Postal Rate Commission
Submitted 7/21/2006 2:41 pm
Filing ID: 51015
Accepted 7/21/2006

Before The

POSTAL RATE COMMISSION

WASHINGTON, D.C. 20268-0001

Complaint on Electronic Postmark® Docket No. C2004-2

INTERROGATORIES OF DIGISTAMP TO THE UNITED STATES POSTAL SERVICE WITNESS THOMAS J. FOTI (DS/USPS-T1-1 - 4)

In accordance with Rules 25 and 26 of the Commission's Rules of Practice and Procedure, DigiStamp hereby directs the following interrogatories to the United States Postal Service witness Thomas J. Foti: DS/USPS-T1-1 through DS/USPS -T1- 4.

Respectfully submitted,

Rick Borgers
Lead Technologist, CEO
DigiStamp, Inc.
http://www.digistamp.com

DS/USPS-T1-1. On page 3, line 19, through page 4, line 8, you state: "During 1995, Technology Applications commissioned focus group research on the project. . . . [T]he participants were receptive to the concept of applying a secure neutral-party time and date stamp to an electronic message, but only if the time and date stamping were conducted by an organization that had the trust and respect of individuals, as well as, [sic] business and government. When the focus group asked participants to name likely candidates to operate such a service, several well-known firms, such as IBM, AT&T and others, were mentioned. When the moderator then added several other potential providers, including the United States Postal Service, the participants' choices quickly narrowed to the Postal Service as one of the preferred choices."

1. Is it your testimony, then, that consumers in these focus groups ***did not*** spontaneously assume the USPS would be an appropriate provider, and that it was ***only*** when the moderator proposed USPS as a provider that USPS entered the discussion? If your answer is no, then please explain.

2. What do you mean when you say, "the participants' choices ***quickly narrowed*** to the Postal Service as ***one of*** the preferred providers?"

   a. By the normal meaning of words, you are saying that the participants eliminated some of their original candidates. How did they do that, and why? Did the moderator offer suggestions as to why some should be eliminated?

   b. I infer that ***even after*** the moderator's intervention, the consumers ***did not*** eliminate private businesses as potential providers? Is that correct? So is it your

testimony that, until the moderator raised the possibility of the USPS, consumers did not think of the USPS as an appropriate provider, and even after the moderator's intervention, the consumers were unwilling to see private business as untrustworthy to provide this service? If your answer is no, then please explain.

3. When you asked the participants about "applying a secure neutral-party time and date stamp to an electronic message," did you mean "electronic ***message***"? That is to say, were the participants given the impression that you were asking them about ***messaging***—about sending a communication? Or did your moderator specify some esoteric meaning of the term "message" that does not involve sending a message?

4. Would it be fair and accurate to conclude from your testimony that your focus groups showed that the public does not, of ***its own*** origination, see the USPS as an appropriate source for date and time stamping, and that your moderator convinced them that because time stamps involve messaging, the USPS is a logical provider? If your answer is no, then please explain. Would it be correct to infer from your testimony that it is only because the EPM certifies communications that consumers decided the USPS would be an appropriate provider? If your answer is no, then please explain. And would it, finally, be correct to conclude that even then, the public as represented in your own focus groups retained the idea that private business is perfectly capable of providing a trustworthy date and time stamp?

DS/USPS-T1-2. You state that "In fact, 97 percent of all Electronic Postmark users, since 2003, have been in conjunction with protecting content integrity of an electronic file—and not in the transmission of a message." (page 11, lines 12-14)

DigiStamp previously introduced multiple exhibits that date back to the mid 1990's showing the USPS markets its EPM as a means for "secure communications."

1. Is it your testimony that, as a matter of fact, ninety-seven percent of your customers use the USPS EPM for purposes contrary to your own marketing? If your answer is no, then please explain. Is it your testimony that ninety-seven percent of your customers do not use it for communicating messages? If your answer is no, then please explain.

2. How could that possibly have happened? How, with near-unanimity, would your users have decided that the USPS EPM is not really for what your marketing says it's for, but for something else?

3. Consider this: cell phones are designed and marketed as high-quality communications devices, up-to and until the Telco appears before the FCC. The clock that is included in this device is used 10 times more often that the calling function. Therefore, by your logic, could the Telco claim that these devices are immune from regulation: they are not phones; they are clocks? If your answer is no, then please explain.

4. In connection with the testimony quoted above, please provide a breakdown of the percentages used by customers, as follows:

a. What percentage of USPS EPMs is used to verify faxes received? (your testimony, page 11, lines 16-22)

b. What percentage of USPS EPMs is used to verify Worker Compensation claims? (your testimony, page 12, lines 1-4)

c. What percentage of USPS EPMs is used to authenticate physicians' clinical notes? (your testimony, page 12, lines 6-11)

d. What percentage of USPS EPMs is used strictly in "documenting inventor's notes, research results, depictions, flow charts, schematics, descriptions, etc;" and "not submitting this material to anyone"? (your testimony, page 12, lines 15-18)

DS/USPS-T1-3. You state on page 11, lines 16-19: "The current largest customer of the USPS EPM is using it for content integrity in a compliance process, and not as part of an electronic communications process. This company has integrated the USPS Electronic Postmark into an existing business process that is used to verify electronic content of faxes received."

1. In what sense is a fax not an electronic communication process?
2. For this customer, is the application of the USPS EPM integrated into receiving the fax? That is, is the EPM applied automatically before the client is able to access the file in any way?
    a. If so, how is that not part of an electronic communications process?
    b. If not, how can it do what you claim—namely, verify the integrity of the content of the fax received?
        i. If the client can access the fax in question without the EPM being applied, then obviously the client can apply, or not apply, the EPM only to such

faxes as it deems it in its own interest to apply it to—hence defeating the very compliance process you've cited. But if the EPM is, by the nature of the business process, applied whenever a fax of the appropriate type is received, then obviously it is integrated into the electronic communications process.

ii. If the EPM is applied only after the client has accessed the file and submitted it to in-house processes, how does the EPM guarantee that file is the same one sent?

3. So which is it—does the USPS EPM not actually prove anything about what has been received, or it is really integral to the process of communication?

DS/USPS-T1-4. From page 4, line 10, to page seven, line 11, you give what you describe as a "history" of USPS development of its date and time stamp. You contend that the USPS "began work" in 1996 (page 4, line 12), after two years of speeches "announcing that the Postal Service would be building an electronic postmark for use by our customers." (page 4, lines 10-12) You later state, "When the Postal Service's contractor first developed our electronic postmark system, there were no industry standards on which to build." (page 8, lines 5-7.)

1. Prior to USPS' appropriation of the standards and protocols developed by private industry, is it not true that all of the USPS efforts failed? If your answer is no, then please explain.

2. You seem to claim that the USPS has helped develop industry standards (page 8, lines 4-10). Are you claiming that the participation of the USPS somehow benefited industry by precipitating and contributing to standards that otherwise were not under development? If so, how, when, by whom, and by what means? If not, why do you introduce the development of the IETF standards as if the USPS somehow played a central role?

3. Is it not true that the USPS EPM in its current form was only introduced in 2004, and in fact uses the standards developed by private industry, not the failed efforts of earlier USPS work? If your answer is no, then please explain.