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10
                   UNITED STATES DISTRICT COURT
11
                        DISTRICT OF NEVADA
12
    INDEPENDENT TECHNOLOGIES, LLC   Case No. 3:20-cv-00072
13
                    Plaintiff,
14
    v.   STIPULATED ORDER RE: DISCOVERY OF
15   ELECTRONICALLY STORED
    OTODATA WIRELESS NETWORK, INC.,   INFORMATION
16 STEVEN RECHENMACHER, and BRIAN
    RECHENMACHER,
17
                    Defendants.
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19

20   1. PURPOSE

21   This Order will govern discovery of electronically stored information ("ESI") in

22 this case as a supplement to the Federal Rules of Civil Procedure and any other

23 applicable orders and rules.

24   2. COOPERATION

25   The parties are aware of the importance the Court places on cooperation and

26 commit to cooperate in good faith throughout the matter.

27   3. LIAISON

28   The parties have identified liaisons to each other who are and will be

1   knowledgeable about and responsible for discussing their respective ESI. For the

2   plaintiff, the liaison is James C. Dugan. For the defendants, the liaison is Stephen S.

3   Smith.   Each e-discovery liaison will be, or have access to those who are,

4   knowledgeable about the technical aspects of e-discovery, including the location,

5   nature, accessibility, format, collection, search methodologies, and production of ESI

6   in this matter. The parties will rely on the liaisons, as needed, to confer about ESI and

7   to help resolve disputes without court intervention.

8   4. PRESERVATION

9   The parties have discussed their preservation obligations and needs and agree

10   that preservation of potentially relevant ESI will be reasonable and proportionate. To

11   reduce the costs and burdens of preservation and to ensure proper ESI is preserved,

12   the parties agree that:

13   a)   To the extent it currently exists, only ESI created or received after April 1,

14   2019 through April 30, 2020 will be preserved;

15   b)   The parties have exchanged a list of the general job titles or descriptions

16   of custodians, for whom they believe ESI should be preserved:

17   The types/sources of ESI the parties believe should be preserved

18   are as follows: work email servers and accounts, work desktops/laptops, shared

19   and personal work folders, home or personal email servers and accounts

20   (including, but not limited to, accounts at advacts.com), home or personal

21   desktops/laptops, mobile data, text messages, instant messaging, and cloud

22   storage identified by the ESI custodians in consultation with counsel for that

23   party.

24   For plaintiff, the list of custodians is: (1) Chet Reshamwala, (2) Eric

25   Duckworth, (3) Brad Anderson, (4) Steven Rechenmacher and (5) Brian

26   Rechenmacher. Plaintiff additionally agrees to obtain documents from the

27   salesperson(s) primarily responsible for customer accounts that it alleges

28   Defendants wrongfully solicited.

1   For defendants, the list of custodians is: (1) Andre Boulay, (2) Sean Hughes,

2   (3) Steven Rechenmacher,(4) Brian Rechenmacher, (5) Jason Gallovich, (6) Rita

3   Pecilunas, (7) David Dodd, and (8) David Tedeschi. The parties shall add or

4   remove custodians as reasonably necessary;

5   c)   The parties have agreed/will agree on the number of custodians per party

6   for whom ESI will be preserved;

7   d)   These data sources are not reasonably accessible because of undue

8   burden or cost pursuant to Fed. R. Civ. P. 26(b)(2)(B) and ESI from these

9   sources will be preserved but not searched, reviewed, or produced: backup

10   media of email and document management systems, systems no longer in use

11   that cannot be accessed.

12   5. SEARCH

13   The parties have meet and conferred in responding to their respective initial

14 Fed. R. Civ. P. 34 request, and agree to meet and confer further, if necessary, about

15 methods to search ESI in order to identify ESI that is subject to production in

16 discovery and filter out ESI that is not subject to discovery.

17   6. PRODUCTION FORMATS

18   The Parties have reached the following agreements regarding the form(s) of

19 production:

20   a.   **Format**. All relevant, responsive and non-privileged Documents shall be

21 produced as follows:

22   (i)   To the extent one form of a Document is produced, it need not be

23   produced in another form; however, the Parties reserve the right to request

24   native files for any document that is unreadable or has limited accessibility

25

26   in the Group IV TIF format (e.g., color documents or databases).

27   (ii)   Microsoft Excel files or other spreadsheet file types, Microsoft PowerPoint

28   presentations, and audio and video media files shall be produced in their

1   native formats with links referenced in the "NativePath" field as described

2   below. Natively produced documents will be accompanied by a TIFF image

3   slip sheet indicating that the document was produced natively.

4

5   (iii)   To the extent any specialized software is required to allow a Document to

be read, interpreted, or translated into usable form, such software shall

6   also be produced or such Documents shall be converted into reasonably

7   usable forms for production.

8

9   (iv)   Non-electronic Documents shall be scanned into a static-image format with

10   searchable text as specified herein.

11   (v)   Images shall be produced as single-page CCITT Group IV TIFF files in 300

12   dpi with an IPRO.LFP reference file containing document (D) and child (C)

13   identifiers. Each TIFF image shall have a unique, sequential identifying

14   number which is the Bates number of the page.

15

16   (vi)   A standard Concordance .DAT load file shall be provided containing all

17   metadata fields specified below. The Concordance data files shall be

18   delimited by the Concordance default format delimiters, e.g., ASCII 020 (for

19   comma), 254 (þ for quote), and 174 (® for newline).

20

21   (vii)   Document text shall be provided in a multipage .TXT file for each

document, using extracted text for electronic data and OCR for scanned,

22   non-electronic documents. Each .TXT file shall be named per the ProdBeg

23   value for each Document and delivered in a folder named Text.

24

25   (viii)   Native files shall be named per the ProdBeg value for each document and

26   delivered in a folder named Natives.

27   (ix)   In the event a Document is encrypted, password-protected, or otherwise

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1   protected from third-party access, the Parties shall, to the fullest extent

2   possible, decrypt or unlock such Documents.

3   (x)   In producing Documents, if an identical Document appears in more than

4   one person's files, you must either (1) produce each copy of the Document,

5   or (2) provide the names of each custodian delimited by commas in an

6   additional "All Custodians" metadata field within the Concordance load file.

7

8   b.   **Metadata fields**. The parties are obligated to provide the following

9   metadata for all ESI produced, to the extent such metadata exists:

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METADATA FIELDS FOR <u>ALL</u> ELECTRONIC DOCUMENTS	
ProdBeg	First bates number of email or document
ProdEnd	Last bates number of email or document
ProdBegAttach	First bates number of attachment(s)
ProdEndAttach	Last bates number of attachment(s)
Custodian	
File_Extension	
MD5Hash	
FilePath	Starting with container name (PST or NSF) through mailbox folder name - format example: Outlook PST\Inbox\Important
Record Type	Populated with Email, Attachment, or Loose File
NativePath	Relative path to native file if provided in production
TextPath	Relative path to document text/OCR file if provided in production

ADDITIONAL METADATA FIELDS FOR EMAIL	
SentDate	Format yyyymmdd
SentTime	Format hh:mm:ss
ReceivedDate	Format yyyymmdd
ReceivedTime	Format hh:mm:ss
From	
To	
CC	
BCC	
Subject	
ThreadID	Email thread identification value (Conversation Index or other identifier)
Attachment Names	File names of attached documents
Num_Attachments	Number of attached documents

ADDITIONAL METADATA FIELDS FOR ALL ELECTRONIC DOCUMENTS OTHER THAN EMAIL	
Author	
CreateDate	Format yyyymmdd
CreateTime	Format hh:mm:ss
ModDate	Format yyyymmdd
ModTime	Format hh:mm:ss
DocTitle	
FileName	
FileSize	

c.   **Redactions**. Any producing party may use redactions to protect attorney-client or attorney work product privileges. The parties further agree that documents may be redacted for relevance if a portion of a document relates to subject matter that is not relevant to this lawsuit. All redactions should be readily identifiable, for example including the word "REDACTED" over the redacted information.

d.   **Manner of production**. Subject to the provisions of this Order, the manner of ESI in this litigation is to be governed by Federal Rule of Civil Procedure 34(b)(2)(E). The production of any requested responsive and non-privileged ESI shall take place through a rolling production process and shall be completed in accordance with the Scheduling Order (ECF No. TBD). Productions shall be sent via Secure File

1 Transfer, or other form agreed upon by the parties.

2   e.   **De-duplication**. Each party shall be permitted to use electronic

3 horizontal and/or vertical de-duplication software to eliminate multiple copies of identical

4 documents (including e-mails).

5   8. DOCUMENTS PROTECTED FROM DISCOVERY

6   a)   Pursuant to Fed. R. Evid. 502(d), the production of a privileged or work-

7 product-protected document, whether inadvertent or otherwise, is not a waiver of

8 privilege or protection from discovery in this case or in any other federal or state

9 proceeding. For example, the mere production of privileged or work-product-

10 protected documents in this case as part of a mass production is not itself a

11 waiver in this case or in any other federal or state proceeding.

12   b)   The parties have agreed in the Parties' Stipulated Protective Order (ECF

13 No. 25 at paragraph 11) upon a claw back process pursuant to Fed. R. Civ. P.

14 26(b)(5).

15   c)   Communications involving outside counsel that post-date the filing of the

16 complaint need not be placed on a privilege log. Communications may be

17 identified on a privilege log by category, rather than individually, if appropriate.

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9. MODIFICATION

This Stipulated Order may be modified by a Stipulated Order of the parties or by the Court for good cause shown.

IT IS SO STIPULATED, through Counsel of Record.

DATED: September 17, 2020.

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IT IS SO ORDERED.

_____
UNITED STATES MAGISTRATE JUDGE

DATED: September 18, 2020

4845-5764-0651, v. 1