

Exhibit 3

From: Rothman, Ari N.
Sent: Monday, September 15, 2008 11:53 PM
To: 'Onorato, Tony'
Cc: Barba, Thomas; Levitan, Lynn; Fales, Lisa J.
Subject: RE: Hydra 30(b)(6) witnesses

Tony:

As I indicated last week during breaks at depositions, Hydra is unclear as to some of the 30(b)(6) topics and is objecting to others. Accordingly, I suggested that we confer about this to ensure the depositions proceed efficiently. Although we have not yet conferred, Hydra makes the following designations based solely on Hydra's understanding of the topics:

Collier: 14, 16 (as to suppression lists only – see Gordon below), 19, 21, 23 (as to opt-outs only – see Gordon below), 44, 48, 49, 50, 51, 52, 53 (as to opt-out only), 54, 55, 56

Gordon: 3, 15 (but see Whitridge below), 16, 22, 23, 43, 45, 46, 53 (as to complaints)

Steele: 13, 14, 51

Whitridge: 2, 5, 7, 8, 11, 12, 15 (as to the application process for affiliates only), 17, 20, 29, 34

Hydra needs clarification on the following topics:

6
9
10
18
32
47

Hydra is objecting to the following topics:

1
4
24-27
31
33
35-42

There is no witness for Topic No. 30 because Hydra has not identified any emails that BSI produced that Hydra transmitted.

I will let you know who will cover Topic No. 28 tomorrow.

We are planning on producing Whitridge on Wednesday morning, Gordon on Wednesday afternoon, Collier on Thursday morning, and Steele on Thursday afternoon.

Please advise if you would like to discuss any of these issues on Tuesday. If we do not confer then Hydra will not produce witnesses for those categories for which it is seeking clarification. Thanks.

From: Onorato, Tony [mailto:tonorato@steptoe.com]
Sent: Monday, September 15, 2008 3:41 PM
To: Rothman, Ari N.
Cc: Barba, Thomas; Levitan, Lynn
Subject: Hydra 30(b)(6) witnesses

Ari:

To confirm, I understand that the four witnesses you are producing are: Jared Gordon (compliance and monitoring), Scott Steele (internal mail ops), Abby Whitridge (affiliate relations), and Barry Collier (CTO/email analysis/doc retention).

Please let me know which witnesses are slated for which day (Wednesday / Thursday) and whether there will be a particular order (morning/afternoon). Also, please let me know what topics each witness will be addressing. Once I have that information, I can better assess approximately how long each witness might take.

Thanks.

Tony

Tony Onorato
Steptoe & Johnson LLP
750 Seventh Avenue, Suite 1800
New York, NY 10019
212-506-3933 (Direct)
212-506-3965 (Direct Fax)
tonorato@steptoe.com

A law firm is sending this message; it is intended for the exclusive use of the individual or entity that is the named addressee and may contain information that is privileged, confidential, or otherwise legally exempt from disclosure. If you are not the named addressee, or an employee or agent responsible for delivering this message to the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify me immediately by e-mail at tonorato@steptoe.com, discard any paper copies and delete all electronic files of the message. Thank you.