

EXHIBIT II

From: James Pizzirusso [jpizzirusso@hausfeldllp.com]
Sent: Wednesday, December 01, 2010 5:57 PM
To: Ott, Carter; James Quadra
Cc: Rosemary M. Rivas; Rebecca Coll; Genevieve P. Rapadas; Sacks, Luanne
Subject: RE: In re Sony PS3 "Other OS" Litigation

Luanne and Carter:

1. All three co-leads have reviewed and approved any communication being sent to SCEA on our behalf. We don't think our positions have been inconsistent. Just as we sometimes receive emails from Carter or Luanne, you will sometimes receive emails from one of us depending on availability, etc. We will not agree to change the structure. Unless we state otherwise, you can be assured that an email from "one" of us is an email from "all" of us.

2. Jim's 11/29 email is correct and is not inconsistent with Rosemary's email of 11/24. We believe that Plaintiffs' motion for a protective order is ripe as laid out in Jim's emails. Those are the issues we intend to move on. As Rosemary's 11/24 email indicated, we did not believe that SCEA's Motion to Compel was ripe as to "every" document request. Then Carter sent an email stating "Clearly, we are at an impasse with regard to our discovery requests. We intend to move forward with our motion; we will have proposed hearing dates for you early next week." Thereafter, Plaintiffs made a decision for which topics we would seek a protective order. We have, however, remained confused about the precise issues you all are moving on as we indicated in Jim's email on Monday. Again, we have not set forth inconsistent positions. There are many different issues out there which may be resulting in confusion. The purpose of Jim's email of 11/29 was to help clarify this and to ensure that the parties were truly at an impasse on some issues. Since you have now indicated you will review our production before moving, this may all be moot anyway. We are not trying to prevent SCEA from filing its motion due to "unripeness." We are just trying to understand the true areas of dispute and would request you let us know, as we laid out for you, the areas for which you will be moving to compel so we can be assured that those are the issues for which we truly agree we are at an impasse.

3. We agreed to a shortened schedule subject to the stipulation you indicated you would send to us the next day or soon thereafter. You never sent us anything. Rosemary's 11/24 email about that topic reflected our position. If you need additional time to get back to us on something beyond the date you initially promised, we would just ask for the courtesy of getting back to us to let us know you need that additional time before the time period has run to give us adequate time to respond. We all have extremely busy schedules and have to plan accordingly.

4. We will produce non-confidential documents on a rolling basis. Some of the items we considered designating as confidential, we are now not doing so. Thus, we do not believe that there are any confidential documents we have to produce at this point. If SCEA moves to compel production of the PS3 hard drives and is successful, there may be confidential material we would need to deal with at that point. Or, if SCEA seeks full credit card statements, etc., there may be issues there, as well.

5. There is no conflict on our "attorney's eyes" only position. We will agree to that designation on any confidential material only until the issue is resolved by the Court. We do not believe any of SCEA's documents should have that designation for the entirety of the case. Our position has remained

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consistent on this point. Please confirm whether or not SCEA will agree to produce its "confidential" documents as "attorney's eyes" only until the matter of the appropriate protective order is resolved. We do plan on moving to compel production of those documents and having Chen resolve this issue if SCEA will not agree to the standard protective order as we have proposed. We proposed that we may be willing to deal with "source code" issues separately (to the extent we ever request it - which we have not at this point) and SCEA has not responded.

6. We are not seeking to re-hash arguments by identifying the issues for which we plan to move - we simply wanted to identify those points to you. And if we somehow misunderstand your position in our papers, I am sure you can point that out and fully describe what your position is. If you think we still do not understand SCEA's position on the "web page documents on which the plaintiffs relied" - then let's discuss further.

7. We agree with your proposed amended scheduling order subject to receiving a written stipulation from you. Please send us a stipulation by Friday.

8. We will be giving you what we believe is a complete production of all relevant materials subject to our objections regarding privilege, burdensomeness, etc. We are also providing some additional materials that we do not believe are relevant (e.g., pictures of peripherals) that we believe may resolve some of your concerns.

9. We have not "failed to respond" to your letter about the initial disclosures; we are examining its contents and considering our position and we have asked to meet and confer about this issue. Pursuant to your suggestion, let's do that on Monday afternoon. We also agree, to the extent that there are any unresolved issues, that they should be resolved together with the other motions (which is what we suggested).

10. We remain hopeful that the SCEI issue is not one for which we will need to move to compel - if we can get your proposal by Friday (so we can discuss it on Monday, if necessary) - that would be helpful. But as Rosemary said in her 11/24 email, we agreed with the general concept as you laid it out. We merely wanted to see it in writing to make sure it was what we understood. We still have not received it in writing which was why we were wondering if you had withdrawn it or what the issue was.

And, if SCEI is going to provide discovery, we would appreciate initial disclosures of the SCEI employees with relevant information, as well, since SCEA only identified five such employees in its Rule 26 disclosures. And if you are truly going to take issue with our disclosures, and we learn that there are other SCEA employees beyond the 5 you identified, then we may have our own issues to raise with SCEA's disclosures, as well.

Sincerely,

James, Rosemary & Jim

James J. Pizzirusso, Partner
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If you believe you have received this message in error, please notify the sender by reply transmission and delete the message without copying or disclosing it.

From: Ott, Carter [mailto:Carter.Ott@dlapiper.com]
Sent: Wednesday, December 01, 2010 1:57 PM
To: James Quadra
Cc: James Pizzirusso; Rosemary M. Rivas; Rebecca Coll; Genevieve P. Rapadas; Sacks, Luanne
Subject: RE: In re Sony PS3 "Other OS" Litigation

SENT ON BEHALF OF LUANNE SACKS-

Jim,

Your email highlights a concern that we had when we stipulated to consolidate these actions, and which we specifically raised in entering into that stipulation. It appears that you and your co-counsel are not communicating with each other, and as a result we are receiving varying, conflicting communications from you. Based on this, I recommend that we discuss amending the Stipulation And Case Management Order to provide that communications regarding discovery meet and confer issues will only be made through you personally or one of the other attorneys designated as interim co-lead counsel

Further, to address specifically issues raised in the email you sent late Monday night:

- During our November 15 meet and confer, you agreed that SCEA may and should proceed with its motion to compel regarding its outstanding document requests and deposition notices (and indeed that Plaintiffs would file their own discovery motions). See Ott 11/23/10 7:13 p.m. email. But on November 23, Rosemary emailed us that any such discovery motion by SCEA would not be ripe. See Rivas 11/23/10 9:47 a.m. email ("[W]e do not believe that filing cross-motions to compel/for a protective order are ripe at this time."). But now, in your email below, you confirm that such cross-motions are indeed necessary and timely.
- You agreed on November 15 that an expedited schedule to resolve the parties discovery motions would be appropriate and agreed that the motions should be filed on December 1, the opposition on December 9, any reply should be filed on December 15, and the hearing scheduled on December 22. Ott 11/23/10 7:13 p.m. email. Nearly a week later, Rosemary reneged on this agreement. Rivas 11/23/10 9:47 a.m. email ("[W]e also do not believe that motions on shortened time are necessary."). Of course, this violates Paragraph 7 of the Stipulation And Case Management Order Number 1 As Modified By The Court (Docket #65). ("SCEA's counsel may rely on all agreements made with Plaintiffs' Interim Co-Lead Counsel, and such agreements are binding on Plaintiffs"). According to Rosemary's email, her decision to terminate our agreement was based in part on our supposed delay in providing a draft stipulation covering the dates we had already agreed to. But now you state that, in fact, we had such an agreement on a briefing schedule (although you ignore Rosemary's email reneging on that agreement) but that it is now too late to pursue it. (Although you fail to address the fact that, when Rosemary reneged on our agreement, it was not too late).
- You informed us during meet and confer earlier this month that Plaintiffs would not, without a court order, produce documents to us other than on the extremely limited and unacceptable terms you had proposed. Quadra 11/12/10 2:32 p.m. email. Last Monday, Rosemary informed us that you would produce some documents. Rivas 11/23/10 9:47 a.m. email. Shortly after, she informed us that this production would take place within a week of her email (i.e., today) and would be limited to "non-confidential documents" that do not require coverage pursuant to a protective order. Rivas 11/24/10 8:26 a.m. email. But now you state that you will make a production on a rolling basis that you anticipate will be complete "early next week" without reference to whether it will include only "non-confidential documents."
- In one of our first discussions regarding a protective order, before we sent you a draft, James Pizzirusso offered that, SCEA should produce documents provisionally marked as "attorney's eyes only." But after reviewing our draft protective order, Rebecca Coll objected to the inclusion of any "attorney's eyes only" designation on the grounds that it is not appropriate in this case. Coll 11/10/10 9:20 p.m. email. In fact, this is one of the only issues remaining for us to resolve in negotiating a stipulated protective order. Ott 11/23/10 7:29 p.m. email. She took this position despite the fact that you and your co-counsel had refused to produce your clients' PS3 and personal computer hard drives because of privacy concerns which would be remedied by the very "attorney's eyes only" designation that Ms. Coll refuses to agree to. Now, you claim that SCEA should continue to produce documents to Plaintiffs with a provisional "attorney's eyes

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only" designation, even though Ms. Coll still appears to take the position that such a designation is not appropriate. We would like to resolve this issue – including what appears to be the conflicts among your and your co-counsel's asserted positions – as we cannot produce any of our client's documents that require protection without a protective order.

- As mentioned above, in the course of our meet and confer discussions regarding SCEA's contemplated discovery motions, you stated on several occasions that Plaintiffs intended to file a motion for protective order to be heard on the same date. Ott 11/23/10 7:13 p.m. email. In fact, it was agreed that our stipulated expedited schedule would also cover such a motion by Plaintiffs. But last week Rosemary contradicted you – "we do not believe that filing cross-motions to compel/for a protective order are ripe at this time." Rivas 11/23/10 9:47 a.m. Now, according to your email of Monday night, immediately following the Thanksgiving holiday, Plaintiffs have concluded their protective order motion is indeed ripe and you required that we promptly (by today) meet and confer with you about dates for our respective motions.

With regard to the issues you raise in your email below regarding the topics for our motion to compel, we believe that this also highlights the problems we are experiencing. Many of the items that you have raised have been covered in numerous communications and emails between us for the last several months. There is no reason to further rehash them. I suggest you review our meet and confer correspondence which amply documents our discussions. I am available to clarify any questions you have, but I will not recite the entirety of our meet and confer as it is covered in our email correspondence.

As an example, we are well aware that you refuse to produce your clients a second time for deposition based on your failure to search for or produce responsive documents. We have discussed this on numerous occasions, and it is confirmed in many of our emails. Other items in your email are incorrect and demonstrate a fundamental misunderstanding of our meet and confer and possibly a failure to review our prior correspondence. For example, we never demanded that your clients "perform a search on the Internet to locate documents not in their possession, custody, or control." Rather, we have asked only that your clients produce any and all web pages that they contend they relied on in deciding to buy a PS3. In addition, during our meet and confer teleconference, after noting the similarities between SCEA's Request Number 1 and Plaintiffs' Document Request Number 18, on behalf of SCEA we agreed to withdraw Request No. 1 if Plaintiffs agreed to produce documents responsive to the remainder of SCEA's document requests. Again, we intend to move to compel with regard to your refusal to produce the plaintiffs named in the Consolidated Complaint for deposition and your refusal to produce documents, as documented in our substantial meet and confer teleconference. Subject to our further discussion, we may also move to compel with regard to your Initial Disclosures. Also, to clarify, based on our meet and confer on November 15 and your representation in your email below that you intend to move for a protective order with regard to discovery from the plaintiffs named in the predecessor complaints but not in the Consolidated Complaint, we do not intend to cover this in our motion to compel.

With regard to SCEA's intent to move to compel, I don't believe that there is any reason for confusion regarding that matter. But to clarify, because Plaintiffs have refused to produce the five individuals named in the Consolidated Complaint except on unreasonably restricted terms and conditions, you have forced SCEA to move to compel those depositions. As explained above, we also intend to move to compel documents requested in SCEA's long outstanding request for production, but will delay doing so until Plaintiffs complete their promised production early next week, i.e., by December 8, to ensure that the motion is directed only at items that remain in dispute. We understand that Magistrate Judge Chen's next available hearing date is February 9, although it could be later because that date could fill up with other motions filed before ours. To make our briefing as efficient as possible, we recommend that we use the following briefing schedule:

December 10 – last day to file motion to compel/motion for protective order
 January 14 – last day to file opposition to motion to compel/motion for protective order
 January 26 – last day to file reply iso motion to compel/motion for protective order
 February 9 – hearing

Please let me know if you agree.

You are correct, we did not contact you on Monday. This is because we understood, based on Rosemary's recent emails, that it is your position that our discovery dispute (and therefore any meet and confer) is subject to your document production. However, now you claim that we should discuss our dispute prior to this production. Just to be clear – we understand that you will be making a complete production on a rolling basis, and that you anticipate that this production will be complete by December 8. Based on your assurance that your production

may resolve issues that would otherwise be covered in our motion to compel, we will not file that motion until after that date.

We understand from your failure to respond to our letter regarding the deficiencies in your Initial Disclosures that you do not intend to amend them. Obviously, we will need to move to compel with regard to these. We understand that you take the position that, although the bases of our arguments are documented, we have not sufficiently met and conferred regarding this issue. Of course, you have made no attempt to explain your position to us. In light of the fact that the next available hearing date is in February, I see no reason why we cannot discuss this issue and either resolve it or include it in our motion to compel. We are available on Friday afternoon, December 3, or Monday afternoon, December 4, to discuss your Initial Disclosures in person.

Finally, with regard to a stipulation regarding SCEI's involvement in discovery, our client is currently reviewing a draft stipulation and we anticipate that we will have a draft for you early next week. You ask in your email if we are at an "impasse on this issue." We have never suggested that, but would request that you clarify whether Plaintiffs are now taking the position that this is a discovery dispute that also requires Magistrate Judge Chen to resolve.

Thank you,
Luanne Sacks

Carter Ott



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

From: James Quadra [<mailto:jquadra@calvoclarck.com>]

Sent: Monday, November 29, 2010 10:54 PM

To: Ott, Carter; Sacks, Luanne

Cc: James Pizzirusso; Rosemary M. Rivas; Rebecca Coll; Genevieve P. Rapadas

Subject: In re Sony PS3 "Other OS" Litigation

Lu & Carter

Despite the slew of emails you sent us on the eve of the Thanksgiving holiday indicating you wanted to set a date for the parties' various discovery disputes, you did not contact us today per our invitation to discuss mutually agreeable dates and briefing schedule.

As we have previously made clear, we are ready to discuss dates and a briefing schedule for our motion for a protective order

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in connection with the Sony's document requests served along with the class representatives' deposition notices and your cross motion to compel. As you know, we had previously discussed dates and a briefing schedule and were waiting for a stipulation from you. However, you failed to forward a timely stipulation about those dates and it is now too late to proceed on that schedule. Moreover, it is not clear if Magistrate Chen even has the 18th available for a hearing at this point.

Again, if you still intend to file a motion to compel, please call to discuss proposed hearing dates and a briefing schedule. Also, please provide us a list of the issues you intend to move to compel about. Given your latest emails, it is now unclear what your position is on various issues.

Despite our belief that the documents are not due to be produced until the actual deposition, we intend to produce documents responsive to your documents requests on a rolling basis beginning tomorrow and hope to have Plaintiffs' production completed early next week. You might want to wait until you get the documents to decide whether you will be filing a motion to compel documents. Further, since you now appear to take issue with our Rule 26 disclosures but we have not yet met and conferred on this issue, it may make sense to have this issue resolved in front of Judge Chen as well. Until we meet and confer, however, it won't be clear whether we have a dispute that cannot be resolved by the parties without court intervention. Please let us know as to your ability/desire to meet and confer on this issue.

Regarding our motion for a protective order, we have met and conferred regarding the documents you seek and we believe we have reached an impasse on some issues. As we have previously informed you, we view some of SCEA's requests as overbroad, beyond the scope of discovery, invasive of the attorney client privilege and invasive of our clients' right to privacy. Moreover, we cannot allow our clients to be subject to SCEA's attempt to conduct multiple/serial depositions. Therefore, we will be seeking a protective order regarding the following issues - which should be resolved before our clients' depositions proceed.

1. Your request for forensic copies of hard drives of PS3s (Request Nos. 2, 6). (We made a proposal that would provide you the information you need to determine if our clients used the other OS feature without invading their privacy. You rejected that proposal and indicated wrongly that plaintiffs need to pay for the imaging.)
2. Your request for forensic copies of hard drives and proofs of purchase of all personal computers (Request Nos. 7, 8).
3. Your request for production of all PS3s and peripherals at deposition (Request Nos. 3, 6).
4. Your request for representation Agreements (Request No. 27)
5. Your request for internal documents within the Meiselman firm relating to the Meiselman website hacking (Request No. 28)
6. Your request for all documents relating to Sony, SCEA and the PS3 (not limited to product at issue) (Request No. 1)
7. Your request for all documents that Plaintiffs relied on in purchasing PS3 (in particular SCEA's demand that Plaintiffs perform a search on the internet to locate documents not in their possession, custody, or control)(Request No. 14)

In addition to the above, per our prior discussions we will be moving for a protective order regarding SCEA's request to seek discovery from class members that are not named in the consolidated complaint but were named plaintiffs in the original complaints filed in the Northern District.

Regarding our document requests to Sony, reserving all rights to address the inadequacy, if any, of your production once we receive all the documents, we also intend to address the scope of the protective order regarding discovery with Judge Chen. We have met and conferred and have not reached a resolution of this issue. As you know, our position is that since this is not a patent case, there is no reason to impose the requirements of a patent case here as you propose, including forcing the early disclosure of our experts. Moreover, we have not requested any of your client's source code. If we ever do request source code, we are amenable to revisiting the need for any additional protections at that time. In the meantime, we reiterate that we are willing to accept SCEA's document production subject to an "attorney's eyes only" designation pending the resolution of scope of the protective order so there is no reason for you not to produce all responsive documents immediately.

Finally, despite your own oral proposal on this issue, you have not provided us with a written proposal for discovery of SCEI. Are we at an impasse on this issue?

We look forward to hearing from you by Wednesday. If we don't hear from you, we will contact the court to get a date for our motion for a protective order.

12/13/2010

Regards,

Jim

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