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12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 OAKLAND DIVISION

16 CHRISTIAN SPONCHIADO and
 17 COURTNEY DAVIS, on behalf of
 themselves and all others similarly situated,

18 Plaintiffs,

19 v.

20 APPLE INC.,

21 Defendant.

Case No. 4:18-cv-07533-HSG

**ESI STIPULATION AND
~~PROPOSED~~ ORDER**

Judge: Hon. Haywood S. Gilliam, Jr.
 FAC Filed: April 24, 2019

1 Plaintiffs Christian Sponchiado and Courtney Davis (“Plaintiffs”) and Defendant Apple
2 Inc. (“Defendant”) hereby agree that the following procedures shall govern discovery of
3 Electronically-Stored Information (“ESI”) in this case:

4 1. **Custodian names and search terms to be exchanged.** The parties shall meet and
5 confer to reach agreement on a reasonable list of custodians for purposes of collection, review
6 and production of electronically stored information. In connection with the meet and confer
7 process, each party shall provide a proposed list of individual custodians who are knowledgeable
8 about and were involved with the core issues or subjects in this case (e.g., the development,
9 design and operation of the accused products, and sales, marketing and other damages-related
10 information for the accused products). The parties then shall meet and confer to reach agreement
11 on document custodians and also shall meet and confer to reach agreement on search terms to be
12 used for electronic searches of the files from those custodians. ESI, including, but not limited to
13 electronic files and email, shall be collected for each individual custodian from the personal
14 computers, network resources, and other electronic devices that those individuals use for work
15 purposes. Notwithstanding prior agreement on the search terms to be used for electronic
16 searches, should a search produce an unreasonably large number of non-responsive or irrelevant
17 results, the parties shall (at the producing party’s request) meet and confer to discuss application
18 of further negative search restrictions (e.g., if a single search was for “card” and ninety percent of
19 the resulting documents came from the irrelevant term “credit card,” a negative limitation to
20 ignore documents only returned as a result of “credit card” may be applied to remove these
21 documents). The party receiving production shall not unreasonably oppose such further
22 restrictions designed to filter immaterial search results. The parties shall make good faith efforts
23 to identify appropriate email custodians and produce email on the agreed upon schedule, but
24 reserve the right to seek email from additional email custodians identified through discovery.
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2. **Format for production of documents – documents existing in electronic**

format. Except as otherwise provided for in this Stipulation, all documents existing in electronic format shall be produced in multiple page, searchable PDF format at a resolution of at least 300 dpi in accordance with the following:

A. PDF files shall be produced along with Concordance/Opticon image load files that indicate the beginning and ending of each document.

B. For documents which already exist in PDF format prior to production (i.e., which the producing party receives from a client or third party in PDF format), the producing party may provide them in that same PDF format, whether searchable or non-searchable. For documents converted to PDF format prior to production, the producing party shall make reasonable efforts to convert to searchable PDF.

C. **Metadata.** Load files should include, where applicable, the information listed in the Table of Metadata Fields, attached as Exhibit A. However, the parties are not obligated to include metadata for any document that does not contain such metadata in the original, if it is not possible to automate the creation of metadata when the document is collected. The parties reserve their rights to object to any request for the creation of metadata for documents that do not contain metadata in the original.

D. **Production media and encryption of productions.** Unless otherwise agreed, the parties shall provide document productions in the following manner: The producing party shall provide the production data on CDs, DVDs, external hard drives or SFTP, as appropriate. The producing party shall encrypt the production data using WinRAR encryption, and the producing party shall forward the password to decrypt the production data separately from the CD, DVD, external drive or SFTP to which the production data is saved.

1 3. **Format for production of documents – hardcopy or paper documents.** All
2 documents that are hardcopy or paper files shall be scanned and produced in the same manner as
3 documents existing in electronic format, above.

4 4. **Source code.** This Stipulation does not govern the format for production of source
5 code of any type or kind. The parties will separately negotiate and submit a protective order
6 governing the production of source code, if necessary.

7 5. **Parent and child emails.** The parties shall produce email attachments
8 sequentially after the parent email.

9 6. **Native files.** The parties will meet and confer to discuss requests for the
10 production of files in native format, on a case-by-case basis. If the parties are unable to reach
11 agreement with regard to requests for additional documents in native-file format, the parties
12 reserve the right to seek relief from the Court. Documents produced natively shall be represented
13 in the set of imaged documents by a slipsheet indicating the production identification number and
14 confidentiality designation for the native file that is being produced.

15 7. **Databases.** Certain types of databases are dynamic in nature and will often
16 contain information that is neither relevant nor reasonably calculated to lead to the discovery of
17 admissible evidence. Thus, a party may opt to produce relevant and responsive information from
18 databases in an alternate form, such as a report or data table. These reports or data tables will be
19 produced in a static format.

20 The parties agree to identify the specific databases, by name, that contain the relevant and
21 responsive information that parties produce.

22 8. **Requests for hi-resolution or color documents.** The parties agree to respond to
23 reasonable and specific requests for the production of higher resolution or color images. Nothing
24 in this Stipulation shall preclude a producing party from objecting to such requests as
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1 unreasonable in number, timing or scope, provided that a producing party shall not object if the
2 document as originally produced is illegible or difficult to read. The producing party shall have
3 the option of responding by producing a native-file version of the document. If a dispute arises
4 with regard to requests for higher resolution or color images, the parties will meet and confer in
5 good faith to try to resolve it.

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7 **9. Foreign language documents.** All documents shall be produced in their original
8 language. Where a requested document exists in a foreign language and the producing party also
9 has an English-language version of that document that it prepared for non-litigation purposes
10 prior to filing of the lawsuit, the producing party shall produce both the original document and all
11 English-language versions. In addition, if the producing party has a certified translation of a
12 foreign-language document that is being produced, (whether or not the translation is prepared for
13 purposes of litigation) the producing party shall produce both the original document and the
14 certified translation. Nothing in this agreement shall require a producing party to prepare a
15 translation, certified or otherwise, for foreign language documents that are produced in discovery.

16
17 **10. Document preservation.** The parties have discussed and understand their
18 preservation obligations and needs and agree that preservation of potentially relevant ESI will be
19 reasonable and proportionate, and state as follows:

20
21 a) The parties have begun discussing the types of ESI they believe should be
22 preserved and the custodians, or general job titles or descriptions of custodians, for whom they
23 believe ESI should be preserved. The parties will continue to meet and confer on these topics,
24 and shall add or remove custodians as reasonably necessary;

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26 b) The parties represent that they have exercised reasonable diligence to take steps to
27 preserve reasonably accessible ESI relating to the issues relevant to this action and distribute
28 document retention notices to custodians who are likely to have relevant documents;

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c) Discovery is in its early stages and the parties have not yet encountered any sources of ESI that should not be preserved due to burden, cost, or accessibility. The parties shall promptly meet and confer during the pendency of this litigation if any issues arise regarding the burden, cost, or accessibility of preserving, searching, reviewing, or producing ESI.

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Dated: May 4, 2020

TIFFANY CHEUNG
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By: /s/ Tiffany Cheung
TIFFANY CHEUNG

Attorneys for Defendant
APPLE INC.

Dated: May 4, 2020

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Attorneys for Plaintiffs CHRISTIAN
SPONCHIADO AND COURTNEY
DAVIS

~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 5/6/2020


Honorable Haywood S. Gilliam, Jr.
United States District Court

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EXHIBIT A

TABLE OF METADATA FIELDS

<u>Field Name</u>	<u>Specifications Field Name</u>	<u>Field Type</u>	<u>Description (Email)</u>	<u>Description (E- Files/Attachments)</u>
BegDoc	Unique ID (Bates number)	Paragraph	The Document ID number associated with the first page of an email.	The Document ID number associated with the first page of a document
EndDoc	Unique ID (Bates number)	Paragraph	The Document ID number associated with the last page of an email.	The Document ID number associated with the last page of a document.
BegAttach	Unique ID (Bates number) Parent-Child Relationships	Paragraph	The Document ID number associated with the first page of a parent email.	The Document ID number associated with the first page of a parent document.
EndAttach	Unique ID (Bates number) Parent-Child Relationship	Paragraph	The Document ID number associated with the last page of the last attachment to a parent email.	The Document ID number associated with the last page of the last attachment to a parent document.
Pages	Pages	Number	The number of pages for an email.	The number of pages for a document.
DateSent		Date (MM/DD/YYYY format)	The date the email was sent.	For email attachments, the date the parent email was sent.
Author	Author Display Name (e-mail)	Paragraph	The display name of the author or sender of an email.	The name of the author as identified by the metadata of the document.
To	Recipient	Paragraph	The display name of the	The display name of the recipient(s)

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			recipient(s) of an email.	of a document (e.g., fax recipients).
CC	CC	Paragraph	The display name of the copyee(s) of a email.	
BCC	BCC	Paragraph	The display name of the blind copyee(s) of an email.	
Subject	Subject (e-mail)	Paragraph	The subject line of an email.	The subject of a document from entered metadata.
Custodian	Custodian	Paragraph	The custodian of an email.	The custodian of a document.
Other Custodian	Other Custodian		Individual(s) whose documents de-duplicated out.	Individual(s) whose documents de-duplicated out.