

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ST. CLAIR INTELLECTUAL PROPERTY :
CONSULTANTS, INC., :

Plaintiff, :

v. :

Civil Action No. 08-371-JJF-LPS

RESEARCH IN MOTION, LTD., :
RESEARCH IN MOTION CORP., :
GENERAL IMAGING CO., :

REDACTED VERSION
FILED ON November 30, 2009

Defendants. :

ORDER

The parties in this patent infringement action presented a discovery dispute to the Court in letters dated October 28, 2009 (D.I. 202) and October 29, 2009 (D.I. 205). The Court considered this dispute during a teleconference on October 30, 2009. Thereafter, the Court directed the parties to engage in a further meet-and-confer in an attempt to narrow the issues. The parties did so. On November 9, 2009, the parties reported back to the Court on two remaining issues. (D.I. 226, D.I. 227)

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The parties are to comply with the agreement set out in their November 9, 2009 letter to the Court (D.I. 226).

2. RIM's request that St. Clair be required to log documents and communications created and/or occurring two months before and after the August 16, 2005 submission of Mr. Speasl's declaration to the U.S.P.T.O. is DENIED. As the Court indicated during the October 30 teleconference, it is highly likely that all of the materials RIM is seeking will prove to be

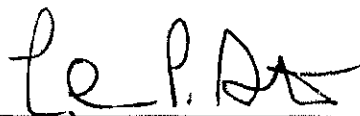
privileged. The potential relevance of materials created or concerning events in August 2005 to RIM's unclean hands defense **REDACTED**

is minimal. Weighing the likelihood that RIM's request will lead to the discovery of admissible evidence against the burden that would be imposed in requiring St. Clair to search its trial counsel's internal records for a four-month period that occurred more than four years ago, the Court concludes that the proper exercise of discretion is to reject the request.

3. RIM shall contribute an amount not to exceed \$50,000.00 to pay for St. Clair's costs associated with the restoration of electronic stored information ("ESI") to provide the agreed-upon discovery described in the parties' joint submission of November 9, 2009. RIM is not required to pay for St. Clair's attorney's fees. Nor shall RIM's payment exceed the actual out-of-pocket cost to St. Clair for the restoration of the ESI that is the subject of this Order. St. Clair is not required to confer with RIM or RIM's IT consultant in connection with St. Clair's compliance with this Order.

4. This Order has been issued under seal, pending review by the parties to allow them to submit a single jointly-proposed redacted version of this Order. Such redacted version shall be submitted **no later than November 30, 2009**. The Court will subsequently file a publicly-available version of this Order.

Dated: November 24, 2009



The Honorable Leonard P. Stark
UNITED STATES MAGISTRATE JUDGE