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CLERK OF DISTRICT COURT  
CENTRAL DISTRICT OF CALIF.  
LOS ANGELES

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Attorneys for Defendants and CounterClaimants  
NAME INTELLIGENCE, INC., JAY WESTERDAL  
and Defendant PER WESTERDAL

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

THOUGHT CONVERGENCE, INC.,  
a Delaware Corporation and NAME  
INTELLIGENCE, LLC, a Delaware  
limited liability company,  
  
Plaintiffs,  
  
vs.  
  
JAY WESTERDAL, an individual;  
PER WESTERDAL, an individual;  
RAY BERO, an individual;  
CAMERON JONES, an individual;  
and NAME INTELLIGENCE, INC., a  
Washington corporation; DOTMOVIE,  
an unknown entity,  
  
Defendants.

No. CV-09-03088 R (AJWx)  
DEFENDANTS AND  
COUNTERCLAIMANTS NAME  
INTELLIGENCE, INC. AND JAY  
WESTERDAL'S  
COUNTERCLAIMS FOR:

- 1. BREACH OF CONTRACT;
- 2. BREACH OF REPRESENTATIONS AND WARRANTIES;
- 3. BREACH OF CONTRACT;

1 NAME INTELLIGENCE, INC., a  
2 Washington corporation; and JAY  
WESTERDAL, an individual;

3 Counterclaimants,

4 vs.

5 THOUGHT CONVERGENCE, INC.,  
6 a Delaware Corporation and NAME  
INTELLIGENCE, LLC, a Delaware  
7 limited liability company

8 Counterdefendants.

- 4. MISREPRESENTATION AND FRAUD;
- 5. VIOLATION OF CORPORATIONS CODE OF CALIFORNIA; AND
- 6. BREACH OF CONTRACT.

DEMAND FOR JURY TRIAL

CrtRm: 8  
Judge: Manuel L. Real

9  
10 Defendants and counterclaimants Name Intelligence, Inc. ("Name  
11 Intelligence") and Jay Westerdal ("J. Westerdal") (collectively  
12 "Counterclaimants") hereby demand a jury trial on their counterclaims and  
13 allege as follows:

14 **INTRODUCTION**

15 1. This case involves the enforcement of a Securities Exchange  
16 Agreement (the "Agreement"), entered into between Name Intelligence and  
17 Thought Convergence, Inc. ("TCI") on or about May 2, 2008 and an Offer  
18 Letter, entered into between J. Westerdal and Name Intelligence, LLC ("NIL")  
19 on or about May 28, 2008. However, what these contractual agreements do  
20 not show are the myriad of deliberate misrepresentations made by TCI during  
21 the negotiation process and execution of the Agreement. TCI knowingly  
22 misrepresented the stability of its business, its domain parking practices, its  
23 reliance on a very small number of customers for the majority of its revenue  
24 stream, its revenue loss free fall, its lack of debt, and its use of the banned  
25 industry practice of arbitrage. Furthermore, TCI represented that its shares  
26 were worth \$200 million, which was and is grossly inflated from its true  
27 worth.  
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1           12. Based on these representations, on or about May 2, 2008, the  
2 Agreement was executed between Name Intelligence, the newly formed parent  
3 company, TCI, and TrafficZ.

4           13. The Agreement provided that all of the shares and assets of Name  
5 Intelligence would be acquired by TCI in exchange for \$16 million to be paid  
6 in three installments and approximately 15.3% of the outstanding shares of  
7 TCI.

8           14. TCI paid Name Intelligence the initial payment of \$6 million  
9 upon executing the Agreement. Under the Agreement, TCI was required to  
10 make two subsequent payments of \$5 million each to Name Intelligence on  
11 May 2, 2009 and May 2, 2010.

12           15. Under the Agreement, TCI was required to create a non-  
13 discriminatory Equity Incentive Plan (the "EIP") prior to the execution of the  
14 Agreement.

15           16. Additionally, as part of the Agreement, TCI and/or TrafficZ  
16 represented and warranted that there were no material adverse changes to its  
17 business from December 31, 2006 through the time the Agreement was  
18 executed.

19           17. TCI and/or TrafficZ further represented and warranted that it had  
20 not suffered any extraordinary loss or damage to its business from December  
21 31, 2006 through the time the Agreement was executed.

22           18. Upon information and belief, significant material adverse changes  
23 to the business and financial status of TCI and TrafficZ occurred between  
24 December 31, 2006 and the time the Agreement was executed.

25           19. TCI and TrafficZ did not disclose these material adverse changes  
26 in its business or financial status to Name Intelligence prior to the time the  
27 Agreement was executed, including significant decreases to TCI and/or  
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1 TrafficZ's revenue stream and a substantial loan or loans made to TCI and  
2 TrafficZ just prior to executing the agreement.

3 20. Name Intelligence has performed all of its obligations under the  
4 Agreement.

5 **FIRST CAUSE OF ACTION**

6 **(Breach of Contract for Failure to Pay)**

7 21. The allegations of Paragraphs 1 through 20 are incorporated  
8 herein by reference.

9 22. On or about May 2, 2008, Name Intelligence and TCI entered  
10 into the Agreement. Under the Agreement, Name Intelligence agreed to  
11 transfer all of its stock and assets to TCI.

12 23. Under the Agreement, TCI agreed to pay Name Intelligence \$16  
13 million, in three installments, and approximately 15.3% of the outstanding  
14 shares of TCI.

15 24. Pursuant to the Agreement, Name Intelligence transferred all of  
16 its stock and assets to TCI and further performed its other responsibilities, if  
17 any, as required under the Agreement.

18 25. In breach of the Agreement, TCI failed to timely pay the second  
19 installment to Name Intelligence on May 2, 2009.

20 26. As a direct and proximate result of TCI's failure to pay the  
21 amounts owed, Name Intelligence has suffered damages in an amount to be  
22 proven at trial.

23 **SECOND CAUSE OF ACTION**

24 **(Breach of Representations and Warranties)**

25 27. The allegations of Paragraphs 1 through 26 are incorporated  
26 herein by reference.

1 28. As part of the Agreement, TCI and/or TrafficZ represented and  
2 warranted that there were no material adverse changes to its business from  
3 December 31, 2006 through the time the Agreement was executed.

4 29. TCI and/or TrafficZ further represented and warranted that it had  
5 not suffered any extraordinary loss or damage to its business from December  
6 31, 2006 through the time the Agreement was executed.

7 30. Upon information and belief, significant material adverse changes  
8 to the business and financial status of TCI and TrafficZ occurred between  
9 December 31, 2006 and the time the Agreement was executed, including  
10 significant decreases to TCI and/or TrafficZ's revenue stream and a substantial  
11 loan or loans made to TCI and TrafficZ just prior to executing the agreement.

12 31. TCI and TrafficZ did not disclose material adverse changes in its  
13 business or financial status to Name Intelligence prior to the time the  
14 Agreement was executed.

15 32. Upon information and belief, the affirmative representations and  
16 warranties of TCI and TrafficZ made in the Agreement were not accurate,  
17 were incomplete, misstated facts and, ultimately, were misrepresentations of  
18 its business and financial status.

19 33. As a direct and proximate result of the aforementioned wrongful  
20 conduct of TCI in breaching the representations and warranties section of the  
21 Agreement, Name Intelligence has suffered, and continues to suffer, damages  
22 including but not limited to interest and other incidental and consequential  
23 damages in an amount to be proven at trial.

1 **THIRD CAUSE OF ACTION**  
2 **(Breach of Contract for Failure to Properly**  
3 **Form an Equity Incentive Plan)**

4 34. The allegations of Paragraphs 1 through 33 are incorporated  
5 herein by reference.

6 35. As part of the Agreement, TCI was required to create a non-  
7 discriminatory Equity Incentive Plan (“EIP”) prior to the execution of the  
8 Agreement.

9 36. In breach of the Agreement, TCI failed to create the EIP prior to  
10 the execution of the Agreement.

11 37. Only recently did TCI attempt to implement an EIP. However,  
12 TCI failed to properly form and implement the EIP in accordance with the  
13 Agreement.

14 38. As a direct and proximate result of TCI’s failure to form the EIP  
15 in accordance with the Agreement, Name Intelligence has suffered, and  
16 continues to suffer, damages in addition to interest and other incidental and  
17 consequential damages in an amount to be proven at trial.

18 **FOURTH CAUSE OF ACTION**  
19 **(Misrepresentation and Fraud)**

20 39. The allegations of Paragraphs 1 through 38 are incorporated  
21 herein by reference.

22 40. As part of the Agreement and throughout the negotiation process,  
23 TCI and/or TrafficZ represented and warranted that there were no material  
24 adverse changes to its business from December 31, 2006 through the time the  
25 Agreement was executed.

26 41. TCI and/or TrafficZ further represented and warranted in the  
27 Agreement that it had not suffered any extraordinary loss or damage to its  
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1 business from December 31, 2006 through the time the Agreement was  
2 executed.

3 42. TCI representatives also represented to Name Intelligence that  
4 they were in the process of negotiating an IPO with the Name Intelligence  
5 business assets as part of the IPO. Furthermore, the TCI representatives  
6 guaranteed that, as part of the Agreement, the Name Intelligence shares in TCI  
7 would be worth approximately \$32 million.

8 43. Additionally, during the negotiation of the Agreement, TCI failed  
9 to disclose its use of the banned industry practice of arbitrage and reliance on  
10 this practice for a significant portion of its revenues.

11 44. Contrary to TCI and/or TrafficZ's representations, significant  
12 material adverse changes to the business and financial status of TCI and  
13 TrafficZ occurred between December 31, 2006 and the time the Agreement  
14 was executed, including significant decreases to TCI and/or TrafficZ's  
15 revenue stream and a substantial loan or loans made to TCI and TrafficZ just  
16 prior to executing the agreement.

17 45. TCI and TrafficZ knew that significant material adverse changes  
18 to the business and financial status of TCI and TrafficZ occurred between  
19 December 31, 2006 and the time the Agreement was executed, including  
20 significant decreases to TCI and/or TrafficZ's revenue stream and a loan or  
21 loans made to TCI and TrafficZ just prior to executing the agreement.

22 46. TCI intended to deceive Name Intelligence by actively  
23 misrepresenting that there not had been significant material adverse changes to  
24 the business and financial status of TCI and TrafficZ that occurred between  
25 December 31, 2006 and the time the Agreement was executed and failing to  
26 disclose significant decreases to TCI and/or TrafficZ's revenue stream and a  
27 loan or loans made to TCI and TrafficZ just prior to executing the agreement.  
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1 54. TCI representatives also represented to Name Intelligence that  
2 they were in the process of negotiating an IPO with the Name Intelligence  
3 business assets as part of the IPO. Furthermore, the TCI representatives  
4 guaranteed that, as part of the Agreement, the Name Intelligence shares in TCI  
5 would be worth approximately \$32 million.

6 55. Additionally, during the negotiation of the Agreement, TCI failed  
7 to disclose its use of the banned industry practice of arbitrage and reliance on  
8 this practice for a significant portion of its revenues.

9 56. Contrary to TCI and/or TrafficZ's representations, significant  
10 material adverse changes to the business and financial status of TCI and  
11 TrafficZ occurred between December 31, 2006 and the time the Agreement  
12 was executed, including significant decreases to TCI and/or TrafficZ's  
13 revenue stream and a loan or loans made to TCI and TrafficZ just prior to  
14 executing the agreement.

15 57. As a direct and proximate result of the aforementioned wrongful  
16 acts of TCI and/or TrafficZ, Name Intelligence has suffered, and continues to  
17 suffer, damages including, but not limited to, interest and other incidental and  
18 consequential damages in an amount to be proven at trial.

19 **SIXTH CAUSE OF ACTION**

20 **(Breach of Contract for Failures to Pay)**

21 58. The allegations of Paragraphs 1 through 57 are incorporated  
22 herein by reference.

23 59. As part of the Agreement, NIL agreed to pay J. Westerdal  
24 \$430,000, plus 8% interest, on the date of the first post-closing payment. NIL  
25 failed to pay this amount when due.

26 60. As part of the Offer Letter, NIL agreed to compensate J.  
27 Westerdal, as an employee, at a gross annual rate of \$120,000.00.

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1 61. NIL failed to compensate J. Westerdal in the agreed upon  
2 amount.

3 62. J. Westerdal performed his obligations of employment to NIL  
4 under the Offer Letter, or was excused from doing so because of NIL's breach  
5 of the Offer Letter.

6 63. As a direct and proximate result of NIL's failure to compensate J.  
7 Westerdal in accordance with the Offer Letter, J. Westerdal has suffered, and  
8 continues to suffer, damages in addition to interest and other incidental and  
9 consequential damages in an amount to be proven at trial.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Defendants pray for judgment as follows:

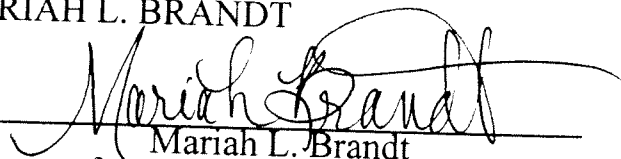
- 12 1. Judgment in favor of Defendants as to all counterclaims;
- 13 2. Compensatory damages, as well as all incidental and  
14 consequential damages in an amount to be proven at trial;
- 15 3. Exemplary damages according to proof at trial;
- 16 4. An award of attorney's fees and costs as authorized by section  
17 7.12 of the Securities Exchange Agreement and applicable statutory  
18 provisions; and
- 19 5. For such other and further relief as the Court deems proper.

20 Dated: June 26, 2009

21 HOLMQUIST & GARDINER PLLC  
22 HAMILTON H. GARDINER

23 PILLSBURY WINTHROP SHAW  
24 PITTMAN LLP  
25 ROBERT L. WALLAN  
26 MARIAH L. BRANDT

27 By

  
Mariah L. Brandt

28 Attorneys for Defendants and Counter-  
claimant NAME INTELLIGENCE, INC. and  
JAY WESTERDAL and Defendant PER  
WESTERDAL

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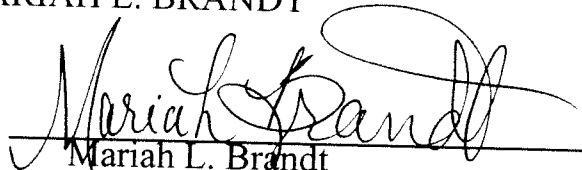
Demand for Trial By Jury

Counterclaimants Name Intelligence, Inc. and Jay Westerdal demand a trial by jury pursuant to Federal Rule of Civil Procedure 38 for all issues that are triable by jury in the above captioned action.

Dated: June 26, 2009

HOLMQUIST & GARDINER PLLC  
HAMILTON H. GARDINER

PILLSBURY WINTHROP SHAW  
PITTMAN LLP  
ROBERT L. WALLAN  
MARIAH L. BRANDT

By   
Mariah L. Brandt  
Attorneys for Defendants and  
Counterclaimants NAME INTELLIGENCE,  
INC. and JAY WESTERDAL and Defendant  
PER WESTERDAL

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Docket No. CV-09-03088 R (AJWx)

PROOF OF SERVICE

I am employed in State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years, and not a party to the within action. My email and business addresses are sherette.duffus@pillsburylaw.com and Pillsbury Winthrop Shaw Pittman LLP, 725 South Figueroa Street, Suite 2800, Los Angeles, CA 90017-5406. On June 26, 2009, I serve the document titled **DEFENDANTS AND COUNTERCLAIMANTS NAME INTELLIGENCE, INC. AND JAY WESTERDAL'S COUNTERCLAIMS AND DEMAND FOR JURY TRIAL** on the parties in this action as follows:

Kent B. Goss, Esq.  
Christopher J. Chaudoir, Esq.  
Orrick, Herrington & Sutcliffe LLP  
777 S. Figueroa Street  
Suite 3200  
Los Angeles, CA 90017-5855  
KGoss@orrick.com  
cchaudoir@orrick.com

- (BY MAIL)** I caused each envelope, with postage thereon fully prepaid, to be placed in the United States mail at Los Angeles, CA. I am readily familiar with the practice of Pillsbury Winthrop Shaw Pittman LLP for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection.
- (BY FACSIMILE)** The above-referenced document was transmitted by facsimile transmission and the transmission was reported as complete and without error to the numbers listed above.
- (BY EMAIL TRANSMISSION)** The above-referenced document is transmitted via electronic transmission to the persons at the electronic-email addresses indicated above.

1  **(BY PERSONAL SERVICE)** I delivered to an authorized courier or  
2 driver authorized by \_\_\_\_\_ to receive documents to be delivered on the  
3 same date. A proof of service signed by the authorized courier will be filed  
4 forthwith.

5  **(BY OVERNIGHT COURIER)** I am readily familiar with the practice of  
6 Pillsbury Winthrop Shaw Pittman LLP for collection and processing of  
7 correspondence for overnight delivery and know that the document(s)  
8 described herein will be deposited in a box or other facility regularly  
9 maintained by \_\_\_\_\_ for overnight delivery.

10 I declare under penalty of perjury that the foregoing is true and correct.

11 Executed this 26th day of June, 2009, at Los Angeles, California.

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Sherette W. Duffus