

EXHIBIT HH

From: Rosemary M. Rivas [RRivas@finkelsteinthompson.com]
Sent: Wednesday, November 24, 2010 8:26 AM
To: Ott, Carter; jquadra@calvoclarck.com; jpizzirusso@hausfeldllp.com; rcoll@calvoclarck.com; dwarshaw@pswplaw.com
Cc: Sacks, Luanne
Subject: RE: Sony PS3 "Other OS" Litigation - Pending Discovery Issues

Carter and Luanne,

We disagree with most of the statements you have made in the email below. There are simply too many inaccurate statements for me to address all of them. As to Plaintiffs' proposal regarding the PS3 hard drives, you requested on the call that Plaintiffs make a proposal by November 18, 2010 and stated that SCEA would consider it. Plaintiffs provided their proposal in writing to you on November 18, 2010 and then requested that SCEA provide a response by November 22, 2010 so that Plaintiffs could prepare their own motion for a protective order if necessary for filing on December 1, 2010. This past Friday, Luanne said she would talk to SCEA about it and get back to us. It was not until the email below that we have finally learned that SCEA rejected it. SCEA's position is unwise given that we have been unable to find any cases that have permitted one party unfettered access to the opposing party's hard drive. All of the cases we have found hold the exact opposite. The cases also clearly support cost-shifting in this matter.

Additionally, we have always indicated we have documents we are willing to produce. The issue, as you recall, is that SCEA said it would not produce any documents to us until the protective order was resolved so we were abiding by SCEA's request to delay production. Since SCEA has agreed to produce non-confidential documents without a protective order in place, however, we are amenable to doing the same. Plaintiffs will not agree, however, to produce all of the documents and items requested by SCEA's abusive, over broad and intrusive requests. On a side note, under the rules, document requests attached to a deposition notice are due at the time of deposition.

Further, our clients did not "fail to appear" for their depositions. Plaintiffs were ready to go with the first deposition on November 9, 2010 until it was postponed at SCEA's request. Between that day and November 15, 2010, the parties have met and conferred about SCEA's objectionable document requests. Those issues remain unresolved. SCEA would not agree that it would not seek to re-call Plaintiffs given the outstanding document discovery disputes. We stated then, as we do now, that you are not entitled to serial depositions and we will produce our clients one time as soon as Sony agrees it has resolved Plaintiffs objections to SCEA's document requests. Once that agreement is reached, we are prepared to produce our clients. We will not produce them so that you can then seek to take another round of depositions because you are not satisfied with the document production.

As to the scheduling of the competing motions to compel and motion for a protective order, during our meet and confer, you indicated you would get back to us with a proposal for a stipulation on a briefing schedule by last Wednesday. The local rules require a stipulation or a motion to hear a matter on shortened time. You also indicated you would get back to us on a written proposal for discovery from SCEI, the parent in Japan (which was an issue we were prepared to move on), as well as respond to our outstanding discovery disputes which we wanted to raise during the briefing in front of Chen if necessary. We never heard back from you. You then indicated you would get back to us this past Monday. You did not. Given the fact that over a week had passed without response on our outstanding issues and given the upcoming long holiday weekend (including the fact that many of us would be out today through the rest of the week), we can no longer agree to the shortened schedule due to SCEA's delays in getting back to us. We cannot agree to put our schedules on hold indefinitely while we wait to hear from you.

While the parties have discussed some of SCEA's objectionable document requests, with

respect to others we have not. During our call on November 15, 2010, you stated that SCEA would move to compel on everything. SCEA's failure to compromise on the scope of any its abusive discovery requests, i.e., the request for forensic copies of the hard drives of each of the personal computers Plaintiffs have owned since January 2006, is inappropriate. It is unclear to Plaintiffs how SCEA expects the parties to prepare and brief motions for a protective order and to compel when these and many other issues are unresolved.

We have not decided against anything at this point - we are simply increasingly frustrated with SCEA's delays when promises are made to get us something by a certain point and schedules are adjusted accordingly. We are glad you finally got back to us two weeks later on our November 10th letter. But we now do not have enough time to address any issues that we might need to by December 1st. We are amenable to discussing a new schedule next week.

Your threat of sanctions is both unwarranted and unprofessional. We will respond to any frivolous motions in accordance with the rules.

Best,
Rosemary

From: Ott, Carter [Carter.Ott@dlapiper.com]
Sent: Tuesday, November 23, 2010 10:13 PM
To: Rosemary M. Rivas; jquadra@calvoclarck.com; jpizzirusso@hausfeldllp.com; rcoll@calvoclarck.com; dwarshaw@pswplaw.com
Cc: Sacks, Luanne
Subject: Sony PS3 "Other OS" Litigation - Pending Discovery Issues

Counsel,
In light of our prior meet and confer, we find your recent email (below) disingenuous. First, you write that you have not received a stipulation from us regarding an expedited briefing and hearing schedule for our pending discovery motions, and on that basis you state that you now believe that an expedited schedule for hearing those motions is not appropriate and that this is not a proper time for these motions. But during our November 15, 2010 meet and confer teleconference, we (the parties' counsel) agreed on the following expedited schedule for briefing and hearing issues raised in our motion to compel and your intended motion for protective order:

- December 1 - last day to file motion
- December 9 - last day to file opposition brief
- December 15 - last day to file reply
- December 22, 10:30 a.m. - hearing regarding motions

It appears that you have recently decided not to file a motion for protective order, and as a consequence have completely reneged on our existing agreement regarding discovery motions.

You complain that you have not received a response regarding Rosemary Rivas' November 10 letter. We are currently finalizing our response and will have that for you promptly. We will also have for you a response to Ms. Coll's email regarding our draft protective order. Of course, nothing in either of these communications has any relevance to the fact that you unilaterally cancelled each of the Plaintiffs' depositions, which were set for dates that you proffered.

You state in your email that "many of the discovery issues are still unresolved." Your comment makes no sense, given that we specifically discussed all of these issues in our substantial meet and confer discussions and emails over the last several months. In fact, during our November 15 meet and confer teleconference, you confirmed that you would not produce Plaintiffs for deposition unless SCEA agreed to draconian limitations you imposed regarding those depositions or that it obtain an order from Magistrate Judge Chen regarding Plaintiffs' discovery obligations. As we have said repeatedly, if Plaintiffs intended to secure the Court's intervention regarding these depositions, they should have moved for a protective order. In any event, during our November 15 teleconference, Plaintiffs agreed to present all disputed discovery issues to Magistrate Judge Chen for hearing on December 22, 2010, and agreed on an expedited briefing schedule regarding such motions.

Thereafter, on November 18, you did provide us with a proposal for a neutral forensic analysis and limited production regarding the contents of your clients' PS3 hard drives. However, your offer is substantially the same as the one you made during our November 15 teleconference, which we rejected. As we explained during our conversation on November 15, SCEA is unwilling to pay for hard-drive imaging that is necessary only because your clients have failed to suspend their usage of their PS3s and thus have raised the potential of spoliation of evidence. In addition, the limited scope of information that you propose Plaintiffs will provide as a result of that third-party forensic examination is neither reasonable nor justified and to the extent that your clients have any legitimate privacy concerns regarding the contents of those hard drives, the Stipulated Protective Order SCEA proposed (and you rejected) would certainly resolve them -- not to mention that we have offered to meet and confer with you regarding particular items of inordinate concern to your clients. Nevertheless, there is no reason why your clients failed to appear for deposition related to the hard drive production dispute -- we have told you repeatedly that we would not seek to reopen such depositions to inquire about the contents of their hard drives once they are produced to us.

With regard to a stipulation regarding SCEI's involvement in discovery, which you also raised in your November 18 email, our client is currently reviewing a draft stipulation, and we hope to have this for your review soon. But again, this is irrelevant to Plaintiffs' discovery responses and appearance at depositions properly noticed and set for dates you selected.

Finally, in your email below, you state that our intention to move to compel as to your responses to our document requests is premature because you intend to produce documents within one week. This is the first we have heard of this -- and indeed it is completely antithetical to everything you have said to date. Nonetheless, based on this representation, we expect to receive documents from you before or on November 30, 2010. We further understand that you will therefore present Mr. Huber for deposition on December 9 as you previously promised. Now that you have rethought your prior refusal to produce documents and your clients for deposition, please advise us by close of business on November 30 of the following dates on which you will present the other four individuals named as class representatives in the Consolidated Complaint, the depositions of which you unilaterally cancelled: December 6, 8, 13-17, or 20-24.

If we do not receive, by close of business on November 30, your document production, confirmation that Mr. Huber will appear for deposition on December 9, and confirmation of dates that your four other clients will appear for their deposition consistent with the proposed dates above, i.e., before December 24, we will immediately file a motion to compel and seek sanctions. In the meantime, we will separately respond to your various communications regarding the stipulated protective order and our meet and confer discussions concerning Plaintiffs' document requests.

Thank you,
Carter

[http://www.dlapiper.com/files/upload/DLAPiperLogo_emailssignature.gif] <<http://www.dlapiper.com/>>

Carter W. Ott
Associate

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

T 415-836-2538
F 415-659-7338
M 415-336-9408

carter.ott@dlapiper.com <<mailto:carter.ott@dlapiper.com>>

www.dlapiper.com <<http://www.dlapiper.com/>>

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

From: Rosemary M. Rivas [mailto:RRivas@finkelsteinthompson.com]
Sent: Tuesday, November 23, 2010 9:47 AM
To: Sacks, Luanne; Ott, Carter
Cc: jquadra@calvoclarck.com; jpizzirusso@hausfeldllp.com; rcoll@calvoclarck.com;
dwarshaw@pswplaw.com
Subject: RE: Sony PS3 "Other OS" Litig- Follow Up of November 15, 2010 Call

Lu and Carter,

We have not received a stipulation from you on the hearing date and briefing schedule for the discovery motions. Nor have we heard back from you in writing in response to the issues raised in my letter of November 10, 2010 as you promised. Further, many of the discovery issues are still unresolved. For instance, you have not informed Plaintiffs whether SCEA will accept the proposal for discovery regarding the PS3s. Additionally, you indicated during the call on November 15, 2010 that you intended to move to compel as to all of Plaintiffs' responses to SCEA's document requests. We believe that is premature as Plaintiffs intend on producing documents within one week and hope that the production will satisfy most of SCEA's concerns. Thus, we do not believe that filing cross-motions to compel/for a protective order are ripe at this time. We also do not believe that motions on shortened time are necessary. Please get back to us on these issues at your earliest convenience.

Best,
Rosemary

Rosemary M. Rivas
FINKELSTEIN THOMPSON LLP
100 Bush St., Suite 1450
San Francisco, California 94104
Telephone: (415) 398-8700, ext. 102
Facsimile: (415) 398-8704
www.finkelsteinthompson.com

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

From: Sacks, Luanne [mailto:Luanne.Sacks@dlapiper.com]
Sent: Friday, November 19, 2010 1:10 PM
To: Rosemary M. Rivas; Ott, Carter
Cc: jquadra@calvoclarck.com; jpizzirusso@hausfeldllp.com; rcoll@calvoclarck.com;
dwarshaw@pswplaw.com
Subject: RE: Sony PS3 "Other OS" Litig- Follow Up of November 15, 2010 Call

Rosemary,

We are hopefully going to have a call with our client this afternoon -- we will go over the below with them and get back to you on the status of everything on Monday -- I need to review and finalize our draft response to your November 10 letter, which I can complete this weekend and send out to you on Monday.

BTW -- we are federal expressing today a CD to Jim Quadra that is the beginning of our rolling production -- these are the documents that do not require any confidential or other designation.

I am writing this between meetings out of the office, so I apologize for being so brief, but did want to get back to you asap.

Best

Lu

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

From: Rosemary M. Rivas [mailto:RRivas@finkelsteinthompson.com]
Sent: Thursday, November 18, 2010 3:20 PM
To: Sacks, Luanne; Ott, Carter
Cc: jquadra@calvoclarck.com; jpizzirusso@hausfeldllp.com; rcoll@calvoclarck.com;
dwarshaw@pswplaw.com
Subject: Sony PS3 "Other OS" Litig- Follow Up of November 15, 2010 Call

Lu and Carter,

I am writing to follow up on the parties' conference call of November 15, 2010.

Regarding SCEA's request for a forensic copy of the Plaintiffs' PS3 hard drives, Plaintiffs will not agree to comply with this request for the reasons set forth in their objections and as the parties have repeatedly discussed. Plaintiffs, however, will agree that a mutually acceptable vendor may inspect the PS3 hard drives and prepare a report, at SCEA's expense, that sets forth (1) whether Linux was installed and the date of installation; and (2) whether the following types of files exist, or not, on the hard drives: video game files, movie files, music files, word processing files, email files or other Linux software related files. We believe this information, coupled with the Plaintiff's deposition testimony, is sufficient to allow SCEA to determine whether the PS3s were used as Plaintiffs allege in the operative complaint. Please let us know by November 22, 2010 whether SCEA will agree to this proposal.

In terms of your proposal regarding discovery from SCEA's parent, SCEI in Japan, Plaintiffs find it acceptable along the lines that were discussed (i.e., deponents travelling in the United States would submit to a deposition in the United States). We kindly request, however, that you provide the proposal in writing for our review. You also indicated that SCEA would respond this week to my correspondence of November 10, 2010 regarding Plaintiffs' document requests. Please let us know when we can expect SCEA's response as we are in the process of preparing our discovery motion as well. On that note, our understanding was that you would provide us with a proposed stipulation regarding the briefing schedule and hearing date on the discovery motions. Please let me know if I have missed anything. Thank you.

Best,

Rosemary

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