

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Complaint of GameFly, Inc.

Docket No. C2009-1

PRESIDING OFFICER'S RULING
CORRECTING TRANSCRIPT VOLUMES 5 AND 6

(Issued September 14, 2010)

The Postal Service filed two motions to propose corrections to the unsealed and sealed transcript volumes 5 and 6 of the July 28, 2010 hearing, which concerned the testimony of GameFly's institutional witnesses.¹ They were unopposed. The Postal Service Motions, as to transcript volumes 5 and 6, are granted.

The public corrections to the public transcript volume 5, as proposed by the Postal Service, are listed below.

<u>Page</u>	<u>Line</u>	<u>Correction</u>
676	9	Change "Foucheau" to "Foucheaux"
676	24	Delete "the"; delete "s" after "ruling"
679	20	Insert "we" after "guess" and before "should"
679	23-24	Change "asked particularly" to "stipulated"
681	5	Insert "we" after "beginning," and before "reserve"

¹ United States Postal Service Motion to Adopt Corrections to Transcript Volume V, August 4, 2010; United States Postal Service Motion to Adopt Corrections to Transcript Volume VI, August 5, 2010 (Postal Service Motions).

<u>Page</u>	<u>Line</u>	<u>Correction</u>
875	10 and 12	Change "responses" to "responsive"
883	4-5	Reflect that statement was made by the witness and not Commissioner Blair
883	6	Change "Levy" to "Mecone"
891	10	Change "and" to "in"
891	12	Change "competition in" to "composition of"
893	2	Change "under" to "until"
894	7-16	Reflect that statement was part of question and not part of witness answer
895	7	Change "alternatively" to "affirmatively"
895	11	Change "up to" to "October"
899	12	Remove "what"
900	11	Insert "admitted" after "already" and before "he'd"
901	25	Insert "complaint" after "pre-" and before "conversation"
903	20	Change "I'll" to "I'm not going to"
904	11	Change "manage" to "Mailing Standards"
905	14	Change "is" to "seeks"
908	4	Change "pays" to "is paid"
908	14-15	Delete "In"; change "it rates" to "relates to"
909	13	Change "the core" to "to quote"; insert "it" after "email" and before "states"
912	25	Change "allegation" to "obligation"
913	2	Change "allegation" to "obligation"
913	6	Change "GameFly's expected" to "it was GameFly's perspective"
917	11	Change "it was you then" to "would you have been"
918	3	Change "placed" to "deleted"
920	15	Change "decided" to "cited"
924	10	Insert "Was" before "The" and after "Q"
925	23	Change "produce the" to "put its"
928	3	Change "alleges that you" to "allegedly"
929	1	Insert "Postal" after "the" and before "service"
936	5	Change "plant" to "planet"
936	11	Change "In their response they said it's" to "And the response states that"

<u>Page</u>	<u>Line</u>	<u>Correction</u>
936	15	Change “they” to “it”
936	21	Change “arrival of” to “elaborate”
936	24	Insert “letter” after “of” and before “DVD”
953	15	Change “he” to “we”
956	5	Insert “as” after “extensive” and before “this”

The corrections for transcript 6, responsive to the Postal Service Motions, are set out below:

<u>Page</u>	<u>Line</u>	<u>Correction</u>
1169	23	Change “legal” to “initial”
1170	8	Change “get” to “give”
1170	23	Change “right” to “rate”
1172	19	Add “piece” after “mail”
1176	14	Change “the GameFly” to “GameFly’s cost”
1176	25	Add “8 cent” after “and” and before “loss”
1180	5	Add “turns” after “by” and before “analysis”
1180	17	Change “viewing” to “hearing”
1188	11	Change “Commissioner Acton” to “Mr. Levy”

GameFly, Inc. (GameFly) also filed two motions to propose corrections to the same unsealed and sealed transcript volumes 5 and 6, respectively.² They also were unopposed. The GameFly Motions, as to transcript volumes 5 and 6, are granted.

² Motion of GameFly, Inc. to Adopt Corrections to Transcript Volume Five; Motion of GameFly, Inc. to Adopt Corrections to Transcript Volume Six, August 17, 2010 (GameFly Motions).

The public corrections to the public transcript, volumes 5, proposed by GameFly, are listed below.

<u>Page</u>	<u>Line</u>	<u>Correction</u>
678	11	Insert the word "of" between "comparison" and "GameFly"
679	17	Change "we're" to "when"
679	18	Insert a comma (" , ") between "discovery" and "Mr."
684	3	Change "GFL-P-1" to "GFL-T-1"
883	6	Change "LEVY" to "MECONE"
885	24	Insert the words "number is the" between "What" and "interrogatory"
886	2	Change "confirm" to "Confirm"
886	12	Change "confirm" to "Confirm"
886	13	Change "confirm" to "Confirm"
888	25	Change "projection" to "postage"
893	21	Change "?" to "."
896	5	Change "refusing" to "receiving"
896	21	Change "Tenucci" to "Taonuchi"
899	6	Change "objection" to "object"
899	7	Change "reference" to "references"
899	8	Add quotation marks (" ") to the words "this" and "that"
899	8	Insert a dash ("-") between "that" and "that's"
899	8	Insert the word "in" between "that's" and "definite"
899	8	Change "antecedent" to "antecedents"
900	17	Add a comma (" , ") between "record" and "that"
902	12	Change "situation" to "situated"
902	16	Change "about" to "that"
902	18	Change "situation" to "situated"
902	19	Change "you" to "he"
902	25	Change "he" to "you"
903	4	Change "grit" to "grist"
907	4	Change "determine" to "determination"
909	3	Change "for nothing for" to "before"
912	3	Change "wasn't" to "was"
914	19	Change "you" to "he"
921	21	Change "Luck" to "Lake"

<u>Page</u>	<u>Line</u>	<u>Correction</u>
929	9	Change "claims" to "complaint"
929	11	Delete "as"
939	23	Change "confirmed" to "Confirm"
948	5	Insert opening quotation mark (") before "It's"
948	11	Insert closing quotation mark (") after "operation"
949	2	Change "and" to "but"
949	2	Change "asked" to "ask"
955	4	Change "intentionally" to "institutionally"

The corrections for transcript 6, responsive to GameFly Motions, are set out below:

<u>Page</u>	<u>Line</u>	<u>Correction</u>
1173	22	Insert the word "testing" between "utilize" and "from"
1178	24	Change "gap" to "snap"
1188	11	Change "COMMISSIONER ACTON" to "MR. LEVY"
1190	4	Change "COMMISSIONER BLAIR" to "MR. LEVY"

The foregoing corrections, as proposed under both parties' motions, now modify and correct the original transcript, and only the modified transcripts will be considered as the official transcripts. None of the disclosures of corrections of the sealed transcript of Volume 6 under this ruling are intended to unseal any other materials reflected in volume 6.

RULING

1. The United States Postal Service Motion to Adopt Corrections to Transcript Volume V, filed August 4, 2010, is granted.
2. The United States Postal Service Motion to Adopt Corrections to Transcript Volume VI, filed August 5, 2010, is granted.
3. The Motion of GameFly, Inc. to Adopt Corrections to Transcript Volume Five, filed August 17, 2010, is granted.
4. The Motion of GameFly, Inc. to Adopt Corrections to Transcript Volume Six, filed August 17, 2010, is granted.

Dan G. Blair
Presiding Officer