

EXHIBIT 5

From: Thompson, Rod (27) x4445
Sent: Tuesday, February 07, 2012 10:34 AM
To: LPlatzer@jenner.com; Schoenberg, Tony (28) x4963; Leibnitz, Andrew (21) x4932
Cc: SFabrizio@jenner.com; DPozza@jenner.com
Subject: RE: Hotfile - Data Supplementation and Continued Deficiencies in Source Code Production

Luke, we (our litigation support folks not me) were able to extract all of the files we provided. It did unzip successfully, but it took a very long time to decompress. Hopefully, you have now done the same.

As you requested, here are the MD5 and SHA1 values for the large zip file:

MD5: 9dd1b3ebf1b1e2a62e516f5513fd7ae8
SHA256: fdae8f40c8ef270b4c9ee4f50a2306ac93b965c9

We made that zip file with Windows' built in compress files utility.

Let us know if you have any more questions.

Rod

From: Platzer, Luke C [mailto:LPlatzer@jenner.com]
Sent: Monday, February 06, 2012 4:34 PM
To: Thompson, Rod (27) x4445; Schoenberg, Tony (28) x4963; Leibnitz, Andrew (21) x4932
Cc: Fabrizio, Steven B; Pozza, Duane
Subject: RE: Hotfile - Data Supplementation and Continued Deficiencies in Source Code Production

Rod:

We've verified that the 02-03-12 Jan Submission pt 3.zip file is posted on the FTP. However, we have been encountering difficulties all day in actually decompressing and opening the file (which have now occurred three times, to copies downloaded to two different locations). In order to verify that the file has not become corrupted, can you please let us know:

- (1) What software was used to create the compressed archive (was this Izarc again)?
- (2) Can you please provide us with an md5 or sha1 hash of the file that you posted so that we can verify that the copy we've been able to download doesn't differ from the local file you uploaded?

Thanks.

- Luke

From: RThompson@fbm.com [mailto:RThompson@fbm.com]
Sent: Monday, February 06, 2012 12:03 AM
To: Platzer, Luke C; TSchoenberg@fbm.com; ALeibnitz@fbm.com
Cc: Fabrizio, Steven B; Pozza, Duane
Subject: RE: Hotfile - Data Supplementation and Continued Deficiencies in Source Code Production

Luke, I'm not sure what happened on whose site but we are uploading these files tonight in compressed form as Steve requested. Hopefully, this time it will work. Please confirm receipt in the morning.

Rod

From: Platzer, Luke C [mailto:LPlatzer@jenner.com]
Sent: Sunday, February 05, 2012 3:24 PM
To: Thompson, Rod (27) x4445; Schoenberg, Tony (28) x4963; Leibnitz, Andrew (21) x4932
Cc: Fabrizio, Steven B; Pozza, Duane

Subject: RE: Hotfile - Data Supplementation and Continued Deficiencies in Source Code Production

Rod:

Whoever is giving you information on this is mistaken. I'm looking at the FTP right now (which someone from your firm could have done before you wrote your email). Part 2 of the supplementation contains the following files:

Strikes.csv.headers
Uploadsdownloads.csv.headers
Uploads5.csv.headers
Userdat.csv.headers

The promised "file" file is not there. Nor is the "uploadurl.csv" file there.

- Luke

From: RThompson@fbm.com [mailto:RThompson@fbm.com]
Sent: Sunday, February 05, 2012 6:17 PM
To: Platzer, Luke C; TSchoenberg@fbm.com; ALeibnitz@fbm.com
Cc: Fabrizio, Steven B; Pozza, Duane
Subject: RE: Hotfile - Data Supplementation and Continued Deficiencies in Source Code Production

Luke, we confirmed that at least as of noon today all supplementation data had been uploaded to the Jenner FTP. We did this on a rolling basis as that is what Steve requested. It is a little disingenuous for you to ask for the rolling production and then complain that you couldn't "get started" earlier because the data supplement was not complete.

There should be a "file" table on your FTP site (directory "supp-jan-26-2", file.csv). I understand that we supplemented the uploads via a file called uploadurl.csv. Let us know if you cannot locate it.

I will respond to the source code question separately.

Rod

From: Platzer, Luke C [mailto:LPlatzer@jenner.com]
Sent: Sunday, February 05, 2012 2:48 PM
To: Platzer, Luke C; Thompson, Rod (27) x4445; Schoenberg, Tony (28) x4963; Leibnitz, Andrew (21) x4932
Cc: Fabrizio, Steven B; Pozza, Duane
Subject: RE: Hotfile - Data Supplementation and Continued Deficiencies in Source Code Production

Rod, Tony, or Andy:

No one has responded to my email. Do Defendants have any intention of remedying this deficiency – which we brought to your attention on Thursday morning and for which Tony promised us the production of an additional data set? We have now lost the ability to run data analysis the entire weekend – for data we were supposed to have on Wednesday per our agreement. We reserve our rights to seek scheduling relief from the Court.

Regards,
Luke

From: Platzer, Luke C
Sent: Saturday, February 04, 2012 6:17 PM
To: 'RThompson@fbm.com'; 'TSchoenberg@fbm.com'; 'ALeibnitz@fbm.com'
Cc: Fabrizio, Steven B; Pozza, Duane
Subject: RE: Hotfile - Data Supplementation and Continued Deficiencies in Source Code Production

Rod or Tony:

I see that Defendants uploaded earlier this afternoon headers for the four dynamic tables, in addition to the updates to the six log-style tables produced last night.

However, there is data still missing – we still don't have the outstanding data fields for uploads5 (size, blocked, sha1, md5, or url). When we immediately brought this issue to Tony's attention on Thursday morning, he told us that Hotfile would be fixing this issue by including in its production a "file" table that would include the size, blocked, sha1, and md5 values for the uploads5 table, but no such data has been produced (and the url field continues to be missing from uploads5). Not to sound like a broken record, but we agreed to this mutual supplementation with the expectation that Hotfile would give us the data in usable form on Wednesday, then agreed to narrow our request in order to just get something usable by Friday – and now it's Saturday night and we still can't get started on our data analyses (which take a very large amount of computer processing time) because the supplementation remains incomplete. Please confirm that this data will be produced to us immediately.

Regards,
Luke

From: Platzer, Luke C
Sent: Saturday, February 04, 2012 12:15 PM
To: 'RThompson@fbm.com'; TSchoenberg@fbm.com; ALEibnitz@fbm.com
Cc: Fabrizio, Steven B; Pozza, Duane
Subject: RE: Hotfile - Data Supplementation and Continued Deficiencies in Source Code Production

Rod / Tony:

We have been regularly monitoring the FTP site today, and continue to await the vast bulk of Defendants' data sets. As Steve has expressed to you and to Tony on several occasions, the large size of these data sets mean that it takes significant time to load these data sets to a database and to query the data, and our inability to get this process started is prejudicing our ability to complete the analyses by the summary judgment deadline (and while Tony will probably again dismiss as "implausible" the notion that we work on weekends, we really are standing by waiting to get this data loaded). Please confirm that the data is being produced promptly today.

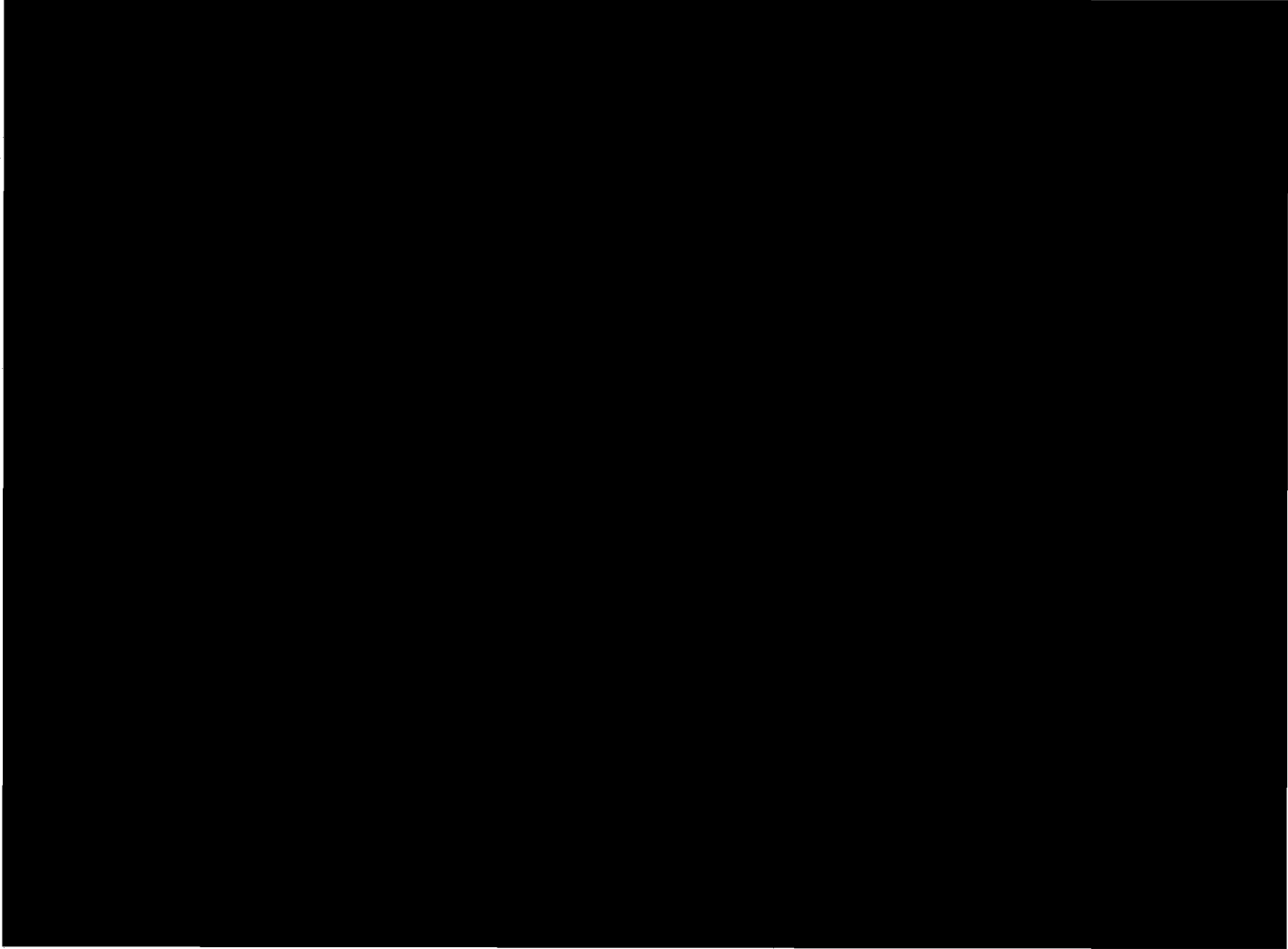
Regards,
Luke

From: RThompson@fbm.com [<mailto:RThompson@fbm.com>]
Sent: Friday, February 03, 2012 9:25 PM
To: Platzer, Luke C; TSchoenberg@fbm.com; ALEibnitz@fbm.com
Cc: Fabrizio, Steven B; Pozza, Duane
Subject: RE: Hotfile - Data Supplementation and Continued Deficiencies in Source Code Production

Luke and Steve:

As to data supplementation, I understand that the first submission has been uploaded to the JB FTP site (same one as before). Please note the production is Highly Confidential under the protective order.

To accommodate Steve's requests 1) we are producing on a rolling basis and will try to have the remainder produced (via the same FTP) tomorrow and will get it to you in any event as soon as we can; and 2) we sent a compressed file 02-03-12 Jan 26 submission 2 PART 1.zip. It contains the following.



Note that when we made the last submission earlier this week, we also attempted as a courtesy to compress the files. But when in process, the program hung and did not respond. It basically failed and as a result delayed transmission. We assumed speed was more important to you and that you wanted data as soon as possible. So we uploaded the data as it was without compressing. Tomorrow, we will use our best judgment as to whether compression would be helpful or threaten to slow things down.

As to your source code questions, my understanding is that you now have the responsive source code in compliance with the Court's order. The portions of the code that you are asking about were either not included because they are not responsive or, in the case of programmer comments and earlier version histories, do not exist. You may wish to review your questions with your expert; in the meantime we will confirm our understanding with Hotfile. Enjoy your weekends.

Rod

From: Platzer, Luke C [<mailto:LPlatzer@jenner.com>]
Sent: Friday, February 03, 2012 3:03 PM
To: Schoenberg, Tony (28) x4963; Thompson, Rod (27) x4445; Leibnitz, Andrew (21) x4932
Cc: Fabrizio, Steven B; Pozza, Duane
Subject: Hotfile - Data Supplementation and Continued Deficiencies in Source Code Production

Tony (of, if as I understand it, Tony is out of the office, Rod or Andy):

Data Supplementation: With Steve and Duane out of the office this weekend, I will be receiving Defendants' data supplementation. Tony's email from last night stated that Hotfile would be supplementing its data production today (although he was not able to guarantee the completion of the supplementation). Please confirm that this production will be:

- (1) compressed/archived as per Steve's email earlier today, and
- (2) produced via FTP. Also, please let us know which FTP will be used to deliver the production.

Source Code: Last night's belated source code production continues to be missing several important files that the court ordered to produce. To repeat, this is what the court's order requires to be produced:

[A]ny and all portions of Hotfile's source code files (including in-file programmer comments), source code revision history, or source code management system check-in comments that refer to, relate to, or are used for Hotfile's processes for disabling files or URL links in response to takedown notices, or its processes for using "hash" information to prevent or block specific subsequently uploaded files from being available for download.

Hotfile's production of last night continues to be noncompliant in that it fails to include "source code revision history," or "source code management system check-in comments" for most of the snippets of source code produced. Hotfile has provided information reflecting some changes to two of the produced files, but (1) has produced no change history prior to May 24, 2011 and (2) has produced no change history for any of the other code segments provided. In addition to raising a question about Hotfile's compliance with its preservation obligations (where is the change history from the institution of the litigation hold through May 24th?), the court ordered Hotfile to produce "any and all" revision history and check-in comments for source code related to the ordered topics, not just the two files for which Hotfile chose to produce it. Please confirm that Hotfile will comply with the court's order and promptly produce all versions of the code segments produced.

In addition, the code related to the blocking of files upon upload – which relates directly to the Court's order – is inexplicably redacted, with 55% of the code simply removed. Given the centrality of this code to the question that prompted Plaintiffs to bring this motion in the first place, this unexplained redaction is unacceptable. Please confirm that Hotfile will produce the code in unredacted form.

Regards,
Luke

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