

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPLAINT OF GAMEFLY, INC.)
) Docket No. C2009-1
)

**OBJECTIONS OF THE UNITED STATES POSTAL SERVICE TO
DISCOVERY REQUESTS OF GAMEFLY, INC.
(GFL/USPS-T1-3, 4, and 6)
(August 26, 2010)**

On August 16, 2010, GameFly, Inc. submitted twelve discovery requests, with subparts, to Postal Service witness Nicholas F. Barranca. Pursuant to 39 U.S.C. §§ 3001.26(c) and 3001.27(c), the Postal Service provides objections to discovery requests GFL/USPS-T1-3, 4, and 6, reproduced below.

GFL/USPS-T1-3. Please describe in any detail any oral information you received from the Postal Service in connection with your testimony in this case.

GFL/USPS-T1-4. Please produce your contract and any other instructions or other documents concerning the scope of your testimony in this case. If your instructions were entirely oral, please describe them.

GFL/USPS-T1-6. Before you were asked to become a witness in this case, did you discuss any of the following subjects with any employee or agent of the Postal Service? If so, please identify the individuals and state the date, location and substance of each discussion.

(a) GameFly.

(b) Netflix.

(c) Blockbuster.

(d) The processing of DVD mailers.

- (e) Rates or classifications for DVD mailers.
- (f) Causes of or remedies for DVD breakage.
- (g) Similarities or differences between GameFly and Netflix.

The Postal Service objects to the above discovery requests on the grounds of privilege and undue burden. The attorney-client privilege protects communications responsive to these discovery requests where Postal Service counsel discussed legal advice or strategy with the witness. All privileged communications were conveyed orally. With respect to burden, requesting that the witness recall every interaction related to a broad range of subjects is inherently unreasonable and unduly burdensome, particularly where, as here, the witness' testimony relates to overall Postal Service management objectives and methods. The witness will respond to the discovery requests to the extent that nonprivileged, responsive communications exist.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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