

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

HEALTHCARE ADVOCATES, INC.,	:	
	:	
Plaintiff,	:	Civil Action No. 2:05-cv-03524-RK
	:	
v.	:	Hon. Robert F. Kelly
	:	
HARDING, EARLEY, FOLLMER &	:	
FRAILEY; JOHN DOES 1-10, JOHN DOES	:	
11-20, JOHN DOES 21 -30, and INTERNET	:	
ARCHIVE,	:	
	:	
Defendants.	:	

**PLAINTIFF HEALTHCARE ADVOCATES MOTION
FOR AN EXTENSION OF TIME TO
FREELY AMEND THE AMENDED COMPLAINT**

Plaintiff Healthcare Advocates, Inc. (“Healthcare Advocates”), through its attorneys, hereby moves this Court to enter an Order extending the time for it to freely amend the Amended Complaint from May 26, 2006 to June 26, 2006. In support thereof, plaintiff avers:

1. By Order filed March 27, 2006, the Court ordered that plaintiff may freely amend the Amended Complaint to add parties or claims until May 26, 2006. During the Rule 26(f) teleconference that same date, plaintiff represented that it believed discovery may yield evidence warranting the addition of Alexa Internet as a defendant and the addition of a cause of action against defendant Internet Archive for violation of the Digital Millennium Copyright Act.

2. In light of the May 26, 2006 deadline, plaintiff has endeavored to expeditiously secure discovery from defendant Internet Archive with respect to facts bearing on the possible joinder of Alexa Internet as a defendant and the possible addition of a cause of action for

violation of the Digital Millennium Copyright Act against defendant Internet Archive.

Unfortunately, defendant Internet Archive has not been accommodating.

3. Despite repeated efforts to speak to counsel for defendant Internet Archive beginning immediately after the Rule 26(f) teleconference to discuss efforts to expedite and streamline the discovery process, I was unable to have a meaningful conversation with counsel until April 7, 2006, almost two weeks later. See e-mail message dated April 7, 2006 attached as Exhibit A.

4. Under the Court's Scheduling Order, the parties were to exchange initial disclosures on or before April 11, 2006 (14 days after the Rule 26(f) teleconference on March 27). Plaintiff served its initial disclosures upon opposing counsel on April 11, 2006, but did not receive initial disclosures from all the named defendants until April 18, 2006.

5. Plaintiff served document production requests upon defendant Internet Archive on April 21, 2006 and interrogatories upon defendant Internet Archive on April 27, 2006.

6. Plaintiff advised opposing counsel of its interest in deposing representatives of defendant Internet Archive as early as May 3, 2006. Unfortunately, counsel for defendant Harding, Earley, Follmer & Frailey is unavailable to participate in such depositions until the week of May 21, 2006 at the earliest.

7. Recognizing the strong likelihood that it will not receive even rudimentary discovery from defendant Internet Archive meaningfully in advance of the May 26 deadline, plaintiff requested that opposing counsel consent to a thirty day adjournment of the May 26 deadline to freely amend the Amended Complaint. In response, counsel for defendant Harding, Early, Follmer & Frailey graciously consented to such an adjournment. However, counsel for defendant Internet Archive has repeatedly refused to consent to this thirty day adjournment of the

deadline to freely amend the Amended Complaint, even despite plaintiff's prior consent on three separate occasions to extend the deadline by which Internet Archive would be required to file its answer, extensions that exceeded the amount of time now being sought by plaintiff herein.

8. Plaintiff suggested to counsel for defendant Internet Archive that even provision of only a small portion of the requested document discovery in an expeditious manner would be helpful in facilitating plaintiff's ability to meet the May 26 deadline. Plaintiff specifically requested "the relevant Internet Archive web logs from July 2003 and internal Internet Archive communications and reports related to the events of July 9, 2003 and July 14, 2003." See e-mail message dated May 1, 2006 attached as Exhibit B.

9. In response, counsel for defendant Internet Archive advised these requested documents were readily available and that defendant Internet Archive could provide them to plaintiff in an expeditious manner. However, defendant Internet Archive conditioned such expedited discovery of these documents upon plaintiff withdrawing its remaining discovery requests and dismissing all claims against defendant Internet Archive. See e-mail message dated May 8, 2006 attached as Exhibit C. Such conditions are unacceptable to the plaintiff.

10. Defendant Internet Archive asserts that its lack of willingness to consent to the thirty day extension of the May 26 deadline is predicated upon an anxiety to resolve this case without further delay. That assertion is belied by defendant Internet Archive's repeated delays in filing an Answer to the Amended Complaint, the unwillingness of its counsel to respond to telephone calls in an effort to move matters forward, and its unwillingness to expedite even a discrete portion of the outstanding discovery unless plaintiff agrees to dismiss its claims against defendant Internet Archive.

11. The extension is warranted as a matter of equity and will benefit the litigation process inasmuch as it will permit plaintiff to make obtain facts pertinent to making an informed decision about whether to add parties or claims to the Amended Complaint.

12. The extension will not materially delay the action.

13. No prior request for an extension has been made.

WHEREFORE, plaintiff Healthcare Advocates moves this Court to enter an Order granting plaintiff an extension of time to June 26, 2006 to freely amend the Amended Complaint to add parties and claims.

Dated: May 11, 2006

By: /s/ Scott S. Christie
 /s/ Peter J. Boyer

Scott S. Christie
Peter J. Boyer
McCARTER & ENGLISH, LLP
Mellon Bank Center
1735 Market Street, Suite 700
Philadelphia, Pennsylvania 19103

Attorneys for Plaintiff
Healthcare Advocates, Inc.

EXHIBIT "A"

Christie, Scott

From: Christie, Scott
Sent: Friday, April 07, 2006 1:12 PM
To: 'Shanberg, Stefani (Perkins Coie)'
Cc: 'kwilson@perkinscoie.com'; Jacobs, Hara K. (Phila)
Subject: Healthcare Advocates v. Internet Archive

Stefani –

I have been trying without success since March 27 to speak with a legal representative of Internet Archive to discuss discovery issues in an effort to expedite and streamline the discovery process.

Within half an hour of the conclusion of our teleconference with Judge Kelly on March 27, I called Mr. Wilson to initiate such a discussion. He did not answer the call so I left him a voice message advising that I wished to speak with him about discovery issues and that I would appreciate a return call as soon as possible. Mr. Wilson never returned my call.

On March 30 at 11:05 a.m. PST, I again called Mr. Wilson. He was unavailable to take my call. I left a voice message reminding him of the prior voice message and his lack of response and requesting that he contact me by the end of the day to discuss discovery issues.

On March 30 at 11:07 a.m. PST, I called you and left a message advising of my inability to reach Mr. Wilson and requesting that you contact me by the end of the day to discuss discovery issues. At 2:10 p.m. EST, I left an identical message for Ms. Jacobs.

Mr. Wilson did not return my call by the end of the day. Ms. Jacobs left me a voice message advising that I needed to speak to Mr. Wilson about discovery issues. Your secretary called me that afternoon advising that Mr. Wilson would call me in the morning on March 31.

Mr. Wilson did not call me during the morning of March 31. Instead, he left a voice message for me at 5:17 p.m. EST, after the close of business on a Friday afternoon.

On April 3 at 3:30 p.m. PST, I again called Mr. Wilson. He again was unavailable to take my call. I left another voice message advising him that I needed to speak to him immediately about discovery issues.

Mr. Wilson finally made an effort to call me during business hours. He attempted to reach me at 9:55 a.m. EST on April 4, but I was out of the office on my way to a funeral. Mr. Wilson left a voice message at that time.

On April 6 at 11:00 a.m. PST, I again called Mr. Wilson. He again was unavailable to take my call. His recorded voice message advised that he would be out of the office until April 17 with sporadic access to voice messages. The message advised that for immediate attention, the caller should speak to another attorney within the firm or Mr. Wilson's secretary.

At 11:05 a.m. PST, I called you again but you were unavailable. I left you a voice message noting Mr. Wilson's unavailability and the need to speak to you immediately about discovery issues. You responded to my voice message via e-mail, and I am hopeful that I we can finally have a meaningful discussion about discovery issues after 3:00 p.m. PST today as you proposed. Although it is inconvenient for me given the time zone difference, I will make myself available for fear that to do otherwise will only further delay the discovery process.

It is extremely frustrating that it has taken almost two weeks to have a substantive telephone conversation with a legal representative of Internet Archive about discovery issues. I am disappointed by the lack of professional courtesy, especially after the courtesies that I extended you.

As you may recall, I offered you Healthcare Advocates' consent to the original adjournment of the filing deadline for Internet Archive's answer in order to facilitate settlement discussions. Thereafter, I again consented on two additional occasions to further adjourn the deadline for Internet Archive's answer in a continuing effort to accommodate settlement

discussions.

Your most recent lack of responsiveness appears to be part of a disturbing pattern. Even after consenting to the third adjournment and receiving your March 3 e-mail message advising that you looked forward to further settlement discussions after you had an opportunity to discuss my settlement proposals with your client, neither you nor any other legal representative of Internet Archive contacted me to further discuss my settlement proposals. Instead, you simply filed an answer on behalf of Internet Archive on March 15.

I am hopeful that in the future you will grant me the courtesy of responding to my communications in a substantive and timely fashion in order to expedite resolution of this case.

Scott S. Christie
McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, New Jersey 07102
Tel: (973) 848-5388
Fax: (973) 297-3981
schristie@mccarter.com

EXHIBIT “B”

Christie, Scott

From: Christie, Scott
Sent: Monday, May 01, 2006 9:16 PM
To: 'Wilson, Kenneth (Perkins Coie)'; Shanberg, Stefani (Perkins Coie); Piepmeier, Sarah (Perkins Coie); Rubin, Michael (Perkins Coie); Bailey, Lila (Perkins Coie); Jacobs, Hara K. (Phila); Lantieri, Paul III (Phila); jplewis@mckhof.com
Subject: RE: First Set of Interrogatories to Internet Archive

Ken:

I am sorry that you do not understand the basis for my requests. Let me try to clarify them for you.

It is difficult to make a fully informed decision to amend the Amended Complaint to add parties and/or causes of action in the absence of even rudimentary discovery. Obviously, it would be preferable to receive answers to interrogatories and document production from a party before conducting depositions of that party's representatives. However, in light of your lack of willingness to provide any documentary discovery or answers to interrogatories until the last possible minute, it appears that we will be in no better position on May 26 to make the decision to amend as we are today. It would be helpful even if Internet Archive were to provide just a portion of the requested discovery in more timely fashion, especially the relevant Internet Archive web logs from July 2003 and internal Internet Archive communications and reports related to the events of July 9, 2003 and July 14, 2003, documents that we have been requesting for a year now.

Unfortunately, despite my best efforts, I do not even have the option of deposing Internet Archive personnel meaningfully in advance of May 26 without any documentary discovery or answers to interrogatories given Mr. Lewis' unavailability to participate. To his credit, Mr. Lewis understood this dilemma when I contacted him late last week and was gracious enough to immediately consent to an adjournment of the May 26 deadline. I had hoped that this situation would have been obvious to you as well.

I would like to receive the discovery to which we are entitled from Internet Archive and have an opportunity to review it and use it to conduct depositions of Internet Archive personnel prior to losing the ability to freely amend the Amended Complaint. I don't think that's a lot to ask. If you do, then I'll make a motion and seek relief from Judge Kelly.

You seem to forget that I went out of my way to consent to the extension of Internet Archive's deadline to answer not once, not twice, but three separate times. Forgive me for expecting even a modicum of accommodation from you in return..

I learned early in my litigation career that one's ability to be a zealous advocate for one's client is not diminished by disagreeing with opposing counsel without being disagreeable. Consequently, I try to be as accommodating to opposing counsel as circumstances warrant and, in return, most opposing counsel reciprocate the professional courtesy. Hope springs eternal that our relationship in this case can be marked by such mutual courtesy and become constructive rather than destructive. Please advise whether this is possible.

Scott S. Christie
McCarter & English, LLP
Four Gateway Center

5/9/2006

100 Mulberry Street
Newark, New Jersey 07102
Tel: (973) 848-5388
Fax: (973) 297-3981
schristie@mccarter.com

-----Original Message-----

From: Wilson, Kenneth (Perkins Coie) [mailto:KWilson@perkinscoie.com]
Sent: Thursday, April 27, 2006 11:39 PM
To: Christie, Scott; Shanberg, Stefani (Perkins Coie); Piepmeier, Sarah (Perkins Coie); Rubin, Michael (Perkins Coie); Bailey, Lila (Perkins Coie); Jacobs, Hara K. (Phila); Lantieri, Paul III (Phila); jplewis@mckhof.com
Subject: RE: First Set of Interrogatories to Internet Archive

Scott:

I'm not sure I understand the basis for your requests. We will obviously respond to HCA's interrogatories by the date the responses are due, but we are under no obligation to respond sooner than that, and I don't suspect we will be serving early responses either to HCA's interrogatories or to the document requests that you served a few days ago. If you choose to depose Internet Archive personnel before you have the documents and interrogatory responses, you are of course entitled to do that, but as you point out, that may make it more difficult to take the depositions efficiently and effectively. Still, if that's when you want to proceed, we will check the witnesses' availability for those dates. Please let me know by the end of the week if those are really the dates on which you want to take the depositions, keeping in mind that Internet Archive only intends to produce its witnesses for deposition once.

As for consenting to an adjournment of the deadline to freely amend the pleadings, I do not understand your request that we join Mr. Lewis in agreeing to consent to a postponement of that deadline, since I have no knowledge of any such agreement by Mr. Lewis. I also do not understand why such a postponement is necessary. As you will recall, HCA argued at the last hearing that there should be no deadline for amending pleadings, or that the deadline should be later than the date set by the Court. Judge Kelly rejected that argument. To my knowledge, nothing has happened since that hearing that would require this deadline to be moved. Moreover, while you keep referring to your request as a "courtesy," it is actually a substantive request that could significantly impact the overall case schedule. If you want to identify a reason why Internet Archive should agree to such an extension, I will consider it. However, as I indicated at the hearing, Internet Archive is anxious to get this matter resolved, and any delays in the deadline to amend pleadings is likely to delay such resolution, especially if HCA decides to add new parties, who will have a due process right to conduct discovery.

Sincerely,

Ken

From: Christie, Scott [mailto:SChristie@McCarter.com]
Sent: Thu 4/27/2006 8:20 PM
To: Wilson, Kenneth (Perkins Coie); Shanberg, Stefani (Perkins Coie); Piepmeier, Sarah (Perkins Coie); Rubin, Michael (Perkins Coie); Bailey, Lila (Perkins Coie); Jacobs, Hara K. (Phila); Lantieri, Paul III (Phila); jplewis@mckhof.com
Subject: First Set of Interrogatories to Internet Archive

Counsel --

Enclosed is Plaintiff Healthcare Advocates, Inc.'s First Set of Interrogatories to Defendant Internet

5/9/2006

Archive. Please provide full and complete answers to these interrogatories as soon as possible so that our efforts to meaningfully depose Internet Archive personnel are not frustrated.

In light of Mr. Lewis' unavailability for depositions of Internet Archive personnel any earlier than the week of May 21, I propose by default that we conduct such depositions that week. I anticipate deposing the five Internet Archive personnel identified in our initial disclosures over approximately three days.

I renew my request that, under the circumstances, you join Mr. Lewis in agreeing to consent to a thirty day adjournment of the deadline to freely amend the Amended Complaint. If you remain unwilling to extend this courtesy, I will have no choice but to make a formal motion before Judge Kelly seeking such relief.

Scott S. Christie
McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, New Jersey 07102
Tel: (973) 848-5388
Fax: (973) 297-3981
schristie@mccarter.com

This email message from the law firm of McCarter & English, LLP is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email (or helpdesk@mccarter.com) and destroy all copies of the original message.

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

5/9/2006

EXHIBIT "C"

Christie, Scott

From: Christie, Scott
Sent: Wednesday, May 10, 2006 9:50 PM
To: 'Wilson, Kenneth (Perkins Coie)'
Cc: Shanberg, Stefani (Perkins Coie); Piepmeyer, Sarah (Perkins Coie); Rubin, Michael (Perkins Coie); Bailey, Lila (Perkins Coie); Jacobs, Hara K. (Phila); Lantieri, Paul III (Phila); jplewis@mckhof.com
Subject: RE: Interrogatories and Document Production Requests to HEFF

Ken:

This is the first that you've mentioned any concerns whatsoever about the Healthcare Advocates' discovery requests. We put a good deal of time and effort into focusing and narrowly tailoring these requests. In the future, I think it would be useful if you contact me immediately if you have any such concerns or questions so that we can discuss and resolve them.

As an initial matter, I believe that you have misunderstood the scope of document production request no. 15 which calls for "[a]ll documents incorporating all iterations of the entire content of the Internet web site www.archive.org for the period January 16, 1999 to the present." Although the gravamen of your concern is not entirely clear, you seem to be under the mistaken impression that this document production request requires production of all the material archived by Internet Archive from January 1999 to the present. In fact, we are simply seeking the content of the www.archive.org web site for the relevant period, just as if we were making inquiry for it through the Wayback Machine. In this document production request, we are not seeking any archived material accessible through the web site. I hope this clarifies your understanding of the scope of document production request no. 15.

It is more difficult to address your other concerns with the discovery requests because you fail to identify them by number or otherwise in sufficient enough detail. Some discovery requests do indeed seek documents and information related to the Digital Millennium Copyright Act ("DMCA") which is central to this case. A DMCA cause of action has been alleged against defendant Harding, Earley, Follmer & Frailey. Furthermore, the Amended Complaint contains factual allegations from which a conclusion could be drawn that Internet Archive engaged in rampant copyright infringement as well as DMCA violations. At the very least, such discovery requests are reasonably calculated to lead to the discovery of admissible evidence. In the absence of more detail from you about your concern in this area, I'm not sure what else I can offer by way of explanation.

It is unfortunate Internet Archive fails to appreciate that Healthcare Advocates' inability to obtain any discovery from Internet Archive meaningfully in advance of the May 26 deadline constitutes good cause sufficient to extend this deadline for 30 days.

It is especially troubling that the relevant Internet Archive web logs from July 2003 and internal Internet Archive communications and reports related to the events of July 9, 2003 and July 14, 2003 -- documents that we requested in an expeditious manner specifically to help facilitate our ability to meet the May 26 deadline -- are readily available and can be provided by Internet Archive in an expeditious manner, but that Internet Archive is willing to do so only if Healthcare Advocates agrees to withdraw its remaining discovery requests and dismiss all claims against Internet Archive. We reject this proposal.

You assert that Internet Archive is anxious to get this matter resolved without further delay. I would think that if you are serious about moving this case forward, you would embrace the concept of

5/10/2006

unconditionally providing expedited discovery that is readily available.

Healthcare Advocates has been seeking Internet Archive's records relating to the unauthorized access to its archived web content and Internet Archive's failure to adequately secure such content for a year now. At every possible opportunity during this period, Internet Archive has attempted to thwart that effort. We will persevere.

Scott S. Christie
McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, New Jersey 07102
Tel: (973) 848-5388
Fax: (973) 297-3981
schristie@mccarter.com

-----Original Message-----

From: Wilson, Kenneth (Perkins Coie) [mailto:KWilson@perkinscoie.com]
Sent: Monday, May 08, 2006 10:58 PM
To: Christie, Scott
Cc: Shanberg, Stefani (Perkins Coie); Piepmeier, Sarah (Perkins Coie); Rubin, Michael (Perkins Coie); Bailey, Lila (Perkins Coie); Jacobs, Hara K. (Phila); Lantieri, Paul III (Phila); jplewis@mckhof.com
Subject: RE: Interrogatories and Document Production Requests to HEFF

Scott:

Thank you for your message. Michael Rubin will be following up with you in the next day or two regarding the draft protective order that you sent.

With respect to your request for deposition dates, I was unaware that HCA still wanted me to check on witness availability for the week of May 21. In my April 27 correspondence to you, I questioned whether HCA really wanted to conduct depositions of Internet Archive personnel before receiving the documents HCA had requested during discovery, and asked you to "[p]lease let me know by the end of the week if those are really the dates on which you want to take the depositions, keeping in mind that Internet Archive only intends to produce its witnesses for deposition once." Your April 28 correspondence to me did not answer my question. As a result, I assumed that you did not want to proceed with those depositions before you received the requested documents. However, based on your latest correspondence, I will check to determine who might be available during that week.

I should add that we are very concerned with the scope of discovery propounded on the Internet Archive by HCA. For example, HCA has asked Internet Archive to produce the entire content of all iterations of the Internet Archive Web site since 1999. That request would require the production of petabytes of data, nearly all of which is completely irrelevant to this lawsuit. Setting aside the massive burden of gathering and organizing this information for production, acquisition of a storage device large enough to store this much content alone would cost millions of dollars. Similarly, HCA has propounded discovery on a Digital Millennium Copyright Act claim that has not been asserted against Internet Archive. There are several other requests that similarly seek information that is unrelated to the relatively narrow claims that HCA has asserted against Internet Archive. We cannot imagine what legal basis HCA might have for propounding discovery of this scope.

Finally, HCA has asked again for Internet Archive to consent to postpone the deadline for HCA to freely amend its pleadings for 30 days. While you have attempted to characterize this request as a professional courtesy, I don't see it that way. As I indicated at the hearing during which the Court set the current

5/10/2006

deadline, Internet Archive is anxious to get this matter resolved, and is concerned that if HCA adds new parties or claims, such an addition is likely to delay (and perhaps significantly delay) the determination of this lawsuit. For example, if HCA adds new parties, those parties will have a due process right to conduct discovery on the claims against them once the case is at issue, which could delay trial by several months. Internet Archive is not willing to agree to permit HCA to further extend that period without good cause, as this case has already been pending for nine months. It's not a matter of professional courtesy; rather, it's a matter of substantive fairness.

That having been said, there's a relatively simple way for HCA to obtain the information you have requested in an expedited fashion. As we've previously discussed, Internet Archive does not believe it should have been named a party to this action to begin with. Internet Archive really is a passive player in this whole dispute. Moreover, it seems that what HCA really wants is the limited set of documents identified in your April 27 correspondence, namely "the relevant Internet Archive web logs from July 2003 and internal Internet Archive communications and reports related to the events of July 9, 2003 and July 14, 2003," as well as a witness from Internet Archive to explain those documents. Internet Archive would be willing to provide this information in an expedited fashion, but in return (and as we have previously proposed), Internet Archive wants HCA to withdraw the additional discovery propounded on Internet Archive by HCA, which is not calculated to lead to the discovery of admissible evidence regarding the pending claims, and to dismiss Internet Archive from the lawsuit. Basically, Internet Archive is prepared to provide discovery in the expedited fashion that HCA has requested, but only if HCA is willing to lift the unreasonable litigation burden currently being placed on Internet Archive. Otherwise, Internet Archive will respond to HCA's discovery requests in accordance with the timelines and subject to appropriate protections set forth in the Federal Rules of Civil Procedure and the rules of this Court.

Please let me know your thoughts on this proposal at your earliest convenience.

Sincerely,

Ken

Kenneth B. Wilson
Perkins Coie LLP
180 Townsend St., 3rd Floor
San Francisco, CA 94107
Phone: 415-344-7001
Fax: 415-344-7201

-----Original Message-----

From: Christie, Scott [mailto:SChristie@McCarter.com]

Sent: Friday, May 05, 2006 7:10 PM

To: Wilson, Kenneth (Perkins Coie); Shanberg, Stefani (Perkins Coie); Piepmeier, Sarah (Perkins Coie); Rubin, Michael (Perkins Coie); Bailey, Lila (Perkins Coie); Jacobs, Hara K. (Phila); Lantieri, Paul III (Phila); jplewis@mckhof.com

Subject: Interrogatories and Document Production Requests to HEFF

Counsel --

Enclosed are interrogatories and document production requests to Defendant Harding, Earley, Follmer & Frailey ("HEFF").

I continue to await feedback on the draft protective order that I forwarded to all of you on Wednesday.

I also have not heard from Defendant Internet Archive in response to my April 27 request to

5/10/2006

tentatively schedule depositions of Internet Archive personnel the week of May 21 in San Francisco and my Monday request that Internet Archive join HEFF in consenting to extend the May 26 deadline by which Healthcare Advocates may freely amend the Amended Complaint. I would appreciate a response to these requests by the close of business this coming Monday. If I have not heard from Internet Archive by then, I'll have no alternative but to take unilateral action on these issues.

Scott S. Christie
McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, New Jersey 07102
Tel: (973) 848-5388
Fax: (973) 297-3981
schristie@mccarter.com

This email message from the law firm of McCarter & English, LLP is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email (or helpdesk@mccarter.com) and destroy all copies of the original message.

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

5/10/2006