

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Counsel Listed on Signature Page

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

FEDERAL TRADE COMMISSION,  
Plaintiff,  
vs.  
DIRECTV, a corporation,  
and  
DIRECTV, LLP a limited company,  
Defendants.

) Case No. 3:15-cv-01129 HSG  
)  
) Judge: Haywood S. Gilliam, Jr.  
)  
)  
) DISCOVERY STIPULATION ARISING  
) FROM COURT-ORDERED MEET AND  
) CONFER (DKT. 160) AND ~~[PROPOSED]~~  
) ORDER  
)  
)  
)  
)  
)  
)

1 Pursuant to the Court's order (Dkt. 160), the parties met and conferred in court on July 25,  
2 2016. The parties reached agreement on the following:

3 **1. Letter Brief re: RFP 4:** The parties agree that the issue (Dkt. 152) has been resolved by the  
4 Court's order (Dkt. 156). DIRECTV is preparing its production in accordance with the  
5 Court's order.

6 **2. Letter Brief re: RFPs 6 and 7:**

7 a. DIRECTV will search for and produce any relevant, responsive eye-mapping  
8 studies/reports from Valpak, Wishabi, and RealEyes. DIRECTV will also search for and  
9 produce any relevant, responsive additional research from Wishabi. DIRECTV will  
10 provide information on the results of these searches by July 29, 2016.

11 b. DIRECTV will search for and produce any relevant, responsive .comScore  
12 data/studies/reports (in particular any data regarding click-throughs). DIRECTV will  
13 provide information on the results of this search by July 29, 2016.

14 c. DIRECTV will search for and produce for relevant, responsive McKinsey  
15 surveys/studies/reports. DIRECTV will provide information on the results of this search  
16 by July 29, 2016.

17 d. DIRECTV will run and review the FTC's search terms (as set forth in Dkt. 155—both  
18 Query 1 and Query 2) on Giles Lundberg's materials and produce responsive documents  
19 reasonably in advance of Mr. Lundberg's deposition.

20 e. The FTC will not seek any further ESI under RFPs 6 and 7.

21 f. This resolves Dkt. 155.

22 **3. DIRECTV Topic 17 to FTC:**

23 a. The FTC will identify in its opening expert report (or in another form no later than the  
24 day opening expert reports are exchanged) any DIRECTV-produced documents  
25 supporting any FTC claim that DIRECTV's consumer perception research demonstrated  
26 that the company was aware of consumer deception.

27 b. The deposition will be taken off calendar.

28 **4. DIRECTV Topic 18 to FTC:**

- 1 a. The FTC will produce declaration(s) by August 5, 2016 regarding how videos were  
2 captured and what DIRECTV website material was selected for capture.
- 3 b. The deposition will be taken off calendar, with the understanding that DIRECTV can  
4 depose the witnesses if necessary after receiving the declaration(s).
- 5 **5. FTC 30(b)(6) Topic 4:** The parties will continue to work cooperatively on the authentication  
6 and explanation of sales and cancellation data produced by DIRECTV.
- 7 **6. FTC 30(b)(6) Topic 14:**
- 8 a. DIRECTV will produce declaration(s) by August 5, 2016 regarding the universe from  
9 which the sample of recorded calls was drawn and how the recorded calls were selected.
- 10 b. The deposition will be taken off calendar, with the understanding that the FTC can  
11 depose the witness(es) if necessary after receiving the declaration(s).
- 12 **7. FTC 30(b)(6) Topics 9-11:** DIRECTV will produce a witness after the ruling on the Ted  
13 Suzuki deposition.
- 14 **8. FTC 30(b)(6) Topics 12-13:** Withdrawn.
- 15 **9. Website Analytics:** DIRECTV will allow the FTC to meet with the appropriate DIRECTV  
16 employee to discuss analytics on either 8/2, 8/3, 8/4. DIRECTV will provide the FTC with the  
17 opportunity to review the analytics data in the possession of DIRECTV, and if additional  
18 relevant, responsive material exists, DIRECTV will produce that material to the FTC.
- 19 **10. ROG 4:** DIRECTV will agree that any dissemination schedules produced by third-party  
20 agents of DIRECTV are accurate. DIRECTV agrees that DIRECTV's final television  
21 advertisements aired nationally. The parties are still discussing dissemination regarding  
22 digital ads and will continue to work cooperatively on this front.
- 23 **11. ROG 26:**
- 24 a. DIRECTV will go back to see if there are any additional scripts that have not been  
25 produced and will produce any such scripts that are reasonably available.
- 26 b. DIRECTV will also see if there are additional sample video recordings of the agent's  
27 computer screen during sales calls. If additional such videos exist and are reasonably  
28 available, DIRECTV will produce them.

1 c. Required Call Components: DIRECTV will provide or identify reasonably available  
2 information specifying the time periods during which each Required Call Component  
3 was operative (i.e., the time period during which each Required Call Component directed  
4 sales agents to include the specified components).

5 d. For the Required Call Components and the scripts DIRECTV has produced or will  
6 produce, DIRECTV will confirm that these are the final scripts actually used for  
7 customer calls.

8 **12. Banner Ads:** DIRECTV will produce in native format if reasonably available.

9 **13. Production from Third Parties:** The FTC will provide by July 29, 2016 a confirmation that  
10 it has produced all such documents or will identify by category documents that it has not.

11 **14. No Further Issues.** The parties will continue to resolve privilege log issues in good faith.

12 There shall be no further discovery motion practice on any issue without good cause.  
13

14 Dated: July 27, 2016

Dated: July 27, 2016

15 /s/ Eric D. Edmondson

/s/ Chad S. Hummel

16 Eric D. Edmondson  
17 Counsel for FTC

Chad S. Hummel  
Counsel for DIRECTV

18 Eric D. Edmondson, D.C. Bar No. 450294  
19 Erika Wodinsky, Cal. Bar No. 091700  
20 Jacob A. Snow, Cal. Bar No. 270988  
21 Boris Yankilovich, Cal Bar No. 257887  
22 901 Market Street, Suite 570,  
23 San Francisco, CA 94103  
(415) 848-5100 / (415) 848-5184 (fax)  
eedmondson@ftc.gov; ewodinsky@ftc.gov;  
jsnow@ftc.gov; byankilovich@ftc.gov

Chad S. Hummel, SBN 139055  
chummel@sidley.com  
Clayton S. Friedman, SBN 245513  
cfriedman@sidley.com  
Mark D. Campbell, SBN 180528  
mcampbell@sidley.com  
Michael Yaghi, SBN 202720  
myaghi@sidley.com  
SIDLEY AUSTIN LLP  
1999 Avenue of the Stars, 17th Floor  
Los Angeles, CA 90067  
Telephone: (310) 595-2600  
Facsimile: (310) 595-2601

24 Raymond E. McKown, Cal. Bar No. 150975  
25 Stacy Procter, Cal. Bar No. 221078  
26 Kenneth H. Abbe, Cal. Bar No. 172416  
27 10877 Wilshire Blvd., Suite 700  
28 Los Angeles, CA 90024  
(310) 824-4343 / (310) 824-4380 (fax)  
rmckown@ftc.gov; sprocter@ftc.gov;

Ryan M. Sandrock, SBN 251781  
rsandrock@sidley.com  
SIDLEY AUSTIN LLP

1 kabbe@ftc.gov  
2 Attorneys for Plaintiff  
3 Federal Trade Commission

555 California Street, Suite 2000  
San Francisco, CA 94104  
Telephone: (415) 722-1200  
Facsimile: (415) 772-7400

4 Attorneys for Defendants  
DIRECTV and DIRECTV, LLC

6 Attestation pursuant to Local Rule 5.1(i)(3)

7 Pursuant to Local Rule 5.1(i)(3), I attest that concurrence in the filing of this document has  
8 been obtained from all Signatories to this document.

9 /s/ Chad S. Hummel  
Counsel for Defendants DIRECTV &  
DIRECTV LLC

11 ~~PROPOSED~~ ORDER

13 PURSUANT TO STIPULATION, IT IS SO ORDERED.

14 Dated: July 27, 2016

15   
HON. MARIA-ELENA JAMES