

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

TYLER DIVISION

ALOFT MEDIA, LLC,	§	
	§	
Plaintiff,	§	Civil Action No. 6:09-CV-304-LED
v.	§	
	§	
ORACLE CORPORATION, et al.,	§	JURY TRIAL DEMANDED
	§	
Defendants.	§	

STIPULATION RELATING TO DISCOVERY PURSUANT TO FED. R. CIV. P. 29

Pursuant to Fed. R. Civ. P. 29, Plaintiff Aloft Media, LLC and Defendants Fair Isaac Corp., Scottrade, Inc. and Halliburton Co. stipulate as follows:

1. All documents will be produced in electronic form with standard load files (for the plaintiff, Concordance load files) that indicate the boundaries of each document. Specifically, “electronic form” will be provided as black and white, Group IV single page TIFF images at 300 dpi, named the same as the bates number. Color images, if substantively required to convey meaning of the document should be provided in JPG format. Documents that the vendor has been unable to process will be represented in the production set with a placeholder or slip-sheet indicating that the document was not able to be processed, or by an electronic exception report in an spreadsheet or similar report format.
2. No party has an obligation to make its production text-searchable; however, if a party’s documents are text-searchable for use by producing party’s counsel, then such documents shall be produced in the same text-searchable format at no cost to the receiving party. Text-

searchable format shall be the form of extracted text for documents originating in electronic form (native) or as OCR text format for documents originating in hardcopy form. OCR or extracted text files should be provided at the document level (i.e. not on a page level or contained within a load file) and will reside in same file location as the images for the document. The parties are not required to produce OCR text for redactions or for native files that include redacted information.

3. No party has an obligation to produce electronic documents in their native format (e.g., Microsoft Excel); however, the producing party will preserve all electronic documents in their native format and, upon reasonable request and good cause shown by the receiving party, will produce any electronic document in its native format. Native files will be named with a unique Bates number and produced with the appropriate confidentiality designation.

4. No party has an obligation to produce metadata associated with electronic documents, except Excel spreadsheets will be produced in native format that may include hidden text or cells, comments and revisions. The producing party will preserve all metadata associated with electronic documents and, upon reasonable request and good cause shown by the receiving party, will produce agreed to metadata fields associated with any electronic document.

5. Neither party need restore any form of media upon which backup data is maintained in a party's normal or allowed processes, including but not limited to backup tapes, disks, SAN, and other forms of media, to comply with its discovery obligations in the present case.

6. The parties agree that each party will produce documents in the possession of any parent or subsidiary with whom the party has sufficient closeness, connection and practical interaction to allow the party control over the parent or subsidiary's documents.

7. The parties agree to count interrogatories strictly in compliance with *Kendall v. GES Exposition Svcs., Inc.*, 174 F.R.D. 684 (D. Nev. 1997), and *Orion IP, LLC v. Staples, Inc.*, No. 2:04-CV-297 (E.D. Tex. Jul. 7, 2005) (Davis, J.).

8. The parties agree that no party will serve any contention interrogatory before the Court issues its claim construction order.

9. The parties agree that documents subject to the attorney client privilege and work product doctrine created in anticipation of litigation and, in no event, created on or after the date the Complaint was filed in this action, need not be identified on a party's privilege log.

10. The parties agree that no party shall seek discovery of work performed by non-testifying consultants, unless that work was relied upon by a testifying expert in forming the opinions in the testifying expert's report.

11. The parties agree that only the final version of each expert's report shall be disclosed, and that all materials that an expert relied upon in forming the opinions in a final report shall be discoverable. The parties will not seek to discover, and may not discover, the following communications and materials: (i) drafts of statements of the parties' experts in this matter, including draft affidavits, declarations, or written testimony; (ii) written or oral communications (including with counsel for any party) not relied upon by an expert in forming the opinions in the final report, affidavits, declarations, written testimony, or other written materials; (iii) notes of discussions regarding a draft or final expert report, affidavit, declaration,

or written testimony; and (iv) the expert's billing records and time sheets. An expert's billing rate, total hours worked on the case, and total amount billed shall be discoverable.

Respectfully submitted,

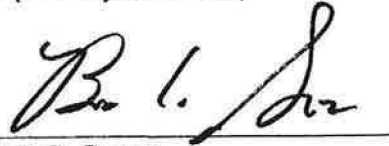


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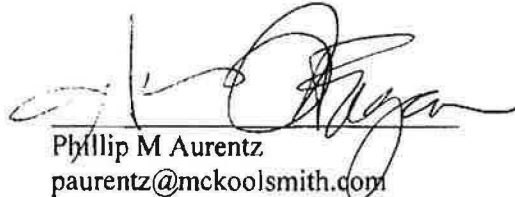
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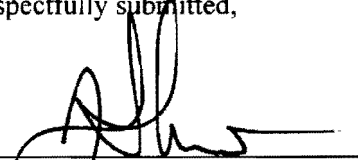


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ATTORNEYS FOR SCOTTRADE, INC.

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this motion was served on all counsel, who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email, on this the

