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**From:** Giunta, Rich  
**Sent:** Friday, October 30, 2015 9:37 AM  
**To:** Steve Sereboff; Kala Sarvaiya  
**Cc:** Hunt, Elisabeth; Rush, MacAulay  
**Subject:** RE: RPX v AIT additional discovery [A213.L15F15]

Steve,

Disappointingly, we need to correct you on the facts. RPX reached out to you a full week before production was due, not on the eve of the deadline. Your tactic of taking two full business days to respond and then claiming that further dialog is therefore now “futile” is transparent.

As when you accused us of misrepresenting to the Board that AIT had consented to email service when your own papers revealed the fallacy of your assertion, you apparently did not review the record before erroneously asserting that RPX did not raise objections to Request No. 4 in its opposition. “Req4 likewise is overbroad. Communications relating to the IPRs, excluding privileged communications, are covered by other requests and nothing else is “useful.””

Our e-mail was clear that RPX does not believe that the Board’s order contemplated meetings or communications between employees of Salesforce in its capacity as a software vendor and employees of RPX in its capacity as a Salesforce customer and user of that software. Quite the contrary. AIT explicitly represented to the Board (motion at 2) that “RPX does not make, *use* or sell any commercial product relevant to AIT’s patents.” The Board could not possibly have contemplated that it was ordering RPX to produce discovery relating to RPX’s use of Salesforce’s software given that you explicitly represented to the Board that RPX does not “use” any product relevant to the patents AIT accuses Salesforce’s platform of infringing. That representation raises serious duty of candor questions. AIT’s discovery motion cited materials downloaded from the web about RPX and Salesforce. AIT’s web research could not have missed the web page describing RPX’s use of the Salesforce software as it is among the top hits returned by any search engine. (<https://www.smartsheet.com/blog/brent-frei/project-management-salesforce-rpx-customer-spotlight>). Your representation to the Board that RPX does not use any “commercial product relevant to AIT’s patents” was either knowingly false or made without any investigation whatsoever to determine its accuracy.

The Board could not have contemplated ordering RPX to produce discovery relating to hundreds of communications between Salesforce’s product people and RPX’s IT department about issues such as bug fixes, software updates, new user licenses or renewals, software support questions, etc. Given your (mis)representation that RPX does not use Salesforce’s software, the Board could not have believed that any such communications would even exist. In addition, such communications have no bearing whatsoever on the RPI issue and couldn’t be less relevant. The Board does not order parties to go to significant expense and burden to produce voluminous discovery on irrelevant issues.

Contrary to your (once again) ill-informed speculation, RPX has been diligently compiling its production. While RPX continues to believe that no discovery should have been granted, given the interest the Board expressed in better understanding the relationship between RPX and Salesforce and RPX’s reasons for filing the IPR petitions, RPX believes that the better the Board understands these issues the clearer it will be to them that RPX is the sole RPI. As you will see, RPX has nothing to hide and looks forward to the Board reviewing the evidence, recognizing that RPX is the sole RPI, and turning its attention to the merits of RPX’s validity challenges.

RPX v AIT, 1005

Request No. 4 does not seek the substance of any meetings or communications, but seeks only documents sufficient to show information about meetings or communications (i.e., “names, dates, locations and times”). Although RPX believes that communications between RPX’s IT department and Salesforce about Salesforce’s software are not contemplated by the request, RPX will produce documents sufficient to show such communications or meetings by providing detailed information about a representative sample during the time period contemplated in the request. This will show AIT the volume and frequency of such communications and will be representative for the time frame requested. That is more than AIT needs on these communications and meetings that are irrelevant to RPI and not contemplated by the Board. For all other categories of communications, including communications or meetings the Board contemplated relating to Salesforce’s membership in RPX and the services RPX performs for Salesforce, RPX will respond in detail about every meeting and communication.

Rich

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**From:** Steve Sereboff [mailto:SSereboff@socalip.com]  
**Sent:** Wednesday, October 28, 2015 8:48 PM  
**To:** Giunta, Rich; Kala Sarvaiya  
**Cc:** Hunt, Elisabeth; Rush, MacAulay  
**Subject:** RE: RPX v AIT additional discovery [A213.L15F15]

Rich,

We are almost on the eve of the deadline for RPX’s production. You seem to have some concern with burdens and relevance of Request No. 4. AIT filed its motion, including this exact Request No. 4, more than three weeks ago. RPX has had the PTAB’s order and AIT’s request for production for more than one week. Notably, in RPX’s opposition to AIT’s motion for additional discovery filed two weeks ago, RPX complained that some *other* requests were burdensome or irrelevant. Nothing about Request No. 4. RPX has clearly been dilatory, or has not taken this seriously. RPX needs to explain why it could not have raised these issues earlier.

Despite having had three weeks to consider the request for production, RPX has not explained why complying with the full scope of Request No. 4 is burdensome or encompassing irrelevant documents. Salesforce and RPX have a deep and close relationship which AIT expects will be shown through RPX’s production of *all* requested documents. Thus, we see no reason for RPX to withhold anything as you suggest.

As with the delay in raising the issue, RPX has also failed to propose how Request No. 4 might be modified. Thus, AIT cannot even understand what you would do.

I am glad you felt comfortable emailing me about this issue. You and I can continue the dialog, though with RPX’s deadline for production so close it seems futile. I am sure AIT would prefer that my firm spend its time on the true burden here – drafting the patent owner’s preliminary responses.

I am always happy to discuss settlement. Perhaps you and I could discuss a settlement which provides adverse judgement in these cases against RPX, plus a private admission that Salesforce is the RPI.

/steve/

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**From:** Rich Giunta [mailto:Rich.Giunta@WolfGreenfield.com]  
**Sent:** Tuesday, October 27, 2015 7:49 AM  
**To:** Steve Sereboff; Kala Sarvaiya

**Cc:** Elisabeth H. Hunt; MacAulay Rush

**Subject:** FW: RPX v AIT additional discovery [A213.L15F15]

Steve and Kala,

Your Request No. 4 seeks documents sufficient to show the names, dates, locations and times of any meetings or communications between Salesforce and RPX after the Salesforce Litigation began.

There is a category of communication that we assume you do not believe to be relevant to the RPI issue and that the Board did not contemplate in granting the request. In particular, RPX is a customer of Salesforce and uses Salesforce software to run its business. We assume that you are not requesting documents that show every meeting or communication between Salesforce as a software vendor and RPX as a user of Salesforce software (e.g., communications between RPX's IT staff and Salesforce customer support or sales, communications between RPX purchasing personnel and Salesforce's billing personnel, etc.). It would be unnecessarily burdensome to RPX to identify every such communication that has no relevance to the RPI issue.

Please let us know if you agree that Request No. 4 does not seek documents showing meetings or communications between Salesforce as a software vendor and RPX as a user of Salesforce software.

Thanks,  
Rich

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**From:** Steve Sereboff [<mailto:SSereboff@socalip.com>]

**Sent:** Tuesday, October 20, 2015 3:27 PM

**To:** PTAB Rich Giunta; PTAB Elisabeth Hunt

**Cc:** Kala Sarvaiya; Anneliese Lomonaco

**Subject:** RPX v AIT additional discovery [A213.L15F15]

Rich and Elisabeth,

In accordance with the PTAB's order in Case IPR2015-01750, Case IPR2015-01751 and Case IPR2015-01752, Patent Owner's requests for production are attached. As a courtesy we have attached a Word version as well.

/Steven C. Sereboff/

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