.

14                   MR. BARRY: Andy Barry for the  
15 defendant Godfather's Pizza, Inc.

16 BY MR. NI:

17                   Q. Good morning, Mr. Roberts.

18                   A. Good morning.

19                   Q. Could you state your full name for  
20 the record, please?

21                   A. Steven Michael Roberts.

22                   Q. And do you live here in Nebraska?

23                   A. Yes.

24                   Q. And in what city?

25                   A. Omaha.

                  Q. Have you ever been deposed before?

                  A. Yes.

ROUGH DRAFT

4

1 Q. What were you deposed for?

2 A. It was a personal insurance for my  
3 wife's -- she had a -- tagged a bumper.

4 Q. So you understand that you're under  
5 oath today and are required to answer my  
6 questions truthfully?

7 A. Yes.

8 Q. And is there any reason you would not  
9 able to answer any of my questions truthfully  
10 today?

11 A. No.

12 Q. And in preparing for this deposition,  
13 did you meet with anyone other than your counsel  
14 here today?

15 A. I met with Curtis Stalnaker, who is  
16 our director of IT.

17 Q. Could you spell that for the record?

18 A. That's a trick. S-T-A-L-N-A-K-E-R,  
19 is the last name.

20 Q. And did you review any documents in  
21 preparation for this deposition?

22 A. Yes.

23 Q. And do you recall what documents you  
24 reviewed?

25 A. This document, I think, yes.

ROUGH DRAFT

5

1 MR. BARRY: He's referring to  
2 Exhibit 1.

3 THE WITNESS: Yes.

4 Q. Right. Just for the record,  
5 Exhibit 1 is the GeoTag's First 30(b)(6)  
6 Deposition Notice to Godfather's Pizza.

7 And other than Exhibit 1, did you review any  
8 other documents?

9 A. I reviewed my Declaration.

10 Q. Okay.

11 MR. NI: Go ahead and marked the  
12 Declaration of Steven Roberts as Exhibit 2.

13 Do you need a copy?

14 MR. BARRY: I have a copy.

15 MR. NI: Okay.

16 (Deposition Exhibit 2 was marked for  
17 identification.)

18 MR. BARRY: Actually, if you can  
19 give me a copy, then I can keep it separate for  
20 exhibits -- or keep it with my set of exhibits.

21 Thank you.

22 BY MR. NI:

23 Q. Mr. Roberts, who do you currently  
24 work for?

25 A. Godfather's Pizza, Inc.

ROUGH DRAFT

6

1 Q. And so if I use the term Godfather's  
2 today, would you understand that to mean  
3 Godfather's Pizza Inc.?

4 A. Yes.

5 Q. And could you describe for me what  
6 your position is at Godfather's?

7 A. I am the vice-president and chief  
8 financial officer.

9 Q. And how long have you held that  
10 position at Godfather's?

11 A. Five years.

12 Q. When did you first join Godfather's?

13 A. June 18th, 2007.

14 Q. So have you held that position since  
15 you joined Godfather's?

16 A. Yes.

17 Q. What's your educational background?

18 A. I have a degree from the University  
19 of Nebraska at Lincoln, and -- that's my only  
20 education, other than high school.

21 Q. Sorry. And what was what was your  
22 degree in?

23 A. Accounting.

24 Q. So, Mr. Roberts, when did you first  
25 hear about this case?

ROUGH DRAFT

7

1 A. Oh, when I received notice, I guess.

2 Is that two years ago?

3 Q. And are you aware that this is a  
4 patent infringement case?

5 A. Yes.

6 Q. And have you looked at the patent  
7 that's at issue in this case?

8 A. No.

9 Q. So have you studied any of the  
10 technical issues that are at issue in this case  
11 related to the patent?

12 A. No.

13 MR. BARRY: And I'm going to  
14 interpose an objection here. These are questions  
15 outside the scope of the deposition. So I -- if  
16 these are questions just for personal background  
17 of Mr. Roberts that's fine, but he's not speaking  
18 for the corporation when you ask him about  
19 reviewing the patent and studying the patent and  
20 studying the technical issues. That's outside  
21 the scope of the deposition.

22 MR. NI: That's fine. This is just  
23 kind of getting an understanding of the  
24 background.

25 MR. BARRY: Okay. Just so we're

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8

1 clear.

2 Q. And, Mr. Roberts, do you understand  
3 what's being accused of infringement in this  
4 case?

5 A. Yes.

6 Q. And what's your understanding of  
7 what's being accused here?

8 MR. BARRY: And, again, this is  
9 outside the scope of the deposition notice, but  
10 you can answer based on your personal knowledge,  
11 Mr. Roberts.

12 MR. NI: Well, I mean the reason  
13 it's within the scope is because if it's  
14 documents related to, you know, the accused  
15 systems and everything, that's why his  
16 understanding is relevant.

17 MR. BARRY: Well, in that case --  
18 let me mark Exhibit 3. Give me an exhibit  
19 sticker, please.

20 (An off-the-record discussion was  
21 held.)

22 (Deposition Exhibits 3 and 4 were  
23 marked for identification.)

24 MR. BARRY: I've marked Exhibit 3,  
25 which is my letter to Eric Buether dated July 10,



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9

1 2012, which sets forth various objections of  
2 Godfather's Pizza, Inc., to the Rule 30(b)(6)  
3 deposition that's been marked Exhibit 1.

4 And also Exhibit 4, which is the amended  
5 infringement contentions of GeoTag, Inc., with  
6 respect to Godfather's Pizza, Inc., which  
7 describes the accused instrumentality at  
8 www.godfathers.com store locator.

9 And I think those exhibits establish  
10 what -- and in particular Exhibit 4 establishes  
11 what the accused instrumentality is.

12 You can ask Mr. Roberts what his  
13 understanding is, but the definition of the  
14 accused instrumentality is defined by the  
15 pleadings and the discovery in this case, and in  
16 particular at this point the infringement  
17 contentions of GeoTag.

18 MR. NI: Right.

19 Q. So, Mr. Roberts, have you reviewed  
20 the document marked as Exhibit 4 before?

21 A. No.

22 Q. Okay. So are you familiar with the  
23 Godfather's website?

24 A. Yes.

25 Q. And is there a group at Godfather's

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10

1 responsible for maintaining the website?

2 A. I don't understand that question,  
3 maintain?

4 Q. Is there a group at Godfather's  
5 responsible for the maintenance of the website in  
6 case there's a failure with the website or  
7 anything?

8 A. No.

9 Q. Is there a group at Godfather's  
10 responsible for updating the content of the  
11 website?

12 A. Yes.

13 Q. Is there a name for this group?

14 A. Be our IT department.

15 Q. And is this -- sorry, strike that.

16 And what individuals are in your IT  
17 department?

18 A. Curtis Stalnaker is the director.  
19 David is the manager -- supervisor level, and  
20 Brian is staff, and then Bill is staff.

21 Q. And do you know what type of content  
22 they're responsible for updating on the  
23 Godfather's website?

24 A. No.

25 Q. Other than updating the content of

ROUGH DRAFT

11

1 the Godfather's website, does the IT department  
2 perform any other maintenance in regards to the  
3 Godfather's website?

4 A. No.

5 Q. Do you know how they go about  
6 updating the content on the Godfather's website?

7 A. No.

8 Q. And are you familiar with the store  
9 locater on the Godfather's website?

10 A. Yes.

11 Q. Do you know how it operates?

12 A. No.

13 Q. So do you know if there's a database  
14 used for a store locater?

15 A. I do not, no.

16 Q. Do you know who at Godfather's would  
17 know how the store locater operates?

18 A. I would -- no.

19 Q. So let's go back --

20 MR. BARRY: And, again, these  
21 questions are outside the scope of the  
22 Rule 30(b)(6) notice. So to the extent you're  
23 asking background for Mr. Roberts personally,  
24 that's fine, but they go outside the scope of the  
25 notice.

ROUGH DRAFT

12

1 Q. Mr. Roberts, let's turn to Exhibit 1.  
2 The -- and go through the various topics on  
3 page 4 of Exhibit 1.

4 A. (Witness complied.)

5 Q. And topic 1 is: The geographic  
6 location of your Documents, ESI, source code,  
7 servers, facilities, buildings, personnel and  
8 other things related to the design, development,  
9 making, implementation, using, testing,  
10 maintaining, supporting and offering the Accused  
11 Instrumentalities, including the geographic  
12 location of all sources of proof related to the  
13 Accused Instrumentalities.

14 Is it your understanding that you've been  
15 designated by Godfather's to testify to its  
16 knowledge of this topic?

17 A. Yes.

18 Q. And what's your basis for your  
19 knowledge of this topic?

20 A. Just my position at the company.

21 Q. And so earlier I asked you which  
22 individuals would be responsible for -- for the  
23 -- for maintaining the store locator. Do you  
24 know which personnel at Godfather's would be  
25 responsible for that?

ROUGH DRAFT

13

1 MR. BARRY: Objection, asked and  
2 answered. You can still answer the question.

3 A. Could you repeat it?

4 Q. Sure. Earlier I asked you, you know,  
5 if you knew the individuals at Godfather's that  
6 were responsible for maintaining the operation of  
7 the store locator. Do you know which individuals  
8 those are?

9 MR. BARRY: Objection, foundation,  
10 asked and answered.

11 Q. You can still answer -- you can  
12 answer the question.

13 A. We don't maintain it.

14 Q. You don't maintain it.

15 And whenever your counsel makes an  
16 objection, he's just making an objection. You  
17 can still answer the question.

18 A. Okay.

19 Q. The topic 2 for the deposition notice  
20 is: The geographic location of your activities  
21 related to the planning, design, development,  
22 making, implementation, using, testing,  
23 maintaining, supporting and offering the Accused  
24 Instrumentalities.

25 Is it your understanding that you've been

ROUGH DRAFT

14

1 designated by Godfather's to testify to its  
2 knowledge of this topic?

3 A. Yes.

4 Q. And what's your basis for your  
5 knowledge of this topic?

6 A. Again, my position with the company.

7 Q. And with topic 3 it states: The  
8 geographic location of your activities,  
9 documents, servers, facilities, buildings,  
10 personnel and other things related to your  
11 accounting, financial records, SEC and/or tax  
12 compliance, including the geographic location of  
13 all sources of proof related to your finances.

14 Is it your understanding that you've been  
15 designated by Godfather's to testify to its  
16 knowledge of this topic?

17 A. Yes.

18 Q. And what is your basis of your  
19 knowledge of this topic?

20 A. My position with the company.

21 Q. And topic 4: Your control over any  
22 third party personnel or Documents relating to  
23 the planning, design, development, making,  
24 implementation, using, testing, maintaining,  
25 supporting and offering the Accused

ROUGH DRAFT

15

1 Instrumentalities.

2 Is it your understanding that you've been  
3 designated by Godfather's to testify to its  
4 knowledge of this topic?

5 A. Yes.

6 Q. And, again, what is your basis of  
7 your knowledge of this topic?

8 A. My position with the company.

9 Q. And topic 5 of the deposition notice  
10 is: The factual assertions set forth in your  
11 motion to transfer.

12 Is it your understanding that you've been  
13 designated by Godfather's to testify to its  
14 knowledge of this topic?

15 A. Yes.

16 Q. And what is your basis of your  
17 knowledge of this topic?

18 A. My position with the company.

19 Q. And topic 6 is: The location of all  
20 sources of proof relating to any defenses you are  
21 asserting in this litigation.

22 Is it your understanding that you've been  
23 designated by Godfather's to testify to its  
24 knowledge of this topic?

25 A. Yes.

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16

1 Q. And what is your basis for your  
2 knowledge of this topic?

3 A. My position with the company.

4 Q. And topic --

5 MR. BARRY: And let me just  
6 interjection there, Mr. Ni. Briefly, we had a  
7 discussion before the deposition took place, it's  
8 also Godfather's position with respect to topic  
9 6, while it -- that the topic 6 is essentially  
10 premature at this point in the case. Initial  
11 disclosures haven't even been served. So to the  
12 extent Godfather's Pizza, Inc., has information  
13 on topic 6, it doesn't call for legal  
14 conclusions, Mr. Roberts is designated. But at  
15 this point I don't think we're aware of any  
16 information on topic 6 that is -- that is not a  
17 legal conclusion or speculative within the  
18 custody or control of Godfather's Pizza, Inc.

19 MR. NI: Thanks.

20 Q. Mr. Roberts, topic 7 states: The  
21 identity of any of your employees, operations,  
22 facilities, Documents or ESI in the state of  
23 Texas or the United States District Court for the  
24 Eastern District of Texas.

25 Is it your understanding that you've been



ROUGH DRAFT

17

1 designated by Godfather's to testify to its  
2 knowledge of this topic?

3 A. Yes.

4 Q. And, again, what is the basis of your  
5 knowledge for this topic?

6 A. Position with the company.

7 Q. And topic 8 is: The nature and  
8 extent of business conduct by you in the Eastern  
9 District of Texas.

10 Is it your understanding that you've been  
11 designated by Godfather's to testify to its  
12 knowledge of this topic?

13 A. Yes.

14 Q. And what is the basis of your  
15 knowledge of this topic?

16 A. Position with the company.

17 Q. And finally topic 9 is: The identity  
18 and location of all persons knowledgeable about  
19 the planning, design, development,  
20 implementation, maintenance and support of the  
21 Accused Instrumentalities and the subject matter  
22 about which such employees are knowledgeable.

23 Is it your understanding that you've been  
24 designated by Godfather's to testify to its  
25 knowledge of this topic?

ROUGH DRAFT

18

1 A. Yes.

2 Q. And what is the basis of your  
3 knowledge of this topic?

4 A. Position with the company.

5 MR. BARRY: And, Mr. Ni, just so  
6 that the record is clear, Exhibit 3, which I  
7 previously marked today, contains objections to  
8 -- general objections to the Rule 30(b)(6)  
9 deposition notice and also specific objections,  
10 and those aren't being waived by virtue of  
11 Mr. Roberts' designation as a witness or his  
12 testimony today.

13 MR. NI: Understood.

14 Q. Mr. Roberts, where is Godfather's  
15 corporate headquarters?

16 A. 2808 North 108th Street, Omaha,  
17 Nebraska.

18 Q. And how many employees are at that  
19 location?

20 A. 60.

21 Q. Are there any other corporate offices  
22 for Godfather's?

23 A. No.

24 Q. So is this location the only office  
25 for Godfather's other than their franchise

ROUGH DRAFT

19

1 locations?

2 A. Yes.

3 MR. BARRY: Just so we have a clear  
4 record here, you might want to ask him about --  
5 is it -- you asked about an office, but we don't  
6 want to hide the ball here, so you might want to  
7 ask him about stores as well.

8 Q. Mr. Roberts, in what states does  
9 Godfather's conduct business?

10 A. Okay. Nebraska --

11 MR. BARRY: Sorry. And I object.  
12 This is outside the scope of the deposition  
13 notice. You can answer, but it's outside the  
14 scope of the notice. If you have personal  
15 knowledge, go ahead.

16 A. Nebraska, Kansas, Minnesota, South  
17 Dakota, Illinois, Missouri. That's it.

18 Q. Are there any Godfather's locations  
19 in the state of Texas?

20 MR. BARRY: Objection, form.

21 A. You'll have to clarify that, I  
22 mean --

23 Q. Are there any Godfather's Pizza  
24 stores in the state of Texas?

25 A. Godfather's Pizza, Inc.?

ROUGH DRAFT

20

1 Q. Is -- what's your understanding of  
2 Godfather's Pizza, Inc.?

3 A. Corporate.

4 Q. And what other divisions are there  
5 besides the corporate of Godfather's Pizza, Inc.?

6 MR. BARRY: Objection, form.

7 A. There's Godfather's Pizza, Inc., is  
8 the corporation, and there are corporate stores.

9 Q. How many corporate stores are there?

10 A. 23.

11 Q. How many total Godfather's Pizza  
12 stores are there?

13 MR. BARRY: Objection, form.

14 A. Do you want -- is that --

15 Q. I'm asking about corporate and  
16 non-corporate stores?

17 A. 600.

18 Q. What's the distinction between the  
19 corporate and non-corporate stores?

20 A. Non-corporate are franchised.

21 Q. Earlier when you were stating the  
22 states which Godfather's Pizza conduct business,  
23 were you referring only to the corporate stores?

24 A. Yes.

25 Q. Are there Godfather's franchise

ROUGH DRAFT

21

1 locations in the state of Texas?

2 A. Yes.

3 Q. Are there any Godfather's corporate

4 locations in the state of Texas?

5 A. No.

6 Q. Do you know if there are any

7 Godfather's Pizza franchise locations in the

8 Eastern District of Texas?

9 MR. BARRY: Objection, form,  
10 calls for a legal conclusion based on knowledge  
11 of what the Eastern District of Texas is.

12 I'll make a representation --

13 MR. NI: Let me clarify. I believe  
14 the only objections, because this deposition is  
15 in the Eastern -- was noticed based in the  
16 Eastern District of Texas. This case is in the  
17 Eastern District of Texas. The only objections  
18 you actually have are form or privilege. So --

19 MR. BARRY: I have a form objection  
20 to the extent that your questions call for legal  
21 conclusions. Okay. That's a valid form  
22 objection, and I'm not trying to hide the ball  
23 here, but Mr. Roberts isn't required to testify  
24 -- to have knowledge of what counties in Texas  
25 are in the Eastern District of Texas in order to

ROUGH DRAFT

22

1 testify today.

2 We'll tell you, we've represented in his  
3 Declaration already, there's one franchise  
4 location within the Eastern District of Texas,  
5 and he can tell you what that store is.

6 MR. NI: No. I understand the  
7 clarification. The point I'm making here is that  
8 your objections are limited to form, and you're  
9 not required -- you're not asked to provide the  
10 basis for your form objection in the Eastern  
11 District of Texas. If you read the local rules,  
12 it actually says that.

13 MR. BARRY: And I'm not trying to  
14 make an argumentative objection, but I do want to  
15 be able to tell you what I think the problem is  
16 so that we can work through it.

17 MR. NI: I'm not talking about this  
18 question. I'm talking about some of the early  
19 objections because in a way it's kind of coaching  
20 the witness.

21 Q. Mr. Roberts, I do understand what  
22 your counsel is saying here, so let's just go to  
23 Exhibit 2, which is your Declaration. And  
24 paragraph 5 states that: Out of a total of  
25 approximately 600 franchise locations, GPI

ROUGH DRAFT

23

1 currently has 11 franchise locations in the state  
2 of Texas, only one of which is located in the  
3 Eastern District of Texas.

4 Do you know which location that's referring  
5 to?

6 A. I don't know the name, but I know  
7 there's one.

8 Q. Okay. And do you know how long this  
9 location has existed?

10 A. No.

11 Q. Let's turn to the Godfather's  
12 website. Does Godfather's host its own website?

13 A. Define host.

14 Q. Does Godfather's -- strike that.

15 Are the servers that are used to store the  
16 website located at Godfather's corporate  
17 location?

18 A. No.

19 Q. Do you know where the servers are  
20 located?

21 A. I have never seen them, no.

22 Q. So when you say you've never seen  
23 them, you -- you don't know where the servers  
24 that host the website are located?

25 A. Definitively, no. It's my

ROUGH DRAFT

24

1 understanding they're in Omaha at Mid Comp.

2 Q. And what is the basis of your  
3 understanding?

4 A. Discussion with Curtis.

5 Q. Besides Mid Comp, do you know of  
6 anyone else that has hosted Godfather's website?

7 A. No.

8 Q. Has Godfather's website been hosted  
9 by Mid Comp for the past six years?

10 A. Yes.

11 Q. Is it your understanding that they're  
12 hosted at Mid Comp's location here in Omaha?

13 A. Yes.

14 Q. Does Godfather's have a -- maintain a  
15 -- sorry, strike strike that.

16 Does Godfather's maintain copy of the code  
17 that's hosted by Mid Comp?

18 A. A copy, yes.

19 Q. Does -- strike that.

20 And you do not know if Godfather's has a  
21 database used for store locator, correct?

22 A. No.

23 MR. BARRY: Objection. Again, we're  
24 outside the scope of the deposition notice. That  
25 answer is based on personal knowledge.



ROUGH DRAFT

25

1 Q. Therefore, do you know if Godfather's  
2 maintains a copy of the database -- a database  
3 used for store location at --

4 A. No.

5 Q. -- in its corporate offices?

6 MR. BARRY: Objection, form and  
7 foundation.

8 A. No.

9 MR. BARRY: Within the form  
10 objection is we're beyond the scope, among other  
11 objections.

12 MR. NI: I'm not sure how it's  
13 beyond the scope. I mean, the database is  
14 related to what's being used and what's being  
15 hosted, and the geographic location is part of  
16 the --

17 MR. BARRY: You're asking if  
18 there is a database?

19 MR. NI: Uh-huh.

20 MR. BARRY: And that question is  
21 beyond the scope of this deposition notice. The  
22 deposition notice doesn't ask about the  
23 functionality of the Godfather's website. It  
24 asks about the geographic location, okay.

25 So to the extent that you're asking this

ROUGH DRAFT

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1 witness to assume that there is a database  
2 associated with this website, it's beyond the  
3 scope of the deposition notice. And he's not  
4 offering testimony on behalf of the corporation.

5 MR. NI: I guess I disagree there.  
6 We're just going to disagree because -- the  
7 database is relevant because we're trying to  
8 identify the location of all the documents, the  
9 ESI, source code, database, whatever is used  
10 related to the website.

11 MR. BARRY: And he's told you that  
12 whatever is used is located in Omaha.

13 MR. NI: I don't think that was  
14 actually the answer, but, sure.

15 Q. Mr. Roberts, sorry, about that. Just  
16 to continue, do you know who designed Godfather's  
17 website?

18 A. I wasn't there, so, no.

19 Q. Do you know if the individual that  
20 designed Godfather's website, do you know where  
21 they're located?

22 A. No.

23 Q. Do you know if the Godfather's  
24 website was designed with input from Godfather's  
25 employees?

ROUGH DRAFT

27

1 A. I do not know.

2 Q. Do you know if Godfather's maintains  
3 metrics related to its website?

4 MR. BARRY: Objection, beyond the  
5 scope of the deposition notice, as were the prior  
6 three questions.

7 A. No.

8 Q. Do you know if Godfather's stores any  
9 metric information related to its website at its  
10 corporate location?

11 A. No.

12 Q. Do you know if Godfather's maintains  
13 any design documents or flow diagrams for its  
14 website at its corporate location?

15 A. No.

16 Q. Do you know what types of documents  
17 related to the website are kept at the -- at  
18 Godfather's corporate location?

19 A. The contract.

20 Q. And who is Midland Computer?

21 A. They are the company that designed  
22 the web page.

23 Q. Do you know where Midland Computer is  
24 located?

25 A. In Omaha.

ROUGH DRAFT

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1 Q. Do you know if Godfather's maintains  
2 copies of any of the documentation or design  
3 provided by Midland Computer?

4 A. No.

5 Q. Do you know who Mid Comp Web is?

6 A. Yes.

7 Q. And who is Mid Comp Web?

8 A. They store the web on their server.

9 Q. When you say they store the web on  
10 their server, you're referring to that they store  
11 the website on their servers?

12 A. Yes.

13 Q. And do you know where Mid Comp Web is  
14 located?

15 A. Omaha.

16 Q. Do you know if Mid Comp Web has any  
17 locations outside of Omaha?

18 A. No.

19 Q. Do you know who at Mid Comp Web is  
20 responsible for maintaining the servers for  
21 hosting the website?

22 A. No.

23 Q. Do you know if Mid Comp Web provides  
24 Godfather's with copies of what's being stored on  
25 their servers?

ROUGH DRAFT

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1 A. No.

2 Q. Have you heard of Web Solutions,  
3 Omaha?

4 A. No.

5 Q. Do you know the types of financial  
6 documents stored by -- I'm sorry, strike that.

7 Do you know the types of financial documents  
8 kept by Godfather's at its corporate location?

9 A. Yes.

10 Q. And what type of financial documents  
11 does Godfather's keep?

12 A. Financial statements, invoices,  
13 cancelled checks, contracts.

14 Q. And are these documents physical or  
15 electronic?

16 A. Both.

17 Q. Do you know if Godfather's maintains  
18 documents that track the amount of orders  
19 on-line?

20 A. No.

21 Q. Mr. Roberts, are you aware that in  
22 this case that Godfather's has alleged the patent  
23 asserted is invalid?

24 A. Yes.

25 Q. And have you ever heard of the term

ROUGH DRAFT

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1 prior art?

2 A. I've heard the term.

3 Q. Do you know if any of the sources of  
4 prior art that is allegedly invalidates the  
5 patent is located in Nebraska?

6 A. Rephrase that.

7 Q. Do you know any of the -- if any --  
8 strike that.

9 Do you know if any of the prior art that  
10 would invalidate the patent is located in  
11 Nebraska?

12 MR. BARRY: Objection, form.

13 A. Define prior art.

14 Q. Earlier you said you've heard of the  
15 term prior art. What's your definition of prior  
16 art?

17 A. I've just heard the term.

18 Q. Do you have an understanding of what  
19 prior art means?

20 A. No.

21 Q. If I tell you that prior art is any  
22 sort of earlier documentation or invention that  
23 precedes a patent which could invalidate that  
24 patent, do you know what that means?

25 A. Yes.

ROUGH DRAFT

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1 Q. And do you know if any of the prior  
2 art that allegedly invalidates the asserted  
3 patent is located in Nebraska?

4 MR. BARRY: Objection, form.

5 A. No.

6 Q. And do you know if any witnesses  
7 related to any of the prior art are located in  
8 Nebraska?

9 MR. BARRY: Objection, form.

10 A. No.

11 Q. Are you aware that Godfather's has  
12 asserted a defense of waiver?

13 A. No.

14 Q. And are you aware that Godfather's  
15 has asserted a defense of laches?

16 A. No.

17 Q. And are you aware that Godfather's  
18 has asserted a defense of estoppel?

19 A. No.

20 MR. BARRY: And -- are you done with  
21 that line of questioning?

22 MR. NI: Yeah.

23 MR. BARRY: And to reiterate  
24 objections interposed earlier to the questions  
25 concerning Godfather's affirmative defenses,

ROUGH DRAFT

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1 those questions call for legal conclusions that  
2 are not available at this time because this case  
3 is in the infancy of the discovery stages.  
4 Godfather's Pizza Inc. has not even been provided  
5 with the initial disclosures of GeoTag, Inc., and  
6 so any testimony of Godfather's Pizza would not  
7 only be a legal conclusion, it would be  
8 speculative at this point in time on those  
9 topics.

10 MR. NI: Okay. I guess the only  
11 thing I wanted to add was, obviously, pleading a  
12 certain defense, you have to have a basis for  
13 your defense. So our understanding was that  
14 Godfather had an understanding to, you know, why  
15 they would have pled those defenses.

16 Q. Other than documents for finance --  
17 financial documents, what other sort of documents  
18 are kept at the corporate headquarters for  
19 Godfather's?

20 A. Specifically what are you --

21 Q. Are there any other documents related  
22 to the Godfather's website that are kept at the  
23 corporate headquarters and not in the possession  
24 of Midland Computer or Mid Comp Web?

25 MR. BARRY: Objection, form.



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1           A.    I'm sorry, but I still don't  
2 understand the question.

3           Q.    Okay. Does Godfather's corporate  
4 location maintain any documents related to the  
5 website?

6           A.    The contract.

7           Q.    So other than the contract,  
8 Godfather's corporate location does not maintain  
9 any other documents related to the website?

10                   MR. BARRY: Objection, form.

11           A.    Not to my knowledge.

12                   MR. BARRY: And beyond the scope of  
13 the deposition notice.

14                   MR. NI: Can we take a short break.

15                   MR. BARRY: Sure.

16                           (A short recess was taken from  
17 10:24 a.m. to 10:27 a.m.)

18                           (Deposition Exhibit 5 was marked for  
19 identification.)

20 BY MR. NI:

21           Q.    Back on the record. Mr. Roberts,  
22 topic 4 in Exhibit 1 is related to your control  
23 by any third-party personnel or documents related  
24 to the planning, design, development, making,  
25 implementation, using, testing, maintaining,

ROUGH DRAFT

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1 supporting and offering Accused  
2 Instrumentalities. Do you know what control the  
3 Godfather's has over its providers for its  
4 website?

5 A. Yes.

6 Q. And what control is that?

7 A. Just what's in the contract.

8 Q. Do you know if Godfather's IT directs  
9 the design of the Godfather's website?

10 A. They do not.

11 Q. And do you know if Godfather's IT  
12 directs the development of the Godfather's  
13 website?

14 MR. BARRY: Objection, form.

15 A. No.

16 Q. If you look at Section 3A.3 in what's  
17 marked as Exhibit 5, the Website Development and  
18 Services Agreement. It's a section called Work  
19 Product, and you can take your time to read the  
20 section if you want, but my question is --  
21 whenever -- after you finish reading it.

22 A. Okay.

23 Q. So based on your understanding of  
24 this contract, does Godfather's maintain a copy  
25 of all the source code and the web page

ROUGH DRAFT

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1 development designs at its corporate location?

2 MR. BARRY: Objection, form.

3 A. We have a copy of the source code.

4 Q. Do you know if the developer has  
5 provided Godfather's with anything other than a  
6 copy of the source code?

7 A. No. I assume you're excluding the  
8 contract.

9 Q. Right, excluding the contract.

10 MR. NI: I don't have any further  
11 questions.

12 CROSS-EXAMINATION

13 BY MR. BARRY:

14 Q. Mr. Roberts, if the developer had  
15 provided Godfather's Pizza, Inc., with documents  
16 related to the website, other than the source  
17 code and the contract itself, where are those  
18 documents stored?

19 A. Omaha, Nebraska.

20 Q. At Godfather's corporate location?

21 A. Yes.

22 Q. And to the extent that Godfather's  
23 Pizza, Inc., has any other documents related to  
24 the website, where are those documents kept?

25 A. Omaha, Nebraska.

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1 Q. At Godfather's corporate location?

2 A. Godfather's corporate location.

3 Q. I want to ask you just a couple of  
4 questions about the relationship between Midland  
5 Computer -- about your understanding of the  
6 relationship between Midland Computer and Mid  
7 Comp Web.

8 Exhibit 5 is a contract entered into between  
9 Godfather's Pizza, Inc., and Midland Computer; is  
10 that right?

11 A. Yes.

12 Q. And at some point, as you indicated  
13 in your deposition, the web site become hosted by  
14 Mid Comp Web; is that correct?

15 A. Yes.

16 Q. What's your understanding of the  
17 relationship between Midland Computer and Mid  
18 Comp Web?

19 A. Midland sold to Mid Comp.

20 Q. And both of those entities are  
21 located in Omaha, Nebraska?

22 A. Yes.

23 Q. And Mr. Ni had asked you a question  
24 about Web Solutions, Omaha. I'd like you to take  
25 look at your Declaration in this case. Do you

ROUGH DRAFT

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1 have a copy of your Declaration in front of you?  
2 Exhibit 2, do you have that in front of you  
3 now, Mr. Roberts?

4 A. Yes.

5 Q. I'd like you to look at Exhibit -- or  
6 paragraph 7 of Exhibit 2. Just read that and  
7 tell me when you've had a chance to finish  
8 reading paragraph 7.

9 A. Okay.

10 Q. Does reading paragraph 7 refresh your  
11 recollection as to the identity of Web Solutions  
12 Omaha?

13 A. Yes.

14 Q. What is Web Solutions, Omaha?

15 A. That's the d/b/a for Mid Comp.

16 Q. Does Godfather's Pizza, Inc., have a  
17 franchise location in Lake Dallas, Texas?

18 A. Yes.

19 Q. Are you aware of any other franchise  
20 locations that Godfather's Pizza, Inc., has  
21 within the Eastern District of Texas?

22 A. None.

23 MR. NI: Objection. Again, same  
24 objection you had earlier.

25 Q. Mr. Roberts, you testified earlier

ROUGH DRAFT

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1 that the Godfather's employees responsible for  
2 the website are located in Omaha, Nebraska,  
3 correct?

4 A. Yes.

5 Q. And that Godfather's first learned of  
6 this lawsuit when it received notice of the  
7 lawsuit, correct?

8 A. That's correct.

9 Q. When did Godfather's Pizza first  
10 receive notice of the patent at issue in the  
11 lawsuit?

12 A. Shortly thereafter, if I recall.

13 Q. At or about the time that it was sued  
14 by GeoTag?

15 A. Yes.

16 Q. To the extent employees of  
17 Godfather's Pizza were making business decisions  
18 related to the website, prior to receiving notice  
19 of the patent, where would those -- where would  
20 those employees have been located?

21 A. Omaha --

22 MR. NI: Objection, form.

23 A. Omaha, Nebraska.

24 Q. As you sit here today, is Godfather's  
25 Pizza aware of any witnesses it would expect to

ROUGH DRAFT

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1 call in the lawsuit who are located in the state  
2 of Texas?

3 A. No --

4 MR. NI: Objection, form.

5 A. No one.

6 Q. And is Godfather's Pizza, Inc., aware  
7 of any witnesses it would expect to call in the  
8 lawsuit who are located -- well, I don't need to  
9 ask that question.

10 MR. BARRY: I have no further  
11 questions.

12 REDIRECT EXAMINATION

13 BY MR. NI:

14 Q. Okay. I just wanted to follow up on  
15 two questions your attorney asked you related to  
16 the -- any other documentation related to the  
17 website provided to Godfather's. You earlier  
18 testified you weren't aware of any other  
19 documents related to the website provided to  
20 Godfather's other than the contract and source  
21 code, correct?

22 A. Correct.

23 MR. BARRY: Objection, form.

24 MR. NI: Okay. No further  
25 questions.

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1 MR. BARRY: And then one more  
2 question.

3 RECROSS-EXAMINATION

4 BY MR. BARRY:

5 Q. To the extent there are other  
6 documents related to the website, other than the  
7 contract and source code, where do those  
8 documents -- where are those documents kept?

9 MR. NI: Objection, form.

10 MR. BARRY: Sorry. Thanks.

11 Q. To the extent Godfather's Pizza,  
12 Inc., has documents other than source code -- or  
13 other than a copy of the source code and the  
14 contract related to the website, where are those  
15 documents kept?

16 MR. NI: Objection, form.

17 A. Omaha, Nebraska.

18 MR. BARRY: No further questions.

19 MR. NI: That's it.

20 MR. BARRY: Mr. Roberts, you have a  
21 right to read and sign your deposition, and we'll  
22 exercise that right.

23 (The deposition was concluded at the  
24 hour of 10:39 a.m.)

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J U R A T

I, STEVEN M. ROBERTS, do hereby state  
under oath that I have read the above and  
foregoing deposition in its entirety and that the  
same is a full, true, and correct transcription,  
with my noted corrections, if any, of my  
testimony so given at said time and place.

\_\_\_\_\_  
(Deponent's signature)

\_\_\_\_\_  
(Date)

STATE OF NEBRASKA )  
                          ) ss.  
COUNTY OF DOUGLAS )

Subscribed and sworn to before me on  
this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
GENERAL NOTARY PUBLIC

CLM

ROUGH DRAFT

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- C E R T I F I C A T E -

STATE OF NEBRASKA )  
  ) ss.  
COUNTY OF DOUGLAS )

I, Caroline L. Miller, RPR, CSR, and  
General Notary Public in and for the State of  
Nebraska, do hereby certify that STEVEN M. ROBERTS  
was by me duly sworn to testify the truth, the  
whole truth, and nothing but the truth, and that  
the deposition by him as above set forth was  
reduced to writing by me.

That the within and foregoing deposition  
was taken by me at the time and place herein  
specified and in accordance with the within  
stipulations, the reading and signing of the  
witness to his deposition having not been waived.

That I am not counsel, attorney, or  
relative of either party or otherwise interested in  
the event of this suit.

IN TESTIMONY WHEREOF, I have placed my  
hand and notarial seal this NOWDAY day of NOWMONTH,  
2012.

\_\_\_\_\_  
GENERAL NOTARY PUBLIC

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1 NOWMONTH NOWDAY, 2012

2 STEVEN M. ROBERTS  
3 15448 Seward Street  
4 Omaha, Nebraska 68154

5 Dear Mr. Roberts:

6 You will recall on July 16, 2012, I took your  
7 deposition at 1125 South 103rd Street, Omaha,  
8 Nebraska, dealing with the case of GeoTag, Inc.,  
9 v. Starbucks Corp., et al., docketed in the  
10 United States District Court, Eastern District of  
11 Texas, Marshall Division. Your signature on the  
12 deposition was not waived.

13 A manuscript of the transcript is enclosed and is  
14 ready for your review. I would appreciate it if  
15 you would read, then sign the errata sheet and  
16 jurat page, and return all back to me in the  
17 enclosed envelope as soon as possible. Local  
18 practice allows a witness 30 days in which to  
19 read and sign the transcript and return same to  
20 the reporter.

21 As you read the manuscript, please note any  
22 corrections you might have on the correction  
23 sheet enclosed with the manuscript giving the  
24 page number, line number, and the reason for the  
25 correction to be made as so indicated on the  
sheet.

After reading and noting any corrections on the  
sheet, please sign the jurat page and also the  
correction sheet. Please sign both pages in  
front of a Notary Public and then have the Notary  
sign on the proper line. Thank you for your  
cooperation in this matter.

20

Yours truly,

21

Caroline L. Miller

22

cc: Mr. Hao Ni

23

24

25

ROUGH DRAFT

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1 DEPOSITION CORRECTIONS OF STEVEN M. ROBERTS

2 CASE: GeoTag, Inc., v. Starbucks Corp., et al.  
3 Civil Action No. 2:10-CV-572-MHS

4	PAGE NO.	LINE NO.	CORRECTION	REASON FOR CORRECTION
5	*	*		*
6	*	*		*
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8	*	*		*
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18

19 SIGNATURE OF WITNESS

20 STATE OF NEBRASKA)  
21 ) ss  
22 COUNTY OF DOUGLAS)

23 Subscribed and sworn to before me this  
24 day of , 2012.

25 GENERAL NOTARY PUBLIC

1 IN THE UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF TEXAS  
3 MARSHALL DIVISION

3 GeoTag, INC., ) Case No.  
4 )  
5 v. ) 2:10-CV-572-  
6 ) MHS  
7 STARBUCKS CORP., et al. )  
8 )

9 I, Caroline L. Miller, RPR, NE CCR, IA CSR,  
10 and General Notary Public, do hereby certify that  
11 I served as the Court Reporter at the deposition  
12 of STEVEN M. ROBERTS on July 16, 2012, at 1125  
13 South 103rd Street, Omaha, Nebraska, in which the  
14 costs of reporting and transcribing the  
15 deposition were \$ , and that such costs are  
16 to be paid by counsel for the plaintiff.

17 I further certify that the original and  
18 copies were sent to: Original and 1 copy to  
19 Mr. Hao Ni.

20 Dated this NOWDAY day of NOWMONTH, 2012.

21 Delivered: \_\_\_\_\_

22 \_\_\_\_\_  
23 GENERAL NOTARY PUBLIC  
24 Caroline L. Miller, RPR, CSR  
25