

EXHIBIT 1

Kendler, Owen

From: Kully, David
Sent: Friday, November 16, 2007 8:34 AM
To: 'Stein, Scott D.'
Cc: 'Biro, Charles'; 'Bierig, Jack R.'; Finley, Timothy; Conrath, Craig; Kendler, Owen
Subject: RE: Point2 Deposition

Scott -- Your understanding is correct.

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

From: Stein, Scott D. [mailto:sstein@Sidley.com]
Sent: Friday, November 16, 2007 8:32 AM
To: Kendler, Owen
Cc: Kully, David; Biro, Charles; Bierig, Jack R.
Subject: Point2 Deposition

Owen -- I'm just writing to confirm what you told me yesterday, i.e., that DOJ has decided not to go forward with the deposition of Brendan King on Monday. If I misunderstood, please let me know.

Scott D. Stein
Sidley Austin LLP
One South Dearborn Street
Chicago, IL 60603
(312) 853-7520
(312) 853-7036 (fax)

Sidley Austin LLP mail server made the following annotations on 11/16/07, 07:32:32:

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Kendler, Owen

From: Kendler, Owen
Sent: Friday, December 07, 2007 9:57 AM
To: 'Stein, Scott D.'; Kully, David
Cc: 'Bierig, Jack R.'; Conrath, Craig
Subject: RE: Point2

Scott,

Thank you for providing a more detailed disclosure for Mr. King. NAR's decision to do so makes it unnecessary to engage in a prolonged debate about witnesses disclosed by the government. We do note for the sake of accuracy that each of the witnesses you complain about was disclosed well before the eve of the discovery cutoff.

We are not refusing to share with you the document discovery we seek. We will disclose to you exactly what documents we are seeking as soon as we prepare our requests, which will be shortly. Finally, we disagree with NAR's suggestion that our decision not to seek any discovery from Mr. King *before* NAR disclosed him as a trial witness somehow estops us from seeking discovery *after* NAR's belated disclosure. The purpose of a witness list is to disclose persons who will testify at trial in order to allow discovery to be taken from such persons.

Thank you,
Owen

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

From: Stein, Scott D. [mailto:sstein@Sidley.com]
Sent: Wednesday, December 05, 2007 8:53 AM
To: Kully, David
Cc: Bierig, Jack R.; Kendler, Owen; Conrath, Craig
Subject: RE: Point2

Dave --

To repeat, the subject matter will be the very same as the subject matter of the deposition that DOJ was preparing to take; namely, Point 2's NLS technology, including how that technology is used by agents and MLSSs, and the various features of that technology, including the handshake and syndication features. I'm not sure what additional information you contend you require. Nor do we believe that the disclosure we have provided is insufficiently detailed -- particularly when one considers the level of detail DOJ believes is appropriate for its own disclosures. In that regard, I would refer you to DOJ's disclosures concerning the myriad new witnesses identified on the even of the close of discovery: Robert Sutton, Kevin Cottrell, and Luke Steele ("business dealings with HBM II"), Jack Johnson and Lennox Scott ("NWMLS's structure and its IDX/VOW rules and topics related to the reports and deposition testimony of NAR's experts"); Craig Davis ("the history of his business, his business model and its benefits"), etc.

As for document discovery, we do not understand the basis for your refusal (or inability) to specify what additional discovery you contend is required. DOJ was aware of Mr. King and Point 2 well before the discovery cutoff. Indeed, DOJ was preparing to depose Mr. King on precisely the same subject matter described above, and to do so having made a deliberate, strategic decision not to seek documents from Point2. We identified Mr. King as a potential trial witness promptly upon learning, on the eve of the deposition, that DOJ was canceling it. Given these facts, we do not think the hardly think it unreasonable to DOJ to explain what document discovery it claims to now need, and why it did not seek such discovery from Point2 in connection with the deposition it noticed.

-- Scott

From: Kully, David [mailto:David.Kully@usdoj.gov]
Sent: Tuesday, December 04, 2007 11:28 AM
To: Stein, Scott D.
Cc: Bierig, Jack R.; Kendler, Owen; Conrath, Craig

Subject: RE: Point2

Scott -- I'm responding on behalf of Owen, who is on his way to Seattle.

Please provide us with a more detailed description of Mr. King's testimony to guide our documentary and deposition discovery. Your September 7th letter to us describing the anticipated subject matter NAR's trial witnesses provided greater detail than what you have provided regarding Mr. King.

In response to your questions, the documentary discovery we believe is warranted will be reflected on the requests themselves, and the discovery is prompted by NAR's untimely disclosure and will be guided by its more detailed disclosure. NAR cannot disclose a trial witness on the eve of the cutoff and then suggest that we are not entitled to relevant discovery from that trial witness.

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

From: Stein, Scott D. [mailto:sstein@Sidley.com]
Sent: Monday, December 03, 2007 8:24 AM
To: Kendler, Owen; Conrath, Craig; Kully, David
Cc: Bierig, Jack R.
Subject: RE: Point2

Owen --

The subject matter of Mr. King's anticipated testimony is, as described in my previous e-mail, the same subject matter that was to be the subject of DOJ's deposition -- Point 2's NLS technology.

Given that we expect Mr. King to provide testimony on the same subjects that DOJ was prepared to depose him about without the benefit of any documents, what additional document discovery does DOJ contend is warranted?

-- Scott

From: Kendler, Owen [mailto:Owen.Kendler@usdoj.gov]
Sent: Tuesday, November 27, 2007 1:13 PM
To: Stein, Scott D.; Conrath, Craig; Kully, David
Cc: Bierig, Jack R.; Biro, Charles
Subject: RE: Point2

Scott,

In your email below, you state that NAR "may" call Mr. King to testify. Because NAR disclosed the possible addition of Mr. King as a witness the day before discovery closed, because of the time and paperwork involved in traveling to Canada for a deposition, and because of the absence of any document discovery from Point2, we do not wish to consider setting up a deposition unless NAR is actually adding Mr. King to its witness list. If you are adding him, please provide a brief description of his anticipated testimony as you did with the witness disclosed in your September 7th letter. In the event that NAR adds Mr. King to its witness list, we will begin the process of seeking documents from Point2.

Thank you,
Owen

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

From: Stein, Scott D. [mailto:sstein@Sidley.com]
Sent: Monday, November 19, 2007 3:44 PM
To: Conrath, Craig; Kully, David; Kendler, Owen
Cc: Bierig, Jack R.; Biro, Charles

Subject: Point2

NAR may seek to call Brendan King as a witness at trial to testify about Point 2's technology. We will not object if DOJ wishes to reschedule his deposition for some time after Thanksgiving.

-- Scott

Scott D. Stein
Sidley Austin LLP
One South Dearborn St.
Chicago, Illinois 60603
(312) 853-7520 (phone)
(312) 853-7036 (fax)
Assistant: Marcia Cummins (312-853-7252)

Sidley Austin LLP mail server made the following annotations on 11/19/0

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to by other parties in promoting, marketing or recommending any partnership or other entity investment plan or arrangement, then (i) the advice should be construed as written in connection with the promotion or marketing by others of the transaction(s) or matter(s) addressed in the communication and (ii) the taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

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Kully, David

From: Stein, Scott D. [sstein@Sidley.com]
Sent: Monday, January 07, 2008 11:14 AM
To: Conrath, Craig; Kully, David
Cc: Bierig, Jack R.
Subject: Point2

Craig and David --

Welcome back from what I hope were vacations for you two over the holidays.

Point2 has identified Carey Tufts, Point2's Director of Marketing, as a person knowledgeable about the same issues that we anticipated being the subject of Mr. King's testimony. Given that Brendan King is no longer affiliated with Point2, Mr. Tufts will replace Mr. King on NAR's witness list. We would ask that you keep us in the loop on scheduling a date for his deposition.

Thanks.

-- Scott

Scott D. Stein
Sidley Austin LLP
One South Dearborn Street
Chicago, IL 60603
(312) 853-7520
(312) 853-7036 (fax)

Sidley Austin LLP mail server made the following annotations on 01/07/08, 10:10:46:

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Finley, Timothy

From: Finley, Timothy
Sent: Thursday, January 24, 2008 5:38 PM
To: 'Stein, Scott D.'
Cc: Conrath, Craig; Kully, David; Bierig, Jack R.
Subject: RE: Point2

Scott,

This summarizes the main points from the phone call that you, Dave and I had today regarding Point2.

- NAR will not ask Point2 to produce documents responsive to our request nos. 1 and 2.
- NAR is unwilling to stipulate that it will not make any arguments relating to Point2's future or potential plans for its NLS technology.

As a result, we will be moving the Court to exclude the testimony of Point2's representative for the reasons set forth in my January 16th email (below).

In response to your January 22nd email, we note first that Point2 has not agreed to produce "virtually all" the documents we requested. Rather, Point2 has refused to produce any documents relating to its business and strategic plans (request no. 1) or the members of its national listing service (request no. 2). I spoke to Point2's in-house counsel again late last week, and he confirmed that Point2 remains unwilling to produce these documents. We also do not know whether Point2 has produced or will produce all documents responsive to our remaining requests.

Second, as Dave and I mentioned during the call today, we plan to file a motion to initiate the formal process for the United States to obtain documents from a Canadian company. As we discussed, this process is burdensome, expensive and slow - often taking months or even years to complete. Resorting to this process puts us at risk of being unable to obtain the documents in time to take Mr. Tufts's deposition before trial.

Finally, there was no directive from Judge Kennelly to take Mr. Tufts's deposition before the end of February, nor did he say anything about this subject. While it might benefit NAR if we took this deposition without the relevant documents, Judge Kennelly did not remotely suggest that we should proceed in this fashion.

Tim

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

From: Stein, Scott D. [mailto:sstein@Sidley.com]
Sent: Tuesday, January 22, 2008 6:30 PM
To: Finley, Timothy
Cc: Conrath, Craig; Kully, David; Bierig, Jack R.
Subject: Point2

Tim --

NAR has not had any communication with Point2 regarding its response to DOJ's request, NAR has no control whatsoever over Point 2, and NAR declines your invitation to get involved in any dispute between DOJ and Point2. And while we fail to see the relevance, the fact is that Point 2 representatives did not travel to Chicago to meet with us.

It appears from Mr. Golding's e-mail that Point2 has agreed to produce virtually all of what DOJ has requested. And, as you acknowledge, you have not even spoken with Mr. Golding about the nature and extent of their objections. Even assuming that the additional information DOJ is seeking is relevant, and without knowing what Point2's objections are or the bases therefor, we note that DOJ has avenues for obtaining that discovery through formal process, as DOJ alluded to in its filing with the Court following our first status hearing before Judge Kennelly. Moreover, as we have previously noted,

DOJ was prepared to go forward with a deposition of a Point 2 executive without obtaining any document discovery from Point 2 at all.

With respect to the threat to move to exclude Carey Tufts from testifying at trial (we are not calling "Point 2" as a witness), DOJ is of course free to file whatever motions you choose. Presumably, before filing a motion you will apprise us of the legal and factual basis for the motion. Suffice it to say, at this point we do not believe that such a basis exists.

Finally, please note that consistent with Judge Kennelly's directive at the last status conference, we would expect DOJ to move forward promptly to take the deposition of Mr. Tufts before the end of February.

-- Scott

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

From: Finley, Timothy [mailto:Timothy.Finley@usdoj.gov]
Sent: Wednesday, January 16, 2008 4:42 PM
To: Stein, Scott D.
Subject: FW: U.S. v. National Association of Realtors

Scott,

I am forwarding an email from Jason Golding of Point2, in which Point2 refuses to produce any documents relating to its business plans and the members of its listing service. We called Mr. Golding today in an effort to address his concerns but were unable to reach him.

If NAR still intends to call Point2's representative as a trial witness, we ask that you join us in encouraging Point2 to provide these documents voluntarily. As a Canadian company, Point2 has no obligation to testify at trial in Chicago, yet has agreed to do so at NAR's request. Based on the recently produced Sidley documents, we observe that Point2's representatives also agreed to travel to Chicago to meet with NAR's attorneys to discuss anticipated testimony (we do not know whether this meeting actually took place). In fairness, under the circumstances, NAR should prevail upon Point2 to provide the requested documents voluntarily, without the need for expensive and time-consuming formal process to a Canadian company.

We hope that Point2 will readily agree to produce the documents once its concerns about confidentiality have been addressed. Failing that, however, Point2 cannot participate in this case as a trial witness on a selective basis while at the same time withholding relevant evidence. Accordingly, if we are unable to obtain the documents without undue cost and delay, and if NAR still seeks to call a Point2 witness at trial, then the United States will move to preclude any testimony from Point2.

Tim

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

From: Jason Golding [mailto:jgolding@point2.com]
Sent: Tuesday, January 15, 2008 5:38 PM
To: Finley, Timothy
Cc: Kendler, Owen
Subject: RE: U.S. v. National Association of Realtors

Hi Tim,

Thanks for the call today. I have reviewed the PDF requesting documents.

The following are the applicable documents requested and Point2's intention to provide or not to provide. I will attempt to provide them before I leave

on holidays as of January 24th, 2008.

1. Business and strategic plans - Will not provide
2. Members - Will not provide
3. Board, Association and MLS members - N/A at present
4. Agreements - Will provide
5. Listing Data Fields - will provide screenshots of listing entry system and detailed listings that can be viewed publicly
6. Listing Information - Will provide where available
7. Listings Share - Will provide as available
8. Rules - Will provide as available
9. User Manual - Will provide
10. Compliance - Will provide
11. MLS Membership - N/A at present
12. Listings data - Will provide in aggregate where available
13. DOJ investigation and suit - Will provide as available

My understanding all along that any production of documents by Point2 was voluntary due to our jurisdiction. This is the basis of us withholding documents as above. If this is not the case, then I will provide additional reasons.

Jason Golding
CFO/General Counsel
Point2 Technologies Inc.
Phone: (306) 955-9736 ext. 215
Fax: (306) 955-0471
www.point2.com

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

From: Finley, Timothy [mailto:Timothy.Finley@usdoj.gov]
Sent: Tuesday, January 15, 2008 3:11 PM
To: Jason Golding
Cc: Kendler, Owen
Subject: RE: U.S. v. National Association of Realtors

Jason, as discussed during our call today, please let us know when you expect to send us the documents. You also mentioned that you may have some objections to our requests - please let us know what they are and we will try to work with you on that. Once we agree on a date by which the documents will be produced, we can then schedule the deposition.
Thanks.

Tim

> -----Original Message-----

> From: Kendler, Owen
> Sent: Tuesday, January 15, 2008 4:04 PM
> To: 'jgolding@point2.com'
> Cc: Finley, Timothy
> Subject: FW: U.S. v. National Association of Realtors

>
> Jason,
>
> Below is the email with the document request attached.

> --Owen

> -----Original Message-----

> From: Kendler, Owen
 > Sent: Wednesday, December 12, 2007 1:51 PM
 > To: 'jgolding@point2.com'
 > Subject: U.S. v. National Association of Realtors
 >
 > Mr. Golding,
 >
 > Thank you for talking with us about Point2's willingness to voluntarily
 produce documents to the Division and the status of Mr. King with the
 company. As we discussed, I have attached for your review a schedule of
 the
 documents to be voluntarily submitted. Let me know if you have any
 difficulty opening the pdf. We look forward to discussing our requests
 with
 you once you have had the opportunity to look them over.
 >
 > Please let us know at your earliest convenience if Mr. King or an
 another
 Point2 representative will be appearing as a trial witness for the NAR
 and
 whether Point2 will agree to voluntarily comply with our requests.
 >
 > Thank you,
 > Owen
 >
 > << File: 54704_1.pdf >>
 > Owen Kendler
 > Trial Attorney
 > Antitrust Division, Litigation III
 > United States Department of Justice Tel: (202)
 305-8376
 > 325 Seventh St., N.W. Fax: (202) 514-7308
 > Suite 300, LPB
 > Washington D.C. 20530 (FedEx Zip: 20004)
 >
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 with the promotion or marketing by others of the transaction(s) or matter(s) addressed in
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