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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
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7 NEWMARK REALTY CAPITAL, INC.,

8 Plaintiff,

9 v.

10 BGC PARTNERS, INC., et al.,

11 Defendants.

Case No.16-cv-01702-BLF (SVK)

**FURTHER ORDER FOLLOWING
HEARING ON MOTIONS TO COMPEL**

Re: Dkt. Nos. 361, 368, 370, 372, 376, 379,
and 382

12 The Court's May 24, 2018, Order on Motions to Compel and Setting Hearing to Address
13 the Court's Questions (ECF 392) resolved certain of the issues raised in numerous motions to
14 compel filed recently by the parties and set a hearing to discuss the Court's questions on other
15 issues raised in the motions. The Court held a hearing on May 29, 2018 on those questions. The
16 parties' obligations were discussed at the hearing and are set forth in the Court record. For ease of
17 reference, the Court also provides the following written order, which supplements the rulings in
18 the Court's May 24 order (ECF 392):

- 19
- 20 • **ESI issues:** Several of the Court's rulings in its May 24 order were subject to a
21 possible future ruling by the Court on ESI issues identified in that order. The
22 parties confirmed at the hearing that in responding to document requests, they have
23 appropriately searched both ESI and non-ESI sources and that no further order
24 from the Court is necessary on the ESI issues identified in the Court's May 24
25 order.
 - 26 • **ECF 368:** The parties must meet and confer by **noon on May 31, 2018** regarding
27 an appropriate time frame for Plaintiff's RFP Nos. 167 and 168, as narrowed by the
28 Court's May 24 order. If the parties are unable to agree on a time frame, they may
submit a joint brief of one page or less by **5:00 p.m. on May 31, 2018.**

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- **ECF 372:**
 - **RFP Nos. 120 and 121:** Defendants must conduct a search for any documents that reflect Defendants’ plans to grow or expand their commercial real estate mortgage brokerage services and/or commercial real estate mortgage banking services (even if those plans were not memorialized in formal business plans) by making inquiries of the relevant company, division, or department leaders responsible for growth or expansion of those business areas during the relevant time period. By **June 8, 2018**, Defendants must produce all responsive documents or, if no responsive documents are located, must so advise Plaintiff.
 - **RFP No. 134:** By **noon on May 31, 2018**, Plaintiff must identify to Defendants the 91 transactions for which Plaintiff believes it has received no financing documents. Defendants must conduct a further search for closing statements, marketing materials, and transactional documents regarding those transactions. By **June 8, 2018**, Defendants must produce all such documents or, if no such documents are located, must so advise Plaintiff.
- **ECF 376:** Based on Defendants’ explanation at the hearing, Plaintiff’s motion to compel the production of additional financial documents, as identified in ECF 376, is DENIED.
- **ECF 379:** The Court’s May 24 order is modified as follows: By **noon on May 31, 2018**, Plaintiff must provide Defendants with the Bates numbers of the emails mentioned at the hearing concerning Defendants’ future plans to use the Newmark mark in connection with Berkeley Point and/or Regency. By **June 8, 2018**, Defendants must search for and produce all documents regarding the current or planned use of the “Newmark” mark in connection with the businesses offered by Berkeley Point and/or Regency.
- **ECF 382:** Plaintiff must serve the revised RFAs by **noon on May 31, 2018**.

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Defendants must serve responses by **June 8, 2018**. Any issues with regard to Defendants' responses to the revised RFAs must be raised in accordance with the undersigned's joint letter brief procedure by **June 18, 2018**.

- **ECF 361:**
 - **Interrogatory No. 8:** Plaintiff must supplement its response to provide the factual basis for its claim of trademark infringement by **June 8, 2018**. To the extent Plaintiff responds by specifying other filings or documents, Plaintiff must specify prior filings by ECF number and page number, and must specify documents by (i) identifying the relevant category of documents and (ii) providing at least one example from each category by Bates number. Plaintiff is not required to identify by Bates numbers "all documents" in support of its claims.
 - **Interrogatory No. 9:** Plaintiff must supplement its response by **June 8, 2018** to specify all correspondence referred to in its response by Bates number.

SO ORDERED.

Dated: May 30, 2018



SUSAN VAN KEULEN
United States Magistrate Judge