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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

NICOLE KRAUSE-PETTAI, SCOTT GRIMM, STEVE TABU LANIER, CHRISTY STEVENS, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

UNILEVER UNITED STATES, INC., a corporation; and DOES 1-10, inclusive,

Defendants.

Case No. 3:20-cv-01672-LL-BLM

Judge: Hon. Barbara L. Major

Ctrm:

Action Filed: August 26, 2020

ORDER GRANTING JOINT MOTION FOR DOCUMENT PRODUCTION PROTOCOL ORDER

[ECF No. 41.]

DOCUMENT PRODUCTION PROTOCOL

On February 8, 2022, the parties filed a Joint Motion for Document Production Protocol Order. ECF No. 41. The Court has considered the Stipulated Document Production Protocol Order and, for good cause shown, the joint motion is **GRANTED**. as follows:

1. **General Stipulations**

- (a) This Protocol shall apply to the production of electronically stored information (“ESI”) and hardcopy documents by all parties.
- (b) All disclosures and productions made pursuant to this Protocol are subject to the Stipulated Protective Order of Confidentiality entered in this matter.

1 (c) This Protocol does not address, limit, or determine the authenticity,
2 admissibility, relevance, or discoverability of ESI or hardcopy documents.

3 2. **Format of Production**

4 (a) All production images shall be in single page Group IV Tagged Image
5 File Format (“TIFF”) (black and white, 300 dpi) with document-level searchable
6 extracted text for ESI and document-level optical character recognition (“OCR”)
7 text for hardcopy or ESI from which text cannot be extracted. Existing and
8 available metadata fields identified in Appendix A shall be provided in a
9 standardized load file compatible with Concordance or Summation with a Bates
10 number field included in the load file so that text and metadata can be matched
11 with TIFF images.

12 (b) For certain types of ESI that do not convert well to TIFF or cannot be converted
13 to TIFF (e.g., spreadsheets (MS Excel), oversized drawings, picture files, and
14 audio and video files), the producing party shall either produce the document in
15 native format or in a reasonable alternative form of production. Native files
16 included in a production shall be accompanied by a TIFF placeholder so labeled
17 and containing a Bates number and, if applicable, confidentiality designation.
18 Native files used as exhibits shall be accompanied by their TIFF placeholder.

19 (c) Productions from structured sources such as databases shall be made by
20 generating reports that display responsive, non-privileged data in a manner that
21 can be easily viewed.

22 3. **Document Branding**

23 (a) If a document is designated as “Confidential” or “Confidential – Attorneys’
24 Eyes Only,” the designation shall be stamped on the face of all TIFF images of
25 the document or, for documents produced in native format, shall be included in
26 the file name. Such designation shall also be indicated in the CONFIDENTIAL
27 field specified in Appendix A.

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1 (b) Individual pages of TIFF documents shall be assigned a Bates number endorsed
2 on the lower right corner of the image and, for documents produced in native
3 format the Bates number shall be included in the file name. Bates numbers will
4 be unique across the document production and sequential within a given
5 document.

6 4. **Redactions.** Documents containing redactions pursuant to the Stipulated Protective
7 Order of Confidentiality in this matter shall bear a designation that it has been
8 redacted and shall also be indicated in the REDACTED field specified in Appendix
9 A.

10 5. **Production Media.** The parties agree that productions shall be made through a secure
11 File Transfer Protocol (“FTP”) provided via email or on physical media sent by
12 overnight delivery via USPS, UPS, or FedEx.

13 6. **Document Unitization.** Parent-child relationships (the association between an
14 attachment and its parent document) that have been maintained in the ordinary course
15 of business shall be preserved to the extent possible.

16 7. **Deduplication.** The parties may deduplicate stand-alone documents or document
17 families found to be duplicative across or within custodians/sources.

18 8. **Search Terms and Custodians.** The parties will cooperate and meet and confer in the
19 development of appropriate search terms to be used for culling ESI. As discovery
20 proceeds in these matters pursuant to the responding party’s objections and responses to
21 written discovery requests, the responding/producing party shall identify for the
22 receiving party those key custodians most likely to possess relevant documents and
23 whose custodial files will be subject to production. The parties will meet and confer
24 regarding the receiving party’s request for production of additional custodial files
25 reasonably and for good cause sought by the receiving party to ensure discovery is
26 reasonable and proportional.

27 9. **Email Threading.** Email threads are email communications that contain prior-in-time
28 or lesser-included emails that also may exist separately in the party’s electronic files. A

1 most inclusive email thread is one that contains all the prior-in-time or lesser-included
2 emails, including attachments, for that branch of the email thread. The producing
3 party may remove from production/privilege log the wholly-included, prior-in-time,
4 or lesser-included emails.

5 10. **ESI That Need Not Be Preserved, Collected or Produced**

6 (a) The parties are not required to modify or suspend, on a going forward basis,
7 the procedures used by them in the ordinary course of business to backup data
8 and systems for disaster recovery and similar purposes related to continuity of
9 operations. The parties have not taken, and are not required to take, any such
10 backup media out of ordinary rotation.

11 (b) Absent good cause shown, a party is not required to preserve, search, collect,
12 review, or produce the following information or data sources:

- 13 i. “Deleted,” “slack,” “fragmented,” or “unallocated” data;
- 14 ii. Random access memory (RAM), temporary files or other ephemeral
15 data;
- 16 iii. System or executable files (.exe, .dll, etc.);
- 17 iv. Structural files not material to individual file contents that do not
18 contain substantive content (.css, .xsl, .xml, .dtd, etc.);
- 19 v. Online access data such as temporary internet files, history, cache,
20 cookies, etc.;
- 21 vi. Data in metadata fields that are frequently updated automatically, such
22 as the “Date Accessed” value in Microsoft Windows operating systems;
- 23 vii. Known software files identified in the National Software Reference
24 Library database maintained by the National Institute of Standards and
25 Technology (“NIST”);
- 26 viii. Legacy data contained on computers or information storage systems or
27 software that is no longer used or supported by a party and no longer
28 reasonably accessible; and

ix. Automated emails not generated by a human author, including but not limited to automated out of office replies.

11. **Privilege Logs**

- (a) For documents withheld in their entirety from production pursuant to a claim of attorney-client privilege, work product protection, or other applicable privilege or immunity, the designating party shall provide a privilege log in Excel or a similar format within 60 days of the production from which the document(s) were withheld.
- (b) Privilege logs will include the privilege claimed and designated objective metadata fields to the extent they contain information and the information and is not privileged or protected. Designated objective metadata fields are further described in Appendix A and are as follows: Author, From, To, CC, BCC, Date (Date Sent or Date Last Modified), Subject, File Name, and Document/File Extension.
- (c) Legal personnel shall be identified as such by adding an asterisk before or after their names in the privilege log or on a separate document.
- (d) When there is a chain of privileged emails, the designating party does not need to log each email in the chain in a separate entry on the privilege log and need only include one entry on the privilege log for the entire email chain as outlined in 11. b) above.
- (e) Privilege logs need not include privileged communications with outside counsel or documents created by, or under the direction of, outside counsel regarding this litigation.
- (f) Privilege logs need not include redactions from produced documents; provided that the reason for the redaction appears on the redaction label.
- (g) The designating party may also propose to log documents by category and the parties shall then meet and confer regarding the designating party's proposed categories and format of the categorical log.

1 **12. Non-Waiver of Privilege or Protection**

2 (a) Any party's production of privileged or work-product protected documents or
3 information shall not constitute a waiver of the privilege or protection with
4 respect to (a) those documents; (b) any other communications or document
5 relating to the subject matter of those documents; or (c) any other
6 communications or documents relating to the individuals or entities who sent,
7 received or are named in those documents in this case or any other federal or
8 state proceeding. These protections apply irrespective of the degree of care
9 taken by the producing party in (1) preventing disclosure, it being expressly
10 recognized that the producing party is not obligated to engage in any pre-
11 production review of the documents to identify privileged materials; or (2)
12 rectifying disclosure, it being further recognized that the producing party shall
13 have no obligation to engage in post-production review to determine whether it
14 has produced any privileged materials. The parties reserve the right to challenge
15 any assertion by the producing party of attorney-client privilege or work
16 product protection with respect to any particular document or
17 collection/compilation of documents or data.


18 (b) If the designating party notifies the receiving party that it has produced
19 privileged or work product protected information or documents, or if the
20 receiving party independently determines, that the producing party has
21 produced information or documents that reasonably appear to be subject to a
22 claim of privilege or work product protection, the receiving party must (1)
23 promptly return or destroy the specified information or documents, any copies
24 or summaries thereof, and notes relating to it; (2) not use or disclose the
25 information or documents until any challenge is resolved; and (3) take
26 reasonable steps to retrieve the information if the party disclosed it before
27 learning/determining that the information or document was privileged.
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- (c) Nothing contained herein is intended to or shall serve to limit a party's right to conduct a review of documents, ESI or information (including metadata) for relevance, responsiveness and/or segregation of privileged and/or protected information before production.
- (d) This section shall be interpreted to provide the maximum protection allowed by Federal Rule of Evidence 502.

IT IS SO ORDERED.

Dated: 02/08/2022



Hon. Barbara L. Major
United States Magistrate Judge

APPENDIX A: PRODUCTION SPECIFICATIONS

Field*	Sample Data	Hardcopy Docs	Email and	Comment
PRODBEG	ABC00000001	Yes	Yes	Beginning production/Bates number
PRODEND	ABC00000008	Yes	Yes	Ending production/Bates number
PRODBEGATT	ABC00000009	Yes	Yes	Beginning production/Bates number of parent in a family
PRODENDATT	ABC00001005	Yes	Yes	Ending production/Bates number of last page of the last attachment in a family
NUMATTACH	2	No	Yes	Total number of records attached to the document (value will always be 0 for the actual document)
CUSTODIAN/SOURCE	Smith, John	Yes	Yes	Name of Custodian/Source that possessed the document
ALL_CUSTODIANS	Doe, Jane; Jones, James	No	Yes	Custodian(s)/Source(s) that possess duplicate copies of the document
NATIVEFILE	Natives\\ 00000001.xls	N/A	Yes	Path and file name for native file on production media
DOCTYPE	Microsoft Office 2007 Document	N/A	Yes	Description of the type file for the produced record
FILEPATH	\My Documents\ Document1.doc	N/A	Yes	Original source filepath for the record produced
FILENAME	Document1.doc	N/A	Yes	Name of original electronic file as collected
DOCEXT	DOC	N/A	Yes	File extension for email or e-doc
DOC TYPE	Email	N/A	Yes	Type of document

Field*	Sample Data	Hardcopy Docs	Email and E-	Comment
PAGES	2	Yes	Yes	Number of pages in the produced document (not applicable to native file)
FILE SIZE		N/A	Yes	File size
AUTHOR	John Smith	N/A	Yes	Author information as derived from the properties of the document
DATELASTMOD	10/09/2005	N/A	Yes	Date that non-email file was modified as extracted from file system metadata
DOCTITLE	Meeting Minutes	N/A	Yes	"Title" field extracted from metadata properties of the Document
SUBJECT	Changes to Access Database	N/A	Yes	"Subject" field extracted from email message
FROM	John Beech	N/A	Yes	"From" field extracted from email message
TO	Janice Birch	N/A	Yes	"To" field extracted from email message
CC	Frank Maple	N/A	Yes	"Cc" or "carbon copy" field extracted from email message
BCC	John Oakwood	N/A	Yes	"Bcc" or "blind carbon copy" field extracted from email message
DATESENT	10/10/2005	N/A	Yes	Sent date of email message (mm/dd/yyyy) format)
TIMESENT	18:33:00	N/A	Yes	Sent time of email message, time zone set to UTC
CONFIDENTIALITY	CONFIDENTIAL	Yes	Yes	Text of confidentiality designation, if any

Field*	Sample Data	Hardcopy Docs	Email and E-	Comment
TEXTPATH	Text\\\.txt	Yes	Yes	Path to *.txt file containing extracted or OCR text
PRODVOL	VOL001	Yes	Yes	Name of the Production Volume
REDACTED	Yes/No	Yes	Yes	Identifies whether a document contains redactions
MD5 (or SHA1) HASH VALUE	e4d909c290d0fb1ca068ffaddf22cbd0	N/A	Yes	Unique identifier

*Field designations are friendly names for ease of reference. Actual column names in load files may differ so long as the column names are consistent across the producing party's production and have the same meaning as the fields above.