

EXHIBIT 9

From: Holly E. Engelmann
Sent: Wednesday, October 12, 2011 11:19 AM
To: yeej@gtlaw.com
Cc: dougmcswane@potterminton.com; joynerj@gtlaw.com; Eolas
Subject: RE: Tuesday Call -- Please advise
Jeffrey,

Thanks for your email.

With regard to deposition scheduling, can you please provide actual dates for the depositions, names of the deponents, and topics for which the deponents will be designated (if 30(b)(6) witness) by October 19th? That gives Frito-Lay another week to confirm dates and deponents and will hopefully leave Eolas with enough time to prepare for the depositions. Please also confirm that documents will be collected and produced for each of the deponents within a reasonable amount of time prior to each deposition.

Eolas will make Mr. Stetson available on November 8 in Austin in response to Frito-Lay's 30(b)(1) and 30(b)(6) notice.

As to your discussion about happiness.lays.com, I will leave that issue to my colleagues to address.

Thanks for your cooperation in getting this discovery scheduled,
Holly

From: yeej@gtlaw.com [mailto:yeej@gtlaw.com]
Sent: Tuesday, October 11, 2011 7:49 PM
To: Holly E. Engelmann; Tom Fasone III
Cc: dougmcswane@potterminton.com; joynerj@gtlaw.com; Don Gaiser
Subject: RE: Tuesday Call -- Please advise

Hi Holly,

Per our telephone conversation earlier, we are forgoing the call today and exchange responses to the issues we discussed last week.

As mentioned in my email of Sep. 27 and our telephone conversation of Oct. 6, happiness.lays.com was not identified in Eolas's infringement contentions served on March 5, 2010, and it was identified for the first time in your email of Sep. 23, 2011, more than 18 months later. Frito-Lay is severely prejudiced by Eolas's untimely disclosure. Even if Eolas had asserted a claim against the happiness.lays.com website, which it did not, Eolas failed to identify the feature, if any, of the website that allegedly infringes Eolas's patents. We believe raising at this late date a new accused product that has been public for years fails to meet the good cause standard and of equal importance severely prejudices Frito-Lay. To start from the beginning and have to produce documents, conduct an investigation into the new accused product, identify witnesses, and develop our defenses at a time when the concentration is on the defense of the only accused product identified, i.e. www.fritolay.com, prejudices our ability to prepare for trial on the accused product. It is no small matter to devote the manpower that would be needed to do the discovery on the new accused product and develop a defense when that same manpower is being devoted to preparing for trial on the identified accused product. Therefore, unfortunately, we cannot agree to include this new accused product in the case at this late date. We would oppose any Motion for Leave to Amend Eolas's infringement contentions to add this new accused product.

Regarding depositions, we have tentatively confirmed that Frito-Lay's witnesses should be available for depositions during the first week of November, as early as November 3, 2011. In addition, we may possibly identify one more witness to testify on some of the 30(b)(6) topics, whose availability would be confirmed for a date following November 3. Most likely, Frito-Lay, based on our investigation, can provide the testimony Eolas seeks with no more than 4 witnesses. We plan to amend Frito-Lay's disclosures once we have the witnesses confirmed. In addition, we plan to schedule the 30(b)(6) and 30(b)(1) depositions of Eolas within the same week of Frito-Lay's depositions. Please let us know Eolas's availability for depositions during the first week of November.

We are available for an informal conference call later this week if one is still necessary.

Regards,
Jeffrey Yee

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

From: Holly E. Engelmann [<mailto:hengelmann@McKoolSmith.com>]

Sent: Tuesday, October 11, 2011 12:08 PM

To: Tom Fasone III; Yee, Jeffrey (Assoc-LA-IP-Tech)

Cc: dougmcswane@potterminton.com; Joyner, Jeff K. (Shld-LA-IP-Tech); Don Gaiser

Subject: RE: Tuesday Call -- Please advise

Tom,

I spoke with Jeffrey Y on the phone and he is checking to see if they can send us an email confirming all the deliverables that were discussed on the last call. If Frito-Lay can send us an email with answers to all our questions and if we can get answers to Frito-Lay about deposition dates, we discussed foregoing the call altogether. If, however, this is not possible, we should definitely schedule a call for tomorrow.

Holly

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

From: Tom Fasone III

Sent: Tuesday, October 11, 2011 2:06 PM

To: yeej@gtlaw.com

Cc: Holly E. Engelmann; dougmcswane@potterminton.com; joynerj@gtlaw.com; Don Gaiser

Subject: RE: Tuesday Call -- Please advise

Jeffrey

Pursuant to my email of last week (October 6), I am unavailable to participate in a teleconference after 4:00 p.m. CT today. But I can be available anytime tomorrow, Wednesday, October 12. I hope we can set something up tomorrow. Please let us know.

Regards,

Tom

From: Tom Fasone III

Sent: Thursday, October 06, 2011 4:48 PM

To: yeej@gtlaw.com

Cc: Holly E. Engelmann; dougmcswane@potterminton.com; joynerj@gtlaw.com

Subject: RE: Tuesday Call -- Please advise

Thank you, Jeffrey.

From: yeej@gtlaw.com [yeej@gtlaw.com]
Sent: Thursday, October 06, 2011 4:35 PM
To: Tom Fasone III
Cc: Holly E. Engelmann; dougmcswane@potterminton.com; joynerj@gtlaw.com
Subject: RE: Tuesday Call -- Please advise

3 pm CT (1 pm PST) is fine with us.

Jeffrey Yee
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From: Tom Fasone III [<mailto:tfasone@McKoolSmith.com>]
Sent: Thursday, October 06, 2011 2:26 PM
To: Yee, Jeffrey (Assoc-LA-IP-Tech)
Cc: Holly E. Engelmann
Subject: Tuesday Call -- Please advise

Jeffrey

I just realized I need to conclude the call by 4:00 p.m. CT on Tuesday.
Can we start at 3:00 p.m. CT?

Tom

-----Original Message-----
<http://www.gtlaw.com/>

