

1 Hassan A. Zavareei (SBN 181547)
 hzavareei@tzlegal.com
 2 Andrea R. Gold (admitted pro hac vice)
 agold@tzlegal.com
 3 Andrew J. Silver (admitted pro hac vice)
 asilver@tzlegal.com
 4 **TYCKO & ZAVAREEI LLP**
 1828 L Street, N.W., Suite 1000
 5 Washington, DC 20036
 Tel.: (202) 973-0900
 6 Fax: (202) 973-0950

7 Kristen Law Sagafi (SBN 222249)
 ksagafi@tzlegal.com
 8 **TYCKO & ZAVAREEI LLP**
 483 Ninth Street, Suite 200
 9 Oakland, CA 94607
 Tel.: (510) 907-7255
 10 Fax: (202) 973-0950

11 *Attorneys for Plaintiffs James Lathrop,*
 12 *Julie McKinney, Jonathan Grindell,*
 13 *Sandeep Pal, Jennifer Reilly,*
and Justin Bartolet

14 James G. Snell
 jsnell@perkinscoie.com
 15 **PERKINS COIE LLP**
 3150 Porter Drive
 16 Palo Alto, CA 94304-1212
 Telephone: (650) 838-4367
 17 Facsimile: (650) 838-4350

18 Debra R. Bernard, ARDC No. 6191217
 DBernard@perkinscoie.com
 19 **PERKINS COIE LLP**
 131 South Dearborn, Suite 1700
 20 Chicago, Illinois 60603
 Telephone: (312) 324-8559

22 *Attorneys for Defendant Uber Technologies, Inc.*

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1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

3 PLAINTIFFS JAMES LATHROP, JULIE
4 MCKINNEY, JONATHAN GRINDELL,
5 SANDEEP PAL, JENNIFER REILLY, and
6 JUSTIN BARTOLET on behalf of themselves
7 and all others similarly situated,

8 Plaintiffs,

9 v.

10 UBER TECHNOLOGIES, INC.

11 Defendant.

Civil Action No. 14-cv-05678-JST

**~~PROPOSED~~ STIPULATED ORDER
RE: DISCOVERY OF
ELECTRONICALLY STORED
INFORMATION FOR STANDARD
LITIGATION**

The Honorable Jon S. Tigar

12 **1. PURPOSE**

13 This Order will govern discovery of electronically stored information (“ESI”) in this
14 case as a supplement to the Federal Rules of Civil Procedure, this Court’s Guidelines for the
15 Discovery of Electronically Stored Information, and any other applicable orders and rules.

16 **2. COOPERATION**

17 The parties are aware of the importance the Court places on cooperation and will
18 cooperate in good faith throughout the matter consistent with this Court’s Guidelines for the
19 Discovery of ESI.

20 **3. LIAISON**

21 The parties shall identify liaisons to each other who are and will be knowledgeable
22 about and responsible for discussing their respective ESI.

23 Plaintiffs’ liaison is Sydney Teng, Tycko & Zavareei LLP, 1828 L Street NW, Suite
24 1000, Washington, DC 20036.

25 Defendant’s liaison is Jesse Murray, Uber Technologies, Inc., 1455 Market Street, San
26 Francisco, CA 94103.

27 Each e-discovery liaison will be, or have access to those who are, knowledgeable about
28 the technical aspects of e-discovery, including the location, nature, accessibility, format,

1 collection, search methodologies, and production of ESI in this matter. The parties will rely on
2 the liaisons, as needed, to confer about ESI and to help resolve disputes without court
3 intervention.

4 **4. PRESERVATION**

5 The preservation of potentially relevant ESI is reasonable and proportionate. To reduce
6 the costs and burdens of preservation and to ensure proper ESI is preserved, the parties agree
7 that:

- 8 a) Only ESI created or received between December 31, 2010 and final judgment in
9 this matter will be preserved;
- 10 b) The following types of ESI should be preserved and the custodians, or general job
11 titles or descriptions of custodians, for whom they believe ESI should be preserved,
12 e.g., “HR head,” “scientist,” and “marketing manager”:

13 Custodians of Defendant: Michael Kadin, Engineering Manager; Caleb Mingle,
14 Senior Software Engineer; Charles-Axel Dein, Engineering Manager; Ying Zhang,
15 Senior Software Engineer; and Frederique Dame, Tech Services Manager (“Uber’s
16 designated custodians”).

17 Custodians of Plaintiffs: Plaintiffs James Lathrop, Julie McKinney, Jonathan
18 Grindell, Sandeep Pal, Jennifer Reilly, and Justin Bartolet (“Plaintiffs’ designated
19 custodians”).

20 The parties agree to add or remove custodians as reasonably necessary.

21 Sources for Uber:

22 Sources for each Custodian: all document management systems, computer
23 archives, backup tapes or disks, hard drives, and/or electronic mail, or instant
24 messaging.

25 Sources not attributable to a Custodian: servers, electronic document
26 repositories, or any other electronic file storage media, relevant shared network
27 folders or repositories which Uber identifies following a reasonable and diligent
28 investigation as likely to contain responsive ESI.

Sources for Plaintiffs:

Sources for each Custodian: all document management systems, computer
archives, backup tapes or disks, PDAs, smart phones, personal computers, hard
drives, and/or electronic mail, instant messaging, or text messaging accounts.

- c) The parties have agreed on the number of custodians per party for whom ESI will
be preserved as set forth in paragraph (b) above;
- d) These data sources are not reasonably accessible because of undue burden or cost
pursuant to Fed. R. Civ. P. 26(b)(2)(B) and ESI from these sources will be

1 preserved but not searched, reviewed, or produced: none known at this time;

2 e) The following sources need not be preserved: backup media created before
3 December 31, 2010, digital voicemail, instant messaging, automatically saved
4 versions of documents;

5 f) In addition to the agreements above, the parties agree that data from these sources
6 (a) could contain relevant information but (b) under the proportionality factors,
7 should not be preserved: none known at this time;

8 g) Nothing herein is intended to or does waive any objections based on burden or
9 proportionality that the parties may have with respect to documents or information
10 sought by specific requests.

11 **5. SEARCH**

12 The parties agree that in responding to an initial Fed. R. Civ. P. 34 request, or earlier if
13 appropriate, the parties will meet and confer about methods to search ESI in order to identify
14 ESI that is subject to production in discovery and filter out ESI that is not subject to discovery.
15 The parties have met and conferred in response to the Fed. R. Civ. P. 34 requests propounded
16 to date in this case. The parties have agreed on a list of search terms provided by counsel for
17 Plaintiffs and attached to this Agreement as Exhibit A. Defendant shall run the list of search
18 terms against the Sources for each Uber designated custodian identified above in paragraph
19 4(b), as well as the Sources not attributable to an Uber designated custodian which Uber
20 identifies following a reasonable and diligent investigation as likely to contain responsive ESI.

21 **6. PRODUCTION FORMATS**

22 The parties agree to produce documents in PDF, TIFF, native and/or paper or
23 a combination thereof (check all that apply)] file formats. If particular documents warrant a
24 different format, the parties shall cooperate to arrange for the mutually acceptable production
25 of such documents. The parties shall not degrade the searchability of documents as part of the
26 document production process.

27 **7. PHASING**

28 The parties have propounded discovery requests pursuant to Fed. R. Civ. P. 34. The
parties agree to phase the production of ESI. The initial production will be from the following
sources and custodians:

1 Custodians of Defendant: Michael Kadin, Engineering Manager; Caleb Mingle,
2 Senior Software Engineer; Charles-Axel Dein, Engineering Manager; Ying Zhang,
3 Senior Software Engineer; and Frederique Dame, Tech Services Manager.

4 Custodians of Plaintiffs: Plaintiffs James Lathrop, Julie McKinney, Jonathan
5 Grindell, Sandeep Pal, Jennifer Reilly, and Justin Bartolet.

6 The parties agree to add or remove custodians as reasonably necessary.

7 Sources for Uber:

8 Sources for each Custodian: all document management systems, computer
9 archives, backup tapes or disks, hard drives, and/or electronic mail, or instant
10 messaging accounts.

11 Sources not attributable to a Custodian: servers, electronic document
12 repositories, or any other electronic file storage media, relevant shared network
13 folders or repositories which Uber identifies following a reasonable and diligent
14 investigation as likely to contain responsive ESI.

15 Sources for Plaintiffs:

16 Sources for each Custodian: all document management systems, computer
17 archives, backup tapes or disks, PDAs, smart phones, personal computers, hard
18 drives, and/or electronic mail, instant messaging, or text messaging accounts.

19 **8. DOCUMENTS PROTECTED FROM DISCOVERY**

- 20 a) Pursuant to Fed. R. Evid. 502(d), the production of a privileged or work-product-
21 protected document, whether inadvertent or otherwise, is not a waiver of privilege
22 or protection from discovery in this case or in any other federal or state proceeding.
23 For example, the mere production of privileged or work-product-protected
24 documents in this case as part of a mass production is not itself a waiver in this case
25 or in any other federal or state proceeding.
- 26 b) Communications involving trial counsel and in-house counsel managing this
27 litigation that post-date the filing of the complaint need not be placed on a privilege
28 log. Communications may be identified on a privilege log by category, rather than
individually, if appropriate.

9. MODIFICATION

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

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IT IS SO STIPULATED, through Counsel of Record.

Dated: December 18, 2015 _____ /s/ Hassan A. Zavareei
Counsel for Plaintiffs

Dated: December 18, 2015 _____ /s/ Debra Bernard
Counsel for Defendant

IT IS ORDERED that the forgoing Agreement is approved.

Dated: December 22, 2015 _____

