

BEFORE THE FEDERAL MARITIME COMMISSION

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DOCKET NO. 22-30

SAMSUNG ELECTRONICS AMERICA, INC.
COMPLAINANT,

v.

ZIM INTEGRATED SHIPPING SERVICES LTD.,
RESPONDENT

DECLARATION OF MARK E. NEWCOMB

I, **MARK NEWCOMB**, hereby declare under penalty of perjury pursuant to 28 U.S.C. 1746 as follows:

1. I am the Vice President and General Counsel for ZIM American Integrated Shipping Services Co., LLC., (hereinafter "ZIM American") whose headquarters are located at 5801 Lake Wright Drive, Norfolk, Virginia. ZIM American is the General Agent for ZIM Integrated Shipping Services Ltd., its parent company, a Vessel Operating Common Carrier with its headquarters in Haifa, Israel (hereinafter "ZIM Integrated"). I have been employed by ZIM American since May 2013. In my capacity as Vice President and General Counsel, I manage all of ZIM Integrated's legal and regulatory affairs in the United States, including this matter.

2. We received a copy of Samsung' First Combined Set of Document Requests and Interrogatories on January 20 and, after consulting with Counsel, immediately began the process of identifying responsive documents.

3. After receiving guidance on terms for use in search of the Electronic Mail files from counsel, I contacted ZIM Integrated's Regional IT Office (also located in Norfolk) to begin the process. I was reminded that the server housing Electronic Mail files was located in the MicroSoft

Cloud, but access to the data was controlled by the IT team in Haifa. We also had to structure the search criteria to be compatible with the MicroSoft Cloud system engine.

4. The restructured search criteria were delivered to the IT Data Archive Team in Haifa and after some additional revisions to the search criteria, an electronic search of ZIM's electronic mail systems was initiated.

5. The Managed Information Systems team in the U.S. was subsequently advised that the search was "too complex" for the engine and was told that ZIM American's IT team should commence an account level search within the email system (Outlook).

6. Immediately after I was notified of the foregoing recommendation, I asked senior U.S. IT personnel to intervene and assist. After discussions with the Haifa IT Team, the U.S. IT Team revised the search criteria again, forwarding it to the Haifa Team.

7. As the search was nearing completion, the Haifa team asked for identification of the persons who would receive the data and how it was to be transferred. When informed that the data was to be transferred to our outside counsel, the Haifa Team asserted that specific authorization would need to be obtained from ZIM Integrated's General Counsel. By way of explanation, ZIM Integrated follows EU Data Privacy rules and our policy does not allow transfer of data to uncontrolled cloud storage systems (i.e., DropBox). After a number of exchanges between IT personnel, myself, and ZIM Integrated's General Counsel's office (Data Protection Officer), the Haifa Team received authority to transfer data to an internal storage system and then created a ZIM account for COZEN O'CONNOR's designated point of contact and notified him of its availability, thus remaining within ZIM's access control procedures.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed on: March 30, 2023



MARK E. NEWCOMB

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