

EXHIBIT E

Rosemary M. Rivas

From: James Pizzirusso [jpizzirusso@hausfeldllp.com]
Sent: Monday, October 18, 2010 3:32 PM
To: Sacks, Luanne; Ott, Carter; Fischer, Kathleen
Cc: 'jqadra@calvoclarck.com'; Rebecca Coll; Rosemary M. Rivas; Warshaw, Daniel L.
Subject: RE: Sony PS3 "Other OS" Meeting Tomorrow

Attachments: ND Cal Model Prot Ord Standard 6-9-2010.pdf



ND Cal Model Prot
Ord Standard...

Luanne:

I was a bit taken aback by the tone of your email. We are trying to be accommodating of your schedule.

We believe we can discuss all of the items we need to cover within two hours on Wednesday. But, if we are unable to do so, we will just schedule another session (let's hold Oct. 29th - assuming you don't have jury duty - just in case). As long as we can try to fully cover SCEA's responses to our RFPs, that is all we ask. If we need to take other things off of the agenda or go over SCEA's responses first, we would rather do that.

I am not sure how my "demand" for a protective order is "shocking" - we discussed that at our first meet and confer months ago. In fact, the parties put it in their joint CMC and Carter was supposed to get us a draft back then. I have attached the standard ND Cal. Order. Why don't you go through that and tell us if there is anything you all would want to change? At the very least, we are amenable to SCEA producing the documents to which it has no objection and we will agree to treat them as "Attorneys Eyes Only" until we can enter into a protective order in order to prevent further delay. Hopefully, that would resolve any concerns.

I am available to discuss until 7 PM ET tonight - tomorrow morning I have several calls but you can always try my office and I will call you back once I am free.

Sincerely,

James Pizzirusso

-----Original Message-----

From: Sacks, Luanne [mailto:Luanne.Sacks@dlapiper.com]
Sent: Monday, October 18, 2010 5:01 PM
To: James Pizzirusso; Ott, Carter; Fischer, Kathleen
Cc: 'jqadra@calvoclarck.com'; Rebecca Coll; Rosemary M. Rivas
Subject: RE: Sony PS3 "Other OS" Meeting Tomorrow

James

First, we served deposition notices for the names plaintiffs in the Consolidated Complaint on September 24 -- today is October 18 and you have yet to confirm on which of those dates Plaintiffs will indeed appear or provide us with proposed alternative dates. Last week, you said you would get back to us regarding deposition dates by October 20, regardless of whether we did in fact meet that day or not. So we will expect to receive dates by October 20, especially since your email below seems to suggest that you are not going to be appearing on any of the dates we proposed in late October and early November.

Second, SCEA's written response to Plaintiffs' document requests was served on October 8, 2010 -- we provided those responses without seeking for or obtaining an extension of time, confirming that delay has nothing to do with SCEA's recent correspondence.

Third, Rosemary emailed us at 4:24 last Thursday == the day before we were supposed to meet to discuss ESI and your letter regarding various preservation and discovery issues on which Plaintiffs may move for a protective order. Rosemary said at that time that plaintiffs needed to reschedule the meeting due to "scheduling conflicts among other things." Whatever "among other things" was intended to mean, we understood that Plaintiffs literally could not go forward with the Friday meeting because of sudden and unavoidable scheduling problems. To accommodate Plaintiffs we agreed to move the meeting into the current week - which we openly told you was going to be very difficult, which should have come as no surprise to you, given that our reply briefs are due on Thursday. Yes, Rosemary did say that she would like to also talk about SCEA's discovery responses in her Thursday afternoon email -- and yes I continue to be happy to discuss them at that time, but I am not prepared to conduct a complete meet and confer regarding all of the responses as a precursor to presenting the parties positions to the Magistrate Judge during that meeting. Indeed, I can meet for up to 2 hours, and as you note in your email below, we already have several items on the agenda and it is likely that those will take up most if not all of that time.

Fourth, your demand for a stipulated protective order to be delivered to you tomorrow, is really shocking -- especially given that the parties have not yet met regarding ESI issues, and given the impending due date of our reply papers, not to mention the delay in confirming dates for Plaintiffs' depositions.

Regarding the question of rescheduling a meeting so that we can discuss ESI, plaintiffs' preservation concerns, and SCEA's responses to Plaintiffs' discovery requests -- I am on the East Coast October 22 through 25 and set for jury duty on the 28th. Carter is out on vacation through the 28th but could participate by phone on the 29th, and I could meet on the 29th if I am not selected for a jury. We are both available on November 2nd, after our hearing on November 4th, or on November 5th (which is when Mr. Hertz' depo is currently noticed for.

If you want to pick any of these above dates, we are amenable to doing so, but we are not amenable to delaying hearing from you until those dates regarding Plaintiffs' depositions, as explained above.

With regard to the stipulated protective order, I anticipate we should have a draft for you mid-next week, although of course it may need to be revised further after our conversation regarding ESI.

I am going to be out of pocket for most of the rest of the day on a conference call, so if you want to talk about this, rather than exchanging further lengthy emails, let me know a good time to call you late this evening or early tomorrow am.

Best

Lu Sacks

Please note our new address.

Luanne Sacks
Partner

DLA Piper US LLP
555 Mission Street, Suite 2400
San Francisco, California 94105

415 836-2555 T
415 659-7355 F
415 518-3391 M

luanne.sacks@dlapiper.com

www.dlapiper.com

-----Original Message-----

From: James Pizzirusso [mailto:jpizzirusso@hausfeldllp.com]
Sent: Monday, October 18, 2010 12:05 PM
To: Sacks, Luanne; Ott, Carter; Fischer, Kathleen
Cc: 'jquadra@calvoclarck.com'; Rebecca Coll; Rosemary M. Rivas
Subject: RE: Sony PS3 "Other OS" Meeting Tomorrow

Luanne:

We would like to resolve SCEA's objections to our document requests as soon as possible and wanted to do it as part of the meet and confer we already scheduled. We do not believe it makes sense to schedule a separate meet and confer at some point in November which is why we requested to put off the meet and confer to this week so we could discuss SCEA's objections to our document requests, as well. Rosemary's email made that clear. You indicated that this week was bad except for Wednesday so we agreed to your suggested date.

As you know, SCEA's position to us was that it would not seek a discovery stay and would produce documents during the briefing on the Motion to Dismiss. Indeed, we thought we would likely have documents by this point. Further, SCEA's representations in this regard led us to agree to the schedule we did.

SCEA agreed to provide limited answers to 8 of our requests, sought to meet and confer on 20 requests, and fully objected to 1.

(SCEA agreed to provide limited responses to 8 requests: 1, 2, 3, 4, 8, 23, 24, 26; requested that we meet and confer on 20 requests: 5, 6, 7, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 25, 27, 28, 29; and objected to one request: 9.)

At the very least, for those document requests for which SCEA agreed to provide at least a limited response, please send us your proposed protective order by tomorrow so we can review it and propose edits if necessary.

We do not understand your statement, however, that you cannot have a "fulsome" or "full blown" meet and confer at this time since that was what we proposed (and SCEA agreed to) last week.

Nevertheless, we are willing to work in a spirit of cooperation. If this week truly does not work for you given that your reply briefs will be taking up all of your time, what about Friday or early next week to discuss all issues currently on the table (Plaintiffs' letter, ESI, SCEA's objections, Plaintiff depositions, protective order)? I do not think we will be able agree to put this off until the plaintiff depositions occur.

Thanks,

James

-----Original Message-----

From: Sacks, Luanne [mailto:Luanne.Sacks@dlapiper.com]
Sent: Monday, October 18, 2010 2:12 PM
To: Sacks, Luanne; James Pizzirusso; 'rivasrm@yahoo.com'; Ott, Carter; Fischer, Kathleen
Cc: 'jquadra@calvoclarck.com'
Subject: RE: Sony PS3 "Other OS" Meeting Tomorrow

James

Also, you raised the possibility of discussing SCEA's responses to Plaintiffs' document requests during the meeting on October 20 -- we may be able to do so to some extent, but cannot affirm that we can have a full blown meet and confer at that time. As you know, SCEA's reply briefs are due the following day and so our schedule is a bit limited. We should be able to find a date in the following weeks to have a truly fulsome discussion, and may in fact be able to schedule it to coincide with plaintiffs' depositions.

Please let us know how many people will be attending on October 20 in person (if any -- we have no objection to conducting the discussion by telephone to save everyone time and expense).

Best

Lu

Please note our new address.

Luanne Sacks
Partner

DLA Piper US LLP
555 Mission Street, Suite 2400
San Francisco, California 94105

415 836-2555 T
415 659-7355 F
415 518-3391 M
luanne.sacks@dlapiper.com

www.dlapiper.com

-----Original Message-----

From: Sacks, Luanne
Sent: Friday, October 15, 2010 4:04 PM
To: 'jpizzirusso@hausfeldllp.com'; 'rivasm@yahoo.com'; Ott, Carter; Fischer, Kathleen
Cc: 'jquadra@calvoclark.com'
Subject: Re: Sony PS3 "Other OS" Meeting Tomorrow

We will see you then. Please get dates to us for the deposition no later than the meeting.

----- Original Message -----

From: James Pizzirusso [mailto:jpizzirusso@hausfeldllp.com]
Sent: Friday, October 15, 2010 03:44 PM
To: Sacks, Luanne; rivasm@yahoo.com <rivasm@yahoo.com>; Ott, Carter; Fischer, Kathleen
Cc: jquadra@calvoclark.com <jquadra@calvoclark.com>
Subject: Re: Sony PS3 "Other OS" Meeting Tomorrow

Wednesday at 11 am PT works for us. Thanks

James J. Pizzirusso, Partner
jpizzirusso@hausfeldllp.com

Hausfeld LLP
1700 K Street, NW, Suite 650, Washington, DC 20006 202.540.7200 main / 202.540.7201 fax /
<http://www.hausfeldllp.com/>

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----- Original Message -----

From: Sacks, Luanne <Luanne.Sacks@dlapiper.com>
To: Rosemary Rivas <rivasrm@yahoo.com>; Ott, Carter <Carter.Ott@dlapiper.com>; Fischer, Kathleen <Kathleen.Fischer@dlapiper.com>
Cc: James Pizzirusso; James Quadra <jquadra@calvoclarck.com>
Sent: Thu Oct 14 19:33:32 2010 Subject: RE: Sony PS3 "Other OS" Meeting Tomorrow

Next week is bad for us other than possibly Wednesday, October 20. Let us know your availability on that day -- otherwise we will have to look into the week of the 26th. We have not heard back from you regarding any of the noticed depositions. Please let us know early next week whether the depositions will proceed on the dates as noticed, or any alternative dates you are proposing.

Best

Lu Sacks

Luanne Sacks
Partner

DLA Piper US LLP
555 Mission Street, Suite 2400
San Francisco, California 94105

415 836-2555 T
415 659-7355 F
415 518-3391 M
luanne.sacks@dlapiper.com

www.dlapiper.com

-----Original Message-----

From: Rosemary Rivas [<mailto:rivasrm@yahoo.com>]
Sent: Thursday, October 14, 2010 4:24 PM
To: Sacks, Luanne; Ott, Carter
Cc: James Pizzirusso; James Quadra
Subject: Sony PS3 "Other OS" Meeting Tomorrow

Luanne and Carter,

I apologize for the short notice, but we would like to reschedule our meeting tomorrow to next week due to recent scheduling conflicts, among other things. We would also like to take the opportunity to discuss SCEA's discovery responses at the meeting. Please let me know your availability for next week. Thanks.

Best regards,

Rosemary M. Rivas

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