

Exhibit 5

Mahony, leuan (BOS - X75835)

From: Mahony, leuan (BOS - X75835)
Sent: Friday, August 08, 2008 9:55 PM
To: 'marcia@eff.org'; 'kurt@eff.org'
Cc: 'jaren@mit.edu'; William Mitchell; 'Scott Darling'; Mahony, leuan (BOS - X75835)
Subject: MBTA, MIT Students, and MIT - Revised Proposed Order

Attachments: Redline.doc; #5530720v3_Active_ - MBTA - MIT Students - Propose.DOC



Redline.doc (69 #5530720v3_Active_ - MBTA - MI.
KB)

Kurt and Marcia:

As we discussed, I have attached a proposed Order, that I've revised based on comments made by Judge Woodlock during the hearing today. I've included a clean version of this revised Order, and a redline showing the changes from the original proposed Order.

As we discussed, it may be that the parties have interests that are similar: both seeking to act within the CFAA, and resolve possible security issues. I think this proposed Order, particularly as revised, reflects these interests; I recognize, however, that certain elements of the Complaint may be incorrect from your perspective, or arise from misunderstandings. If the proposed Order sufficiently captures the parties' joint interests, but the specific language is off, we should work together to correct the language. Or if the tone or substance of the Complaint needs re-balancing through a joint solution, we should work on that as well. I understand, though, that our discussion was in the nature of "brainstorming," and that none of us is committing to a solution at this point.

Finally, I agreed to inform Judge Woodlock and his clerk of your wish to attend the hearing telephonically, and to state my recommendation that you be permitted to attend in that manner.

Let me know your thoughts. I'll be offline for 1.5 hours or so, then available until 12:30 or so. I'll be available tomorrow morning from 6:30 eastern until 10:30 for the hearing.

Thanks
leuan

Holland - Knight

leuan G. Mahony

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