

BEFORE THE  
FEDERAL MARITIME COMMISSION

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DOCKET NO. 22-30  
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SAMSUNG ELECTRONICS

AMERICA, INC.,

COMPLAINANT,

v.

ZIM INTEGRATED SHIPPING SERVICES LTD.,

RESPONDENT.

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**DECLARATION OF CHRISTOPHER RALEIGH IN OPPOSITION  
TO COMPLAINANT’S MOTION TO COMPEL AND IN SUPPORT OF  
RESPONDENT’S CROSS MOTION FOR EXTENSION OF SCHEDULING ORDER**

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CHRISTOPHER RALEIGH, hereby declares as follows:

1. I am a member of Cozen O’Connor, P.C., attorneys for Respondent in this proceeding. I am a member in good standing of the Bars of the States of New York and New Jersey and the United States District Courts for the Southern and Eastern Districts of New York and the District of New Jersey, and have filed an appearance in this proceeding.

2. I have personal knowledge of the facts set forth herein, and am fully familiar with the proceedings in this case.

3. I submit this Declaration in opposition to the Complainant’s Motion to Compel and for Sanctions (the “Motion”) against ZIM Integrated Shipping Services (“ZIM” or

“Respondent”) and in support of ZIM’s Cross Motion for a thirty day extension of the Scheduling Order dated January 12, 2023 (“Scheduling Order”).

4. The facts relating to ZIM’s search for and transmission of data which contained documents that were potentially responsive to Complainant’s Request for Production of Documents have been described in the accompanying Declaration of Mark Newcomb dated March 30, 2023, and will not be reiterated here. It is patently clear from Mr. Newcomb’s Declaration that ZIM has acted in good faith in an effort to search for, marshal and transmit data to its counsel which contained potentially responsive documents, and that it was unable to complete this work before March 20, 2023.

**Document Productions to SEA’s Counsel**

5. While efforts were underway to obtain data located on foreign servers, ZIM did transmit documents that were locally available. These documents were promptly reviewed, and the resultant production of 11,376 pages was delivered to Complainant’s counsel on February 27, 2023.

6. Due to the size of the data base that ZIM had marshaled, which totaled approximately 500 GB, our eDiscovery team received the data described in Mr. Newcomb’s Declaration in three batches consisting of approximately 142 GB, 250 GB and 102 GB during the second and third weeks of March. Following our processing and review of the first batch, we produced 10,928 pages of responsive documents to SEA’s counsel on March 22, 2023.

7. Additional productions, consisting of 49,736 pages, were transmitted to SEA’s counsel on March 28 and 29, 2023.

8. We estimate that our review of the balance of documents from the second batch of data transmitted by ZIM will be completed by the week of April 3, 2023. I am informed that

documents from the third batch of data, which is currently being processed, will be available for review next week. We estimate that productions from this last data set will be completed during the week of April 10.

### **Communications With SEA's Counsel**

9. In response to a deficiency letter received from SEA on March 14, 2023 (Exhibit A), we advised its counsel about the size of the data base which ZIM was transferring to us, and that its receipt was delayed due to the breadth of SEA's discovery requests, the resultant number of custodians whose mailboxes had to be searched and the stringent security measures ZIM was required to employ with respect to the transmittal of data. (Exhibit B) Our letter made it clear that ZIM would not be able to complete its document production by March 20, but we committed to update SEA's counsel with estimates for completion when our analysis of the data enabled us to do so: "We are in the process of reviewing the documents provided by our client and intend to begin producing those documents during the week of March 20. We will provide a more detailed estimate of when production will begin and be completed as soon as we reach a point in the review that enables us to provide that information."

10. We were not available for a "meet and confer" demanded by SEA's counsel for the morning of March 21, 2023 and, in compliance with SEA's counsel's request, provided an update in writing regarding the status of ZIM's productions. We advised that a production would be made that day from the data provided by ZIM and proposed that the parties have a conference call on the following afternoon to further update them on future productions and to discuss re-scheduling of depositions to dates after the productions had been completed. It was our intention to request during that call that the parties submit a motion on consent for a modest, thirty day

extension of the Scheduling Order so that ZIM's document productions could be completed before depositions began. The email exchanges with counsel are attached as Exhibit C.

11. In response, SEA's counsel sent an email at 6:00 p.m. which characterized the difficulties ZIM encountered in timely completing its document production as an intentional violation of the Scheduling Order and demanded ZIM complete its production by March 24 – a deadline which was impossible to meet. SEA's counsel demanded confirmation that we confirm in writing that ZIM would meet their demands by 8:00 p.m., otherwise they would file a motion to compel. In response, we proposed what we would have raised during a conference call the following day, had SEA's counsel participated in the call, i.e., that a motion be submitted on consent requesting a modest thirty day extension of the Scheduling Order: "We have advised you about the security issues ZIM had to deal with and the delay in production that has resulted. Needless to say, ZIM will not be in a position to comply with your demand that its production be completed by March 24. We accordingly had intended to request that you consent to an application that we would make to the Presiding Officer for a thirty day extension of the deadline for production of documents and a commensurate extension of time to complete depositions. Given the amount of data ZIM has delivered after searching its extensive network, this first extension request is both modest and reasonable." (Exhibit C)

12. SEA filed the Motion at approximately 8:00 a.m. the following morning. Minutes later, we received an email from its counsel confirming that SEA would oppose a motion seeking any extension of the Scheduling Order. (Exhibit C)

13. In summary, ZIM has produced 72,042 pages of documents in response to SEA's discovery requests. We estimate that our review of the sizable data base that ZIM has provided

is approximately 60% completed, and will be concluded by the second week of April, 2023.

ZIM requests a thirty day extension of the Scheduling Order to conclude these productions.

I declare that the foregoing is true and correct to the best of my knowledge.

Dated: March 30, 2023

*/s/ Christopher Raleigh*  
Christopher Raleigh