

## **Exhibit 3**

## **Mahony, Ieuan (BOS - X75835)**

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**From:** Mahony, Ieuan (BOS - X75835)  
**Sent:** Friday, August 08, 2008 8:31 PM  
**To:** 'jaren@mit.edu'  
**Cc:** 'marcia@eff.org'; William Mitchell; 'Scott Darling'; Mahony, Ieuan (BOS - X75835)  
**Subject:** RE: Pleadings

Jay and Marcia:

Judge Woodlock was interested in (i) knowing whether parties planned to attend the hearing tomorrow, and (ii) receiving assurance that counsel in fact received notice concerning this hearing. I have left you each voice-mail and a number of email in this regard.

I will try you again this evening, and tomorrow morning before the hearing, but I would appreciate a confirmation (a) that you have received my communications; and (b) as to whether you plan to attend the hearing. Marcia, we would have no objection to your attending and being heard telephonically, in light of your presence at the DEFCON Conference.

Let me know  
Thanks  
Ieuan

## **Holland & Knight**

**Ieuan G. Mahony**  
Partner  
Holland & Knight LLP

10 St. James Ave.  
Boston, MA 02116-3889

Main 617-523-2700  
Direct 617-573-5835  
Fax 617-523-6350  
Email [ieuan.mahony@hklaw.com](mailto:ieuan.mahony@hklaw.com)

[www.hklaw.com](http://www.hklaw.com)

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**From:** Mahony, Ieuan (BOS - X75835)  
**Sent:** Friday, August 08, 2008 8:13 PM  
**To:** 'marcia@eff.org'  
**Cc:** 'jaren@mit.edu'; William Mitchell; 'Scott Darling'; Mahony, Ieuan (BOS - X75835)  
**Subject:** FW: Pleadings

Marcia:

Per my recent voice-mail to you, I understand from your communications with Bill Mitchell, and from Mr. Anderson's voice-mail to Scott Henderson, that you are representing the defendants Zack Anderson, RJ Ryan, and Alessandro Chiesa. This matter presents the following issues from our end:

### **(1) Pleadings Filed**

I have attached the pleadings filed today. An email will follow with the exhibits, and the Order that issued in the case.

**(2) Hearing Tomorrow**

The Order sets a further hearing for tomorrow at 11:00 on the Seventh floor, Courtroom 20, at the John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Boston 02210.

**(3) DEFCON Presentation Materials.**

As you may know, the MBTA has requested that your clients present a complete set of materials they intend to present at the DEFCON Conference. Late today, the MBTA received a 4 page (excluding the cover sheet) document entitled "Prepared for the Massachusetts Bay Transit Authority: Fare Collection Vulnerability Assessment Report" dated August 8, 2008. We have reviewed this document and it does not appear to comprise all (or perhaps any) DEFCON presentation materials.

In a voice-mail to Scott Henderson this evening, Mr. Anderson suggested that he had distributed a CD of materials at the DEFCON Conference for this presentation. Mr. Anderson stated, however, that he was unable to send these materials due to poor internet. Mr. Anderson later called and left a message for Mr. Henderson informing him that, on the advice of counsel, Mr. Anderson was not providing further information to the MBTA on the presentation.

I urge you strongly to advise your clients to provide us with all presentation materials and all other materials they may wish to circulate concerning the MBTA's Fare Media Systems. I see no basis for withholding this information.

**(4) Negotiated Order**

The papers I have attached include a proposed Order. The Judge discussed revisions to this Order with us this afternoon. If you believe that the Order, with revisions, may provide a basis for discussing a negotiated resolution, by way of a form of consent judgment, please let me know. I left with your voice-mail my cell and work numbers. I have included them below as well.

I will call again later this evening to answer any questions you may have. I will also again urge you to immediately provide all presentation materials.

Thank you

Ieuan Mahony

**Holland & Knight**

**Ieuan G. Mahony**

Partner  
Holland & Knight LLP

10 St. James Ave  
Boston, MA 02116-3889

Main 617-523-2700  
Direct 617-573-5835  
Cell 781-789-4230  
Fax 617-523-6850  
Email: [ieuan.mahony@hklaw.com](mailto:ieuan.mahony@hklaw.com)

[www.hklaw.com](http://www.hklaw.com)

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