

Marcie Long

From: Parker, Crystal [cparker@jw.com]
Sent: Wednesday, December 23, 2009 5:54 PM
To: Courtney Towle
Cc: Nick Patton; ppeden@pedenlawfirm.com; Marcie Long; Babcock, Chip; Adair, Kathy
Subject: RE: Outstanding Document Requests

Courtney, I have the document responsive to No. 98, but after locating it I discovered that it is privileged and core work product. Do you contend that it falls under the Court's waiver order? If so, I need to speak with my client about whether we agree. I have conferred with Cisco about No. 109, and Cisco could not locate any responsive documents.

I disagree with your assessment concerning waiver of privilege with respect to Nos. 90, 92, 93, 94, 105, 107 and 110. Indeed, most of those were not even from Mr. Frenkel. The Court was quite clear that only Mr. Frenkel's state of mind was at issue. For instance, how is Cisco's DJ strategy even relevant to this lawsuit (No. 105)? You keep claiming that Ward is not seeking documents for the ESN v. Cisco lawsuit, yet you keep asking for core work product in that case that has nothing to do with this lawsuit. To the extent Cisco has responsive, privileged documents that have not already be logged, I will get those documents from Cisco when their attorneys return from vacation and make sure they are logged on Cisco's privilege log.

I hope everyone has a safe and happy holiday. I am leaving the office and don't plan to check my email until Monday.

Take care,

Crystal J. Parker
Jackson Walker L.L.P.
713-752-4217

From: Courtney Towle [mailto:ctowle@texarkanalaw.com]
Sent: Tuesday, December 22, 2009 9:01 PM
To: Parker, Crystal
Cc: Nick Patton; ppeden@pedenlawfirm.com; Marcie Long
Subject: Outstanding Document Requests

Crystal,

You have not responded to my requests for information regarding several of Plaintiff's production requests in Plaintiff's Third Set of RFPs. We have been meeting and conferring regarding these requests since December 2. You have had ample time to determine the status of Cisco's document production with regard to the 14 requests and I would like to reach finality with regard to the status of each.

On December 10, 2009, you told me that you were going to confer with Cisco on the following requests and respond to me: nos. 97; 109; 114; 112; 113; and 100. It's been nearly two weeks and you have not responded. Tell me by Thursday whether Cisco will produce the requested documents and when.

On December 8, 2009, for request Nos. 90, 92, 93, 94, 101, 105, 107, 110, you stated that all "non-privileged, responsive documents" were produced. This response indicates that Cisco is withholding documents arguing privilege. Because these document requests are each for documents attached to or referred to in the documents the Court ordered produced, and for which the Court found subject-matter privilege waiver, privilege was waived. Tell me by Thursday whether Cisco will produce the requested documents and when.

I continue to try to avoid Court intervention with regard to these requests and have provided you ample time to investigate. I look forward to your responses.

Thanks,
---Courtney

Courtney Towle
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