



Joseph S. Bird III
Partner
Direct: (205) 521-8473
jbird@babc.com

May 20, 2014

Via email andy@andymaslow.com

Andrew D. Maslow, Esq.
P.O. Box 802
Teton Village, WY 83025

Re: **Cablz Inc. v. Croakies, Inc., United States District Court for the Northern District of Alabama; Case No. 2:14-cv-00126-SGC**

Dear Andy,

You are lead counsel for Croakies Inc. in the above case ("the Croakies case"), and also for John Krisik.

We are counsel for Cablz Inc. in the above case, and also in another case in the same court against Chums, Inc., Case No. 2:14-cv-00091 SLB ("the Chums case"). Chums listed Mr. Krisik as a witness to support its case in its Initial Disclosures, and Chums counsel has said Mr. Krisik will appear to testify on behalf of Chums at the trial of the Chums case during the week of December 1.

Cablz, Inc. has noticed for deposition and subpoenaed Krisik and Croakies (under Rule 30(b)(6)) for June 5 in the Chums case. You are in receipt of these notices and subpoenas, as the deponents were properly served on May 8. The Croakies case is not on the same schedule as the Chums case.

You have requested Cablz' depositions of Krisik/Croakies in the case against Chums also be taken in the case against Croakies. You and your clients (John Krisik and Croakies) are available on June 5 for these depositions, assuming we reach an agreement acceptable to Croakies.

One of the difficulties in acceding to your request is that Croakies has not yet filed a responsive pleading nor has it answered any discovery, and you acknowledge that we could not be expected to agree to limit our rights to depose Krisik and Croakies without the opportunity, in advance of the depositions, to learn what their responses would be.

We have discussed the outline of an agreement to accomplish your request, and following is our formal proposal:

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One Federal Place 1819 Fifth Avenue North Birmingham, AL 35203-2119 PHONE: 205.521.8000 FAX: 205.521.8800 BABC.COM

Andrew D. Maslow, Esq.
May 20, 2014

1. No later than Saturday, May 31 Croakies will deliver to Cablz by email or by express courier delivery:
 - a. Copies of documents or things (including, without limitation, product specimens) responsive to the subpoenas/notices of deposition served May 8.
 - b. Any responsive pleading to the Complaint against Croakies.
 - c. Croakies' verified answers to interrogatories similar to ## 11, 13, 16, 18 and 20 in the discovery to Chums which I sent yesterday by email.
 - d. Any and all written or recorded communications between Croakies and Cablz.
 - e. Any and all written or recorded statements or communications of Cablz with any person regarding prior art or prior products or the validity of US 8,366,268 to Williams "(the '268 patent)".
 - f. Copies of documents or things (including, without limitation, product specimens) identified in 1.a-e., above.
 - g. The sufficiency of the responses in 1.a-f. will be determined by Cablz, in its sole discretion, no later than June 3 and, if Cablz deems them insufficient, Cablz will notify you and no further agreement will exist between the parties.
2. Upon successful completion of number 1, above, Cablz agrees the depositions of Krisik and Croakies would also be taken in the Croakies case on any question involving the validity of the '268 patent, but not on any other question in the Croakies case. That is, Cablz would agree not to re-depose Krisik/Croakies on the validity question of the '268 patent, provided that Cablz could re-depose Krisik/Croakies later in the Croakies case regarding:
 - a. any matter not covered in the June 5 depositions; or
 - b. any prior art, prior product or other invalidity argument not provided by Croakies to Cablz pursuant to the terms of number 1, above.
3. This agreement will have no effect on the scope of Cablz' examination of Krisik/Croakies in the Chums case pursuant to the notices of deposition and subpoenas served on them.
4. This agreement shall apply only to the case of Cablz, Inc. v. Croakies, Inc., United States District Court for the Northern District of Alabama; Case No. 2:14-cv-00126-SGC, and not to any other case.

If you agree, please execute on the space provided below, and return to me. If you do not, we will proceed with the depositions as noticed and subpoenaed for June 5.

Andrew D. Maslow, Esq.
May 20, 2014

Very sincerely,



Joseph S. Bird III

Accepted:

Andrew D. Maslow, Esq.
Lead Counsel for Croakies, Inc.

Date: _____