

EXHIBIT B

From: Jason McDonell [mailto:jmcdonell@JonesDay.com]
Sent: Friday, December 04, 2009 6:11 PM
To: Howard, Geoff; House, Holly; Alinder, Zachary J.; Hann, Bree
Cc: Greg Lanier; Scott Cowan; Elaine Wallace; Joshua L Fuchs; Jane L Froyd; Jacqueline K. S. Lee; Patrick Delahunty
Subject: Issues for motion to compel

Counsel,

Further to Judge Laporte's guidance at the 11-17-09 discovery conference and consistent with her 11-18-09 order following the conference, below is a list of the three distinct issues Defendants plan to include in their 30 page maximum discovery motion that will be filed on December 11th, to the extent these issues are not resolved by that date:

1. Defendants' requested updated production from Plaintiffs related to Plaintiffs' expanded claims for the 6 key custodians identified at page 4 of Elaine Wallace's December 1st letter.
2. Defendants' requested discovery relating to the subset of 84 documents on the Folger & Levin pleadings index and the transcripts previously identified by Geoff Howard, both of which are addressed in my December 1st email. NOTE: We recognize that this topic is different than the second motion topic we identified during the discovery conference (i.e., the pre-2005 damages topic), but we are substituting this Folger & Levin issue in its place, because the parties expressly discussed this issue at the discovery conference, Judge Laporte provided guidance on this issue and Plaintiffs' are refusing to comply with that guidance. Thus, we feel the substitution of this topic for Defendants' previously identified topic number two is more than fair under the circumstances.
3. Defendants requested discovery related to RFPs 42, 44, 45, 47, 51 and 52 as addressed on pages 1 and 2 of Elaine Wallace's November 17, 2009 letter to Geoff Howard and the parties' related follow up letters, emails and telephonic meet and confer communications related to those RFPs, including the history of Plaintiffs' creation, access and ability to access and produce the information sought by these requests for production.

In reliance on the assurances in Nitin Jindal's email of 12:28 PM today, we do not plan to move on the pre-2005 damages related legacy screenshot questions or on the automated at risk reports. Please provide us with a date certain by next Wednesday for the production of that information. That production may occur after December, but we need the information by 1/8/10.

To the extent you believe any of these issues can be resolved short of a motion, we are willing to continue to discuss them next week.

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