

GameFly believes that the Postal Service's mass designation of its document production was reasonable and necessary in light of the volume of documents produced and the relatively limited period of time for doing so. Nevertheless, review of the documents indicates that little if any of the material attached to today's Response satisfies the standards for protection established by the Commission in Docket No. 225. GameFly does not believe that it is entitled to determine for itself whether the material should be made public, since that would prejudice the interests of the Postal Service, Netflix or Blockbuster. At the same time, the Commission's obvious desire to resolve expeditiously the discovery disputes that are the subject of today's Response does not allow sufficient time to resolve the proprietary status of the documents before filing the Response.

Under the circumstances, the most responsible course appears to entail filing the pleading and attachments under seal, and moving expeditiously to resolve their protected status thereafter. GameFly will file a motion under Rule 3007.31 within the next few days to unseal the portions of the Response and attachments that do not appear to merit continued protection, and will work with the Postal Service to make sure that interested third parties such as Netflix and Blockbuster receive notice of the motion so that they may respond as they deem necessary to protect their interests. In the interim, GameFly believes that the documents marked confidential by the Postal Service, and the portions of GameFly's Response that refer to those documents, should remain under seal.

CONCLUSION

For the reasons stated above, GameFly respectfully submits this Application under Rule 3007.22 to file the non-redacted version of its Response under seal.

Respectfully submitted,

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