

Kastens, Kris

From: Glucoft, Josh <JGlucoft@irell.com>
Sent: Sunday, March 17, 2019 10:59 PM
To: Kastens, Kris
Cc: Andre, Paul; Caire, Yuridia; Hannah, James; Hedvat, Shannon H.; Kobialka, Lisa; Lee, Hannah; Lee, Michael H.; Manes, Austin; Martinez, Cristina; Nguyen, Stephanie; Xu, Linda; Carson, Rebecca; Heinrich, Alan; Holland, Eileen; Isaac, Shawana; Kagan, Jonathan; Manzano, Jim; Petersen, Ingrid; Quarnstrom, Brian; Theilacker, Leah; Wang, Kevin; #Juniper/Finjan [Int]
Subject: RE: [EXTERNAL] RE: Meet and confer / Mitzenmacher Deposition

Kris,

Regarding Dr. Mitzenmacher, we currently believe we can take his deposition on March 28, and we will confirm on Tuesday.

As for the source code review, thank you for providing the explanation as to why you believe you must review the source code computer. We are looking into your request to review the source code on March 28 and 29 and will get back to you shortly. Additionally, Dr. Rubin attached as an exhibit some representative code for specific functions; we will produce the other code for functions that Dr. Rubin specifically cited but did not attach due to page limits.

Thanks,
Josh

From: Kastens, Kris <KKastens@KRAMERLEVIN.com>
Sent: Sunday, March 17, 2019 3:13 AM
To: Glucoft, Josh <JGlucoft@irell.com>
Cc: ~Andre, Paul <pandre@kramerlevin.com>; ~Caire, Yuridia <ycaire@kramerlevin.com>; ~Hannah, James <jhannah@kramerlevin.com>; ~Hedvat, Shannon <shedvat@kramerlevin.com>; ~Kobialka, Lisa <lkobialka@kramerlevin.com>; ~Lee, Hannah <hlee@kramerlevin.com>; ~Lee, Michael <mhlee@kramerlevin.com>; ~Manes, Austin <amanes@kramerlevin.com>; ~Martinez, Cristina <cmartinez@kramerlevin.com>; ~Nguyen, Stephanie <SNguyen@KRAMERLEVIN.com>; ~Xu, Linjun <lxu@kramerlevin.com>; Carson, Rebecca <RCarson@irell.com>; Heinrich, Alan <AHeinrich@irell.com>; Holland, Eileen <EHolland@irell.com>; Isaac, Shawana <SIsaac@irell.com>; Kagan, Jonathan <JKagan@irell.com>; Manzano, Jim <JManzano@irell.com>; Petersen, Ingrid <ipetersen@irell.com>; Quarnstrom, Brian <BQuarnstrom@irell.com>; Theilacker, Leah <LTheilacker@irell.com>; Wang, Kevin <kwang@irell.com>
Subject: RE: [EXTERNAL] RE: Meet and confer / Mitzenmacher Deposition

Josh,

Finjan is entitled to investigate Juniper's allegations raised for the first time in its opposition before filing its reply brief. This includes source code that was cited, but not attached as an exhibit, and is only available on the source code review computer. We understand your email to be Juniper refusing to make the source code available on March 20th or the 21st. As I've requested repeatedly, explain, in writing, what this staffing issue is and why Juniper represents that it cannot host a source code review on either March 20th or 21st. Otherwise, Finjan will be required to bring this to the Court.

Kris

Kris Kastens

Partner

Kramer Levin Naftalis & Frankel LLP
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From: Glucoft, Josh <JGlucoft@irell.com>
Sent: Friday, March 15, 2019 11:31 PM
To: Kastens, Kris <KKastens@KRAMERLEVIN.com>
Cc: Andre, Paul <PAndre@KRAMERLEVIN.com>; Caire, Yuridia <YCaire@KRAMERLEVIN.com>; Hannah, James <JHannah@KRAMERLEVIN.com>; Hedvat, Shannon H. <SHedvat@KRAMERLEVIN.com>; Kobialka, Lisa <LKobialka@KRAMERLEVIN.com>; Lee, Hannah <HLee@KRAMERLEVIN.com>; Lee, Michael H. <MHLee@KRAMERLEVIN.com>; Manes, Austin <AManes@KRAMERLEVIN.com>; Martinez, Cristina <CMartinez@KRAMERLEVIN.com>; Nguyen, Stephanie <SNguyen@KRAMERLEVIN.com>; Xu, Linda <LXu@KRAMERLEVIN.com>; Carson, Rebecca <RCarson@irell.com>; Heinrich, Alan <AHeinrich@irell.com>; Holland, Eileen <EHolland@irell.com>; Isaac, Shawana <SIsaac@irell.com>; Kagan, Jonathan <JKagan@irell.com>; Manzano, Jim <JManzano@irell.com>; Petersen, Ingrid <ipetersen@irell.com>; Quarnstrom, Brian <BQuarnstrom@irell.com>; Theilacker, Leah <LTheilacker@irell.com>; Wang, Kevin <kwang@irell.com>; #Juniper/Finjan [Int] <Juniper-Finjan@irell.com>
Subject: RE: [EXTERNAL] RE: Meet and confer / Mitzenmacher Deposition

Kris,

I received your voicemail. If Dr. Mitzenmacher will be in the Los Angeles area on March 21st, perhaps we could begin his deposition the afternoon of March 20 and complete it the morning of March 21, if necessary. Please let me know if that would work with his travel plans.

I will also look into whether we could host a source code review on the 21st, but I am concerned about our staffing issues. Could you please provide me with some alternate dates in early April? We have always been able to work together to find mutually agreeable dates for source code review, and I am optimistic we can continue to do so—as long as we work cooperatively and do not try to threaten each other. Also, I understand that there is no imminent need for you to review the source code because the Court vacated the fact discovery cutoff date. If you disagree, please let me know.

I am certain we can resolve these scheduling issue if we continue to work together cooperatively.

Thanks,
Josh

From: Kastens, Kris <KKastens@KRAMERLEVIN.com>
Sent: Friday, March 15, 2019 5:20 PM
To: Glucoft, Josh <JGlucoft@irell.com>
Cc: ~Andre, Paul <pandre@kramerlevin.com>; ~Caire, Yuridia <vcaire@kramerlevin.com>; ~Hannah, James

<jhannah@kramerlevin.com>; ~Hedvat, Shannon <shedvat@kramerlevin.com>; ~Kobialka, Lisa <lkobialka@kramerlevin.com>; ~Lee, Hannah <hlee@kramerlevin.com>; ~Lee, Michael <mhlee@kramerlevin.com>; ~Manes, Austin <amanes@kramerlevin.com>; ~Martinez, Cristina <cmartinez@kramerlevin.com>; ~Nguyen, Stephanie <SNguyen@KRAMERLEVIN.com>; ~Xu, Linjun <lxu@kramerlevin.com>; Carson, Rebecca <RCarson@irell.com>; Heinrich, Alan <AHeinrich@irell.com>; Holland, Eileen <EHolland@irell.com>; Isaac, Shawana <SIsaac@irell.com>; Kagan, Jonathan <JKagan@irell.com>; Manzano, Jim <JManzano@irell.com>; Petersen, Ingrid <ipetersen@irell.com>; Quarnstrom, Brian <BQuarnstrom@irell.com>; Theilacker, Leah <LTheilacker@irell.com>; Wang, Kevin <kwang@irell.com>

Subject: Re: [EXTERNAL] RE: Meet and confer / Mitzenmacher Deposition

Josh,

I just left you a voicemail. Let me know when you can talk tonight.

Kris

Sent from my iPhone

Kris Kastens

Partner

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On Mar 15, 2019, at 5:04 PM, Kastens, Kris <KKastens@kramerlevin.com> wrote:

Josh,

We could also make the 21st work for the source code review, but this is extremely inconvenient. Confirm immediately which date you want the 20th or the 21st. We will ask the court to intervene if you do not accept either.

Kris

Kris Kastens

Partner

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On Mar 15, 2019, at 4:57 PM, Kastens, Kris <KKastens@kramerlevin.com> wrote:

Josh,

We will look for dates if you confirm in writing that no one is available to host the source code review at your office, which we find hard to believe. As we've said, Dr. Mitzenmacher has very little time during this period and you, for some reason, haven't been willing to confirm there is a basis for your refusal to make the code available as requested. He may be required to cancel classes to review now. We've also provided you with three potential dates for his deposition and you have yet to confirm any of them. As I said earlier, the deposition will take place on the 28th. If you confirm that none of the attorneys on your team are available on this date, we will look into alternatives.

Also, provide dates for every non-lawyer that submitted a declaration in support of your opposition to the 154.

- Kris

Kris Kastens

Partner

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On Mar 15, 2019, at 4:18 PM, Glucoft, Josh <JGlucoft@irell.com> wrote:

Kris,

It appears unlikely that March 20 will work for us to host the source code review, so please provide other dates. Because the Court vacated the fact discovery cutoff date, we should have no trouble finding mutually agreeable dates, even accommodating travel schedules.

We will get back to you shortly on dates for Dr. Mitzenmacher. Are there any other possible dates for him before April 4?

Thanks,
Josh

From: Kastens, Kris <KKastens@KRAMERLEVIN.com>
Sent: Friday, March 15, 2019 12:24 PM
To: Glucoft, Josh <JGlucoft@irell.com>
Cc: ~Andre, Paul <pandre@kramerlevin.com>; ~Caire, Yuridia <ycaire@kramerlevin.com>; ~Hannah, James <jhannah@kramerlevin.com>; ~Hedvat, Shannon <shedvat@kramerlevin.com>; ~Kobialka, Lisa <lkobialka@kramerlevin.com>; ~Lee, Hannah <hlee@kramerlevin.com>; ~Lee, Michael <mhlee@kramerlevin.com>; ~Manes, Austin <amanes@kramerlevin.com>; ~Martinez, Cristina

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Manzano, Jim <JManzano@irell.com>; Petersen, Ingrid
<jpetersen@irell.com>; Quarnstrom, Brian <BQuarnstrom@irell.com>;
Theilacker, Leah <LTheilacker@irell.com>; Wang, Kevin
<kwang@irell.com>

Subject: Re: [EXTERNAL] RE: Meet and confer / Mitzenmacher
Deposition

Josh,

We need an answer on Dr Mitzenmacher's deposition today because he needs to cancel other arrangements. If we don't hear back from you by 5pm, then only the 28th will be kept open. Also, we will be at your office on the 20th for the source code review.

Kris

Sent from my iPhone

Kris Kastens

Partner

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On Mar 14, 2019, at 7:01 PM, Glucoft, Josh <JGlucoft@irell.com> wrote:

Kris,

This is a simple scheduling issue and we are trying to work with you, so please give us alternate dates for Dr. Mitzenmacher's deposition and your proposed source code review.

Thanks,

Josh

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