

United States District Court District of Massachusetts

ACRONIS, INC., LTD.,
ACRONIS, INC.,
Plaintiff,

v.

CIVIL ACTION NO. 2011-10772-DJC

LUCID8, L.L.C.,
Defendant.

FURTHER ORDER ON ACRONIS'S RULE 37(a) MOTION TO COMPEL AND RE-DESIGNATE (#54)

COLLINGS, U.S.M.J.

On December 11, 2013, the Court issued an Order, Etc. (#93) on Acronis's Rule 37(a) Motion to Compel and Re-designate (#54). In the within Further Order, the Court makes additional rulings on the motion after a hearing on January 14, 2013 with respect to Request #1 using the categories of documents set forth in Attorney Wilson's letter of December 5, 2012 attached to the Joint Status Report, Etc. (#103).

1. The Court directs that documents relating to the *results* of the mapping as sought by the plaintiff be produced *forthwith* together with an explicit statement that there are no further documents in this category which have not been produced.
- 2.4.5 & 7¹: The defendant shall conduct a search of its databases using a set a search terms which it in good faith reasonably believes will identify the documents sought by these requests and shall produce the documents counsel for the plaintiff. This production **MUST** be completed by cob **January 23, 2013**. At the time of production, the defendant shall produce an explicit statement that, based on the search specified, *supra*, there are no further documents in these categories which have not been produced.
3. Plaintiff's counsel shall write a letter to defendant's counsel setting forth the problems with this production alluded to at the hearing and counsel shall engage in good-faith discussions to resolve the problems.
6. The defendant shall confirm *in writing* on or before cob on **January 23, 2013** that there has been no transfer of electronically stored information other than e-mail using a VPN between Lucid8 and iTransition as pertains to the project at issue in this litigation..

Request #6: If the defendant takes the position that they have no further documents to produce in response to the Court's Order of December 11th *anent* Request #6, the defendant shall so state *in writing forthwith*.

Request #8: The Court is of the view that the source code was required to be produced as agreed in the Joint Scheduling Statement, Etc. (#30), i.e., "...in a manner

¹
This includes the documents referenced in the first full paragraph on page 2 of the December 5th letter.

that preserves all metadata of the ESI.” (#30, p. 7). If the material produced pursuant to the Court’s December 11th Order *anent* Request #8 was not produced in that manner, it shall be reproduced in that manner *forthwith*

Lucid8, L.L.C. is ORDERED, pursuant to Rule 37(a)(2), Fed. R. Civ. P., to comply with the within directives. Failure to comply shall result in the imposition of one or more of the sanctions set forth in Rule 37(b), Fed. R. Civ. P.

/s/ Robert B. Collings

ROBERT B. COLLINGS
United States Magistrate Judge

Date: January 16, 2013.