

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE

)

TUESDAY, THE 9<sup>TH</sup>

JUSTICE HAINEY

)

DAY OF OCTOBER, 2018

)



BETWEEN:

THE CATALYST CAPITAL GROUP INC. and CALLIDUS CAPITAL CORPORATION

Plaintiffs

and

WEST FACE CAPITAL INC., GREGORY BOLAND, M5V ADVISORS INC.  
C.O.B. ANSON GROUP CANADA, ADMIRALTY ADVISORS LLC,  
FRIGATE VENTURES LP, ANSON INVESTMENTS LP, ANSON CAPITAL  
LP, ANSON INVESTMENTS MASTER FUND LP, AIMF GP, ANSON  
CATALYST MASTER FUND LP, ACF GP, MOEZ KASSAM, ADAM  
SPEARS, SUNNY PURI, CLARITYSPRING INC., NATHAN ANDERSON,  
BRUCE LANGSTAFF, ROB COPELAND, KEVIN BAUMANN, JEFFREY  
MCFARLANE, DARRYL LEVITT, RICHARD MOLYNEUX and JOHN DOES  
#1-10

Defendants

and

CANACCORD GENUITY CORP.

Third Party

AND BETWEEN:

WEST FACE CAPITAL INC. and GREGORY BOLAND

Plaintiffs by Counterclaim

and

THE CATALYST CAPITAL GROUP INC., CALLIDUS CAPITAL  
CORPORATION, NEWTON GLASSMAN, GABRIEL DE ALBA, JAMES  
RILEY, VIRGINIA JAMIESON, EMMANUEL ROSEN, B.C. STRATEGY

LTD. D/B/A BLACK CUBE, B.C. STRATEGY UK LTD. D/B/A BLACK  
CUBE and INVOP LTD. D/B/A PSY GROUP  
Defendants to the Counterclaim

A N D B E T W E E N:

BRUCE LANGSTAFF

Plaintiff by Counterclaim

and

THE CATALYST CAPITAL GROUP INC. and CALLIDUS CAPITAL CORPORATION  
Defendants to the Counterclaim

**ORDER**  
**(Production from Non-Parties)**

THIS MOTION, made by the Defendants (Plaintiffs by Counterclaim), West Face Capital Inc. (“**West Face**”) and Gregory Boland (“**Boland**”, and together with West Face, the “**Moving Parties**”) against Google LLC and Google, Inc. (collectively “**Google**”), PayPal Inc. and PayPal Canada Co. (collectively “**PayPal**”), and Canadian Web Hosting Inc. (“**CWH**”) (collectively, the “**Non-Party Respondents**”) for the relief sought herein was heard on this day at the court house, 330 University Avenue, 7th Floor, Toronto, Ontario, M5G 1R7.

ON READING the Consent of the Moving Parties and Google, filed;

AND UPON NOTING the Order of The Honourable Justice Hainey in this Court dated July 6, 2018 addressing the relief sought in this motion as against PayPal and CWH,

AND UPON BEING ADVISED by the Moving Parties and Google that the production sought by the Moving Parties from Google in this motion concerns documents and information that, if they exist, are within the possession, power, or control of Google in the United States, and not in Canada;

AND UPON BEING ADVISED that the Moving Parties intend to commence a proceeding pursuant to 28 U.S.C. § 1782 in the United States District Court for the Northern District of California, the district where Google is headquartered, in which the Moving Parties intend to seek leave to issue a document subpoena to Google for the production of the documents and information sought by the Moving Parties from Google in this motion;

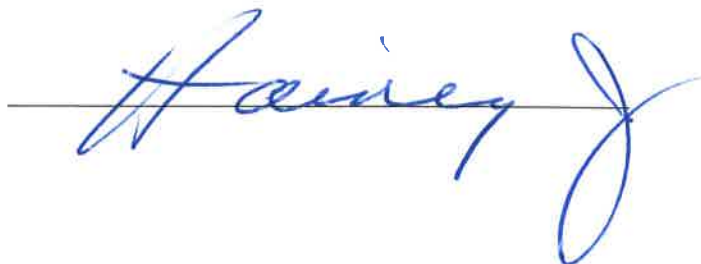
AND UPON BEING ADVISED that Google will not oppose an application pursuant to 28 U.S.C. § 1782 in the United States by the Moving Parties for leave to issue a document subpoena to Google;

1. THIS COURT DECLARES that the documents to be sought by the Moving Parties in the United States may be relevant and necessary to the just determination of the Moving Parties' Counterclaim in this Action, and the Moving Parties' intent to seek production of such documents in the United States is consistent with and not contrary to this Court's continued jurisdiction with respect to this Action and is not an attempt to circumvent the proof-gathering process in Canada;
2. THIS COURT FURTHER REQUESTS the assistance of the United States District Court for the Northern District of California in aiding the Moving Parties in obtaining documents from Google by the means ordinarily used in that jurisdiction to obtain documents from a non-party; and
3. THIS COURT ORDERS that this motion is hereby adjourned *sine die*.

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

OCT 09 2018

PER / PAR:



THE CATALYST CAPITAL GROUP INC., et al. - and - WEST FACE CAPITAL INC., et al.  
Plaintiffs Defendants  
WEST FACE CAPITAL INC., et al. - and - THE CATALYST CAPITAL GROUP INC., et al.  
Plaintiffs by Counterclaim Defendants to the Counterclaim  
BRUCE LANGSTAFF - and - THE CATALYST CAPITAL GROUP INC., et al.  
Plaintiff by Counterclaim Defendants to the Counterclaim

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
Proceeding commenced at TORONTO

**ORDER**

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Lawyers for the Defendants, Plaintiffs by  
Counterclaim, West Face Capital Inc. and  
Gregory Boland