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Sheehan Genetics, LLC and Benkirk, Inc.,
8 *d/b/a Williams Nursery*

9
10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA

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13 SHEEHAN GENETICS, LLC, AND
14 BENKIRK, INC. D/B/A WILLIAMS
NURSERY,

15 Plaintiffs,

16 v.

17 JAKOV P. DULCICH AND SONS, LLC,
18 JAKOV P. DULCICH, NICK P. DULCICH,
AND PETER DULCICH,

19 Defendants.
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No. 2:14-cv-02227-KJM-DAD

**STIPULATION & ORDER RE:
DISCOVERY OF ELECTRONICALLY
STORED INFORMATION FOR PATENT
LITIGATION**

1 Upon the stipulation of the parties, the Court ORDERS as follows:

2 1. This Order supplements all other discovery rules and orders. It streamlines
3 Electronically Stored Information (“ESI”) production to promote a “just, speedy, and inexpensive
4 determination of this action, as required by Federal Rule of Civil Procedure 1.”

5 2. This Order may be modified in the Court’s discretion or by stipulation. The
6 parties shall jointly submit any proposed modifications within 30 days after the Federal Rule of
7 Civil Procedure 16 Conference.

8 3. As in all cases, costs may be shifted for disproportionate ESI production requests
9 pursuant to Federal Rule of Civil Procedure 26. Likewise, a party’s nonresponsive or dilatory
10 discovery tactics are cost-shifting considerations.

11 4. A party’s meaningful compliance with this Order and efforts to promote efficiency
12 and reduce costs will be considered in cost-shifting determinations.

13 5. The parties are expected to comply with the Northern District’s E-Discovery
14 Guidelines (“Guidelines”) and are encouraged to employ the Northern District’s Model Stipulated
15 Order Re: the Discovery of Electronically Stored Information and Checklist for Rule 26(f) Meet
16 and Confer regarding Electronically Stored Information.

17 6. General ESI production requests under Federal Rules of Civil Procedure 34 and 45
18 shall not include email or other forms of electronic correspondence (collectively “email”). To
19 obtain email parties must propound specific email production requests.

20 7. Email production requests shall only be propounded for specific issues, rather than
21 general discovery of a product or business.

22 8. Email production requests shall be phased to occur after the parties have
23 exchanged initial disclosures and basic documentation about the patents, the prior art, the accused
24 instrumentalities, and the relevant finances. While this provision does not require the production
25 of such information, the Court encourages prompt and early production of this information to
26 promote efficient and economical streamlining of the case.

27 9. Email production requests shall identify the custodian, search terms, and time
28 frame. The parties shall cooperate to identify the proper custodians, proper search terms and

1 proper timeframe as set forth in the Guidelines.

2 10. Each requesting party shall limit its email production requests to a total of ten
3 custodians per producing party for all such requests. The parties may jointly agree to modify this
4 limit without the Court's leave. The Court shall consider contested requests for additional
5 custodians, upon showing a distinct need based on the size, complexity, and issues of this specific
6 case. Cost-shifting may be considered as part of any such request.

7 11. Each requesting party shall limit its email production requests to a total of ten
8 search terms per custodian per party. The parties may jointly agree to modify this limit without
9 the Court's leave. The Court shall consider contested requests for additional search terms per
10 custodian, upon showing a distinct need based on the size, complexity, and issues of this specific
11 case. The Court encourages the parties to confer on a process to test the efficacy of the search
12 terms. The search terms shall be narrowly tailored to particular issues. Indiscriminate terms,
13 such as the producing company's name or its product name, are inappropriate unless combined
14 with narrowing search criteria that sufficiently reduce the risk of overproduction. A conjunctive
15 combination of multiple words or phrases (*e.g.*, "computer" and "system") narrows the search and
16 shall count as a single search term. A disjunctive combination of multiple words or phrases (*e.g.*,
17 "computer" or "system") broadens the search, and thus each word or phrase shall count as a
18 separate search term unless they are variants of the same word. Use of narrowing search criteria
19 (*e.g.*, "and," "but not," "w/x") is encouraged to limit the production and shall be considered when
20 determining whether to shift costs for disproportionate discovery. Should a party serve email
21 production requests with search terms beyond the limits agreed to by the parties or granted by the
22 Court pursuant to this paragraph, this shall be considered in determining whether any party shall
23 bear all reasonable costs caused by such additional discovery.

24 12. Nothing in this Order prevents the parties from agreeing to use technology assisted
25 review and other techniques insofar as their use improves the efficacy of discovery. Such topics
26 should be discussed pursuant to the District's E-Discovery Guidelines.

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IT IS SO STIPULATED, through Counsel of Record.

DATED: January 28, 2015

By: /s/ Jennifer D. Bennett
DENTONS US LLP
Robert F. Kramer
Jennifer D. Bennett
C. Gideon Korrell

ATTORNEYS FOR PLAINTIFFS
Sheehan Genetics, LLC and Benkirk, Inc. d/b/a
Williams Nursery

DATED: January 28, 2015

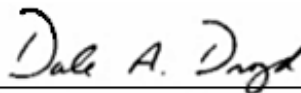
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ATTORNEYS FOR DEFENDANTS
Jakov P. Dulcich and Sons, LLC, Jakov P. Dulcich,
Nick P. Dulcich, and Peter Dulcich

ORDER

Pursuant to the parties' stipulation, IT IS SO ORDERED.

Dated: January 29, 2015



DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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