

Answers to Request for Admissions USPS/GFL-1-3). For each answer, lines of questioning will seek to clarify the meaning of each answer, ascertain the factual basis of each answer, inquire about any facts related to the factual basis of each answer, test any assumptions on which each answer is based, and inquire further about the meaning and implications raised by each answer.

(2) Discovery responses related to GameFly's loss or destruction of responsive documents (Answers to Discovery Requests USPS/GFL-4, 38-39, 41, 43-46, 63-64, 66-68, 71, 85, 102-103). For each specific question, lines of questioning will extend to what documents are believed to or may have been created, why each was created, who was involved in creating or reviewing the document, likely authors and recipients, how each document was used, what copies of each would normally be made or kept, the content of each, and what efforts were undertaken to locate any copy. Questions will also seek to determine when any document hold was put into effect, pursuant to whose direction, using what written or spoken direction, what specific actions were taken by each potential custodian in response to any direction to retain documents, any follow up efforts made to monitor or confirm that the hold was implemented, the quantity of information subject to the hold, and whether any hold remains in effect. Moreover, given GameFly's admission of having engaged in spoliation of evidence, questions will seek to identify whether GameFly has ever successfully engaged in a litigation hold in any other matter, or whether spoliation is GameFly's usual response to its common law based obligation to preserve rather than destroy highly relevant and pertinent documents. In addition, questions will

address whether sanctions have previously been imposed, and if so what GameFly did as a consequence, so that a determination can be made of what sanctions may be appropriate in this matter such as fines or a directed finding that GameFly's spoliation obviates any need for the Commission to make any decision in this matter beyond a dismissal with prejudice.

(3) Discovery responses related to handling, entry, receipt, processing, and tracking of GameFly mail and DVDs, and GameFly's capacity to receive service on the same terms as Netflix (Answers to Discovery Requests USPS/GFL-8-11, 13-14, 23, 24 [NP], 25-28, 35, 38-46, 54-55, 57 [NP], 70 [NP], 71-75, 78-79, 80 [NP], 82, 84, 86, 87 [NP], 88, 99-101; Answers to Request for Admissions USPS/GFL-4-10). For each answer, lines of questioning will seek to clarify the meaning of each answer, ascertain the factual basis of each answer, inquire about any facts related to the factual basis of each answer, test any assumptions on which each answer is based, and inquire further about the meaning and implications raised by each answer.

(4) GameFly's interpretations of documents cited in its responses to discovery. For each interpretation, lines of questioning will seek to clarify the meaning of the interpretations supporting each answer, ascertain the factual basis of the interpretations supporting each answer, inquire about any facts related to the factual basis of the interpretations supporting each answer, test any assumptions on which the interpretations supporting each answer are based, and inquire further about the meaning and implications raised by each interpretation supporting each answer.

(5) All other topics raised in GameFly's responses to discovery.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:
Daniel J. Foucheaux, Jr.
Chief Counsel, Pricing and Product
Support

Kenneth N. Hollies
James M. Mecone

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-3083
(202) 268-6525, Fax -3084
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