

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE APPLE INC. SECURITIES
LITIGATION

Case No. 4:19-cv-02033 (N.D. Cal.)

**STIPULATED ORDER RE: DISCOVERY
OF ELECTRONICALLY STORED
INFORMATION**

Plaintiffs Norfolk County Council as Administering Authority of the Norfolk Pension Fund, Employees' Retirement System of the State of Rhode Island, and City of Roseville Employees' Retirement System, and Defendants Apple Inc., Timothy Cook, and Luca Maestri (together with Plaintiffs, the "parties"), hereby agree that the following procedures shall govern discovery of Electronically-Stored Information ("ESI") in this case:

1. **Custodian names and search terms to be exchanged.** The parties shall meet and confer to reach agreement on a reasonable list of custodians for purposes of collection, review and production of electronically stored information. In connection with the meet and confer process, each party shall provide a proposed list of individual custodians who are knowledgeable about and were involved with the core issues or subjects in this case. The parties then shall meet and confer to reach agreement on document custodians and also shall meet and confer to reach agreement on search terms to be used for electronic searches of the files from those custodians. Notwithstanding prior agreement on the search terms to be used for electronic searches, should a search produce an unreasonably large number of non-responsive or irrelevant results, the parties shall (at the producing party's request) meet and confer regarding the application of further search restrictions. The party receiving production shall not unreasonably oppose such further restrictions designed to filter immaterial search results.

1 2. **Technology-Assisted-Review.** No party shall use predictive coding/technology-
2 assisted-review for the purpose of culling the documents to be reviewed or produced without
3 meeting and conferring in good faith regarding the use of such technologies.

4 3. **Format for production of documents – documents existing in electronic**
5 **format.** Except as otherwise provided for in this Stipulation, all documents existing in electronic
6 format shall be produced in multiple-page, searchable PDF format (or, at the election of the
7 producing party, in single-page, black and white, Group IV TIFF format), at a resolution of at least
8 300 dpi in accordance with the following:

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

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

16 C. **Metadata.** Load files should include, where applicable, the information
17 listed in the Table of Metadata Fields, attached as Exhibit A. However, the parties are not
18 obligated to include metadata for any document that does not contain such metadata in the
19 original, if it is not possible to automate the creation of metadata when the document is
20 collected. The parties reserve their rights to object to any request for the creation of metadata for
21 documents that do not contain metadata in the original. Full extracted text for each document
22 will be provided in a separate file, to the extent extracted text exists.

23 D. **Attachments.** Where any portion of an email or its attachment is
24 produced, the parties shall produce the parent email and its attachments sequentially and
25 proximately linked.¹

26
27 ¹ The parties were unable to reach an agreement with respect to the producing parties' obligation
28 to produce local or internal hyperlinked documents and this stipulation does not address such
29 situations. Plaintiff reserves its right to seek the mandatory production of all internal or local

1 E. **Native files.** The parties will produce all audio and video files,
2 spreadsheets (e.g., MS Excel, Numbers), word processing files (e.g., Pages, Microsoft Word)
3 containing tracked changes or comments, and Microsoft PowerPoint files in native format. The
4 parties will meet and confer in good faith to discuss requests for the production of other files
5 (including Apple Keynote files) in native format, on a case-by-case basis. If the parties are
6 unable to reach agreement with regard to requests for additional documents in native-file format,
7 the parties reserve the right to seek relief from the Court. Documents produced natively shall be
8 represented in the set of imaged documents by a slipsheet indicating the production
9 identification number and confidentiality designation for the native file that is being produced.
10 The parties agree to work out a future protocol governing the use and format of documents
11 produced pursuant to this paragraph at trial, depositions, or hearings (such as converting to PDF
12 in accordance with the above protocol).

13 F. **Hidden Content.** For any document produced in PDF or TIFF format
14 which the Receiving Party reasonably believes includes hidden content, tracked changes or edits,
15 comments, notes, or other similar information viewable within the native file, at a Receiving
16 Party's request, the Producing Party will provide the native file, or if possible an image file of a
17 version showing the hidden content, if there is such content. Apple Keynote files will be
18 produced in a format which displays any presenter notes or other hidden content.

19 G. **De-Duplication.** Each party shall remove exact duplicate documents
20 based on MD5 or SHA-256 hash values, at the family level. Attachments should not be
21 eliminated as duplicates for purposes of production, unless the parent e-mail and all attachments
22 are also duplicates. Removal of near-duplicate documents and e-mail thread suppression is not
23 acceptable. De-duplication will be done across the entire collection (global de-duplication) and
24 the ALL CUSTODIAN field will list each custodian, separated by a semicolon, who was a
25 source of that document. Should the ALL CUSTODIAN metadata field produced become
26 outdated due to rolling productions, an overlay file providing all the custodians and file paths for
27 the affected documents will be produced prior to substantial completion of the document
28

1 exclude BCC information as a result of the de-duplication process, the producing party shall
2 provide an overlay containing an image of the sent version of any such emails, to the extent such
3 sent emails have been collected from custodians.

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

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

13 6. **Source code.** This Stipulation does not govern the production of source code. In
14 the event that the production of source code becomes necessary (which the parties do not presently
15 anticipate), the parties agree to negotiate a separate protocol to govern such production.

16 7. **Databases.** To the extent a response to discovery requires production of electronic
17 information stored in a database, the parties will meet and confer regarding methods of production.
18 The parties will consider whether all relevant information may be provided by querying the
19 database for discoverable information and generating a report in a reasonably usable and
20 exportable electronic file. The parties agree to identify the specific databases, by name, that
21 contain the relevant and 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
25 unreasonable in number, timing or scope, provided that a producing party shall not object if the
26 document as originally produced is illegible or difficult to read. The producing party shall have
27 the option of responding by producing a native-file version of the document. If a dispute arises

28 with regard to requests for higher resolution or color images, the parties will meet and confer in

1 good faith to try to resolve it.

2 9. **Foreign language documents.** All documents shall be produced in their original
3 language. Where a requested document exists in a foreign language and the producing party also
4 has an English-language version of that document that it prepared for non-litigation purposes prior
5 to filing of the lawsuit, the producing party shall produce both the original document and all
6 English-language versions. In addition, if the producing party has a certified translation of a
7 foreign-language document that is being produced, (whether or not the translation is prepared for
8 purposes of litigation) the producing party shall produce both the original document and the
9 certified translation. Nothing in this agreement shall require a producing party to prepare a
10 translation, certified or otherwise, for foreign language documents that are produced in discovery.
11 Foreign language text files and metadata should be delivered with the correct encoding to enable
12 the preservation of the documents' original language.

13 10. **Redactions.** If documents that the parties have agreed to produce in native format
14 need to be redacted, the parties will meet and confer regarding how to implement redactions while
15 ensuring that proper formatting and usability are maintained.

16 11. **Applicability of Federal Rule of Evidence 502(d).** Pursuant to Fed. R. Evid.
17 502(d), the production of a privileged or work-product-protected document, whether inadvertent
18 or otherwise, is not a waiver of privilege or protection from discovery in this case or in any other
19 federal or state proceeding.

20 12. **Document preservation.** The parties have discussed their preservation obligations
21 and agree that preservation of potentially relevant ESI will be consistent with their obligations set
22 forth in Federal Rule of Civil Procedure 26. The parties represent that they have issued litigation
23 hold notices to individuals whom they reasonably believe to possess relevant documents.

24 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

25

26

27

28

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.