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KING COUNTY
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CASE NUMBER: 14-2-07669-0 SEA

1 THE HONORABLE JOHN CHUN
Noted For Consideration: April 20, 2015
2 ORAL ARGUMENT REQUESTED
AT A TIME SET BY THECOURT
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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
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FOR THE COUNTY OF KING
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MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation, TOP PRODUCER SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation, Plaintiffs, vs. ZILLOW, INC., a Washington corporation, ERROL SAMUELSON, an individual, and CURT BEARDSLEY, an individual, Defendants.	Case No. 14-2-07669-0 SEA **DECLARATION OF JACK M. LOVEJOY IN SUPPORT OF MOTION TO REVISE SPECIAL MASTER'S ORDER QUASHING KEY PORTIONS OF THE DOCUMENT SUBPOENA TO TRULIA** EXHIBITS FILED UNDER SEAL PER COURT ORDER DATED _______

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Jack M. Lovejoy declares:

1. I am one of the attorneys for plaintiffs in this action. I am over the age of eighteen and competent to testify to the facts stated herein on personal knowledge.
2. In accord with Section 10 of this Court's October 10, 2014 Order Appointing a Special Master for Discovery, this declaration attaches true and correct copies of the following documents submitted to the Special Master or entered by the Special Master in connection with the Special Master Order that Plaintiffs are seeking to revise:

SM 1-2	Zillow's December 3, 2014, Note for Motion;
SM 3-18	Zillow's December 3, 2014, Motion for Protective Order re Trulia Subpoena (submitted under seal);
SM 19-147	December 3, 2014, Declaration of Susan Foster. The declaration and Exhibits D-E, G, I, and K-L are submitted under seal (SM 19-23, 39-78, 84-97, 105-107, 128-147);
SM 148-150	December 3, 2014, Declaration of Brad Owens;
SM 151-153	Zillow's Proposed Order;
SM 154-166	Plaintiffs' December 8, 2014, Opposition to Motion for Protective Order re Trulia Subpoena (submitted under seal);
SM 167-260	December 8, 2014, Declaration of Jack M. Lovejoy, The declaration and Exhibit 3 are submitted under seal (SM 167-170, 233-251);
SM 261-262	Plaintiffs' Proposed Order;
SM 263-271	Zillow's December 9, 2014, Reply (submitted under seal);
SM 272-284	December 9, 2014 Foster Dec. The declaration and Exhibits A and C are submitted under seal(SM 272-276, 280-284);
SM 285-291	December 9, 2014 Declaration of Maria Seredina. Exhibit A is submitted under seal (SM 288-291);

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SM 292-295	December 12, 2014, Special Master Order Granting in Part and Denying in Part Zillow's Motion for Protective Order;
SM 296-297	January 26, 2015, Supplemental Special Master Order;
SM 298-299	Plaintiffs' February 2, 2015, Note for Motion;
SM 300-314	Plaintiffs' February 2, 2015, Motion for Special Master's Reconsideration of the Special Master's January 26, 2015 Supplemental Order (Trulia Subpoena)(submitted under seal);
SM 315-337	February 2, 2015, Declaration of Jack M. Lovejoy. Exhibit 1 is submitted under seal (SM 318-324);
SM 338-339	Plaintiffs' Proposed Order;
SM 340-356	Zillow's February 25, 2015, Opposition to Plaintiffs' motion for reconsideration (submitted under seal);
SM 357-460	February 25, 2015, Declaration of Kathleen O'Sullivan. Exhibit H is submitted under seal (SM 401-404);
SM 461-464	February 25, 2015, Declaration of Spencer Rascoff;
SM 465-468	Zillow's Proposed Order;
SM 469-507	Zillow's Index;
SM 508-515	Plaintiffs' March 2, 2015, Reply (submitted under seal);
SM 516-518	Plaintiffs' March 9, 2015, Application for Supplemental Submission;
SM 519-523	Plaintiffs' March 9, 2015, Supplemental Submission (submitted under seal);
SM 524-625	March 9, 2015, Declaration of Jack M. Lovejoy. Exhibits 2-4 submitted under seal (SM 592-625);
SM 626-731	Transcript of March 11, 2015, hearing before Special Master (submitted under seal); and

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SM 732-734 March 31, 2015, Special Master Order Granting in Part and Denying in Part Plaintiffs' Motion for Reconsideration of the Special Master's January 26, 2015 Supplemental Order (Trulia Subpoena).

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true.

/s/Jack M. Lovejoy
Jack M. Lovejoy

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

MOVE, INC., et al, Plaintiffs, vs. ZILLOW, INC. and ERROL SAMUELSON, Defendants	**NO. 14-2-07669-0 SEA** **NOTICE FOR HEARING** **SEATTLE COURTHOUSE ONLY** (Clerk's Action Required) (NTHG)

TO: **THE CLERK OF THE COURT** and to all other parties per list on Page 2:
PLEASE TAKE NOTICE that an issue of law in this case will be heard on the date below and the Clerk is directed to note this issue on the calendar checked below.

Calendar Date: December 10, 2014 **Day of Week**: Wednesday

Nature of Motion: Defendant Zillow's Motion for Protective Order

CASES ASSIGNED TO INDIVIDUAL JUDGES – SEATTLE

If oral argument on the motion is allowed (LCR 7(b)(2)), contact staff of assigned judge to schedule date and time before filing this notice. **Working Papers**: The judge's name, date and time of hearing must be noted in the upper right corner of the Judge's copy. **Deliver Judge's copies to Judges' Mailroom at C203**

[] Without oral argument (Mon - Fri) **[X]** With oral argument Hearing

Date/Time: December 10, 2014

Judge's Name: Judge Bruce Hilyer Trial Date: 05/11/15

CHIEF CRIMINAL DEPARTMENT – SEATTLE (E1201)

[ ] Bond Forfeiture 3:15 pm, 2nd Thursday of each month

[ ] Certificates of Rehabilitation- Weapon Possession (**Convictions from Limited Jurisdiction Courts**) 3:30 First Tues of each month

CHIEF CIVIL DEPARTMENT – SEATTLE (Please report to W864 for assignment)

Deliver working copies to Judges' Mailroom, Room C203. *In upper right corner of papers write "Chief Civil Department" or judge's name and date of hearing*

[ ] Extraordinary Writs (Show Cause Hearing) (LCR 98.40) 1:30 p.m. Tues/Wed -report to Room W864

[ ] Supplemental Proceedings/ Judicial Subpoenas (1:30 pm Tues/Wed)(LCR 69)

[ ] Motions to Consolidate with multiple judges assigned (LCR 40(a)(4) (without oral argument) M-F

[ ] Structured Settlements (1:30 pm Tues/Wed)(LCR 40(2)(S))

Non-Assigned Cases:

[ ] Non-Dispositive Motions M-F (without oral argument).

[ ] Dispositive Motions and Revisions (1:30 pm Tues/Wed).

[ ] Certificates of Rehabilitation (**Employment**) 1:30 pm Tues/Wed (LR 40(a)(2)(B))

You may list an address that is not your residential address where you agree to accept legal documents.

Sign: [signature] Print/Type Name: Susan E. Foster

WSBA # 18030 (if attorney) Attorney for: Defendant Zillow

Address: 1201 Third Avenue, Suite 4900 City, State, Zip Seattle, WA 98101-3099

Telephone: (205) 359-8000 Date: November 28, 2014

SM 001

LIST NAMES AND SERVICE ADDRESSES FOR ALL NECESSARY PARTIES REQUIRING NOTICE

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IMPORTANT NOTICE REGARDING CASES

Party requesting hearing must file motion & affidavits separately along with this notice. List the names, addresses and telephone numbers of all parties requiring notice (including GAL) on this page. Serve a copy of this notice, with motion documents, on all parties.

The original must be filed at the Clerk's Office not less than **six** court days prior to requested hearing date, except for Summary Judgment Motions (to be filed with Clerk 28 days in advance).

THIS IS ONLY A PARTIAL SUMMARY OF THE LOCAL RULES AND ALL PARTIES ARE ADVISED TO CONSULT WITH AN ATTORNEY.

The SEATTLE COURTHOUSE is in Seattle, Washington at 516 Third Avenue. The Clerk's Office is on the sixth floor, room E609. The Judges' Mailroom is Room C203.

SPECIAL MASTER
THE HONORABLE BRUCE HILYER (RET.)
Noted For Consideration: December 10, 2014
Oral argument requested

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation, TOP PRODUCERS SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation,

Plaintiffs,

v.

ZILLOW, INC., a Washington corporation, ERROL SAMUELSON, an individual, and DOES 1-20,

Defendants.

No. 14-2-07669-0 SEA

DEFENDANT ZILLOW, INC.'S MOTION FOR PROTECTIVE ORDER (TRULIA SUBPOENA)

CONTAINS INFORMATION COVERED BY PROTECTIVE ORDER

OUTSIDE COUNSEL EYES ONLY

SEALED PER COURT ORDER
DATED ______________________

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44
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47

TABLE OF CONTENTS

I. INTRODUCTION 1
II. STATEMENT OF FACTS 2
III. STATEMENT OF ISSUES 3
IV. CERTIFICATION 4
V. RELIEF REQUESTED 4
VI. EVIDENCE RELIED ON 4
VII. AUTHORITY AND ARGUMENT 4
   A. A party may challenge the issuance of a subpoena to a non-party 5
   B. Plaintiffs seek irrelevant information that is outside the scope of permissible discovery 6
      1. Plaintiffs seek irrelevant information not based on the claims of actual misappropriation identified to date 7
      2. Plaintiffs Requests are Duplicative 11
   C. Plaintiffs should not be allowed a free look into a competitor's trade secrets 12
VIII. CONCLUSION 12

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I. INTRODUCTION

Defendant Zillow, Inc. hereby moves for a protective order to quash or otherwise modify a third party subpoena that Plaintiffs intend to serve on Trulia ("the Subpoena"). The Subpoena falls outside the bounds of Civil Rule 26 because it asks for information that is irrelevant and cumulative, as well as information that constitutes trade secrets. Other than Zillow, Trulia is Move's largest competitor and one of ListHub's largest publisher clients. A few months ago Zillow and Trulia announced a proposed merger. That transaction is pending and the subpoena is a blatant effort to obtain highly sensitive competitive information regarding the merger and the highly sensitive ListHub negotiations—all without any apparent relevance to the pending litigation. For example, through the Subpoena, Plaintiffs are requesting "communications between Zillow and Trulia" dating back to November 2013 (five months before Mr. Samuelson joined Zillow) through the present (almost six months after Mr. Samuelson was sidelined by the injunction) regarding ListHub.

The Court should issue a protective order for several reasons. First, several of the requests, such as those relating to ListHub are irrelevant to any claim of actual or threatened misappropriation —meaning the Subpoena is seeking irrelevant discovery. Second, despite being unable to identify any basis for asserting relevance other than rank speculation, Plaintiffs refuse to delay issuance of the subpoena pending a review of the documents previously provided to them—including Zillow's comprehensive production of Mr. Samuelson's (non-privileged) emails. These productions contain much of the same information the Subpoena asks from Trulia and will confirm that there is simply no basis to allege actual misappropriation, and no rational basis to impose an undue burden on a third party competitor. Third, the Subpoena would force Trulia to disclose confidential trade secrets in a highly charged and competitive market. In other words, the Subpoena is a classic

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fishing expedition for information that (a) has nothing to do with this case, (b) could have or may already have been produced by Zillow, or (c) would disclose highly confidential competitive information.

II. STATEMENT OF FACTS

The parties operate in a small and intensively competitive environment. As Move, Inc.'s CEO has explained in a filing in this case, Move's main competitors are Zillow and Trulia. Declaration of Susan E. Foster In Support of Defendant Zillow's Motion for Protective Order (Trulia Subpoena) ("Foster Decl."), Ex. D (Berkowitz Decl. at 12:3-4). Move, Inc. and Trulia engaged in discussions regarding a potential merger between the two companies in early 2014. *Id.* Ex. E at ¶ 84 (Plaintiffs' Trade Secret List). Trulia chose to terminate these early talks shortly after they began. *Id.* ¶ 88. Mr. Samuelson tendered his resignation to Move, Inc. on March 5, 2014, and Plaintiffs filed this action less than ten days later. A preliminary injunction effectively barring Mr. Samuelson from doing any work for Zillow issued on June 30, 2014. On July 28, 2014, Zillow and Trulia announced a proposed merger between the two companies. *Id.*, Ex. F. The merger is anticipated to close in February of 2015. *See* Declaration of Brad Owens ¶ 6.[1] Trulia is not a party to this litigation.

Zillow's CEO, Spencer Rascoff, has already testified (under oath) that Zillow "consciously" excluded Mr. Samuelson from the "due diligence and negotiations leading up the Purchase Agreement for the Trulia." Declaration of Spencer Rascoff in Support of Zillow's Motion for Reconsideration ("Rascoff Decl.), ¶ 8.[2] During his recent deposition,

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[1] This Declaration was previously submitted to the Special Master and it is reattached to the Foster Declaration as Exhibit G.

[2] This Declaration was previously submitted to the Special Master and it is reattached to the Foster Declaration as Exhibit H.

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Mr. Samuelson confirmed that he did not participate in any aspect of the merger negotiations or internal discussions regarding the wisdom of such a merger. *See* Foster Decl., Ex. I (Samuelson Tr. at 89:21-23). Nor has Mr. Samuelson been allowed to take part in any of the negotiations between ListHub and Zillow. Rascoff Decl., ¶ 8.

Zillow and ListHub are presently involved in negotiations regarding their agreement whereby Zillow obtains listings data from ListHub. In the normal course, Trulia's agreement is set to expire next year but the merger caused Move to immediately begin assessing what it could do with respect to both parties' contracts. Foster Decl., Ex. J.

On November 18, Zillow produced the entirety of Mr. Samuelson's non-privileged Zillow email account to Plaintiffs. *Id.* ¶ 3. Plaintiffs' counsel admitted that to date, the production of Mr. Samuelson's entire email account remains largely unreviewed. *Id.* ¶ 7. Zillow produced additional documents to Plaintiffs' counsel on December 1, 2014, consisting of over 13,000 pages of additional responsive material. *Id.* ¶ 4. Yet before reviewing what they have received or would shortly receive, Plaintiffs issued Zillow a notice of an intent to issue a subpoena for a deposition of a Rule 30(b)(6) designee from Trulia, or in the alternative, a subpoena duces tecum to Trulia for certain documents in eight specific categories (the "Trulia Subpoena"). *See id.*, Ex. A (copy of notice and proposed subpoena).[3]

III. STATEMENT OF ISSUES

1. Should Plaintiffs be allowed to subpoena an unrelated non-party of high confidential information without having identified any reasonable basis for seeking discovery?

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[3] For ease of reference, this Motion will cite to Exhibit A of the Trulia Subpoena, which lists the requests for documents at issue here, as simply the "Trulia Subpoena." A copy of the entire subpoena is attached as Exhibit A to the Foster Declaration.

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IV. CERTIFICATION

Zillow's counsel conferred with Plaintiffs' counsel on November 26, 2014. Foster Decl., ¶ 7. Zillow asked Plaintiffs to withdraw their subpoena and wait until at least some review of Zillow's discovery has been undertaken. *Id.* Exs. B & C. Plaintiffs denied both requests. *Id.* ¶ 7. The parties are at impasse.

V. RELIEF REQUESTED

Zillow moves for a protective order to quash the subpoena duces tecum to Trulia, or in the alternative, to modify the subpoena to strike Requests Nos. 2 to 7.

VI. EVIDENCE RELIED ON

Zillow relies on the Declaration of Susan E. Foster (with exhibits) and the Declaration of Brad Owens, submitted herewith, as well as the previously submitted Declaration of Spencer Rascoff in Support of Zillow's Motion for Reconsideration and the Declaration of Brad Owens in Support of Zillow's Motion to Amend Protective Order.

VII. AUTHORITY AND ARGUMENT

Zillow challenges the issuance of a subpoena to Trulia because the documents requested include confidential and sensitive business records created by Zillow itself, and likely include documents containing Zillow's trade secrets and are irrelevant to any allegations of misappropriation. That Plaintiffs are more interested in seeing what Trulia has in its files regarding the merger and the parties' plans with regard to ListHub than it is in determining whether there is in fact any basis for a misappropriation claim is evident from the fact that Plaintiffs have refused to first review what has already been produced to them. To determine whether a protective order is warranted, a court must balance the respective interests of the parties. *Rhinehart v. Seattle Times Co.*, 98 Wn.2d 226, 256 (1982), *aff'd*, 467 U.S. 20 (1984). Where trade secrets are involved, "[t]he court must weigh on the one hand

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the right of the plaintiff to examine with respect to everything relevant, . . . , and on the other hand, the right of the defendant to be protected . . . as justice demands in his trade secrets." *Microwave Research Corp. v. Sanders Assocs., Inc.*, 110 F.R.D. 669, 672 (D. Mass. 1986) (internal quotations marks and citation omitted).

A. A party may challenge the issuance of a subpoena to a non-party.

All discovery is subject to the limitations imposed by Rule 26, including subpoenas issued to non-parties under Rule 45. CR 26(b)(1). A party may move for a protective order at any time to challenge any aspect of discovery. CR 26(c). Although no Washington appellate court has directly addressed the issue, federal courts, interpreting a substantially similar federal civil rule, will allow a party to challenge the issuance of a subpoena to a non-party if the party can demonstrate that its own privacy interests are implicated by the subpoena or the materials sought under the subpoena are irrelevant to the litigation.[4] *See Bite Tech, Inc. v. X2 Impact, Inc.*, No. C12-1267RSM, 2013 WL 195598, at *3 (W.D. Wash. Jan. 17, 2013) (noting that "[p]arties are also permitted to seek a protective order" to quash or restrict a third party subpoena under Rule 26); *Johnson v. U.S. Bancorp*, No. C11-02010 RAJ, 2012 WL 6726523, at *2 (W.D. Wash. Dec. 27, 2012) (partially granting party's motion for protective order concerning third party subpoena because "discovery should not be used as a means to conduct a 'fishing expedition,' and must be 'reasonably calculated to lead to the discovery of admissible evidence'") (citing *Rivera et al. v. Nibco*, Inc., 364 F.3d 1057, 1072 (9th Cir. 2004)).[5]

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[4] Washington courts may rely on federal authority when the federal rule closely parallels Washington's Rule 26(c). "When the language of a Washington rule and its federal counterpart are the same, courts look to decisions interpreting the federal rule for guidance. The relevant portions of . . . CR 26(b) and (c) are substantially the same as the corresponding portions of Federal Rules of Civil Procedure . . . ." *Gillett v. Conner*, 132 Wn. App. 818, 823, 133 P.3d 960 (2006) (citation omitted).

[5] Rule 45 provides an independent ground for Zillow to challenge the issuance of Plaintiffs' subpoena to Trulia. *In re REMEC, Inc. Sec. Litig.*, No. CIV 04CV1948 JLS AJB, 2008 WL 2282647,

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Zillow moves for a protective order to quash or restrict the Trulia Subpoena because it requests documents related to Zillow's dealings with Trulia, such as "communications between Zillow and Trulia regarding ListHub," and documents sufficient to show "the date on which Zillow and Trulia began discussing their pending merger and Zillow's stated reasons for the proposed merger." Trulia Subpoena at Nos. 3 & 4; *see also id.* (Nos. 5-8) (requesting documents relating to Mr. Samuelson or Mr. Beardsley's communications with Trulia after their respective employment at Zillow started). Given that the Trulia Subpoena asks almost exclusively for documents that reflect Zillow's communications with a business partner, Zillow must move to protect its own interests in this information regardless of whether or not Trulia may (or may not) object to this subpoena. And as discussed below, the requests seeks irrelevant or duplicative information.

B. Plaintiffs seek irrelevant information that is outside the scope of permissible discovery.

A party may obtain discovery on any matter that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party. CR 26(b)(1). Although the standard is a liberal one, courts draw limits around what is in fact related to the claims or defenses of a party. *See, e.g., City of Lakewood v. Koenig*, 160 Wn. App. 883, 891-92, 250 P.3d 113 (2011) (reversing an order granting compelling because information sought was irrelevant and only

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at *1 (S.D. Cal. May 30, 2008) (finding that under FRCP 45, "[a] party can move for a protective order in regard to a subpoena issued to a non-party if it believes its own interests are jeopardized by discovery sought from a third party"); *Johnson*, 2010 WL 6726523, at *2 (same); *cf.* 8 Charles Alan Wright, Arthur R. Miller & Richard L. Marcus, Civil Practice and Procedure 2D § 2035 ("A party may not ask for an order to protect the rights of another party or a witness if that party or witness does not claim protection for himself, but a party may seek an order if it believes its own interest is jeopardized by discovery sought from a third person."). Here, because Trulia and Zillow have announced a proposed merger, Zillow's interests are directly implicated by Plaintiffs' invasive subpoena.

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tangentially related to defendant's ability to calculate potential damages).

The documents sought by the Trulia Subpoena are irrelevant under Rule 26 for two reasons. First, the topics themselves are not relevant to any identified claim or defense in the case and thus cannot be calculated to lead to the discovery of admissible evidence. Because this is a trade secret case, in addition to relevance, Plaintiffs must also show there is an actual basis in fact for the suspected misappropriation before being allowed discovery of a competitors' confidential files. Moreover, Plaintiffs claims of "inevitable disclosure" cannot justify this overbroad and invasive third party discovery where there is no showing that Mr. Samuelson job responsibilities with Zillow would "inevitably" disclose trade secrets to Trulia. Second, the discovery sought is either duplicative or was not requested from Zillow, a fact that calls into question the motivations of Plaintiffs for issuing the subpoena and makes the Trulia Subpoena inappropriate because it is premature.

1. Plaintiffs seek irrelevant information not based on the claims of actual misappropriation identified to date.

In trade secret cases, especially those involving direct competitors, "it is not enough to analyze the requested discovery in terms of relevance. In order to protect a corporate defendant from having to reveal its trade secrets and confidential information to a competitor during discovery, a plaintiff must demonstrate that there is a factual basis for its claim." *Microwave Research Corp.*, 110 F.R.D. at 672; *see also Dura Global Techs., Inc. v. Magna Donnelly, Corp.*, No. CIV. A. 07-CV-10945, 2007 WL 4303294, at *5 (E.D. Mich. Dec. 6, 2007) (explaining that in context under "either 'threatened misappropriation' or inevitable disclosure, a party must establish more than the existence of generalized trade secrets and a competitor's employment of the party's former employee who has knowledge of trade secrets") (internal quotation and citation omitted). Here, Plaintiffs may assert reliance on an

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inevitable disclosure theory but such an allegation cannot support its request here. First, the doctrine has not been adopted in Washington, *Moore v. Commercial Aircraft Interiors, LLC*, 168 Wn. App. 502, 513, 278 P.3d 197 (2012), and Plaintiffs disavowed any reliance on it in connection with its Preliminary Injunction, *see* Foster Decl. ¶ 2. Second, the doctrine simply does not apply to the Subpoena here. There is no showing that Mr. Samuelson job responsibilities with Zillow would "inevitably" disclose trade secrets to Trulia and indeed, the evidence is clear that he has not been involved in the merger discussions. Allowing a subpoena to issue to a competitor on such tangential and speculative allegations would be unprecedented.

The requests do not relate to any relevant areas of inquiry under Rule 26.[6] To simplify discussion, the challenged requests can be grouped into three categories: (1) requests seeking information about ListHub; (2) requests seeking Mr. Beardsley's communications, and (3) requests seeking Mr. Samuelson's communications.

a. Requests seeking information about ListHub

The most troubling aspect of the Trulia subpoena is the fact that it appears to be an attempt to interfere with the pending merger and to leverage this existing litigation into gaining additional insight into the merger, the highly sensitive pending ListHub negotiations (*see* Owens Decl. ¶¶ 3, 5) and competition between the parties. Request No. 3 asks for communications between Zillow and Trulia "regarding ListHub." This request is indefensible. Not only is it not specific to communications involving Mr. Samuelson but it requests documents dating from five months before Mr. Samuelson joined Zillow to almost

[6] Plaintiffs also request compensation information for Trulia's head of business to business product lines. Trulia Subpoena at Nos. 1 & 2. These requests do not implicate a privacy interest of Zillow's, but the relevance of these requests is not apparent, and Zillow objects to any subpoena issued to Trulia at this point in time. However, Zillow will not object to these two requests should the Special Master choose to modify the subpoena instead of striking it altogether.

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six months after he was enjoined from working for Zillow. Moreover, the topic area is not even narrowed to any specific ListHub related trade secret; instead, Plaintiffs seek *everything* "regarding ListHub." The Subpoena is a clear and apparent effort to obtain information regarding Zillow's and Trulia's plans—regardless of their relationship to any alleged claim.

Indeed, Plaintiffs have not identified any instance of actual misappropriation by Mr. Samuelson or Zillow that relates to a trade secret about ListHub and thus might warrant such intrusive discovery, *id.* Ex. K (interrogatory response). Instead, it is based solely on speculation that Mr. Samuelson may have said "something" inappropriate to "someone" at Zillow, who may have relayed it to "someone" at Trulia. Foster Decl. ¶ 7. Yet, Plaintiffs will not even look to determine whether there is any evidence of such conduct in the documents already provided to them before embarking on its blatant third party fishing expedition.

b. Requests related to Mr. Beardsley

Mr. Beardsley is not a party to this litigation; he is not even mentioned in the Amended Complaint and Plaintiffs have articulated not a single claim against Zillow based on its hiring of Mr. Beardsley. As such, there is no reason to allow Plaintiffs to ask Trulia for all of his "communications" "regarding Trulia's acquisition by Zillow," and all communications with Trulia regarding "Move, realtor.com, or ListHub." Trulia Subpoena at Nos. 6 & 8. This is the essence of a fishing expedition, and the Special Master should deny Plaintiffs efforts.

c. Requests related to Mr. Samuelson

Finally, the requests seeking communications between Mr. Samuelson and Trulia are duplicative and unnecessary. In November, Zillow produced all of Mr. Samuelson's non-privileged emails from a Zillow related email account. Foster Decl. ¶ 3. If Mr. Samuelson communicated with Trulia, *see* Trulia Subpoena at No. 5 & 6, those communications are

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already in Plaintiffs' hands. Plaintiffs have acknowledged that counsel has not yet reviewed this email production, Foster Decl. ¶ 7, but that cannot justify the imposition of a burden on a non-party nor warrant the risk of harmful disclosure of a competitor's confidential materials.

Plaintiffs' Trade Secret List includes some alleged trade secrets related to the Move-Trulia talks known to Mr. Samuelson. *See id.* Ex. E (¶¶ 83-88). However, in their response to Zillow's Interrogatory No. 4 ("Identify . . . all instances of actual misappropriation of plaintiffs' trade secrets by Samuelson or Zillow...."), Plaintiffs only make a vague reference to what may have been misappropriated related to these trade secrets: "[S]hortly after Mr. Samuelson began working for Zillow, with knowledge that Move and Trulia had discussed merging and planned to reconvene those discussions in the Fall, Zillow acquired Trulia despite previously working to disassociate itself from Trulia." *Id.* Ex. K.[7]

Plaintiffs' only relationship to potential relevance, *i.e.* that misappropriation of trade secrets may be involved, relies upon pure conjecture conjured from three alleged facts: (1) Move and Trulia had discussed a merger in early 2014 but Trulia decided to hold off on further talks, *id.* Ex. E at ¶ 84; (2) Zillow had allegedly "work[ed] to disassociate itself from Trulia,"[8] *id.* Ex. K, but (3) after Mr. Samuelson left Move, Zillow and Trulia announced a plan to merge, *id.* Ex. F. This is insufficient to form a reasonable basis for a claim of actual misappropriation, especially given Mr. Rascoff's and Mr. Samuelson's sworn testimony that Mr. Samuelson has had no involvement in any aspect of the Zillow-Trulia merger. At minimum, Plaintiffs should first look to Zillow's production to determine whether there is any basis for such an allegation. In fact, there is not: Zillow was considering a potential

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[7] Notably, Plaintiffs never sought discovery from Zillow on this issue and appear to have just recently thought of this issue as a way to seek discovery relating to the merger.

[8] Plaintiffs have offered no evidence to support this statement, and it is unclear how Plaintiffs can claim to be knowledgeable about Zillow's internal strategies regarding its relationship with Trulia.

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acquisition of Trulia prior to Mr. Samuelson joining Zillow. Declaration of Brad Owens in Support of Defendant Zillow Inc.'s Motion for Protective Order (Trulia Subpoena) ¶ 4.

2. Plaintiffs Requests are Duplicative

Plaintiffs have already received substantial discovery from Zillow including Mr. Samuelson's entire email box. Foster Decl., ¶¶ 3 & 4. Yet, Plaintiffs request "communications" between Trulia and Mr. Samuelson regarding both the Trulia acquisition and any communications "regarding Move, Realtor.com, or ListHub." Trulia Subpoena, Nos. 5 & 7. Similarly, Zillow has made Mr. Beardsley a custodian and is producing any communications including him that involve one of Plaintiffs' claimed trade secrets (as articulated in the Preliminary Injunction). Foster Decl., Ex. K. Yet, Plaintiffs request documents relating to his communications on these (much broader) topics. Finally, in Request No. 3, Plaintiffs also seek "communications between Zillow and Trulia regarding ListHub." Trulia Subpoena at No. 3. Again, Plaintiffs have also issued at least eleven separate requests for production related to various aspects of the Zillow's strategy and documents related to some feature of ListHub, and Zillow has agreed to produce responsive, non-privileged documents.[9] *See* Foster Decl., Ex. L (RFP Nos. 84, 105, 117, 124-25, 127-28, 130-31). Concededly, Plaintiffs' requests to Zillow were more narrowly tailored to the claims of the lawsuit. But that is appropriate. And, it would be anomalous to allow broader discovery of a third party competitor than what was deemed appropriate to ask of a party to the litigation.

In sum, Plaintiffs have either decided this same information is not relevant enough to warrant asking Zillow directly, or *already has the information* that may be relevant to its

[9] Zillow objected to the ListHub-related RFP Nos. 126 & 132 because it does not understand what those requests are asking for.

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alleged trade secrets. There is no reasonable basis to go looking for these documents in a non-party's files.

C. Plaintiffs should not be allowed a free look into a competitor's trade secrets.

Finally, the civil rules specifically protect both parties and non-parties from having to disclose its trade secrets during discovery. Rule 26(c)(7) provides that a court can issue a protective order so "that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way." *Accord* CR 45(c)(3)(B)(i) (a court "shall quash or modify the subpoena if it . . . requires disclosure of a trade secret or other confidential research, development, or commercial information").

The Subpoena seeks documents that will contain either highly sensitive and confidential business information, or trade secrets related to Zillow's and Trulia's strategies with respect to the merger and their methods for moving ahead in the ListHub negotiations or other businesses that are competitive to Move. Accordingly, the Court must balance between Zillow's and Trulia's interest in protecting its trade secrets, and Plaintiffs' interest in receiving this specific discovery. But here, that balance tilts sharply in Zillow's favor because the information Plaintiffs are requesting has little to nothing to do with Plaintiffs' claims against Zillow. As explained above, the information the Subpoena encompasses is either (a) irrelevant, or (b) cumulative with what Zillow has already disclosed, and (c) not based on any alleged claims of misappropriation. In other words, disclosing this information would harm Zillow and Trulia without advancing Plaintiffs' litigation.

VIII. CONCLUSION

Zillow respectfully requests a protective order quashing the subpoena duces tecum issued to Trulia.

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DATED: December 2, 2014

Susan E. Foster, WSBA No. 18030
SFoster@perkinscoie.com
Kathleen O'Sullivan, WSBA No. 27850
KOSullivan@perkinscoie.com
Katherine G. Galipeau, WSBA No. 40812
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Telephone: 206.359.8000
Facsimile: 206.359.9000

Attorneys for Defendant
Zillow, Inc.

CERTIFICATE OF SERVICE

On December 2nd, 2014, I caused to be served upon counsel of record, at the address stated below, via the method of service indicated, a true and correct copy of the following document: **DEFENDANT ZILLOW, INC.'S MOTION FOR PROTECTIVE ORDER**

Jack M. Lovejoy, WSBA No. 36962 Lawrence R. Cock, WSBA No. 20326 Cable, Langenbach, Kinerk & Bauer, LLP Suite 3500, 1000 Second Avenue Building Seattle, WA 98104 Telephone: (206) 292-8800 Facsimile: (206) 292-0494 jlovejoy@cablelang.com LRC@cablelang.com kalbritton@cablelang.com jpetersen@cablelang.com	☐ ☐ ☐ ☐ ☐ ☑	Via Hand Delivery Via U.S. Mail, 1st Class, Postage Prepaid Via Overnight Delivery Via Facsimile Via E-filing Via E-mail
Clemens H. Barnes, Esq., WSBA No. 4905 Estera Gordon, WSBA No. 12655 Daniel Oates, WSBA No. 39334 Robert Mittenthal Graham & Dunn PC Pier 70 2801 Alaskan Way, Suite 300 Seattle, WA 98121 Telephone: (206) 624-8300 Facsimile: (206) 340-9599 cbarnes@grahamdunn.com egordon@grahamdunn.com chays@grahamdunn.com doates@grahamdunn.com rmittenthal@grahamdunn.com	☐ ☐ ☐ ☐ ☐ ☑	Via Hand Delivery Via U.S. Mail, 1st Class, Postage Prepaid Via Overnight Delivery Via Facsimile Via E-filing Via E-mail

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 2nd day of December, 2014.

Maryellen Walsh
Legal Secretary

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

EXHIBIT A

From: Katy Albritton <kalbritton@cablelang.com>
Sent: Tuesday, November 25, 2014 3:24 PM
To: Foster, Susan E. (Perkins Coie); O'Sullivan, Kathleen M. (Perkins Coie); Galipeau, Katherine G. (Katie) (Perkins Coie); Griffiths, Jennifer (Perkins Coie); Wyatt, Sherri (Perkins Coie); Clemens H. Barnes (cbarnes@grahamdunn.com) (cbarnes@grahamdunn.com); Gordon, Estera (EGordon@GrahamDunn.com) (EGordon@GrahamDunn.com); Hays, Connie E.; dcauthorn@grahamdunn.com
Cc: Jack Lovejoy
Subject: Move, Inc., et al. v. Zillow and Samuelson
Attachments: Plaintiffs' Notice of intent to Issue.pdf; Subpoena Duces Tecum - Trulia.pdf

Dear Counsel:

Please see attached from Mr. Lovejoy. Thank you.

CABLE, LANGENBACH, KINERK & BAUER, LLP

Katy Albritton
Legal Secretary
Cable, Langenbach, Kinerk & Bauer, LLP
1000 2nd Ave., Suite 3500 / Seattle, WA 98104
Tel. (206) 292-8800 / Fax (206) 292-0494
kalbritton@cablelang.com

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HONORABLE BARBARA LINDE

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

FOR THE COUNTY OF KING

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation, TOP PRODUCER SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation, Plaintiffs, vs. ZILLOW, INC., a Washington corporation, and ERROL SAMUELSON, an individual, Defendants.	Case No. 14-2-07669-0 SEA **PLAINTIFFS' NOTICE OF INTENT TO ISSUE SUBPOENA DUCES TECUM**

TO: ALL PARTIES OF RECORD

AND TO: ALL COUNSEL OF RECORD

PLEASE TAKE NOTICE that a subpoena duces tecum commanding production of documents and things in the forms attached will be served on the records custodian for Trulia,

SM 026

CABLE, LANGENBACH, KINERK & BAUER, LLP
1000 SECOND AVENUE, SUITE 3500
SEATTLE, WASHINGTON 98104-1048
(206) 292-8800

1 Inc., after five (5) days from the date of service of this notice, unless the parties otherwise agree

2 or the court otherwise orders for good cause shown.

3 DATED November 25, 2014, at Seattle, Washington.

4

5 /s/Jack M. Lovejoy

6 Jack M. Lovejoy, WSBA No. 36962
Lawrence R. Cock, WSBA No. 20326
Attorneys for Plaintiffs
7 CABLE, LANGENBACH, KINERK & BAUER, LLP
1000 Second Avenue, Suite 3500
8 Seattle, Washington 98104-1048
(206) 292-8800 phone
9 (206) 292-0494 facsimile
jlovejoy@cablelang.com
10 LRC@cablalang.com

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SM 027

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CERTIFICATE OF SERVICE

The undersigned certifies that on November 25, 2014, I caused to be served the foregoing on the party of record as stated below in the manner indicated:

VIA EMAIL:

Susan E. Foster
Kathleen O'Sullivan
Katherine G. Galipeau
Perkins Coie LLP
1201 Third Ave., Suite 4900
Seattle, WA 98101-3099
Attorneys for Zillow, Inc.

Clemens H. Barnes
Estera Gordon
Graham & Dunn PC
Pier 70, Alaskan Way, Suite 300
Seattle, WA 98121-1128
Attorneys for Errol Samuelson

I declare under penalty of perjury that the foregoing is true and correct.

DATED at Seattle, Washington on November 25, 2014.

Katy M. Albritton

SM028

SUPERIOR COURT FOR THE STATE OF WASHINGTON
KING COUNTY

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation, TOP PRODUCER SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation, Plaintiffs, vs. ZILLOW, INC., a Washington corporation, and ERROL SAMUELSON, an individual, Defendants.	Case No. 14-2-07669-0 SEA **SUBPOENA DUCES TECUM DIRECTED TO RECORDS CUSTODIAN FOR TRULIA, INC.**

TO: TRULIA, INC.
535 Mission Street, Suite 700
San Francisco, CA 94105

☑ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. CR 30(b)(6).

PLACE OF DEPOSITION	DATE AND TIME
Location TBD in Thurston County	December 23, 2014 @ 10:00 a.m.

In the alternative:

☑ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or tangible things, along with a records custodian declaration in the form of Exhibit B, at the place, date, and time specified below (list documents or objects):

SM 029

See attached Exhibit A

PLACE	DATE AND TIME

Cable, Langenbach, Kinerk & Bauer, LLP 1000 Second Avenue, Suite 3500 Seattle, WA 98104	December 22, 2014 @ 10:00 a.m

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT [signature], Attorney for Plaintiffs	DATE December 5, 2014

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Jack M. Lovejoy, 1000 Second Avenue, Suite 3500, Seattle, WA 98104, (206) 292-8800

PROOF OF SERVICE

	DATE	PLACE
SERVED		

SERVED ON (PRINT NAME) MANNER OF SERVICE

SERVED BY (PRINT NAME) TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the State of Washington that the foregoing information contained in the Proof of Service is true and correct.

Executed on ______________________
DATE/PLACE

____
SIGNATURE OF SERVER

____
ADDRESS OF SERVER

____

(c) **Protection of Persons Subject to Subpoenas.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of
production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce and all other parties, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance;

(ii) fails to comply with RCW 5.56.010 or subsection (e)(2) of this rule;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden, provided that, the court may condition denial of the motion upon a requirement that the subpoenaing party advance the reasonable cost of producing the books, papers, documents, or tangible things.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) **Duties in Responding to Subpoena.**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) (A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information in camera to the court for a determination of the claim. The person responding to the subpoena must preserve the information until the claim is resolved.

EXHIBIT A
TO SUBPOENA DUCES TECUM DIRECTED TO TRULIA, INC.

Documents to be Produced

1. Documents sufficient to describe the 2013 and 2014 compensation package for Alon Schaver.

2. Documents sufficient to describe the 2013 and 2014 compensation package for Trulia's head of business to business product lines, if that is someone other than Mr. Schaver.

3. For the time period November 1, 2013 through present, communications between Zillow and Trulia regarding ListHub.

4. Documents, including communications between Zillow and Trulia, sufficient to show the date on which Zillow and Trulia began discussing their pending merger and Zillow's stated reasons for the proposed merger.

5. Communications between Trulia and Errol Samuelson regarding Trulia's acquisition by Zillow.

6. Communications between Trulia and Curtis Beardsley regarding Trulia's acquisition by Zillow.

7. Communications between Trulia and Errol Samuelson regarding Move, Realtor.com, or ListHub on March 5, 2014 or after.

8. Communications between Trulia and Curtis Beardsley regarding Move, Realtor.com, or ListHub on March 17, 2014 or after.

EXHIBIT B

From: Foster, Susan E. (Perkins Coie)
Sent: Wednesday, November 26, 2014 8:48 AM
To: Jack Lovejoy (jlovejoy@cablelang.com)
Cc: Lawrence Cock (lrc@cablelang.com); O'Sullivan, Kathleen M. (Perkins Coie) (KOSullivan@perkinscoie.com); Barnes, Clem (CBarnes@GrahamDunn.com)
Subject: FW: Move, Inc., et al. v. Zillow and Samuelson

Jack – We would request that you withdraw your notice of intent to serve this subpoena on Trulia which appears to be aimed only at harassing and imposing an undue burden on a third party. At this time you have not alleged any basis to assert a claim relating to the topics of your subpoena. Zillow has stated under oath that Mr. Samuelson had no involvement in the merger negotiations, you have deposed him regarding any work post June 30 (none of which revealed any work with Trulia) and you have his email box which similarly reflects no basis for a claim. As for your request for documents relating to Listhub this would appear to be purely an effort to gain strategic competitive information.

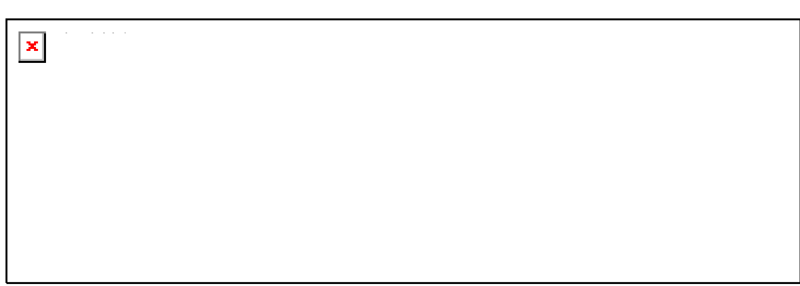
If you persist in your intent to serve the subpoena please identify a time later today that we can meet and confer. Thank you. Susan

---

From: Katy Albritton [mailto:kalbritton@cablelang.com]
Sent: Tuesday, November 25, 2014 3:24 PM
To: Foster, Susan E. (Perkins Coie); O'Sullivan, Kathleen M. (Perkins Coie); Galipeau, Katherine G. (Katie) (Perkins Coie); Griffiths, Jennifer (Perkins Coie); Wyatt, Sherri (Perkins Coie); Clemens H. Barnes (cbarnes@grahamdunn.com) (cbarnes@grahamdunn.com); Gordon, Estera (EGordon@GrahamDunn.com) (EGordon@GrahamDunn.com); Hays, Connie E.; dcauthorn@grahamdunn.com
Cc: Jack Lovejoy
Subject: Move, Inc., et al. v. Zillow and Samuelson

Dear Counsel:

Please see attached from Mr. Lovejoy. Thank you.



Katy Albritton
Legal Secretary
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SM 034

Tel. (206) 292-8800 / Fax (206) 292-0494
kalbritton@cablelang.com

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No virus found in this message.
Checked by AVG - www.avg.com
Version: 2015.0.5577 / Virus Database: 4223/8613 - Release Date: 11/22/14

SM 035

EXHIBIT C

From: Foster, Susan E. (Perkins Coie)
Sent: Friday, November 28, 2014 11:36 AM
To: Jack Lovejoy (jlovejoy@cablelang.com)
Cc: O'Sullivan, Kathleen M. (Perkins Coie); Barnes, Clem (CBarnes@GrahamDunn.com); Connelly, Luke B. (Ike) (Perkins Coie); Galipeau, Katherine G. (Katie) (Perkins Coie); Lawrence Cock (lrc@cablelang.com)
Subject: Confidentiality Designations and Discovery Responses
Attachments: 124330454_1.docx; 12433821_1.docx

Hi Jack – There are a few open items that we need to resolve in the near term.

1) Last week the parties had a meet and confer during which you indicated that you would provide the following before Thanksgiving:

   a. A complete response to Interrogatory 1, including with respect to each TS, whether you are alleging that it is i) known to Samuelson; ii) disclosed to Zillow; iii) has been threatened to be disclosed to Zillow; or iii) will inevitably be disclosed to Zillow. We did not receive a response and would request this information as soon as possible. Without that information it is difficult to gauge the degree to which we must insist on full compliance with our discovery requests and down grade requests.

   b. Your answer to Interrogatory No. 1 redacted to reflect what you would agree can be shown to Mr. Samuelson. We did not receive a response. It is Zillow's position that the entire list of trade secrets should be downgraded to that it may be shown to Mr. Samuelson in its entirety.

   c. On a related point I understand that you declined to redact the answer to Interrogatory No. 1 to allow us to show any part of it to Zillow business personnel who may be necessary to assist it in its defense. Much of the list is generic or publicly known and we believe that this position is unfounded. We ask that you reconsider and propose redactions as set forth in the attached list. The list shows redactions proposed for a "Confidential" list and a redesignation for Attorney M&A – (Don't Show Zillow).

2) Please amend your response to Interrogatory No. 4 to specifically identify each trade secret you allege to have been actually misappropriated and the facts forming the basis for each such allegation. A reference to prior declarations submitted in this case is insufficient. We need a list and clarity. Further, at present the entire response to Zillow's Fifth Set of Interrogatories is marked AEO M&A. Please specifically identify what may be shown to Samuelson, in house counsel and the business.

3) Further to our conversation on Wednesday, you have declined to quash, modify or delay issuance of the Trulia subpoena with two items under consideration: 1) You may delay service pending a final ruling by Judge Hilyer or the court; and 2) You may modify the subpoena to eliminate or significantly modify Number 3: For the time period November 1, 2013 through present, communications between Zillow and Trulia regarding ListHub. As we discussed Zillow has already attested to the fact that Mr. Samuelson had no involvement in the Trulia/Zillow merger discussions and this request, which bears no relationship to the discussions or to Mr. Samuelson has no relevance to the pending litigation.

4) Attached is a proposed order reflecting Judge Hilyers' ruling on November 26, 2014. Please review and advise if you have any changes.

5) We had agreed to treat to allow you to redact the Trade Secret list as Outside Counsel Eyes Only. You declined to do so. We will refrain from showing it to Zillow's in-house counsel until the end of the day Tuesday. If you would like to redesignate the list before then please advise.

SM 037

Thanks Jack and I look forward to your response. While we hope that we can resolve these issues without future motion practice, the Special Master will be unavailable after December 12 so me request that you provide us with your responses no later than the end of day on Monday, December 1, to allow for a response and preparation of any necessary Motion. Take care. Susan

Susan E. Foster I Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, Wa. 98199
206.359.8846 I Fax: 206.359.9846 I sfoster@perkinscoie.com

No virus found in this message.
Checked by AVG - www.avg.com
Version: 2015.0.5577 / Virus Database: 4223/8613 - Release Date: 11/22/14

EXHIBIT F

July 28, 2014

Zillow Announces Acquisition of Trulia for $3.5 Billion in Stock

Combination of companies sets stage to offer more real estate tools and services that empower consumers and drive more business for real estate professionals

SEATTLE and SAN FRANCISCO, July 28, 2014 /PRNewswire/ -- Zillow, Inc. (NASDAQ: Z) today announced that it has entered into a definitive agreement to acquire Trulia, Inc. (NYSE: TRLA) for $3.5 billion in a stock-for-stock transaction. The Boards of Directors of both companies have approved the transaction, which is expected to close in 2015.

The combined company will maintain both the Zillow and Trulia consumer brands, offering buyers, sellers, homeowners and renters access to vital information about homes and real estate for free, and providing advertising and software solutions that help real estate professionals grow their business. At closing, Trulia CEO Pete Flint will remain as CEO of Trulia reporting to Zillow CEO, Spencer Rascoff, and will join the Board of Directors of the combined company. In addition, at closing, a second member of Trulia's Board of Directors will join the board of the combined company. Further operational and organizational details will be announced at closing.

"Consumers love using Zillow and Trulia to find vital information about homes and connect with the best local real estate professionals," Rascoff said. "Both companies have been enormously successful in creating compelling consumer brands and deep industry partnerships, but it's still early days in the world of real estate advertising on mobile and Web. This is a tremendous opportunity to combine our resources and achieve even more impressive innovation that will benefit consumers and the real estate industry."

"Trulia and Zillow have a shared mission and vision of empowering consumers while helping real estate agents, brokerages and franchisors benefit from technological innovation," said Flint. "By working together, we will be able to create even more value for home buyers, sellers, and renters, as well as create a robust marketing platform that will help our industry partners connect with potential clients and grow their businesses even more efficiently. Our two companies share complementary employee cultures with innovative, consumer-first philosophies and a deep commitment to create the best products and services for our industry partners."

Both Zillow and Trulia are primarily media companies, generating the majority of revenue through advertising sales to real estate professionals. Despite continued growth as public companies, significant opportunities of scale remain as the majority of advertising dollars in the real estate sector have yet to migrate online or to mobile. For example, the two companies' combined revenue currently represents less than 4 percent of the estimated $12 billion[i] real estate professionals spend on marketing their services to consumers each year.

Zillow and Trulia are two rapidly growing real estate sites on mobile and the Web, enabling advertisers to reach a large and expanding consumer base. In June, Zillow reported a record 83 million unique users across mobile and Web[ii]. For the same month, Trulia reported a record 54 million monthly unique users across its sites and mobile apps[iii]. The two brands have limited consumer overlap - approximately half of Trulia.com's monthly visitors do not visit Zillow.com, and approximately two-thirds of Zillow.com's monthly visitors across all devices do not use Trulia.com[iv]. Maintaining the two distinct consumer brands will allow the combined company to continue to offer differentiated products and user experiences, attract more users and maximize the distribution of free content across multiple platforms, apps and channels.

A summary of expected benefits of the deal, include:

- **Faster Innovation.** By combining resources, the companies expect to accelerate innovation on mobile and Web to provide more valuable tools and services to consumers and professionals.
- **Greater Access to Free Real Estate Market Data.** The companies expect to share real estate market data, housing trend analysis, and forecasts to make more free data available to consumers and real estate professionals to empower people to make more informed decisions.
- **Broader Distribution.** Home sellers and their agents, brokerages, and participating MLSs will benefit from seamless free distribution of listings across even more platforms to reach an even larger audience of consumers.

SM 0080

- **Enhanced Value and ROI for Advertisers.** The companies expect to offer shared services and marketing platforms for advertisers that enhance agent productivity and marketing and deliver greater return on their investment.
- **Corporate Cost Savings.** By operating independent consumer brands through one corporation, the companies expect to realize synergies to improve overall operational efficiency over the long-term. By 2016, management expects to achieve at least $100 million in annualized cost avoidances.

Transaction Details

As part of the agreement, Trulia shareholders will receive 0.444 shares of Class A Common Stock of Zillow, Inc.[v] for each share of Trulia, and will own approximately 33% of the combined company at closing. Current Zillow holders of Class A Common Stock and Class B Common Stock will receive one comparable share of the combined company at closing, and will represent approximately 67% of the combined company. The transaction assumes Trulia's convertible notes will be assumed by the combined company at closing. The value of the deal represents a premium of 25% to Trulia's closing price on July 25, 2014.

The agreement is subject to the satisfaction of customary closing conditions, including the expiration of U.S. antitrust waiting periods and shareholder approval of both companies. Zillow co-founders Rich Barton and Lloyd Frink, who control a majority of the shareholder voting power of Zillow, have agreed to vote in favor of the transaction. In addition, Trulia directors holding 7.4% of Trulia stock have entered into voting agreements with Zillow to vote in favor of the transaction.

Representation

Goldman, Sachs & Co. acted as the exclusive financial advisor, and Shearman & Sterling LLP and Perkins Coie LLP acted as legal counsel to Zillow. J.P. Morgan Securities LLC acted as a financial advisor, and Goodwin Procter LLP and Wilson Sonsini Goodrich & Rosati acted as legal counsel to Trulia. Qatalyst Partners LP also acted as a financial advisor to Trulia.

Conference Call to Discuss Acquisition at 9 a.m. EDT / 6 a.m. PDT

Zillow CEO Spencer Rascoff will host a conference call today with Trulia CEO Pete Flint at 9:00 a.m. EDT / 6:00 a.m. PDT. The live webcast of the conference call will be available on the investor relations section of Zillow, Inc.'s website at http://investors.zillow.com/, or on the investor relations section of Trulia, Inc's website at http://ir.trulia.com/. For those without access to the Internet, the call may be accessed toll-free via phone at 877-643-7152 with conference ID# **80954780**. Callers outside the United States may dial 443-863-7921 with conference ID# **80954780**. Following completion of the call, a recorded replay of the webcast and a copy of the prepared remarks will be available on the investor relations section of Zillow, Inc.'s and Trulia.com's websites for one year.

Company Conference Calls for Quarterly Earnings

The companies will host separate conference calls to discuss each company's second quarter results. The calls will be held on the following dates:

- **Trulia: July 31, 2014, at 5 p.m. EDT / 2 p.m. PDT.** The call details will be available announced separately, and will be available on Trulia's investor relations website at ir.trulia.com.
- **Zillow: August 5, 2014 at 5 p.m. EDT / 2 p.m. PDT.** The call details will be announced separately, and will available on Zillow's investor relations website at investors.zillow.com.

Forward-Looking Statements

This press release contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934 that involve risks and uncertainties, including, without limitation, statements regarding Zillow's proposed acquisition of Trulia and the expected benefits of the transaction; operational and organizational details of the combined company; the way in which the transaction will impact consumers, real estate professionals, and industry partners; the ability of the combined company to innovate; our ability to realize opportunities of scale; the migration of advertising dollars in the real estate sector to online and mobile; the growth rate of Zillow and Trulia; and our ability to deliver greater return on investment to our advertisers. Statements containing words such as "may," "believe," "anticipate," "expect," "intend," "plan," "project," "will," "projections," "estimate," or similar expressions constitute forward-looking statements. Such forward-looking statements are subject to significant risks and uncertainties and actual results may differ materially from the results anticipated in the forward-looking statements. Factors that may contribute to such differences include, but are not limited to, the risk that expected cost savings or other synergies from the transaction may not be fully realized or may take longer to realize than expected; the risk that the businesses may not be combined successfully or in a timely and cost-efficient manner; the possibility that the transaction will not close, including, but not limited to, due to the failure to obtain shareholder approval or the failure to obtain governmental approval; and the risk that business disruption relating to the merger may be greater than expected. The foregoing list of risks and uncertainties is illustrative, but is not exhaustive. Additional factors that

SM 081

could cause results to differ materially from those anticipated in forward-looking statements can be found under the caption "Risk Factors" in Zillow's Annual Report on Form 10-K for the year ended December 31, 2013, Trulia's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2014, and in Zillow's and Trulia's other filings with the Securities and Exchange Commission. Except as may be required by law, neither Zillow nor Trulia intend, nor undertake any duty, to update this information to reflect future events or circumstances.

Additional Information and Where to Find It

In connection with the proposed transaction, Zillow and Trulia will file a joint proxy statement/prospectus with the Securities and Exchange Commission, and the new holding company will file a Registration Statement on Form S-4 with the Securities and Exchange Commission. INVESTORS AND SECURITYHOLDERS ARE URGED TO READ THE REGISTRATION STATEMENT AND JOINT PROXY STATEMENT/PROSPECTUS (INCLUDING ANY AMENDMENTS OR SUPPLEMENTS THERETO) REGARDING THE PROPOSED TRANSACTION WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION. Investors and security holders will be able to obtain free copies of the registration statement and joint proxy statement/prospectus (when they become available) and other documents filed by Zillow and Trulia at the Securities and Exchange Commission's web site at www.sec.gov. Copies of the registration statement and joint proxy statement/prospectus (when they become available) and the filings that will be incorporated by reference therein may also be obtained, without charge, from Zillow's website, www.zillow.com, under the heading "Investors" in the "About" tab or by contacting Zillow Investor Relations at (206) 470-7137. These documents may also be obtained, without charge, from Trulia's website, www.trulia.com, under the tab "Investor Relations" or by contacting Trulia Investor Relations at (415) 400-7238.

Participants in Solicitation

The respective directors and executive officers of Zillow and Trulia and other persons may be deemed to be participants in the solicitation of proxies in respect of the proposed transaction. Information regarding Zillow's directors and executive officers is available in its proxy statement filed with the SEC by Zillow on April 17, 2014, and information regarding Trulia's directors and executive officers is available in its proxy statement filed with the SEC by Trulia on April 22, 2014. Other information regarding the participants in the proxy solicitation and a description of their direct and indirect interests, by security holdings or otherwise, will be contained in the joint proxy statement/prospectus and other relevant materials to be filed with the SEC (when they become available). These documents can be obtained free of charge from the sources indicated above.

About Zillow, Inc.
Zillow, Inc. (NASDAQ:Z) operates the leading real estate and home-related information marketplaces on mobile and the Web, with a complementary portfolio of brands and products that help people find vital information about homes, and connect with the best local professionals. Zillow's brands serve the full lifecycle of owning and living in a home: buying, selling, renting, financing, remodeling and more. In addition, Zillow offers a suite of tools and services to help local real estate, mortgage, rental and home improvement professionals manage and market their businesses. Welcoming 83 million unique users in June 2014, the Zillow, Inc. portfolio includes Zillow.com®, Zillow Mobile, Zillow Mortgage Marketplace, Zillow Rentals, Zillow Digs®, Postlets®, Diverse Solutions®, Agentfolio®, Mortech®, HotPads™, StreetEasy® and Retsly™. The company is headquartered in Seattle.

Zillow.com, Zillow, Postlets, Mortech, Diverse Solutions, StreetEasy, Agentfolio and Digs are registered trademarks of Zillow, Inc. HotPads and Retsly are trademarks of Zillow, Inc.

About Trulia, Inc.
Trulia (NYSE: TRLA) gives home buyers, sellers, renters and real estate professionals all the tools and valuable information they need to be successful in the home search process. Through its innovative mobile and web products, Trulia provides engaged home buyers and sellers essential information about the house, the neighborhood and the process while connecting them with the right agents. For agents, Trulia, together with its MarketLeader subsidiary, provides an end-to-end technology platform that enables them to find and serve clients, create lasting relationships and build their business. Founded in 2005, Trulia is headquartered in San Francisco with offices in New York, Denver and Seattle. Trulia and the Trulia marker logo are registered trademarks of Trulia, Inc.

(ZFIN)

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[i] Source: Borrell Associates Real Estate Advertising 2013 Outlook, reflecting combined advertising spent by real estate agents, home builders, and rental property managers.

[ii] Zillow measures unique users with Google Analytics.

[iii] Source: Omniture, Google Analytics, June 2014

[iv] Source: comScore Multiplatform Cross-Visiting, June 2014

[v] Upon closing, shares of Zillow, Inc. and Trulia, Inc. common stock will be exchanged for common stock of a newly formed holding company.

SOURCE Zillow, Inc.

News Provided by Acquire Media

EXHIBIT H

THE HONORABLE BARBARA LINDE

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation, TOP PRODUCERS SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation, Plaintiffs, v. ZILLOW, INC., a Washington corporation, ERROL SAMUELSON, an individual, and DOES 1-20, Defendants.	No. 14-2-07669-0 SEA DECLARATION OF SPENCER RASCOFF IN SUPPORT OF DEFENDANT ZILLOW, INC.'S REPLY IN SUPPORT OF MOTION FOR RECONSIDERATION

SPENCER RASCOFF hereby declares as follows:

1. I am Chief Executive Office of defendant Zillow, Inc. ("Zillow"). I am competent to make this declaration based on my personal knowledge.

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2. In Plaintiffs' Opposition to Defendants' Motions for Reconsideration (Confidential Version), plaintiffs suggest several business initiatives with which Errol Samuelson could work at Zillow without violating the Court's June 30, 2014 Preliminary Injunction Order. Specifically, they suggest that he oversee Zillow's Mortgage Marketplace, Zillow Digs, Zestimate, customer care operations, or Zillow's "internal back-end integration" software development efforts. Opposition Brief at 4. None of these suggestions are viable for very straightforward reasons.

3. First, Zillow's positions in these areas are already filled by highly qualified and valued employees. Zillow's Mortgage Marketplace efforts are already supervised by Erin Lantz, Vice President, Zillow Mortgages. Zillow's software development for Zillow Digs is already supervised by Kristin Acker, Vice President Product Teams. Zillow's Zestimate architecture is already supervised by Stan Humphries, Chief Economist. Zillow's customer care division is already supervised by Kathleen Philips, Chief Operating Officer. And Zillow's internal back-end integration is already supervised by David Beitel, Chief Technology Officer. Zillow cannot and would not fire any of these individuals to make room for Samuelson to perform services that do not in any way fall within the job responsibilities for which we originally hired him. Zillow does not have a need for contributions by Samuelson in these areas.

4. Second, not only would it be completely infeasible for Samuelson to assume one of the roles plaintiffs mention, but the breadth of the injunction would largely prohibit any meaningful involvement. Zillow's business model relies on listings and leads, which directly or indirectly relate to our products and services. Yet, the injunction prohibits him from direct or indirect efforts with respect to the sale or distribution of leads and the

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acquisition of listings. It even prevents him from discussing such topics (e.g. 4(g)). I cannot presently imagine how Samuelson can function as a "C" level executive, or in any full time managerial position, including those identified by Plaintiffs, without a threatened violation of the Preliminary Injunction. He could only be employed on a project basis and even then, would continually need to excuse himself from meetings and conversations in which these topics arose creating significant disruption (and risk). And, while Samuelson has invaluable skills as a manager of software engineers, he has not actually written code as a software developer for many years. In view of the broad injunction I have yet been unable to identify any realistic or suitable options.

5. Contrary to Plaintiffs allegations, Zillow did not increase Mr. Samuelson's compensation as a result of the disclosure of any trade secrets or the reference to any "insider" knowledge. The ultimate compensation package was arrived at through the normal give and take of negotiations and were within the range of similar "C" level executives. Mr. Samuelson is a prominent feature of the real estate community and I am well aware of his former position with Move and NAR. His involvement with NAR and his negotiation of the operating agreement is a notable achievement by any manager and the type of information that I would expect to be highlighted in negotiations. Moreover, they did not involve the disclosure of confidential information. Mr. Samuelson's involvement in the negotiations has been well reported by the press. See, e.g. http://inman.com/2013/07/24/nar-approves-historic-changes-to-realtor-com-operating-agreement/

6. Further contrary to plaintiffs' allegations, Zillow respects that Samuelson has confidential information of Move and the other plaintiffs that should not be disclosed or used. Zillow routinely requires its employees, including Samuelson, to sign its

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confidentiality agreement, external communications and social media policy, and code of conduct, among other documents. Zillow's Code of Conduct states: "Every person subject to this Code must take precautions to prevent unauthorized disclosure of confidential information, whether it is proprietary to the Company or another company, and to ensure that confidential information is not communicated within the Company except to employees who have a need to know such information to perform their responsibilities for the Company." The confidentiality agreement states: "I will not use in providing services to or in performance of my work for the Company or disclose to the Company any trade secret, confidential or proprietary information of any prior employer."

7. Recognizing the sensitivities with Samuelson, these obligations were highlighted to him in separate oral and written communications and Samuelson was given instructions not to bring any confidential or trade secret information with him to Zillow and not to use any such information in the course of his work for Zillow.

8. Additionally, from the very first day that Samuelson joined Zillow, we have been cognizant of areas which may be sensitive and in which Samuelson should not be involved. This is something I routinely consider when assigning responsibilities to Samuelson and Zillow has deliberately foregone the benefits of Samuelson's expertise on any initiatives that could be deemed too sensitive because of his prior employment by Move. For example, Zillow consciously chose to exclude Samuelson from the due diligence and negotiations leading up to execution of the Purchase Agreement for the Trulia acquisition. Similarly, Zillow has excluded Samuelson from participating in any efforts relating to the forthcoming negotiations between ListHub and Zillow. If the Preliminary Injunction is

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modified, we will continue to use care and discretion in assigning responsibilities to Samuelson.

I declare under penalty of perjury of the State of Washington that the foregoing is true and correct.

Signed at San Francisco, California, this 26th day of August, 2014.

Spencer Rascoff

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CERTIFICATE OF SERVICE

On August 26, 2014, I caused to be served upon counsel of record, at the address stated below, via the method of service indicated, a true and correct copy of the following document: **DECLARATION OF SPENCER RASCOFF IN SUPPORT OF DEFENDANT ZILLOW, INC.'S REPLY ON ITS MOTION FOR RECONSIDERATION.**

Counsel		Method
Jack M. Lovejoy, WSBA No. 36962 Lawrence R. Cock, WSBA No. 20326 Cable, Langenbach, Kinerk & Bauer, LLP Suite 3500, 1000 Second Avenue Building Seattle, WA 98104-1048 Telephone: (206) 292-8800 Facsimile: (206) 292-0494 jlovejoy@cablelang.com LRC@cablelang.com kalbritton@cablelang.com rwanamaker@cablelang.com	☐ ☐ ☐ ☐ ☑ ☑	Via Hand Delivery Via U.S. Mail, 1st Class, Postage Prepaid Via Overnight Delivery Via Facsimile Via E-filing Via E-mail
Clemens H. Barnes, Esq., WSBA No. 4905 Graham & Dunn PC Pier 70 2801 Alaskan Way, Suite 300 Seattle, WA 98121-1128 Facsimile: (206) 340-9599 cbarnes@grahamdunn.com chays@grahamdunn.com	☐ ☐ ☐ ☐ ☑ ☑	Via Hand Delivery Via U.S. Mail, 1st Class, Postage Prepaid Via Overnight Delivery Via Facsimile Via E-filing Via E-mail

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 26th day of August, 2014.

s/ Jennifer Griffiths
Jennifer Griffiths
Legal Secretary

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EXHIBIT J

29-Jul-2014

Move, Inc. (MOVE)

Q2 2014 Earnings Call

SM 109

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CORPORATE PARTICIPANTS

Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.

Rachel C. Glaser
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Analyst, Telsey Advisory Group LLC

Ian Corydon
Analyst, B. Riley & Co. LLC

John Campbell
Analyst, Stephens, Inc.

Dan L. Kurnos
Analyst, The Benchmark Co. LLC

MANAGEMENT DISCUSSION SECTION

[Abrupt Start] A copy of our news release issued earlier this afternoon is also available on the company's IR website.

Please be advised that some of the comments that will be made today constitute forward-looking statements within the meaning of the Private Securities Litigation Reform Act that involve potential risks and uncertainties concerning Move's expected financial performance as well as Move's strategic and operational plans. These potential risks and uncertainties include, among others, decreases or delays in advertising spending, market acceptance of new products and services, and our future expected financial results.

Additional factors are discussed in the Company's annual and quarterly reports, which are filed with the SEC and are available on our website. All information discussed on this call is as of July 29, 2014, and Move undertakes no duty to update this information. Results projected on the call today may differ materially from actual results and should not be considered as a guarantee of future performance.

On the call today, we will also be discussing non-GAAP financial measures in talking about the company's performance. Reconciliations of those measures to GAAP measures can be found on the tables attached to today's news release.

I'd now like to turn the call over to Steve Berkowitz.

SM 110

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Steven H. Berkowitz

Chief Executive Officer & Director, Move, Inc.

Thank you, Jessica. And thank you, all, for joining our Q2 2014 earnings call today. As they say, the more things change, the more they stay the same. Move has been a leading player in the online real estate space since the beginning and we will continue to be drivers of innovation for both consumers and the real estate industry as a whole. The first six months of this year have been no different, with non-stop action marked by changes and accomplishments that have been good for the Company. This quarter, we introduced significant changes to our Connection for Co-Brokerage business model and launched to our customers in July with great success.

We reorganized our industry platforms team, assembling the greatest bench of industry talent this Company has ever had. And last but not least, the latest transaction news placed a $3.5 billion valuation on a company of comparable size, and we like the comp. We see much more opportunity than risk created by the merger of two of our competitors. As I will talk about our quarter and year ahead, I will highlight our unique position in the industry, and the opportunity created by the changing landscape. Undaunted by the tasks at hand, our team is highly motivated to win. As evidence of that, Q2 was another strong quarter for us. This marked the ninth straight quarter of year-over-year revenue growth, fueled by a healthy real estate market and growing consumer audience. Unique users grew another 18% this quarter for realtor.com and we're continuing to see healthy growth in leads to our broker and agent customers particularly from exceptional engagement across all of our platforms.

On today's call, I will first discuss our ongoing relationship with the industry and the National Association of REALTORS. Next, I will share key Q2 highlights, and lastly I will highlight our plans for the rest of the year. One of the highlights of Q2 was our ever-strengthening relationship with the National Association of REALTORS, and with brokers, franchises, and MLS' that comprise its member base. We were delighted to participate in the NARs mid-year conference in May with 16 speaking engagements that attracted more than 7,500 key industry participants. Our theme centered around on the value of the real estate professional in every transaction, the reasons that accuracy and credibility are imperative to creating positive consumer experiences, and why the REALTORS brand, which we share with the industry, truly does convey what is real in real estate. My favorite moment came when I was up at the opening of the event and presented our new marketing campaign to over 3,500 people in the room, and watched their reaction and heard their applause.

On our last call, we discussed the announcement by the NAR to invest in a brand marketing campaign that promotes REALTORS and realtor.com. On July 17, this campaign hit the television airways joining their radio placements that were live already. The NAR television campaign blends seamlessly with our Accuracy Matters campaign and we are pleased that we are now achieving double the reach and frequency with this combined effort.

We are working together with the industry to define what accuracy means and why Accuracy Matters. Accuracy goes well beyond just the presence of a listing. The speed with which the listing goes up, the process in taking it down, timely revisions to listing price and only taking information from credible sources all contributes to properly preparing a consumer with the accurate information they need to work with a realtor. We are the only portal out there that can say we offer accuracy to and for the industry, and the fact that our data is MLS-connected with broker support means that it's authentic, unaltered and validated by real estate professionals, and endows a tremendous amount of trust in that professional when the time comes for the consumer to make a professional connection.

ListHub is similarly MLS connected, assessing data from over 500 data sources or 70% of the listing coverage in the country with a high level of accuracy. The ListHub platform provides the industry an infrastructure for data analytics, performance management and marketing services. When you consider there are approximately 100,000

SM 111

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U.S. brokers, more than 800 MLS' and nearly 2 million for sale home listings at any point in time, the value and data control ListHub brings to the industry is extremely significant.

Industry alignment is a critical component of who we are and how we succeed. That alignment is achieved by providing a platform to the industry that improves the efficiency and effectiveness of every piece of the value chain. At our Analyst and Investor Day in May, we shared some of the future vision and strategy for our industry platforms. And in the past quarter we've also made a few key investments in building the industry platforms theme.

First, Luke Glass, General Manager of ListHub, has been promoted to Executive Vice President of Industry Platforms. Celeste Starchild, previously Head of Sales for ListHub, steps up as its General Manager. In addition, 25-year industry veteran Russ Cofano joined Luke's team as Senior Vice President of Industry Relations to develop strategies that further open communication with the industry. And Jonathan Smoke joined the industry team as realtor.com's first Chief Economist. Jonathan, a 20-year real estate veteran and highly respected housing trends expert will be the Company's chief spokesperson about housing trends and policies. Jonathan will help drive awareness of the realtor.com brand as the most trusted national source of housing data and market insights. The evolution of our industry platform strategy and the team itself was one of the many positive achievements in Q2.

Now let me turn to the overall results and a few more Q2 highlights. Revenue in the second quarter was $61.3 million, which we estimated could have been closer to $62 million had it not been for the DDoS attack. Q2 adjusted EBITDA was $3.1 million, which we estimated could have been closer to $4 million without the impact of the DDoS attack. Rachel will talk about our financial results in more detail and provide some color on some of the planned and unplanned events that impacted our quarter. There are four themes for Q2 that merit discussion. One, our sustained and steady audience growth through new content offerings and the success of our Accuracy Matters marketing campaign; two, continued product innovation and progress on our website enhancements; third, inherent value of our software suite; and lastly the ListHub platform and its benefit to the industry ecosystem.

Starting with our audience growth. On May 12, we launched the second phase of our national brand marketing campaign Accuracy Matters. We are very pleased with its performance so far, which demonstrates a material lift in our website traffic and mobile application downloads.

In the second quarter, we attracted roughly 31 million users on realtor.com, an 18% jump year-over-year. The realtor.com brand campaign has aired for 21 weeks now and is one obvious driver of our increasing consumer traffic. Our mobile app downloads have increased dramatically with lifts of nearly 70% versus last year.

Updated research shows our aided brand awareness increased more than 12% since the campaign start. These large increases in audience have not diluted the quality of our very transaction-ready audience. We see that approximately 19% of homes viewed continue to be for sale properties. Other measures of quality is evidence by the activity this audience engages in. Leads continue to increase year-over-year on all platforms. These are serious home buyers, intent on connecting with a real estate professional.

Consumers relying on mobile devices for home search continue to be a major part of the story with mobile listing detail page use now nearly 60% of all page use, an engagement that is eight times more than desktop users.

Improvement in consumer awareness through brand marketing is one way in which we've grown our audience. We also, though, continue to work intently to grow our audience through content additions in the for sale real estate space, as well as rentals, home improvement, financing and lending on the web and through mobile apps.

SM 112

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Let me give you two good examples. Our rentals listing content has increased 77% year-over-year and 11% over last quarter. Listings growth fueled audience growth to 62% year-over-year and 9% quarter-over-quarter, and audience growth in turn grew the number of quality leads. Lead growth is up 124% year-over-year and we're in the early stages of expanding this segment, and all signs continue to be positive. A second example, we are beginning to tap into the category of homeowners. In our partnership with Porch, we offer consumers a tool that provides home and neighborhood reports complete with home improvement project history, the cost and details of remodels, background information for professionals who previously worked on the home and other information.

A second Q2 theme I want to highlight is product innovation and website enhancements to improve consumer experience and audience engagement. A few weeks ago, we received from industry publication Inman the award for the most innovative real estate application for our agent discovery data. While the pilot ended, we're pleased to be recognized for innovation. And we absorbed and learned a lot from the pilot and we've been hard at work developing an innovative product to help individuals discover the perfect realtor to meet his or her needs.

Inman also awarded Move the most innovative use of new technology for our realtor.com powered Doorsteps Swipe mobile approach, which is one of the most creative apps – this is one of the most creative ways we've used our assets to deliver new tools to consumer. If you have an iPhone and haven't downloaded the approximately, yet I highly encourage you to do so. It's fun and somewhat addictive. In addition, the Houston Association of REALTORS won Inman's award for most innovative MLS service, because it was the first to adopt list off the MLS real estate network and now offer statewide listings for Texas.

The third area to highlight in Q2 was our Software and Services suite. While leads in the last year have improved significantly, annual home transactions still hover at about 5 million. It is a simple fact that with the massive growth in leads against a backdrop of relatively flat transaction volume, the conversion rates on leads is declining. This fact underscores the importance of our Software and Services offering, which are designed to help agents and brokers identify the highest quality leads as efficiently as possible and stay connected with consumers until they close a transaction. Ideally, our software also helps the real estate professional stay in touch with the consumer for all future residential transactions they need. This is exactly what our software suite, including Top Producer, FiveStreet, TigerLead, and Market Snapshot is designed to accomplish. In an integrated go-to-market approach we have combined Top Producer and FiveStreet with great success.

Subscriptions continue to climb and we're getting rave reviews from these customers. In addition, Top Producers follow-up coach and quick response for mobile enable customers to better manage client follow-up on the go and in turn, their downtime into opportunities to quickly connect and strengthen client relationships.

The addition of industry-leading sold alerts to our Market Snapshot product complements the listing alert feature and now aligns with every stage of our prospects' buying and selling cycle. Market Snapshot is an outstanding product that has growing adoption amongst many of the largest brokers. The fourth area to note in this quarter is ListHub, the centerpiece of our industry platform. So far this year, we've added over 40 new MLS'. In the quarter, we averaged over 800 new broker accounts each month and during the quarter we also delivered an average of more than 150,000 ListHub online marketing reports to home sellers each month.

One last Q2 event that I wanted to spend a couple of minutes on. As many of you already know, on June 18, our websites were the target of a malicious distributed denial of service attack, which directed massive amounts of traffic to our websites. Unfortunately, these types of attacks are becoming more common for online businesses. The attack made realtor.com, Top Producer Systems and Move websites intermittently inaccessible. We estimated that our actual June users would have been 3% to 4% higher in the month if not for the attack. Our internal

SM 113

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systems were not compromised and no consumer or customer information was jeopardized. Since the attack, we've greatly increased our website's DDoS protection.

At the beginning of the year, we set out three very clear goals for 2014. One, grow our consumer audience; two, enhance and integrate our product suite to harness the competitive advantages of our real estate platform; and three, nurse and expand our relationships with the real estate industry collaborating with the NAR and focus on raising ROI for brokers, agents and industry partnerships. Our focus on this combination has shown the industry the important role Move plays in their success.

Let's touch on each goal briefly. First, to continue to grow our consumer audience. We are laser focused on providing absolutely the best content in the for sale real estate space. Our Accuracy Matters campaign has real traction now and through that effort, we are becoming known and differentiated to consumers as the go-to site for reliable and credible real estate information. We are ferociously building content to not only attract consumers, but to keep them engaged once we have them. We continue to enhance photo quality and size, and enhance the mass experience.

In addition, we have a number of personalization initiatives in the pipeline, many of which benefit from our new registration platform that we just released. And we have a mobile first mind set. We will be launching our rentals application on the iPad this quarter and the Android tablet application is in development.

Our second goal for 2014. We continue to focus on our software suite and the integration of those products to improve the efficacy of the marketing spend by real estate professionals in every part of the value chain.

We've made many advances on our third goal to nourish and expand our relationship with the industry. First, the collaborative marketing partnership we have with the NAR launched, as we previously discussed. Second, our alliance with the largest brokers in the industry continue to grow. This quarter, we renewed with Howard Hanna and Alain Pinel, two of the largest brokers and testimony to the fundamental support the industry endows. There are more deal renewals in the pipeline, and extended agreements for a broader range of products and services.

Lastly, our outreach and collaboration with MLS' and state and local associations continues to expand. With our strongest industry relations bench we will be speaking at more and more trade association events in the coming months. And before I conclude, I'm compelled to add a fourth goal to our 2014 outlook, which was clearly articulated at our Analyst and Investor Day in May.

And that is to align and improve the exchange of value for the products and services we provide to the industry. To that end, the most significant initiative in the second half of the year is the shift of the business model of our Co-Broke product. The new model offers a choice of exclusive leads price to value exclusivity or share leads that the industry has gravitated to over time.

We have enhanced the quality of the lead itself by providing more data, including telephone numbers, emails and search history. And we've bundled those leads with the basic FiveStreet software for free, which improves the real estate professionals' speed of response and quality of response; therefore, a better consumer experience. REALTORS are able to better target and prioritize prospects and they are much more informed when they make that consumer connection. Most importantly, we have received accolades from our customers who are thrilled to have access to inventory in areas that were sold out. And even better, this change builds a very nice prospect list for us to up-sell the premium version of FiveStreet or Top Producer products at a later date.

In summary, each of those goals supports our ultimate strategy to serve the whole real estate ecosystem. Move's purpose is so much more than simply attracting and selling consumer attention. We are the front-end entry point

SM:114

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for real estate content to the consumer internet space and the industry's back-end platform to help them serve their customers. In both aspects, we represent the highest level of quality and service in the industry, and a code of ethics that no other online real estate portal can touch.

Now let me turn the call over to Rachel for more details about our Q2 financials and 2014 guidance.

Rachel C. Glaser

Chief Financial Officer, Move, Inc.

Thank you, Steve. I am very pleased to review our second quarter results with you. Starting with the top line, our total revenue for the second quarter was $61.3 million, an increase of $3.8 million or 7% from the second quarter last year and up 6% on a sequential basis.

Absent the impact of the DDoS attack, we estimate that revenue could have been closer to $62 million. Q2 was our ninth straight quarter of year-over-year revenue growth. Breaking that growth down into our two revenues categories, Consumer Advertising grew 6% compared with the second quarter of last year, increasing to $47.4 million and representing 77% of total sales. Software and Services revenue grew 8% to $13.9 million in Q2. Software and Services is now 23% of our total revenue.

Let me peel back the covers a little bit and outline where that growth is coming from within Consumer Advertising. First, Co-Broke grew 32% year-over-year powered by a growing consumer audience who convert to leads at a very strong rate. We were again able to expand and sell through our inventory. Overall, Q2 renewal rates remained at over 80%.

Showcase is also performing right in line with expectations. As we said on last quarter's call, the percentage of all listings that have been enhanced with Showcase coverage is about 42%, down from a high of 48% several years ago. Renewal rates have stayed consistently in the 80% range, indicating we have a solid installed base that value the leads and the brand impressions our Showcase customers accrue from their investment.

Historical listing count, or what we call HLC, continued to grow modestly, ending Q2 at $6.9 million historical listings, an increase of 7% versus the prior year and 1% versus the prior quarter. Q2 represented the fifth quarter of year-over-year growth in HLC. We have stated that our goal is to grow revenue to $100 per historical listing. This quarter, revenue per HLC was $35.59, up 5% versus the prior quarter.

Turning now to Media. Our audience both propelled growth in page views and impressions, up 18% and 17% respectively. Media revenue jumped 32% year-over-year in Q2 and 20% versus Q1. Over one-third of that growth is coming from new advertisers, primarily within the lending category. The success of our marketing campaign has clearly bolstered our brand strength.

There are two areas in our Consumer business that struggled in the quarter. First, the DDoS attack resulted in an impact of approximately $400,000 to $700,000 in the quarter. A portion of this was Media because websites were down intermittently and we could not fulfill our insertion orders. In addition, there was an impact due to productivity loss for our sales team as internet and back-end systems were dark for those days. Second, softness in the Moving business resulted in a 20% year-over-year revenue decline. We observe a trend that movers are shifting away from third-party lead sources toward directly acquiring their own website traffic. This creates competition between ourselves and our customers for the traffic. We are evaluating our strategies in this business and will update you later in the year. Overall, our core realtor.com business would have grown 11% in Q2 and is on a run rate to end the year at 16% growth when we exclude the Moving from the total.

SM 115

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Turning briefly to revenue drivers of our Software business, TigerLead continued to grow, increasing 7% year-over-year. The gating factor in TigerLead is inventory, we have many zip codes that are sold out. This creates pricing leverage in certain geographies, which we are evaluating. In addition, we are focused on improving its performance marketing capability. Another bright spot is Top Producer, which includes Top Producer CRM, FiveStreet and Market Snapshot. Together, revenue grew for the third sequential quarter in Q2 and added nearly 2,300 net new subscribers.

Turning now to profit performance. Adjusted EBITDA in the second quarter was $3.1 million, or 5% of revenue. We estimate that without the DDoS attack, adjusted EBITDA could have been closer to approximately $4 million. Total core operating expenses, defined as the four major expense categories less stock-based compensation and non-recurring charges, were $62.4 million for the second quarter.

There are two areas of investment that were initiated in Q2 and may have continued impact to our full year financials. First, our marketing investment was significantly larger this quarter versus prior year. This expense includes the media cost associated with running our ads on national television, the digital component of the marketing campaign, including display media, and FDM, and the creative and production costs deployed towards the new Accuracy Matters campaign, the majority of which were expensed in the quarter.

The second area of investment in the quarter is labor. We rapidly and successfully added a large number of sales agents to our Scottsdale call center. These agents are focused on building large blocks of new business enabled by inventory expansion in our Co-Broke products. We expect this team to be profit generators as they hit their stride.

Our news release includes a reconciliation of GAAP net income, and earnings per share to non-GAAP. The calculation of non-GAAP net income is similar to that for adjusted EBITDA, excluding non-cash items such as stock-based compensation and charges, amortization of intangibles, and amortization of debt-discounted issuance cost.

In the second quarter, net cash flow from operating activities were $2.6 million with cash ending at $117 million. Total capital expenditure in the quarter was $3.8 million.

Before turning to guidance, let me provide some additional information on the changes we made to our Co-Broke product. The new product and pricing model was rolled out in mid June as we began pre-selling to existing customers whose subscriptions were up for renewal in July. The new product offers a choice between shared and non-shared leads. The exclusive version is priced at approximately 1.5 times to 2 times the value of the shared product. In modeling the potential future yield from this new product, the variables we calibrated were take rates between exclusive and shared, retention rates, conversion rates at new pricing tiers and new customer penetration, to name a few.

We are very pleased that in the initial weeks of selling, all of our metrics indicate we have modeled the revenue trajectory appropriately. We see renewal rates over 70%. To-date we see an evenly divided take rate between the exclusive product and the shared product. In short, Co-Broke is performing exactly as we had hoped and the run rate it is on heralds a healthy growth rate in future quarters.

With that as the background, let me now provide financial guidance for the third quarter and the full year 2014. We currently expect revenue for the third quarter of 2014 to be approximately $65 million. This represents around 10% year-over-year revenue growth. We expect our third quarter adjusted EBITDA to be roughly $4.5 million, representing 7% of revenues. By revenue line, Q3 revenue for Consumer Ad products is expected to be approximately $50 million to $51 million or 10% growth over the same period last year. We expect Software and Services revenue to be about $14 million to $15 million, up about 10% over Q3 2013.

SM 116

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We are updating our full revenue guidance to incorporate the expected lower revenue in our Moving business and the one-time hit from the DDoS attack. Our current projection for the full year is $252 million to $254 million, which implies 11% growth year-over-year at the mid point. Similarly, we will adjust our profit expectation to $28 million. This reflects our continued investment in marketing, the impact of slightly lower revenue expectations and the build up of our sales team. We are very excited about our current positioning, our success in Q2 and our outlook for the remainder of the year.

With that, I will turn the call back over to Steve for some final remarks.

Steven H. Berkowitz

Chief Executive Officer & Director, Move, Inc.

Okay, Rachel, thanks. The second quarter of 2014 marked another successful quarter for our Company. We're excited about the progress made and the foundation we've put in place for the future. Our goals are to connect the realtor.com brand to a younger mobile audience, introduce the realtor.com brand to rentals, and create a more personalized experience that attracts and engages consumer and stand as our platform for realtor differentiation, consumer housing insights and information and advocacy.

Before I open for questions, I wanted to talk about the change that just happened in the industry. I know that you're all aware of the proposed merger of two of our largest competitors and we certainly are as well. So let me make a few points. All-in-all, the transaction itself doesn't change any fundamentals for us. They were our largest competitors last week, they still are today and they probably will be tomorrow. Whether the marketplace wants to see the creation of this kind of megabrand remains to be seen. I know REALTORS. They are independent local business people. They may be a bit wary of this but that part isn't clear at this point in time. The other things that don't change is the relative difference for REALTORS and consumers is the accuracy of the information that we serve on realtor.com as compared with what others try to achieve. The concept on realtor.com is better because it comes from actual REALTORS that are selling homes in neighborhoods across the country.

Lastly, we believe we can build the realtor.com brand in the eyes of the consumer as one of the go-to brands for consumers in real estate. I could easily say that we believe that the tremendous opportunity still lies ahead of us and there is still enormous value to be created. Our drive and ability to be more competitive in this marketplace positions us for continued success for the rest of the year.

With that, I'll open your call to questions.

SM 117

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QUESTION AND ANSWER SECTION

Operator: We will now begin the question-and-answer session. [Operator Instructions] And the first question comes from Jason Helfstein with Oppenheimer & Company. Please go ahead.

Jason S. Helfstein
Analyst, Oppenheimer & Co., Inc. (Broker)

Q

Thanks. Two questions. Just the first on the guidance implies that revenue accelerates to 20% year-over-year in the fourth quarter. I presume a significant amount of that is coming from the Co-Broke licensing change. If you could just give us some more color. Are there other catalysts in the fourth quarter beside Co-Broke, perhaps on the Media side as well. And then secondly, Steve, you talked about ListHub, I mean, for us, we've been getting a lot of questions just from clients kind of on like your long-term plans for ListHub. It seems to hold significant strategic value. I believe it was included – it's a stipulation in one of the deals that one of your competitors signed with a leading brokerage firm. Talk about longer term, assuming you're willing to, what your plans are for ListHub. Thanks.

Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.

Sure. So in terms of Q4, I mean the growth is coming from Co-Broke because Q4 from a Media perspective is always a little bit slower than Q3 so what you're seeing in Q4 is the fact that we'll be into the fourth, fifth and sixth months of selling the new Co-Broke product. So yes, we'll have – so that's a big driver of the growth for us is opening those new slots and creating the new pricing. And then, in terms...

Jason S. Helfstein
Analyst, Oppenheimer & Co., Inc. (Broker)

Before you go to ListHub, are you expecting moving to have less of an impact because seasonally it's a smaller quarter for people to move?

Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.

Yeah we're still projecting it to be down but yes, it'll seasonally less. But again, for us to grow the business in Q4 is a little bit an anomaly this year because of what's happening with the Co-Broke product and the timing of the launch.

Rachel C. Glaser
Chief Financial Officer, Move, Inc.

Well, and the moving – as John talked about in moving is baked into the guidance we just gave, so...

Jason S. Helfstein
Analyst, Oppenheimer & Co., Inc. (Broker)

Right. But it adds a disproportionally lower impact from the revenue in the fourth quarter than it does right...

Rachel C. Glaser
Chief Financial Officer, Move, Inc.

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Yeah, yeah.

Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.

A

Yeah, and now we've got kind of a better handle on it so we feel pretty good about the guidance we've given you. But as we look at the – we just had the Co-Broke piece. Now on ListHub, I think ListHub is an important and I truly believe it is an important part of the ecosystem and should hopefully become an even more important part of the ecosystem. It's an opportunity and it has – was originally created to give the brokers through the MLS' the opportunity to control where their content goes. And I believe today that's more important than it was yesterday and more important than it was a year ago. And I think hopefully, as the industry starts to look at the changes, it will agree and it will look to see that ListHub continues to be an important part of that ecosystem.

I think there's another piece of the ListHub strategy that I think is important that we discussed at our Analyst Day is the fact that ListHub just doesn't supply information to online portals; it also becomes the source of information back into the industry. So the idea that we're working closely with the Houston Association of REALTORS to help them build better reporting and better content back into their systems, we work with some of the major brokers in helping them feed information back into their systems. So I believe ListHub has an important piece to the ecosystem. But again, the whole premise of ListHub and the whole future of ListHub is really in a big way based on what brokers choose to do. So we believe we have a pretty strong message and we believe that some of the changes in the industry hopefully will help that message.

Jason S. Helfstein
Analyst, Oppenheimer & Co., Inc. (Broker)

Q

Thank you.

Operator: The next question comes from Mitch Bartlett with Craig-Hallum. Please go ahead.

Mitch P. Bartlett
Analyst, Craig-Hallum Capital Group LLC

Q

Yeah, just following up on what you just said. ListHub, the whole key is what brokers – what the control brokers want to impose going forward or however you put it. Well, what is the sentiment right now of brokers as far as ListHub and where might it go in the future? Can you be more definitive?

Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.

A

I can't. I can only be definitive as to what I know, but as I can tell you, we grew our MLS agreements by 40 in the last quarter. ListHub's continuing to grow its content sources. I think ListHub is becoming more important to the brokers themselves, not just as I said for content distribution, but also for the ability for them to power some of their own systems. So to me, I think that there's a strong support to ListHub from the brokers. There's a strong support from the MLS' for ListHub. I mean I think the question, which I can't answer for you, is what does this change, potential change in the industry mean to that? Does it become more important or less important? I think it's way too soon to tell.

Mitch P. Bartlett
Analyst, Craig-Hallum Capital Group LLC

Q

Got it, okay. And then on Co-Broke. Just the same set of questions again. Just on Co-Broke, it launched; it sold – started selling. You had great renewals and also good a split between the exclusive and the non-exclusive. Can you

SM 119

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give us any idea of – well first, your guidance came down a little bit, because of Moving and some of the other attributes, but it had nothing to do with Co-Broker or anything like that. Is that true?

<A – [077MXQ-E Rachel Glaser]: That's true. We tried to say quite clearly that Co-Broke is performing exactly as we modeled it, which is very positive.

Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.
A

Yeah.

Mitch P. Bartlett
Analyst, Craig-Hallum Capital Group LLC
Q

Okay.

Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.
A

But I think the one big takeaway from Co-Broke is that there is a concern in the industry, I believe, whether it's come to the surface yet or not, about exclusivity of leads. And I think what we tried to do in building our Co-Broke product is to offer customers the opportunity to go exclusive or non-exclusive, which is very different I think than anybody else in this industry. I think our goal was to realize that leads are growing faster, significantly faster than homes are being sold. And we have to find a way to make sure we're making those leads smarter and we're valuing the exchange of values being appropriately happening between both the content provider and as well as the agent or broker who's buying leads. So we feel like, again, we're stepping into part of the industry where we're trying to do it smarter and more to the benefit of everybody in the value chain than just trying to increase the volume of leads.

Mitch P. Bartlett
Analyst, Craig-Hallum Capital Group LLC
Q

Got it. Okay, thank you very much.

<A – [077MXQ-E Rachel Glaser]: Thanks, Mitch.

Operator: The next question comes from James Cakmak with Telsey Advisory Group. Please go ahead.

James M. Cakmak
Analyst, Telsey Advisory Group LLC
Q

Hi thanks. So first on Co-Broke, and appreciate the color there. I guess on the other side of the equation looking at Showcases, the mix of the HLC comes down. Can you talk about, are you still thinking about price increases to offset that as we look into next year to provide a lift on that line? And then secondly I guess, Steve, just stepping back more because you're not specifically on ListHub but just you seem to maintain pretty strong confidence in your market position, even following this transaction between Zillow and Trulia. I guess where – I guess based on the conversations that you've had with your top brokers, with the industry, I guess, following the announcement, I guess can you just talk about where that confidence is coming from that the industry will continue to be or perhaps in a catalytic way much more so behind you then before. Just talk about Move as you see it today versus a couple days ago.

SM 120

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Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.

A

Sure.

Rachel C. Glaser
Chief Financial Officer, Move, Inc.

A

Let me take the Showcase one first. So at our Analyst Day, we talked about the fact that we built our products based on an industry who really wanted exclusivity. So all of our products were originally designed on the concept of exclusivity. In the case of Co-Broke, it's one inquiry goes to one agent; in the case of Showcase, it's certain my listing, my lead. They get exclusivity to all the leads off their own listing and all their branding.

And what we said was that the industry clearly has shifted in terms of the industry isn't actually valuing that exclusivity anymore because of the other models that have sprung up around us. So the first change that we're making to the Co-Broke model to offer a choice. If you want the exclusivity, then the pricing will reflect that – the value of that exclusivity. Or else we'll give you choice to go to a shared-lead model, which is what the industry has gravitated to more and more. So we'll pull that concept all the way through all our products. I'd focused less on the words pricing increase and more towards the concept of making sure that products that we offer that are exclusive are priced to value that exclusivity. And that's what we're working on now in the back half of the year. And you'll see us start to evolve those things as we enter 2015. But I'm not going to give any 2015 guidance today, because that is – we're working on it and it's all ahead of us.

Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.

A

Thank you, Rachel, for not giving it.

Rachel C. Glaser
Chief Financial Officer, Move, Inc.

A

Yeah.

Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.

So I don't think I'm more confident today than I was yesterday or maybe was three days ago or whenever the rumor started. I just feel like it's the right answer for the industry, right. I felt that before; I feel that today. I feel the industry – there has been a huge gap created in the industry in market value, right. There's been, today, billions and billions and billions of dollars of market value that's been created on the back of listings. And that has been, in my opinion, a transfer of value from the people creating those listings to the people who are using those listings to get advertising.

And so my belief is that the industry is starting to realize this in the last three years all of a sudden billions of dollars of value that was sitting in the brokerages is now moving over to somebody else. And I think ListHub offers them an opportunity to take control of their data. They've always had control of their data through ListHub. I'm hoping that this allows them to realize the importance of the transfer value that's happening not just on the advertising dollars, but actually in enterprise value that has happened and I think the transactions proved that the other day. So I'm a strong believer in getting the industry to use this leverage and to find a way to get value for those hundreds of thousands of people who are walking around, walking into homes, getting a listing, putting that information into the system, not putting in an estimate, but putting in an actual price for that property and taking

SM 121

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making the commitment to a consumer around that price, Not just saying hey, some computer calculated that price for me and that's what I'm going to do. And having a personal relationship with the seller.

So for us what I believe is that these events, I hope, will just strengthen the story that we've been telling for the last five years and actually was the purpose that realtor.com existed in the beginning, which was to allow distribution of listings and make sure that there was a fair value exchange.

James M. Cakmak
Analyst, Telsey Advisory Group LLC

Q

Thank you.

Operator: The next question comes from Ian Corydon with B. Riley & Co. Please go ahead.

Ian Corydon
Analyst, B. Riley & Co. LLC

Q

Thank you. How much were leads up year-over-year in the quarter and how much was Top Producer revenue up?

Rachel C. Glaser
Chief Financial Officer, Move, Inc.

A

We don't break out the property to the revenue discreetly. So I can't provide that information and we didn't disclose our leads. We haven't disclosed our leads. So it was up double digits.

Ian Corydon
Analyst, B. Riley & Co. LLC

Q

Okay. And what's the size of the Moving business at this point?

Rachel C. Glaser
Chief Financial Officer, Move, Inc.

A

We have also not broken down our Moving revenues. Sorry, I can't answer that, either, but we did say that it decreased 20% year-over-year. So you can kind of perhaps triangulate.

Ian Corydon
Analyst, B. Riley & Co. LLC

Q

Okay and the changes that you're considering making to TigerLead, are you looking at raising prices or changing the structure of the product?

Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.

A

So on the TigerLead side, what we're looking at is finding ways to actually increase the lead flow and actually we launched a couple of new – well, at least one new version of the product this past or just maybe this past few weeks and maybe late last quarter. So what we're doing is we're finding ways to repackage this product into different ways for people to get access to it the same way that we would create pricing tiers in our Co-Broke product based on home prices. We're looking at different ways to create Tiger inventory that will allow us to expand the business. We still have places that are unsold, so there's still quite a bit of potential, but what we look at it again, just like in Co-Broke, we have to find a way to continue to generate more leads to those customers and

SM 122

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those customers are really exclusive-focused customers. Again, they're another set of customers that are focused on exclusive leads.

Ian Corydon
Analyst, B. Riley & Co. LLC

Q

Got it. And last question is on Showcase. When does that get restructured and is there any structural reason why you can't do that sooner rather than later?

Rachel C. Glaser
Chief Financial Officer, Move, Inc.

A

Well, we've talked about it as something that would be a 2015 initiative and it's – the reasons have a lot do with what the industry will accept or what the – how the impact will roll out to our customers. So it's not anything technically impeding us from being able to do it. It's more about what's the right answer, what's the highest yield, what's the highest way to optimize all of the consumer ad revenue that we have and so it's not a quick decision for us.

Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.

A

And it's also about value exchange, right. I think we are and we'll continue to be strong supporters of the brokerage industry and the broker brands in addition to being extremely strong supporters of agents and their agent brands, as well as very, very strong components of the consumer. So for us, it's looking at understanding that that value exchange that I talked about earlier of the content flow, the value of the leads that we generate, the exclusivity of those leads and then the tools that we can supply them to actually make sure that their agents are managing the leads, if you're a broker or those leads are being followed through. So I think what you're going to see us do and continue to do is to find ways like we did with Co-Broke to package solutions that aren't just giving them high quantities of leads. So I think it's a little bit more of working closely with the brokers and the agents to make sure that on their listings on their content that we're managing the value exchange. And I got it and it's very good.

Ian Corydon
Analyst, B. Riley & Co. LLC

Q

Got it. And can you say if this is an early, mid or late 2015 event or has that not been decided yet?

Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.

A

We haven't given it. We haven't gone and – we're still on the planning process for 2015. And as Rachel said, we haven't – we have frameworks, but no, we're not going to give out any information on that.

Ian Corydon
Analyst, B. Riley & Co. LLC

Q

Thank you.

Operator: The next question comes from John Campbell with Stephens, Inc. Please go ahead.

John Campbell
Analyst, Stephens, Inc.

Q

SM 123

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Hi guys. Good afternoon.

Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.

A

Hey, John.

John Campbell
Analyst, Stephens, Inc.

Q

Just back to ListHub, just two quick questions and then I've got a follow up. But first, could you guys just first tell us if the recent Zillow and Trulia developments change anything as it relates to the enforcement of each of those contracts or just maybe the syndication rights? And then, just on the back-end of that, when you guys do start the renewal discussions, is there anything that technically prohibits you from meaningfully raising prices, if you so choose?

Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.

A

The answer to your second question is no, there's nothing that impedes us other than making sure that we've got the right exchange in value which again, you'll hear me talk a lot about. And in terms of the contract, it's too early to tell, right. I mean we know nothing about what the proposed deal structure is. We have not – we know a little bit about it, but we have no idea how that will be interpreted in terms of the contract relationships with either one of those two companies. But again, I will put the issue out there that I believe again today if brokers choose, they have the opportunity to do whatever they choose to do. We will have the opportunity to do what we're contractually capable of doing, but again hopefully the industry will see this as an opportunity to find better ways to mange their content and use less time to do that.

John Campbell
Analyst, Stephens, Inc.

Got it, got it. And then on the recent – the ZipRealty and Realogy deal, I mean that looks like a pretty interesting combo. I know you guys can't really comment on that deal itself, but is there any direct impact to you guys. As far as I know Zip's got a fairly good CRM offering that it seems like it helps their agents kind of manage their leads. So just curious if there's any kind of overlap there with TigerLead and Top Producer. And then if there's any kind of positive impact from the additional agents at Realogy.

Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.

I think, like I said, I think our products stand on their own, Top Producer and TigerLead. Today, they are very agent-focused product as we have them. We've actually – by putting FiveStreet on top of it and other things, we're actually making them broker tools. So I always believe, again, that we've not done big sales to brokers as maybe some of our competitors have. So we have opportunity, I think, to continue to grow that business by putting broker tools on top of it. And I don't think the ZipRealty thing affects us as much as it may affect people who've already sold in their solutions and scale to people like Century 21 and companies like that. But we, again, see the marketplace. We've had a very good quarter with subscriptions in Top Producer. TigerLead is still strong and so we feel like we're getting good traction at the agent and a little bit more traction at the broker level.

John Campbell
Analyst, Stephens, Inc.

Got it. Thanks for taking our questions.

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Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.

A

Oh no, thank you.

Rachel C. Glaser
Chief Financial Officer, Move, Inc.

A

Thanks, John.

Operator: The next question comes from Dan Kurnos with The Benchmark Co. Please go ahead.

Dan L. Kurnos
Analyst, The Benchmark Co. LLC

Yeah, great. Thanks for taking my question. Steve, just stepping back for a second here in terms of the marketing campaign. I would love to hear a little bit more about the expanded reaches you're getting both from new markets that you've gone in after the initial testing phase. What benefit you're getting from the NAR in terms in depth and breadth. Sort of maybe any comments on initial ROI and also what you think the impact might be of the merger on the marketplace whether it's an impact to CPCs or not?

Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.

Sure, a couple things. It's too early to say the impact of the NAR campaign. What we said is it has – it's at least doubled our reach in terms of I don't know if people call them GRPs or GPYs. I'm not sure. Whatever the size of our audience. So here we're seeing and we're excited that the commercials themselves are so aligned. I mean, I actually had a friend come up to me the other day and said they saw our commercial on TV and I said whoa, whoa, wait a minute. I'm not running it on that channel. And then they explained the commercial. And oh, okay, that's the NAR's commercial. It's the one that talks about real estate and real estate agents and I was like, oh well that tells me, right, that's really working well.

In terms of the ROI, we're continuing to see positive results in our audience and positive results in the things that we do. It's still too early in each time, in each segment to look at them, but we're making quite a bit of progress and we're continuing to spend – looking at that ROI and looking at the results of those campaigns as we look at that. In terms of what does it mean in terms of the marketing from a CPC perspective or a cost to marketing, I don't know what this change will impact or not impact, right. I mean I think again, you're looking at two companies coming together, so I can't really kind of opine on what that will mean in terms of ascending landscape.

I do think what it does do for us is it clearly establishes who we are, right. I think, there's always been some confusion out there or maybe some confusion about where each company sat and what each company did. And I feel like right now clearly, we've always had a stated position and I think that stated position is one that aligns with what we believe the industry and the consumer needs. So we feel like this – like I said, this is – it's got risk to it but it's got lots of opportunity to it, too. So we feel like we'll see how it all shakes out.

Dan L. Kurnos
Analyst, The Benchmark Co. LLC

Great. Thanks for that color. And then just secondarily, you talked a lot about – or at least made a point about to talk about increased rental content in the quarter and you certainly made a point to call out that adjacent market verticals would be a significant area of opportunity for you guys. So I'm just wondering since then if there's any

SM 125

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update on timing of rollout of new products or when we see you guys get more aggressive in tapping those markets?.

Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.

A

I mean I think on the rental side, it's really an audience play. We're continuing to focus on growing that audience. We're continuing to look at how do we leverage our assets in different ways. We're going to be launching our new version of Doorsteps Swipe, I think this week, and it will include rentals content, that award winning app [indiscernible] (50:50) will have rentals content in it and I think it's a very different delivery. On the mortgage side, we're continuing to look at ways to partner with people, partner with lenders to find ways to bring more of those opportunities, more of those what we think are transaction-ready consumers into the mortgage cycle. And that's been, as Rachel said, was a good part of our media growth in Q2 and I think will continue into next year. So like I said, they're a natural for us. I think we're going – our challenge always as a company is let's stay focused on what we're really good at and let's monetize additional adjacencies the best way we can. And today, the two things we're focusing on is homes for sale and for all properties that are in the market, and rentals.

Dan L. Kurnos
Analyst, The Benchmark Co. LLC

Q

Got it, great. And then just to be we super clear, Rachel, since you mentioned that earlier. I just want to make sure that I'm understanding, not about Co-Broke in particular, but in terms of the guidance. It's only reduced from the DDoS and the Move impact. There was nothing else in there. No additional softness in other verticals.

Rachel C. Glaser
Chief Financial Officer, Move, Inc.

A

There's no additional softness; you have that correct. Co-Broke is doing as well or better than we had expected.

Dan L. Kurnos
Analyst, The Benchmark Co. LLC

Q

And it's not Showcase or Software either; it's those specific, two specific accounts.

Rachel C. Glaser
Chief Financial Officer, Move, Inc.

A

As we said specifically, Showcase is performing exactly in line with our expectations.

Dan L. Kurnos
Analyst, The Benchmark Co. LLC

Q

Okay.

Rachel C. Glaser
Chief Financial Officer, Move, Inc.

A

And of course, Software's also doing – you know, it's been up, as we said. Net subscriber is up on our Software business so it's really just the Moving and DDoS.

Dan L. Kurnos
Analyst, The Benchmark Co. LLC

Q

Perfect. Thanks very much.

SM 126

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Rachel C. Glaser
Chief Financial Officer, Move, Inc.

A

A pleasure.

Operator: This concludes our question-and-answer session. I would like to turn the conference back over to Steve Berkowitz for any closing remarks.

Steven H. Berkowitz
Chief Executive Officer & Director, Move, Inc.

Well, thank you very much for attending. I will actually be out on the road for the next four weeks going to see our customers. I've got some big broker meetings and some exciting stuff out there as we talk to our customers. And I just want to leave everybody with the opening comment that we said. We believe very strongly that there's enormous value in our business. That value continues to be justified by many of the things that we're doing and we're executing on and we still see a very strong opportunity ahead of us. And we're excited about where the future's going. And thank you very much and we will speak to you next quarter.

Operator: The conference is now concluded. Thank you for attending today's presentation. You may now disconnect.

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SM 127

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SPECIAL MASTER
THE HONORABLE BRUCE HILYER (RET.)
Noted For Consideration: December 10, 2014

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation, TOP PRODUCERS SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation,

Plaintiffs,

v.

ZILLOW, INC., a Washington corporation, ERROL SAMUELSON, an individual, and DOES 1-20,

Defendants.

No. 14-2-07669-0 SEA

DECLARATION OF BRAD OWENS IN SUPPORT OF DEFENDANT ZILLOW, INC.'S MOTION FOR PROTECTIVE ORDER (TRULIA SUBPOENA)

1. I have personal knowledge of the facts stated below and am competent to testify regarding the same.

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

2. I am General Counsel for Defendant Zillow, Inc. ("Zillow").

3. As I mentioned in an earlier declaration, Zillow has entered into an agreement to merge with Trulia. Trulia is one of Move's largest competitors and one of ListHub's largest publisher clients.

4. Zillow has periodically looked at a potential merger or acquisition of Trulia. As of the date that Zillow hired Mr. Samuelson, Zillow was actively considering a potential acquisition of Trulia.

I declare under penalty of perjury of the State of Washington that the foregoing is true and correct.

Signed at Seattle, Washington, this 2nd day of December, 2014.

Brad Owens

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

CERTIFICATE OF SERVICE

On December 2nd, 2014, I caused to be served upon counsel of record, at the address stated below, via the method of service indicated, a true and correct copy of the following document: **DECLARATION OF BRAD OWENS IN SUPPORT OF ZILLOW INC.'S MOTION FOR PROTECTIVE ORDER (TRULIA SUBPOENA).**

Jack M. Lovejoy, WSBA No. 36962 Lawrence R. Cock, WSBA No. 20326 Cable, Langenbach, Kinerk & Bauer, LLP Suite 3500, 1000 Second Avenue Building Seattle, WA 98104-1048 Telephone: (206) 292-8800 Facsimile: (206) 292-0494 jlovejoy@cablelang.com LRC@cablelang.com kalbritton@cablelang.com jpetersen@cablelang.com	☐ ☐ ☐ ☐ ☐ ☑	Via Hand Delivery Via U.S. Mail, 1st Class, Postage Prepaid Via Overnight Delivery Via Facsimile Via E-filing Via E-mail
Clemens H. Barnes, Esq., WSBA No. 4905 Estera Gordon, WSBA No. 12655 Graham & Dunn PC Pier 70 2801 Alaskan Way, Suite 300 Seattle, WA 98121-1128 Facsimile: (206) 340-9599 cbarnes@grahamdunn.com egordon@grahamdunn.com chays@grahamdunn.com	☐ ☐ ☐ ☐ ☐ ☑	Via Hand Delivery Via U.S. Mail, 1st Class, Postage Prepaid Via Overnight Delivery Via Facsimile Via E-filing Via E-mail

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 2nd day of December, 2014.

Maryellen Walsh,
Legal Secretary

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

LEGAL124358081.1

SPECIAL MASTER
THE HONORABLE BRUCE HILYER (RET.)
Noted For Consideration: December 10, 2014

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation TOP PRODUCERS SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporationc, Plaintiffs, v. ZILLOW, INC., a Washington corporation, ERROL SAMUELSON, an individual, and DOES 1-20, Defendants.	No. 14-2-07669-0 [PROPOSED] ORDER GRANTING DEFENDANT ZILLOW, INC.'S MOTION FOR PROTECTIVE ORDER (TRULIA SUBPOENA)

THIS MATTER came before the Special Master on Defendant Zillow Inc.'s Motion for Protective Order (Trulia Subpoena), and having reviewed and considered the motion,

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supporting materials, Plaintiffs' Opposition and Zillow's Reply thereto, and being fully advised in the premises, now, therefore, it is hereby:

ORDERED that Defendant Zillow Inc.'s Motion for Protective Order is GRANTED and Plaintiffs' subpoena to Trulia quashed.

ENTERED this ______ day of __________________, 2014.

____
THE HONORABLE BRUCE HILYER (RET.)

PERKINS COIE LLP

By ____________________
Susan E. Foster, WSBA No. 18030
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Attorneys for Defendant Zillow, Inc.

CERTIFICATE OF SERVICE

On December 2nd, 2014, I caused to be served upon counsel of record, at the address stated below, via the method of service indicated, a true and correct copy of the following document: **[PROPOSED] ORDER GRANTING ZILLOW'S MOTION FOR PROTECTIVE ORDER**

Jack M. Lovejoy, WSBA No. 36962 Lawrence R. Cock, WSBA No. 20326 Cable, Langenbach, Kinerk & Bauer, LLP Suite 3500, 1000 Second Avenue Building Seattle, WA 98104-1048 Telephone: (206) 292-8800 Facsimile: (206) 292-0494 jlovejoy@cablelang.com LRC@cablelang.com kalbritton@cablelang.com jpetersen@cablelang.com	☐ ☐ ☐ ☐ ☐ ☒	Via Hand Delivery Via U.S. Mail, 1st Class, Postage Prepaid Via Overnight Delivery Via Facsimile Via E-filing Via E-mail
Clemens H. Barnes, Esq., WSBA No. 4905 Estera Gordon, WSBA No. 12655 Daniel Oates, WSBA No. 39334 Robert Mittenthal Graham & Dunn PC 2801 Alaskan Way, Suite 300 Seattle, WA 98121-1128 Facsimile: (206) 340-9599 cbarnes@grahamdunn.com egordon@grahamdunn.com chays@grahamdunn.com doates@grahamdunn.com rmittenthal@grahamdunn.com	☐ ☐ ☐ ☐ ☐ ☒	Via Hand Delivery Via U.S. Mail, 1st Class, Postage Prepaid Via Overnight Delivery Via Facsimile Via E-filing Via E-mail

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 2nd day of December, 2014.

Maryellen Walsh
Legal Secretary

Perkins Coie LLP
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Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

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Table of Contents

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14D-9
(Rule 14d-101)

Solicitation/Recommendation Statement
Under Section 14(d)(4) of the Securities Exchange Act of 1934

MOVE, INC.
(Name of Subject Company)

MOVE, INC.
(Name of Person Filing Statement)

Common Stock, $0.001 par value per share
(Title of Class of Securities)

62458M207
(CUSIP Number of Class of Securities)

Steven H. Berkowitz
Chief Executive Officer
Move, Inc.
10 Almaden Blvd, Suite 800
San Jose, California
(408) 558-7100
(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications on Behalf of the Person Filing Statement)

With copies to:

Jennifer Fonner Fitchen, Esq.
Cooley LLP
3175 Hanover St.
Palo Alto, CA 94304-1130
(650) 843-5000

James Caulfield
Executive Vice President and General Counsel
Move, Inc.
30700 Russell Ranch Road
Westlake Village, CA 91362

SM 171

(805) 557-3533

☐ Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Table of Contents

TABLE OF CONTENTS

		Page
ITEM 1.	SUBJECT COMPANY INFORMATION	1
ITEM 2.	IDENTITY AND BACKGROUND OF FILING PERSON	1
ITEM 3.	PAST CONTACTS, TRANSACTIONS, NEGOTIATIONS AND AGREEMENTS	2
ITEM 4.	THE SOLICITATION OR RECOMMENDATION	12
ITEM 5.	PERSON/ASSETS RETAINED, EMPLOYED, COMPENSATED OR USED	33
ITEM 6.	INTEREST IN SECURITIES OF THE SUBJECT COMPANY	34
ITEM 7.	PURPOSES OF THE TRANSACTION AND PLANS OR PROPOSALS	34
ITEM 8.	ADDITIONAL INFORMATION	35
ITEM 9.	EXHIBITS	41
ANNEX I	FAIRNESS OPINION	I-1
ANNEX II	SECTION 262 OF THE DELAWARE GENERAL CORPORATION LAW	II-1

Table of Contents

Item 1. Subject Company Information.

(a) *Name and Address.* The name of the subject company to which this Solicitation/Recommendation Statement on Schedule 14D-9 (together with any annexes attached hereto, this "Schedule 14D-9") relates is Move, Inc., a Delaware corporation ("Move"). The address of the principal executive offices of Move is 10 Almaden Blvd, Suite 800, San Jose, California and its telephone number is (408) 558-7100. In this Schedule 14D-9, "we," "us," "our," "Company" and "Move" refer to Move, Inc.

(b) *Securities.* The title of the class of equity securities to which this Schedule 14D-9 relates is the Common Stock, par value $0.001 per share, of Move. As of October 13, 2014, there were 40,629,282 shares of Common Stock of Move issued and outstanding.

Item 2. Identity and Background of Filing Person.

(a) *Name and Address.* The name, address and telephone number of Move, which is the person filing this Schedule 14D-9, are set forth in Item 1(a) above. Move's website is http://www.move.com. The website and the information on or available through the website are not a part of this Schedule 14D-9, are not incorporated herein by reference and should not be considered a part of this Schedule 14D-9.

(b) *Tender Offer.*

This Schedule 14D-9 relates to the Tender Offer Statement on Schedule TO filed with the Securities and Exchange Commission ("SEC") on October 15, 2014 (together with any amendments and supplements thereto, the "Schedule TO") by News Corporation, a Delaware corporation ("Parent") and Magpie Merger Sub, Inc., a Delaware corporation and a wholly-owned indirect subsidiary of Parent ("Purchaser"). The Schedule TO relates to the tender offer for all of the outstanding shares of Common Stock, par value $0.001 per share, of Move (sometimes referred to herein as, the "Shares"), for a purchase price of $21.00 per Share, net in cash (the "Offer Price"), without interest, subject to any required withholding of taxes, if any, upon the terms and conditions set forth in the offer to purchase dated October 15, 2014 (as amended or supplemented from time to time, the "Offer to Purchase"), and in the related letter of transmittal (the "Letter of Transmittal"), which, together with any amendments or supplements, collectively constitute the "Offer."

The Offer to Purchase and the Letter of Transmittal are being mailed to Move's stockholders together with this Schedule 14D-9 and filed as Exhibits (a)(1)(A) and (a)(1)(B) hereto, respectively, and are incorporated herein by reference.

The Offer is being made pursuant to the Agreement and Plan of Merger, dated as of September 30, 2014 (as it may be amended from time to time, the "Merger Agreement"), by and among Parent, Purchaser, and Move. The Merger Agreement provides, among other things, that following the consummation of the Offer and subject to the satisfaction or waiver (to the extent permitted by applicable law) of the conditions set forth in the Merger Agreement and in accordance with the relevant provisions of the Delaware General Corporation Law (the "DGCL") and other applicable laws, Purchaser will merge with and into Move (the "Merger"), with Move continuing as the surviving corporation (the "Surviving Corporation"). As a result of the Merger, each outstanding Share (other than Shares owned by Parent, Purchaser, any wholly-owned subsidiary of Parent or any wholly-owned subsidiary of Move, Shares held in the treasury of Move or any of its subsidiaries, and Shares held by stockholders who are entitled to demand and are properly demanding appraisal rights pursuant to, and who are complying in all respects with, the provisions of Section 262 of the DGCL) will be converted into the right to receive, without interest thereon and less any required withholding taxes, an amount equal to the Offer Price. Upon the effective time of the Merger (the "Effective Time"), Move will cease to be a publicly traded company and will become wholly-owned by Parent. The Offer, the Merger and the other transactions contemplated by the Merger Agreement are collectively referred to as the "Transactions." The Merger Agreement is filed as Exhibit (e)(1) hereto and is incorporated herein by reference.

The initial expiration date of the Offer is at the end of the day, 12:00 midnight, New York City time, on November 13, 2014, unless the Offer is extended pursuant to the terms of the Merger Agreement or the Offer is earlier terminated.

Table of Contents

As set forth in the Offer to Purchase, the principal office address of each of Parent and Purchaser is 1211 Avenue of the Americas, New York, New York, 10036. The telephone number at the principal office is (212) 416-3400.

Item 3. Past Contacts, Transactions, Negotiations and Agreements.

Except as set forth or incorporated by reference in this Schedule 14D-9 or in the excerpts from the Company's Definitive Proxy Statement on Schedule 14A, dated and filed with the SEC on April 24, 2014 (the "2014 Proxy Statement"), relating to the Company's 2014 annual meeting of stockholders, which excerpts are set forth as Exhibit (e)(7) hereto and incorporated herein by reference, to our knowledge, as of the date of this Schedule 14D-9, there are no material agreements, arrangements or understandings, nor any actual or potential conflicts of interest between (i) Move or any of its affiliates, on the one hand and (ii)(x) any of its executive officers, directors or affiliates, or (y) Parent, Purchaser or any of their respective executive officers, directors or affiliates, on the other hand.

Exhibit (e)(7) is incorporated herein by reference and includes the following sections from the 2014 Proxy Statement: "Director Compensation—Cash Compensation Structure in 2013," "Director Compensation—Director Equity Compensation in 2013," "Director Compensation—Director Compensation Table," "Security Ownership of Certain Beneficial Owners and Management," "Compensation Discussion and Analysis," "Executive Compensation—Summary Compensation Table," "Executive Compensation—Grants of Plan-Based Awards for Fiscal Year 2013," "Executive Compensation—Employment-Related Agreements," "Executive Compensation—Outstanding Equity Awards at 2013 Fiscal Year End," "Executive Compensation—Option Exercises and Stock Vested in Fiscal Year 2013," and "Executive Compensation—Potential Payments Upon Termination or Change in Control."

Any information that is incorporated herein by reference, including any information contained in the pages from the 2014 Proxy Statement, shall be deemed modified or superseded for purposes of this Schedule 14D-9 to the extent that any information contained herein modifies or supersedes such information.

(a) *Arrangements with Current Executive Officers and Directors of Move.*

Our executive officers and members of our Board of Directors (our "Board") may be deemed to have interests in the execution and delivery of the Merger Agreement and all of the Transactions, including the Offer and the Merger, that may be different from or in addition to those of our stockholders, generally. These interests may create potential conflicts of interest. Our Board was aware of these interests and considered them, among other things, in reaching its decision to approve the Merger Agreement and the Transactions, as discussed below in "Item 4. The Solicitation and Recommendation—Background and Reason for the Recommendation."

Set forth below are the descriptions of the interest of our non-employee directors and executive officers, including interests in equity or equity-based awards, change in control severance benefits and other compensation and benefit arrangements. The dates used in the discussion below to quantify certain of these interests have been selected for illustrative purposes only, and they do not necessarily reflect the dates on which certain events will occur.

Effect of the Offer and the Merger on Outstanding Equity Awards

Treatment of Shares Owned by Executive Officers and Directors of Move

If the executive officers and directors of Move who own Shares tender their Shares for purchase pursuant to the Offer, they will receive the same cash consideration on the same terms and conditions as the other stockholders of Move who tender their Shares. As of October 13, 2014, the executive officers and directors of Move beneficially owned, in the aggregate, 637,079 Shares, excluding any Shares to be (1) retained upon the vesting of restricted stock awards, (2) issuable upon the exercise of stock options, and (3) delivered in settlement

Table of Contents

of restricted stock units, in each case, as applicable. If the executive officers and directors were to tender all of the 637,079 Shares owned by them as of October 13, 2014 in the Offer and those Shares were accepted for payment and purchased by Purchaser, the executive officers and directors would receive an aggregate of approximately $13,378,659 in cash (without taking into account any applicable tax withholding), assuming that the price paid per Share in the Offer is $21.00.

If our executive officers and directors do not tender the Shares they own in the Offer, upon consummation of the Merger, their Shares will represent the right to receive the per share Merger Consideration (as defined in the Merger Agreement) on the same terms and conditions as other stockholders of the Company, and the executive officers and directors would receive an aggregate of approximately $13,378,659 in cash (without taking into account any applicable tax withholding), assuming that the per share consideration to be paid in the merger is $21.00.

The following table sets forth the number of Shares beneficially owned as of October 13, 2014 by each of our executive officers and directors (excluding Shares to be (1) retained upon the vesting of restricted stock awards, (2) issuable upon the exercise of stock options, and (3) delivered in settlement of restricted stock units) and the aggregate cash consideration that each of them may become entitled to receive in respect of those Shares in connection with the Offer or the Merger, rounded to the nearest dollar (without taking into account any applicable tax withholding).

Name	Number of Shares Owned (#)	Cash Value of Shares Owned
Named Executive Officers		
Steven H. Berkowitz	124,308	$ 2,610,468
Rachel Glaser	14,877	$ 312,417
John Robison	8,174	$ 171,654
James S. Caulfield	11,825	$ 248,325
Other Executive Officers		
Raymond A. Picard	14,048	$ 295,008
Non-Employee Directors		
Joe F. Hanauer(1)	286,991	$ 6,026,811
Jennifer Dulski	16,638	$ 349,398
Kenneth K. Klein	44,345	$ 931,245
V. Paul Unruh	38,131	$ 800,751
Catherine B. Whatley	—	—
Bruce G. Willison	77,742	$ 1,632,582
Cheryl Ainoa	—	—
All of our Current Directors and Executive Officers as a Group	637,079	$13,378,659

(1) Includes 101,587 Shares held by Ingleside Interests, L.P. Mr. Hanauer is a general partner of this entity. Mr. Hanauer disclaims beneficial ownership of these Shares except to the extent of his pecuniary interest in this entity.

Treatment of Restricted Stock Awards Held by Non-Employee Directors

The Merger Agreement provides that at the Effective Time, each restricted stock award that is outstanding as of immediately prior to the Effective Time and held by a non-employee director (a "Director RSA"), will vest and, at the Effective Time, will be canceled and converted automatically into the right to receive an amount equal to the per share Merger Consideration, less any applicable taxes.

Table of Contents

The following table summarizes, as of October 13, 2014, the outstanding Director RSAs held by the non-employee directors, and the cash consideration that each of them may become entitled to receive in respect of such Director RSAs, assuming each such director's continued service as a director through the closing date of the Merger and that the per share Merger Consideration is $21.00.

Name	Number of Shares Subject to Outstanding Company RSAs (#)	Aggregate Cash Consideration
Joe F. Hanauer	30,582	$ 642,222
Jennifer Dulski	18,849	$ 395,829
Kenneth K. Klein	15,291	$ 321,111
V. Paul Unruh	15,291	$ 321,111
Catherine B. Whatley	—	—
Bruce G. Willison	15,291	$ 321,111
Cheryl Ainoa	13,402	$ 281,442

Treatment of Stock Options Held by Executive Officers

The Merger Agreement provides that at the Effective Time, each Company stock option (a "Company Option") that is held by a current employee, executive officer or director and that is outstanding and unexercised as of immediately prior to the Effective Time, whether vested or unvested, will be assumed by Parent (each, an "Adjusted Option") and will continue to have and be subject to the same terms and conditions (including the term, exercisability and vesting schedule) as were applicable to the corresponding Company Option immediately prior to the Effective Time, except that each Adjusted Option (1) will be exercisable for that number of shares of Class A common stock of Parent, rounded down to the nearest whole share, equal to the product of (a) the number of Shares to which the corresponding Company Option related immediately prior to the Effective Time and (b) the Equity Award Exchange Ratio (as defined below), and (2) the per share exercise price for each Adjusted Option will be equal to the quotient of (a) the per share exercise price of the Company Option divided by (b) the Equity Award Exchange Ratio, rounded up to the nearest whole cent. As of October 13, 2014, no directors held outstanding Company Options. Accordingly, to the extent any executive officer remains employed by Parent or the Surviving Corporation at the Effective Time, outstanding Company Options held by such executive officer will be converted into Adjusted Options and the executive officer will not receive any payments in respect of his or her Company Options at the Effective Time. Pursuant to the Merger Agreement, the Equity Award Exchange Ratio is equal to the quotient of (1) the Merger Consideration (i.e., $21.00) and (2) the average closing price for a share of Class A common stock of Parent as reported on the NASDAQ Global Select Market for the five consecutive trading days ending with the closing date of the Merger, rounded to the nearest one ten thousandth. Accordingly, the Equity Award Exchange Ratio cannot be determined until after the close of the market on the date on which the Merger closes.

As discussed in more detail below under "—Executive Severance and Retention Agreements with Executive Officers," each executive officer is party to an Executive Severance and Retention Agreement with Move which provides, among other things, that in the event the executive officer is terminated without "cause" or if the executive officer terminates employment for "good reason" during the period commencing on the date the Merger Agreement is signed and ending on the date which occurs twelve months following the closing date of the Merger (a "Change in Control Termination"), all outstanding and unvested Company Options held by such executive officer will become fully vested and exercisable on the date of such Change in Control Termination. Assuming any executive officer incurred a Change in Control Termination on the closing date of the Merger, all outstanding and unvested Company Options held by such executive officer would vest on such date. For purposes of this Schedule 14D-9 and the table below, we have assumed that such Company Options would not be converted into Adjusted Options.

Table of Contents

The table below sets forth, for each of our executive officers, the hypothetical cash value of the outstanding Company Options held by such executive officers as of October 13, 2014, assuming that (1) all Company Options held by such executive officer as of October 13, 2014 remain unexercised at the Effective Time, (2) such executive officer incurs a Change in Control Termination on the closing date of the Merger, which we have assumed for these purposes to be October 13, 2014, such that all unvested Company Options become vested on the date of such termination, and (3) such executive officer receives an aggregate amount in cash (on a pre-tax basis) in respect of all Company Options held by the executive officer (including those that accelerate in connection with the Change in Control Termination), calculated by multiplying the excess of the Merger Consideration over the respective per share exercise prices (rounded to the nearest cent) of the Company Options by the number of Shares subject to such Company Options.

	Vested Company Options		Unvested Company Options	
Name	Number of Shares Underlying Vested Company Options (#)	Cash Spread Value of Vested Company Options ($)(1)	Number of Shares Underlying Unvested Company Options (#)	Cash Spread Value of Unvested Company Options(2)
Named Executive Officers				
Steven H. Berkowitz	792,499	$ 10,952,631	340,001	$3,778,619
Rachel Glaser	134,686	$ 1,818,491	145,314	$1,655,159
John Robison	184,999	$ 2,182,638	175,001	$1,883,762
James S. Caulfield	297,967	$ 2,705,977	65,158	$ 697,423
All Other Executive Officers				
Raymond A. Picard	16,250	$ 157,881	70,000	$ 656,294

(1) The amounts in this column reflect the hypothetical cash value of vested Company Options held by the executive officer as of October 13, 2014, calculated as the product of (i) the number of shares subject to such vested Company Options and (ii) the positive difference between the per share Merger Consideration and the exercise price per share of such outstanding vested Company Options held by such executive officer. The amounts above are based on assumptions and do not reflect the actual value of any cash payment that would actually be received by the executive officer at the Effective Time in respect of such vested Company Options.

(2) The amounts in this column reflect the hypothetical cash value of unvested Company Options held by the executive officer as of October 13, 2014 that would accelerate and vest in the event of a Change in Control Termination, calculated as the product of (i) the number of shares subject to such unvested Company Options and (ii) the positive difference between the per share Merger Consideration and the exercise price per share of such outstanding unvested Company Options held by such executive officer. The amounts above are based on assumptions and do not reflect the actual value of any cash payment that would actually be received by the executive officer at the Effective Time in respect of such unvested Company Options.

Treatment of Restricted Stock Awards Held by Executive Officers

The Merger Agreement provides that at the Effective Time, each restricted stock award that is outstanding as of immediately prior to the Effective Time that is not a Director RSA (each, a "Company RSA"), will be assumed by Parent (an "Adjusted RSA") and will continue to have and be subject to the same terms and conditions (including vesting and forfeiture provisions) as were applicable to the corresponding Company RSA immediately prior to the Effective Time, except that each Adjusted RSA will be converted into the right to retain a number of whole shares of Class A common stock of Parent (rounded to the nearest whole share) equal to (1) the number of Shares to which the Company RSA related immediately prior to the Effective Time, multiplied by (2) the Equity Award Exchange Ratio. Accordingly, to the extent any executive officer remains employed by Parent or the Surviving Corporation at the Effective Time, outstanding Company RSAs held by such executive officer will be converted into Adjusted RSAs and the executive officer will not receive any payments in respect of his or her Company RSAs at the Effective Time.

SM 178

Table of Contents

As discussed in more detail below under "—Executive Severance and Retention Agreements with Executive Officers," each executive officer is party to an Executive Severance and Retention Agreement with Move which provides, among other things, that in the event the executive officer incurs a Change in Control Termination, all outstanding Company RSAs held by such executive officer will become fully vested on the date of such Change in Control Termination. Accordingly, assuming any executive officer incurred a Change in Control Termination on the closing date of the Merger, all outstanding Company RSAs held by such executive officer would vest on such date. For purposes of this Schedule 14D-9 and the table below, we have assumed that such Company RSAs would not be converted into Adjusted RSAs.

The table below sets forth, for each of our executive officers, the hypothetical cash value of the outstanding Company RSAs held by such executive officers as of October 13, 2014, assuming that (1) all Company RSAs held by such executive officer as of October 13, 2014 remain unvested at the Effective Time, (2) such executive officer incurs a Change in Control Termination on the closing date of the Merger, which we have assumed for these purposes to be October 13, 2014, such that all unvested Company RSAs vest, and (3) such executive officer receives an aggregate amount in cash (on a pre-tax basis) in respect of such Company RSAs, calculated by multiplying the per share Merger Consideration by the number of Shares subject to such Company RSAs.

	RSAs	
Name	Number of Shares Subject to Restricted Stock Awards (#)	Cash Value of Restricted Stock Awards(1)
Named Executive Officers		
Steven H. Berkowitz	22,500	$ 472,500
Rachel Glaser	50,000	$ 1,050,000
John Robison	—	—
James S. Caulfield	6,250	$ 131,250
All Other Executive Officers		
Raymond A. Picard	—	—

(1) The amounts in this column reflect the hypothetical cash value of Company RSAs held by the executive officer as of October 13, 2014 that would accelerate and vest in the event of a Change in Control Termination, calculated as the product of (i) the number of Shares subject to such RSAs and (ii) the Merger Consideration, and does not reflect the actual value of any cash payment that would actually be received by the executive officer at the Effective Time in respect of such Company RSAs.

Treatment of Restricted Stock Units Held by Executive Officers

The Merger Agreement provides that at the Effective Time, each Company restricted stock unit (a "Company RSU") that is outstanding as of immediately prior to the Effective Time, whether vested or unvested, will be assumed by Parent (an "Adjusted RSU") and will continue to have and be subject to the same terms and conditions (including vesting, forfeiture and payment provisions) as were applicable to the corresponding Company RSU immediately prior to the Effective Time, except that each Adjusted RSU will be converted into the right to receive a number of whole shares of Class A common stock of Parent (rounded to the nearest whole share) equal to (1) the number of Shares to which the Company RSU related immediately prior to the Effective Time, multiplied by (2) the Equity Award Exchange Ratio. As of October 13, 2014, no directors held outstanding Company RSUs. Accordingly, to the extent any executive officer remains employed by Parent or the Surviving Corporation at the Effective Time, outstanding Company RSUs held by such executive officer will be converted into Adjusted RSUs and the executive officer will not receive any payments in respect of his or her Company RSUs at the Effective Time.

As discussed in more detail below under "—Executive Severance and Retention Agreements with Executive Officers," each executive officer is party to an Executive Severance and Retention Agreement with Move which provides, among other things, that in the event the executive officer incurs a Change in Control Termination, all

Table of Contents

outstanding and unvested Company RSUs held by such executive officer will become fully vested on the date of such Change in Control Termination. Accordingly, assuming any executive officer incurred a Change in Control Termination on the closing date of the Merger, all outstanding and unvested Company RSUs held by such executive officer would vest on such date. For purposes of this Schedule 14D-9 and the table below, we have assumed that such Company RSUs would not be converted into Adjusted RSUs.

The table below sets forth, for each of our executive officers, the hypothetical cash value of the outstanding Company RSUs held by such executive officers as of October 13, 2014, assuming that (1) all Company RSUs held by such executive officer as of October 13, 2014 remain unvested at the Effective Time, (2) such executive officer incurs a Change in Control Termination on the closing date of the Merger, which we have assumed for these purposes to be October 13, 2014 such that all unvested Company RSUs vest, and (3) such executive officer receives an aggregate amount in cash (on a pre-tax basis) in respect of such Company RSUs, calculated by multiplying the per share Merger Consideration by the number of Shares subject to such Company RSUs.

	Unvested Company RSUs		Vested Company RSUs	
Name	Number of Shares Underlying Unvested Company RSUs (#)	Cash Value of Unvested Company RSUs ($)(1)	Number of Shares Underlying Vested Company RSUs (#)	Cash Value of Vested Company RSUs ($)(2)
Named Executive Officers				
Steven H. Berkowitz	156,250	$ 3,281,250	—	—
Rachel Glaser	47,500	$ 997,500	—	—
John Robison	97,500	$ 2,047,500	—	—
James S. Caulfield	54,000	$ 1,134,000	—	—
All Other Executive Officers				
Raymond A. Picard	79,500	$ 1,669,500	—	—

(1) The amounts in this column reflect the hypothetical cash value of unvested Company RSUs held by the executive officer as of October 13, 2014, calculated as the product of (i) the number of Shares subject to such unvested Company RSUs and (ii) the per share Merger Consideration, and does not reflect the actual value of any cash payment that would actually be received by the executive officer at the Effective Time in respect of such unvested Company RSUs.

(2) There are no vested Company RSUs reflected in the table above because once a Company RSU becomes vested, the holder is issued a Share in settlement thereof.

Executive Severance and Retention Agreements with Executive Officers

We have entered into employment agreements and/or Executive Severance and Retention Agreements with each of Steven H. Berkowitz, Rachel Glaser, John Robison, James Caulfield and Raymond Picard (which we refer to as the "Severance Agreements"), which provide certain change in control severance benefits to our executive officers. We entered into the Severance Agreement with (1) Mr. Berkowitz on January 21, 2009 and subsequently amended it effective January 28, 2013, (2) Ms. Glaser on December 21, 2011 and subsequently amended it effective January 28, 2013, (3) Mr. Robison on February 7, 2012 and subsequently amended it effective March 6, 2013, (4) Mr. Caulfield on October 5, 2006 and subsequently amended it effective January 28, 2013, and (5) Mr. Picard, effective April 15, 2013. None of the Severance Agreements have been amended or otherwise modified in contemplation of the Merger.

Steven H. Berkowitz

Pursuant to the Severance Agreement with Mr. Berkowitz, if he incurs a Change in Control Termination, Mr. Berkowitz will be entitled to receive the following benefits: (1) up to eighteen (18) months of Company-paid COBRA premiums and (2) subject to Mr. Berkowitz agreeing to provide transition services to us during a

SM181

Table of Contents

ninety-day transition period (but only if requested by us), (a) a cash severance payment equal to twelve (12) months of base salary and 100% of his target bonus, payable in installments over twelve (12) months following termination, (b) accelerated vesting of all outstanding equity awards held by him, and (c) for all outstanding options granted prior to June 15, 2011, extended exercisability for one year (or in the case of certain options, three years) following the end of the transition period or date of termination, as applicable, or, if earlier, the expiration of the term of such options. In addition, if any payments or benefits payable to Mr. Berkowitz under the Severance Agreement or otherwise are subject to the excise tax imposed by Section 4999 of the Code, we will reimburse him for any such excise taxes and any income and excise taxes that are payable by him as a result of such reimbursement.

The Company may condition receipt of the severance payments and accelerated vesting benefits upon the delivery by Mr. Berkowitz of a signed mutual release of claims. If Mr. Berkowitz receives the severance payments and benefits set forth in the Severance Agreement, he is subject to a one-year non-solicitation provision pursuant to which he will not solicit any employees of Move or otherwise induce any such employees to discontinue their employment relationship with Move. In addition, Move and Mr. Berkowitz are subject to a mutual non-disparagement provision.

Rachel Glaser; James Caulfield; John Robison; Raymond Picard

Pursuant to the Severance Agreements with each of Ms. Glaser, Mr. Caulfield, Mr. Robison, and Mr. Picard, in the event any such executive incurs a Change in Control Termination, the executive will be entitled to receive the following payments and benefits: (1) up to twelve (12) months of Company-paid COBRA premiums; and (2) subject to the executive agreeing to provide transition services to us during a one-hundred and eighty (180) day transition period (but only if requested by us), (a) a lump sum severance payment equal to (i) twelve (12) months of the executive's then-current base salary and (ii) an amount equal to 50% of the executive's target bonus for the year of termination (the "Minimum Bonus Payment"), paid within five business days after the end of the transition period or the termination date, as applicable, and (b) if the executive's termination occurs after June 30 of any year, and all financial performance criteria established in the executive's bonus plan are achieved by the Company for the full year in which the termination occurs, a pro-rated portion of the executive's target bonus based on the number of days in which the executive is employed during the year, less the Minimum Bonus Payment, payable in a lump sum within sixty (60) days after the end of the year in which the termination occurs, (c) accelerated vesting of all outstanding equity awards held by the executive, and (d) with respect to Mr. Caulfield, for all outstanding options granted to him prior to June 15, 2011, extended exercisability for one year following the end of the transition period or date of termination, as applicable, or, if earlier, the expiration of the term of such options. With respect to Mr. Caulfield, notwithstanding any changes that were made to his base salary or target bonus percentage in 2012, the cash severance payment and cash bonus payments under his Severance Agreement will be calculated using his prior base pay and prior target bonus potential to the extent that they render a payment amount, in the aggregate, that is greater than if such payments were calculated using his then-current base pay and target bonus.

The Company may condition receipt of the severance payments and accelerated vesting benefits upon the delivery by the executive of a signed mutual release of claims. If the executive receives the severance payments and benefits set forth in the Severance Agreement, the executive is subject to a one-year non-solicitation provision pursuant to which the executive will not solicit any employees of Move or otherwise induce any such employees to discontinue their employment relationship with Move. In addition, Move and each of Ms. Glaser, Mr. Robison, and Mr. Picard are subject to a mutual non-disparagement provision.

Table of Contents

The following table provides information regarding the estimated payments and benefits that our executive officers would be eligible to receive in the event the executive incurred a Change in Control Termination on October 13, 2014.

	Cash Severance(1) ($)	Company-paid COBRA Premiums ($)(2)	Equity Award Acceleration ($)(3)	Tax Gross-Up Payment ($)(4)	Total ($)
Steven H. Berkowitz	$1,110,020	$ 36,375	$ 7,532,369	—	$8,678,764
Rachel Glaser	$ 474,130	$ 24,250	$ 3,702,659	—	$4,201,039
John Robison	$ 451,884	$ 24,250	$ 3,931,262	—	$4,407,396
James S. Caulfield	$ 489,726	$ 24,250	$ 1,962,673	—	$2,476,649
Raymond A. Picard	$ 478,960	$ 24,250	$ 2,325,794	—	$2,829,004

(1) For Mr. Berkowitz, the amount represents (i) 12 months of his annual base salary in effect as of October 13, 2014 and (ii) an amount equal to his target annual incentive bonus for 2014, payable in annual installments over the 12 months following termination. All other executive officers would receive (i) an amount equal to 12 months of annual base salary in effect as of October 13, 2014 (or, in Mr. Caulfield's case, his annual base salary in effect as of 2012), payable in a lump sum 5 business days after the date of termination; (ii) 50% of his or her target annual incentive bonus for 2014 (or, (x) in Mr. Caulfield's case, his target annual incentive bonus for 2012 and (y) in Mr. Picard's case, less any amounts previously paid to him on a quarterly basis in respect of his target annual incentive bonus), payable in a lump sum 60 days after the end of the year in which the termination date occurs; and (iii) an additional incentive bonus amount if our financial targets for 2014 are met, prorated for the number of days the executive was employed during such year, less the amount set forth in clause (ii) (and, in Mr. Picard's case, less any amounts previously paid to him on a quarterly basis in respect of his target annual incentive bonus), payable in a lump sum 60 days after the end of the year of termination. For purposes of clause (iii), we have assumed that the Company achieved its financial targets for 2014.

(2) Represents 100% of the executive officer's COBRA premiums for the same or equivalent medical coverage the executive officer had on the date of his or her termination, for a period not to exceed the earlier of 12 months (or, in Mr. Berkowitz's case, 18 months) after termination or until the executive becomes eligible for coverage at a new employer. The values shown are based on representative costs for medical, dental and vision coverage if elected through COBRA continuation during such 12-month or 18-month period, as applicable.

(3) The amount listed in this column represents, as of October 13, 2014, the aggregate consideration in respect of outstanding and unvested Company Options, Company Restricted Stock Awards and unvested Company Restricted Stock Units on a pre-tax basis that would accelerate in connection with a Change in Control Termination. The amount is calculated as the sum of the following amounts: (i) the value of cash amounts payable in respect of accelerated Company Options, calculated on a pre-tax basis by multiplying (a) the excess of the per share Merger Consideration over the respective per share exercise prices of such Company Options by (b) the number of unvested shares subject to such Company Options; (ii) the value of cash amounts payable in respect of accelerated Company Restricted Stock Units, calculated on a pre-tax basis, by multiplying (a) the per share Merger Consideration by (b) the number of unvested shares subject to such Company Restricted Stock Units; and (iii) the value of cash amounts payable in respect of accelerated Company Restricted Stock Awards, calculated on a pre-tax basis by multiplying (a) the per share Merger Consideration by (b) the number of shares subject to such Company Restricted Stock Awards.

(4) Mr. Berkowitz's Severance Agreement provides that we will reimburse him for any excise taxes imposed under Section 4999 of the Code that are imposed on him and any income and excise taxes that are payable by him as a result of any reimbursement for such excise taxes. Based on estimated calculations prepared by our accounting firm, Mr. Berkowitz would not be subject to any excise taxes imposed under Section 4999 of the Code and accordingly, we would not be obligated to gross him up for such amounts.

Table of Contents

Post-Closing Employee Benefits

For a period of at least twelve months following the Effective Time, Parent shall provide, or shall cause to be provided, to each employee of Move or any of its subsidiaries whose employment continues following the Effective Time, (1) at least the same level of base salary or hourly wage rate, as the case may be, that was provided to such employee immediately prior to the Effective Time, (2) an annual target cash bonus amount that is no less than the annual target cash bonus amount in effect immediately prior to the Effective Time, and (3) employee benefits (excluding equity and equity-based compensation) that are substantially comparable in the aggregate to the employee benefits provided to such employee immediately prior to the Effective Time. In addition, the Merger Agreement provides that if any employee of Move or any of its subsidiaries is terminated by Parent during the twelve-month period following the Effective Time, the employee will receive severance benefits in accordance with such employee's individual employment or severance agreement, if applicable, or in accordance with the applicable severance policy of Move as in effect immediately prior to the Effective Time.

The Merger Agreement also provides that, with certain exceptions, service credit will be provided to employees of Move for purposes of vesting, eligibility to participate and benefit accrual under the employee benefit plans of Parent.

Golden Parachute Compensation

For further information with respect to the arrangements between us and our named executive officers described in this Item 3, see the information included under "Item 8. Additional Information—Golden Parachute Compensation" below (which is incorporated into this Item 3 by reference).

Potential for Future Arrangements

To our knowledge, except for certain agreements described in this Schedule 14D-9 between Move and its executive officers and directors, no employment, equity contribution or other agreement, arrangement or understanding between any executive officer or director of Move, on the one hand, and Parent, Purchaser, any of their affiliates or Move, on the other hand, existed as of the date of this Schedule 14D-9, and neither the Offer nor the Merger is conditioned upon any executive officer or director of Move entering into any such agreement, arrangement or understanding.

It is possible that certain members of our current management team will enter into new employment arrangements with the Surviving Corporation after the completion of the Offer and the Merger. Such arrangements may include the right to purchase or participate in the equity of Purchaser or its affiliates. Any such arrangements with the existing management team will not become effective until after the Merger is completed, if at all. There can be no assurance that any parties will reach an agreement on any terms, or at all.

Indemnification of Directors and Officers; Insurance

The Merger Agreement provides that all existing rights to exculpation and indemnification that the current or former directors and officers of Move or any of its subsidiaries or any person who becomes a director officer of Move or its subsidiaries prior to the Effective Time are entitled to as provided in the certificate of incorporation or bylaws of Move or any of its wholly-owned subsidiaries, as applicable, or under any contract between such person and Move or its subsidiaries, existing as of the date of the Merger Agreement, with respect to any such person's acts or omissions occurring at or prior to the Offer closing and the Merger and will continue in full force and effect in accordance with their respective terms.

In addition, for a period of six years from and after the Effective Time, at Move's option, Move shall, or if Move is unable to, Parent shall, cause the Surviving Corporation to, obtain and fully pay the premium for an the non-cancelable extension directors' and officers' liability coverage of Move's existing directors' and officers' insurance policies and Move's existing fiduciary liability insurance policies. If such "tail" prepaid policy has

Table of Contents

been obtained by either Move or the Surviving Corporation prior to the Effective Time, Parent shall cause such policy to be maintained in full force and effect, for its full term, and cause all obligations thereunder to be honored by the Surviving Corporation; provided, however, that Parent and the Purchaser shall not pay an amount for such "tail" policy in excess of 300% of the annual premium Move paid as of the date of the Merger Agreement for such insurance.

(b) *Arrangements with Purchaser and Parent and their Affiliates.*

Merger Agreement

On September 30, 2014, Move, Parent and Purchaser entered into the Merger Agreement. The summary of the material provisions of the Merger Agreement contained in Section 11 of the Offer to Purchase and the description of the Conditions of the Offer contained in Section 15 of the Offer to Purchase are incorporated herein by reference. Such summary and description are qualified in their entirety by reference to the Merger Agreement, which is filed as Exhibit (e)(1) hereto and is incorporated herein by reference.

The Merger Agreement has been provided solely to inform investors of its terms. The representations, warranties and covenants contained in the Merger Agreement were made only for the purposes of such agreement and as of specific dates, were made solely for the benefit of the parties to the Merger Agreement, and may be subject to limitations agreed upon by the contracting parties, including being qualified by confidential disclosures made for the purposes of allocating contractual risk between the parties to the Merger Agreement instead of establishing these matters as facts, and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Accordingly, you should not rely on the representations and warranties as characterizations of the actual state of affairs of Move without considering the entirety of public disclosure about Move as set forth in Move's SEC filings. Moreover, information concerning the subject matter of the representations and warranties may change after the date of the Merger Agreement, which subsequent information may or may not be fully reflected in this Schedule 14D-9 or in other public disclosures by Move.

Confidentiality Agreement

On October 21, 2013, Parent and Move entered into a Confidentiality Agreement (as amended, the "Confidentiality Agreement"), pursuant to which the parties agreed to keep confidential certain information for the preparation for or in connection with a possible transaction or a series of transactions between Parent and Move. Parent and Move also agreed, among other things, to certain "standstill" provisions which prohibit them from taking certain actions involving or with respect to the other party for a period of 18 months from the anniversary of the date of the Confidentiality Agreement or one year following the date on which either party provides notice to the other party that it has decided not to proceed with a transaction ("Standstill Period"). Additionally, Parent and Move agreed that, subject to certain exceptions, each party would not solicit for employment any officer, director or senior employee of the other party during the Standstill Period. In connection with entering into the Merger Agreement, Parent and Move agreed that all standstill and similar provisions of the Confidentiality Agreement be terminated to the extent necessary to allow Parent to effect the transactions contemplated by the Merger Agreement and that no provision of the Confidentiality Agreement shall limit the ability of Parent or any of its affiliates to take any action contemplated by the Merger Agreement. On June 30, 2014, Parent and Move entered into an amendment to the Confidentiality Agreement to permit Parent to acquire up to 4.9% of the outstanding common stock of Move.

This summary and description of the Confidentiality Agreement (including the amendment thereto) is qualified in its entirety by reference to the Confidentiality Agreement (including the amendment thereto), which are filed as Exhibit (e)(4) and Exhibit (e)(5) hereto and incorporated herein by reference.

(c) *Arrangements among Parent, Purchaser, and Certain Executive Officers, Officers, Directors and Stockholders of Move.*

Table of Contents

Tender and Support Agreements

In connection with the execution and delivery of the Merger Agreement, (i) Parent, the Purchaser and each of Steven H. Berkowitz and James S. Caulfield, the chief executive officer and executive vice president, general counsel and secretary, respectively, of the Company entered into individual tender and support agreements (collectively, the "Executive Tender and Support Agreements"); and (ii) Parent, the Purchaser and the National Association of Realtors® (the "NAR") entered into a tender and support agreement (the "NAR Tender and Support Agreement", together with the Executive Tender and Support Agreements, "Tender and Support Agreements"). A summary of the material provisions of the Tender and Support Agreements is contained in Section 11 of the Offer to Purchase. Such summary and description of the Tender and Support Agreements is qualified in its entirety by reference to the Tender and Support Agreements, which is filed as Exhibit (e)(2) and Exhibit (e)(3) and is incorporated herein by reference.

NAR Consent Agreement

Concurrently with the execution of the Merger Agreement, NAR provided Move with its consent to the Transaction (the "NAR Consent"). The NAR Consent terminates if Move terminates the Merger Agreement due to a superior proposal or if both the Company and Parent announce that the Merger Agreement has been terminated. A copy of the NAR consent is attached hereto as Exhibit (e)(6) and is incorporated by reference herein.

The Merger Agreement, the Tender and Support Agreements, the Confidentiality Agreement and the NAR Consent have been filed as exhibits to the Schedule 14D-9 to provide stockholders with information regarding their terms and are not intended to modify or supplement any factual disclosures about Move in Move's public reports filed with the SEC. The Merger Agreement, the Tender and Support Agreements, the Confidentiality Agreement and the NAR Consent Agreement and the summary of their terms contained in the Offer to Purchase filed by Purchaser with the SEC on October 15, 2014, are incorporated herein by reference, and are not intended to provide any other factual information about Move. The representations, warranties and covenants contained in each agreement were made only for the purposes of such agreement and as of specified dates, were solely for the benefit of the parties to the agreements, and may be subject to limitations agreed upon by such parties. The representations and warranties may have been made for the purposes of allocating contractual risk between the parties to the agreements instead of establishing these matters as facts, and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Neither investors nor stockholders are third-party beneficiaries under the Merger Agreement, except with respect to receipt of the Offer Price or the Merger Consideration, the Tender and Support Agreements, the Confidentiality Agreement or the NAR Consent. Accordingly, investors and stockholders should not rely on such representations, warranties and covenants as characterizations of the actual state of facts or circumstances described therein. Information concerning the subject matter of such representations and warranties may change after the date of the agreements, which subsequent information may or may not be fully reflected in the parties' public disclosures.

Item 4. The Solicitation or Recommendation.

(a) After careful consideration, including a thorough review of the terms and conditions of the Merger Agreement and the Transactions, including the Offer and the Merger, with Move's management, legal and financial advisors, on September 29, 2014, our Board unanimously (i) determined that the Merger Agreement and the Transactions, including the Offer and the Merger, are advisable and fair to, and in the best interests of, Move and its stockholders; (ii) approved and adopted the Merger Agreement (including the agreement of merger (as such term is used in Section 251 of the DGCL)) and the Transactions, including the Offer and the Merger, which approval constitutes approval under Section 203 of the DGCL as a result of which the Merger Agreement and the Transactions are not and would not be subject to any restrictions under Section 203 of the DGCL; (iii) declared the advisability of the Merger Agreement and the Transactions, including the Offer and the Merger; (iv) recommended that the stockholders of Move accept the Offer and tender all of their Shares into the Offer; and (v) elected that any "moratorium," "control share acquisition," "business combination," "fair price" or other

Table of Contents

form of anti-takeover Laws or regulations of any jurisdiction that purported to be applicable to Move, Parent, the Surviving Corporation, Purchaser, the Offer, the Merger or the Merger Agreement, shall not be applicable to Move, Parent, the Surviving Corporation, Purchaser, the Offer, the Merger or the Merger Agreement.

Accordingly, and for other reasons described in more detail below, our Board unanimously recommends that holders of Shares accept the Offer and tender their Shares pursuant to the Offer.

(b) *Background and Reason for the Recommendation*

(i) *Background of Offer and Merger*

As a regular part of our business, from time to time we have considered opportunities to expand and strengthen our technology, products, and research and development capabilities and to grow our consumer audience, including opportunities through strategic acquisitions, business combinations, investments, licenses, development agreements and joint ventures. This includes consideration of whether it would be in the best interests of our company and our stockholders to continue as a separate company and expand through organic growth, acquisitions or a combination of the two, or to combine with or be acquired by another company.

In early 2013, Company A made a non-binding proposal to acquire Move, ultimately proposing a price of $12.50 per share in a mix of cash and stock. Discussions terminated due to an inability to reach agreement on price.

At Parent's request, on October 5, 2013, Mr. Steve Berkowitz, our Chief Executive Officer, and Ms. Rachel Glaser, our Chief Financial Officer, met with Mr. Robert Thomson, Chief Executive Officer of Parent, and Mr. Bedi A. Singh, Chief Financial Officer of Parent to discuss a potential strategic transaction.

On October 18, 2013, Mr. Berkowitz met with Mr. Rupert Murdoch, Executive Chairman of Parent, and Mr. Singh to further discuss a potential strategic transaction.

The parties entered into a confidentiality agreement on October 21, 2013 (the "Confidentiality Agreement"), which contained a customary standstill provision, before meetings later that day and the following day in which various members of Parent and Move's respective management teams engaged in preliminary diligence discussions regarding our business, and Move's management provided detailed financial projections to Parent.

On October 31, 2013, Mr. Thomson and Mr. Singh met with Mr. Hanauer and Mr. Berkowitz to further discuss the parties' perspectives on the online real estate business and the critical role of Realtors®.

On November 20, 2013, various members of Parent's and Move's respective management teams engaged in further preliminary diligence discussions regarding our business, including with respect to Move's 2013 operating plan and business and financial overview.

In early December 2013, Joe Hanauer, the Chairman of our board of directors, Mr. Murdoch and Mr. Thomson met to discuss a possible transaction. Two days later Mr. Hanauer, Mr. Murdoch, Mr. Thomson and two other Parent executives met with representatives of the NAR to discuss the possibility of a transaction. As a result of these meetings, members of Parent's senior management told members of our management that they would potentially discuss a possible transaction between the parties at a meeting of the Parent's board later in December and that a non-binding indication of interest might be delivered following that meeting.

On January 6, 2014, Mr. Hanauer met with Mr. Thomson, at which time Mr. Thomson informed Mr. Hanauer that Parent would not be moving forward at that time; however, his hope was that there would be interest in pursuing a potential transaction in the future.

SM 187

Table of Contents

From October 2013 through February 2014, Move also had meetings and discussions with Company B about a possible transaction. During that time, representatives of Company B, met with Mr. Hanauer, Mr. Berkowitz, and other members of our management team regarding a potential transaction and preliminary diligence matters. Representatives of Company B, Mr. Hanauer, Mr. Berkowitz and a representative of our management also met with the NAR during November 2013 to discuss a possible transaction. After further discussions between our company and Company B in February, Company B declined to pursue a transaction.

From time to time following the meeting between Messrs. Hanauer, Berkowitz and Thomson in January 2014, Mr. Thomson would contact Mr. Hanauer to discuss the online real estate market and to reiterate the hope that there would be interest on Parent's part in pursuing a potential transaction in the future.

On June 2, 2014, Messrs. Hanauer and Thomson met at Mr. Thomson's request, and Mr. Thomson informed Mr. Hanauer that he would meet with Parent's directors to assess their interest in a potential transaction.

On June 5, 2014, Mr. Thomson phoned Mr. Hanauer to say he had informal discussions with certain of Parent's directors and there was an interest in restarting discussions regarding a possible transaction.

On June 25, 2014, Mr. Thomson and Mr. Hanauer discussed the possibility of Parent purchasing a minority equity interest in Move. On June 30, 2014, Parent and Move amended the Confidentiality Agreement to permit Parent to acquire up to 4.9% of the outstanding common stock of Move. Parent has informed us that shortly thereafter it acquired 4,902 Shares at an average price of $14.76 per Share.

Conversations ensued between Messrs. Thomson and Hanauer over the following weeks with Mr. Thomson advising Mr. Hanauer of his discussions with Parent's board and Parent's interest in moving forward with a potential transaction.

At a meeting on August 8, 2014, Mr. Thomson provided Mr. Hanauer with a non-binding indication of interest which contemplated the acquisition of Move for $17 per share in cash. Messrs. Thomson and Hanauer then discussed the proposed transaction

On August 9 and 10, 2014, Mr. Hanauer, Mr. Berkowitz, Ms. Glaser and James Caulfield, Move's General Counsel, spoke with representatives of Morgan Stanley, which had been retained by Move in 2010 in connection with strategic discussions that Move was then engaging in, regarding the indication of interest from Move and a list of other potential acquirors that Move might consider contacting.

On August 11, 2014, our board of directors held a meeting, also attended by representatives of Morgan Stanley, representatives of Cooley LLP ("Cooley"), our outside counsel for the proposed transaction, and representatives of our management team, in which our board of directors, with input from our management and financial and legal advisors, discussed and considered the indication of interest from Parent, possible responses to Parent, the process by which we would explore and evaluate strategic alternatives, including opportunities for us to combine with or be acquired by another company, and other information relevant to our board of directors' consideration of potential acquisition transactions, including information relating to the Company's valuation. Our board of directors instructed Morgan Stanley and our management team to continue discussions with Parent and its advisors, to pursue an increase in price with Parent and to develop a list of other potential acquirors. Following that meeting, Mr. Hanauer contacted Mr. Thomson and reported that our board of directors was receptive to continuing discussions, but indicated that the proposed price was insufficient.

On August 12, 2014, Mr. Hanauer spoke with Mr. Thomson, with Mr. Thomson indicating that Parent could offer as much as $19.50 per share, but would not be able to offer more. Representatives of Morgan Stanley and Goldman Sachs, financial advisor to Parent, spoke later that day regarding Parent's proposal. As authorized by our board of directors, Morgan Stanley communicated our board of directors' willingness to consider a proposal in the "mid-$20s" per share and requested that any definitive agreement include a "go shop" provision.

Table of Contents

Representatives of Goldman Sachs responded to representatives of Morgan Stanley on August 12, 2014, indicating that the maximum price Parent would pay would be $20 per share and that Parent would reject a request for a "go shop" provision, but would require a "no shop" provision with customary exceptions, as well as customary termination rights and a break-up fee payable by Move under certain circumstances.

Later that day, Mr. Hanauer discussed Parent's proposal with Mr. Thomson.

From August 13 through 15, 2014, representatives from Parent, Move, Goldman Sachs and Morgan Stanley continued to engage in discussions regarding the proposed price other terms of the proposal, and process.

On August 15, 2014, our board of directors held a meeting, also attended by representatives of Cooley and our management team. At the outset of the meeting, representatives of Cooley discussed the fiduciary duties of our board of directors with respect to the proposed transaction. Following the discussion, representatives of Morgan Stanley joined the meeting, at which point our board of directors, with input from our management and its financial and legal advisors, discussed and considered the latest proposal from Parent and possible responses to Parent.

Our board of directors continued its evaluation of Parent's latest proposal and possible response at a board meeting on August 16, 2014, also attended by representatives of Morgan Stanley, Cooley and our management team. Having further reviewed factors relevant to Move's valuation with Morgan Stanley, our board of directors directed Morgan Stanley to propose to Parent a price of $21 per share, with a customary "no shop" and termination fee, and on August 16, 2014, Morgan Stanley communicated to Goldman Sachs this proposal.

On August 18, 2014 Mr. Hanauer spoke with Mr. Thomson regarding the proposal. Mr. Thomson indicated that Parent anticipated revising its price proposal to $21 per share with a customary "no-shop" provision.

Subsequent to such call, representatives of Morgan Stanley and Goldman Sachs, discussed the revised proposal, the proposed timetable leading up to the signing of definitive agreements and due diligence.

Parent submitted a revised non-binding indication of interest on August 19, 2014 contemplating a price of $21 per share. Also on that day, Messrs. Hanauer and Berkowitz spoke with representatives of Morgan Stanley regarding contacting a list of other potential acquirors, which list was developed after taking into account past discussions with potentially interested parties and the collective view of Morgan Stanley and Messrs. Hanauer and Berkowitz as to the likelihood of interest and ability of other potential parties to engage in a transaction.

On August 20, 2014, representatives of our company and Parent held a call to commence the due diligence process. Between August 20, 2014 and September 30, 2014, the parties and their respective legal and financial advisors engaged in diligence discussions, and we provided Parent and its advisors with certain confidential materials in connection with Parent's diligence review of our company.

On August 22, 2014, our board of directors held a meeting, also attended by representatives of Morgan Stanley, Cooley and our management team, in which our board of directors, with input from our management and financial and legal advisors, discussed and considered the revised proposal from Parent as well as the list of other potential acquirors to be contacted, which included, among others, Company A and Company B. After representatives of Morgan Stanley left the meeting, our board discussed entering into a new engagement letter with Morgan Stanley that would better reflect the current situation. Our board finalized its revised engagement terms with Morgan Stanley in a letter that was executed on August 25, 2014, which letter superseded the terms of the previous Morgan Stanley engagement letter.

Later in the day on August 22, 2014, at the direction of our board of directors, representatives of Morgan Stanley began their outreach to three other potential strategic buyers (none of which were Company A or Company B) selected based on strategic fit, business model fit, capacity to pay and acceptability to the NAR, which held a consent right with respect to any change of control of our company. Our board of directors believed

Table of Contents

that strategic buyers would be the most likely to pay the highest price given the availability of potential synergies. Of the three other potential buyers contacted by Morgan Stanley, none of them expressed an interest in entering into discussions with us regarding a possible strategic transaction.

On August 25, 2014, Skadden, Arps, Slate, Meagher & Flom LLP ("Skadden"), outside counsel to Parent, delivered a first draft of the Merger Agreement to Cooley. From August 25, 2014 through the execution of the Merger Agreement on September 30, 2014, the parties and their respective legal and financial advisors negotiated the terms of the Merger Agreement and the other agreements related to the transaction.

On August 27, 2014, Mr. Hanauer met with Mr. Thomson, Mr. Singh and other senior executives of Parent, and the NAR to discuss the transaction for the purpose of obtaining the NAR's consent to the proposed transaction.

On August 28 and 29, 2014, representatives from Move presented a business update and financial review to representatives of Parent.

On September 3, 2014, Cooley sent a revised merger agreement to Skadden, reflecting outstanding issues including, among others, the conditions to the Offer, the amount of the termination fee, the circumstances in which the termination fee would be payable, the circumstances in which our board of directors could change its recommendation and the circumstances in which we could terminate the Merger Agreement in order to accept a superior proposal.

On September 4, 2014, our board of directors held a meeting, also attended by representatives of Morgan Stanley, Cooley and our management team, during which our board of directors received a summary of the material terms of the proposed Merger Agreement. Our board of directors provided our management team and legal and financial advisors with guidance on the negotiation of those terms.

On September 5, 2014, our board of directors of held a meeting, also attended by representatives of Morgan Stanley, Cooley and our management team. Mr. Hanauer provided our board with an update on Parent's discussions with the NAR regarding the NAR's consent to the proposed transaction. Our board also received an update on the status of negotiations from representatives of Cooley and management. Among the key outstanding issues were the conditions to the Offer, the amount of the termination fee, the circumstances in which the termination fee would be payable, and the circumstances in which we could terminate the Merger Agreement in order to accept a superior proposal.

On September 11, 2014, our board of directors held a meeting, also attended by representatives of Morgan Stanley, Cooley and our management team. Representatives of Morgan Stanley provided our board with an update on discussions with Parent and other potential acquirors, noting that none of the other potential parties contacted had expressed interest in a transaction. Our board also received an update on the status of negotiations from representatives of Cooley and management.

On September 22, 2014, our board of directors held a meeting, also attended by representatives of Morgan Stanley, Cooley and our management team. Representatives of Morgan Stanley provided our board with a financial review of the proposed transaction. Our board of directors also received an update on the status of negotiations from representatives of Cooley and management, including the status of discussions between Parent and the NAR regarding the NAR's consent to the transaction.

From September 22 through 27, 2014, representatives of Move and Parent, and their respective advisors, discussed certain outstanding issues, including the amount of the termination fee and the conditions to the Offer.

On September 27, 2014, our board of directors held a meeting, also attended by representatives of Morgan Stanley, Cooley and our management team. Representatives of Morgan Stanley provided our board with an

Table of Contents

update of their financial review of the proposed transaction. Our board also received an update on the status of negotiations from representatives of Cooley and management, including the status of discussions between Parent and the NAR regarding the NAR's consent to the transaction.

Also on September 27, 2014, Mr. Hanauer, Mr. Berkowitz, Ms. Glaser, Mr. Caulfield and Mr. Thomson met in person to discuss the status of discussions with the NAR and Parent's requirement that the merger agreement contain a tender offer condition relating to the NAR operating agreement.

On September 28, 2014, our board of directors held a meeting, also attended by representatives of Morgan Stanley, Cooley and our management team. Our board of directors received an update on the status of negotiations from representatives of Cooley and management, including the status of discussions between Parent and the NAR regarding the NAR's consent to the transaction.

Over the course of September 27 through 29, 2014, certain representatives of Parent and Move and their respective advisors engaged in discussions with each other and with representatives of, and legal advisors to, the NAR to reach a resolution between Parent and Move as to the Offer Condition related to the Operating Agreement, in part through further revisions to the Consent Agreement. During this time, representatives from Goldman Sachs and Morgan Stanley negotiated, at the direction of their respective clients, the amount of the termination fee, which ultimately the parties agreed to be an amount of $32.5 million.

On the evening of September 29, 2014, our board of directors, held a meeting, also attended by representatives of Morgan Stanley, Cooley and our management team, and received an update on the status of negotiations from representatives of Cooley and management. Representatives of Morgan Stanley provided a further update to their financial review of the proposed transaction. At the conclusion of the financial review and discussion of the terms of the Merger Agreement, Morgan Stanley provided our board of directors with its oral opinion (subsequently confirmed in writing) that, as of September 29, 2014 and based upon and subject to the assumptions made, procedures followed, matters considered and qualifications and limitations on the scope of review undertaken by Morgan Stanley as set forth in the written opinion, the consideration to be received by the holders of Shares (other than the holders of certain excluded shares) pursuant to the Merger Agreement was fair from a financial point of view to such holders. With the benefit of that presentation and advice, our board of directors, having deliberated regarding the terms of the proposed acquisition, determined that the Merger Agreement and the Transactions, including the Offer and the Merger, are advisable and fair to, and in the best interests of, our company and its stockholders, approved and adopted the Merger Agreement and the Transactions, including the Offer and the Merger, and recommended that our stockholders accept the Offer and tender all of their Shares into the Offer.

The Merger Agreement and related documents were finalized and executed prior to the commencement of trading on September 30, 2014, and Parent, Move and the NAR then jointly issued a press release announcing the execution of the Merger Agreement, the NAR Consent and related transaction agreements.

(ii) *Reasons for Recommendation*

After careful consideration, including a thorough review of the terms and conditions of the Merger Agreement and the Transactions, including the Offer and the Merger, with Move's management, legal and financial advisors, on September 24, 2014, our Board unanimously (i) determined that the Merger Agreement and the Transactions, including the Offer and the Merger, are advisable and fair to, and in the best interests of, Move and its stockholders; (ii) approved and adopted the Merger Agreement (including the agreement of merger (as such term is used in Section 251 of the DGCL)) and the Transactions, including the Offer and the Merger, which approval constitutes approval under Section 203 of the DGCL as a result of which the Merger Agreement and the Transactions are not and would not be subject to any restrictions under Section 203 of the DGCL; (iii) declared the advisability of the Merger Agreement and the Transactions, including the Offer and the Merger; (iv) recommended that the stockholders of Move accept the Offer and tender all of their Shares into the Offer; and (v) elected that any "moratorium," "control share acquisition," "business combination," "fair price" or oth SM 191

Table of Contents

form of anti-takeover Laws or regulations of any jurisdiction that purported to be applicable to Move, Parent, the Surviving Corporation, Purchaser, the Offer, the Merger or the Merger Agreement, shall not be applicable to Move, Parent, the Surviving Corporation, Purchaser, the Offer, the Merger or the Merger Agreement.

Our Board considered numerous factors, including the following, each of which is supportive of its decision to approve the Merger Agreement and the Transactions and recommend the Transactions to the Move stockholders:

- *Certainty of Value.* The Offer Price will be paid in cash, providing certainty, immediate value and liquidity to our stockholders.
- *Premium to Market Price.* The Offer Price of $21.00 per share, without interest, represents approximately a 37% premium to the closing price of $15.29 per Share on September 29, 2014, the last full trading day before the Transactions were approved by our Board, and approximately a 36% premium to the 30-day average stock price of $15.43 per share.
- *Review of Strategic Alternatives.* The belief of our Board, after a careful review of strategic alternatives and discussions with Move management and its advisors, that the Offer Price is more favorable to the stockholders of Move than the potential value that might have resulted from other strategic opportunities potentially available to Move, including continuing to operate as a standalone company.
- *Negotiations with Parent.* The course of negotiations between Move and Parent, which resulted in an increase of $4.00, or approximately 24%, in the price per Share offered by Parent, and the belief of our Board that Move and its representatives had negotiated the highest price per Share that Parent was willing to pay for Move.
- *Risks of Remaining Independent.* Our Board's assessment that Move was unlikely in the near future to increase stockholder value as a standalone company above the Offer Price, given the risks and uncertainties in our business, including the fact that consolidation in the online real estate information industry is increasing, that increasing investment is required to remain competitive, and that larger, well-capitalized companies may begin competing with us.
- *Prior Negotiations.* The belief of our Board that Move had engaged in a reasonable process designed to obtain the best available value for the stockholders and created an opportunity for other potentially interested parties to negotiate a transaction with Move if such parties were interested in a strategic transaction, and the fact that the Company or its advisors engaged with numerous potential acquirors over the course of several years, and that Parent's offer was significantly higher than was offered by any other potential acquiror.
- *Opinion of Morgan Stanley.* Morgan Stanley's oral opinion, subsequently confirmed in writing, that as of September 29, 2014, and based upon and subject to the assumptions made, procedures followed, matters considered and limitations on the scope of review undertaken by Morgan Stanley as set forth therein, the $21 per share in cash to be received by holders of Shares (other than Shares (i) owned by Parent, Purchaser, any wholly-owned subsidiary of Parent or any wholly-owned subsidiary of Move, (ii) held in the treasury of Move or any of its Subsidiaries, or (iii) as to which dissenters' rights have been perfected) pursuant to the Merger Agreement is fair from a financial point of view to such holders of Shares, as more fully described under the caption "Opinion of Move's Financial Advisor." The Board was aware that Morgan Stanley was entitled to certain fees upon the execution of the Merger Agreement and will become entitled to additional fees upon consummation of the Offer, as more fully described under the caption "Opinion of Move's Financial Advisor."
- *Tender Offer Structure.* The fact that the Offer is structured as a tender offer, which can be completed, and cash can be delivered to Move's stockholders, on a prompt basis, reducing the period of uncertainty during the pendency of the Transactions on stockholders and employees, with a second-step merger in which stockholders who do not tender their Shares in the Offer will receive the same cash price as paid for the Shares in the Offer.

Table of Contents

- *Extensions of Offer*. The fact that the Purchaser must extend the Offer for successive period of not more than twenty business days per extension in order to permit the satisfaction of the conditions to the Offer until December 31, 2014, if at any scheduled expiration date of the Offer any condition to the Offer has not been satisfied or waived (to the extent permitted by applicable law), and the fact that if the Antitrust Condition has not been satisfied as of the Outside Date, but all other conditions have been satisfied as of the Outside Date (other than the condition that that there shall have been validly tendered and not validly withdrawn a number of Shares that, when added to the Shares then owned by Parent and its subsidiaries, equals at least one Share more than one half of the total number of Shares then issued and outstanding (the "Minimum Condition") and the absence of certain disputes relating to the Operating Agreement between Realtors® Information Network, Inc., a subsidiary of NAR, and RealSelect, Inc., a subsidiary of the Company, as amended (the "NAR Condition")), then Move or Parent may extend the Outside Date from December 31, 2014 to a date not later than March 30, 2015, and that if the NAR Condition has not been satisfied as of the Outside Date (as the same may have been extended) and all other conditions to the Offer (other than the Minimum Condition) have been satisfied as of the Outside Date, then Move or Parent may further extend the Outside Date to a date not later than the date that is three months after the then-applicable Outside Date.
- *Terms of Merger Agreement*. The terms and conditions of the Merger Agreement, including the following related factors:
  - the fact that Parent's and Purchaser's obligations under the Merger Agreement, including with respect to the Offer and the Merger, are not subject to any financing conditions and that Parent and Purchaser make representations and warranties in the Merger Agreement about the sufficiency of their financial resources to purchase the Shares pursuant to the Offer and to consummate the Merger;
  - the nature of the conditions to Parent's obligations to consummate the Offer and the other Transactions and the risk of non-satisfaction of such conditions;
  - the conclusion of our Board that the termination fee of $32,500,000 and the circumstances in which such termination fee may be payable by Move are reasonable in light of the benefits of the Offer and the other Transactions; and
  - the ability of our Board under the Merger Agreement to withdraw or modify its recommendation that Move's stockholders accept the Offer and tender their Shares in certain circumstances, including in connection with a superior proposal, and Move's right to terminate the Merger Agreement in order to accept a superior proposal and enter into a definitive agreement with respect to such superior offer, in both cases subject to payment of a termination fee, and the related ability for any other party to approach Move if such party is potentially interested in such a transaction subject to the terms and conditions of the Merger Agreement.
- *Availability of Appraisal Rights*. The availability of statutory appraisal rights to Move's stockholders who do not tender their Shares in the Offer and otherwise comply with all required procedures under the DGCL.
- *Support of the NAR*. The fact that the NAR, a critical partner in our business, has consented to the Offer and the Merger, and our Board's view that other potential bidders may be less attractive business partners for the NAR.

Our Board also considered a variety of risks and other potentially negative factors of the Merger Agreement and the Transactions, including the following:

- *No Shareholder Participation in Future Growth or Earnings*. The fact that Move's stockholders will not participate in any potential future benefit from owning our business, including the benefits of our new market initiatives.

Table of Contents

- *Impact of Announcement on the Company.* The effect of the announcement and pendency of the Merger Agreement and the Offer on Move's operations and employees and our ability to retain employees.
- *No-Shop Restrictions.* The restrictions that the Merger Agreement imposes on soliciting competing proposals.
- *Closing Conditions.* The fact that completion of the Offer and the Merger are subject to the expiration or termination of the applicable waiting period (and any extensions thereof) under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (without the imposition of any condition or requiring a remedy that the parties are not required to accept pursuant to the Merger Agreement) and the NAR Condition, the satisfaction of which are not within Move's control.
- *Unique Value of the Realtor.com® Web Platform.* Our Board's view that, despite the increasing competition in the online real estate information services industry, Realtor.com® offers a unique and leading real estate information marketplace, and is a more Realtor®-friendly alternative to the products offered by our competitors.
- *Conflicts of Interest.* The fact that our executive officers and members of our Board may be deemed to have interests in the Transactions, including the Offer and the Merger, that may be different from or in addition to those of our stockholders, generally, as more fully described under the caption "Interest in Securities of the Subject Company" below.
- *Consequences of Failure to Close.* The fact that, if the Offer and the other Transactions are not consummated in a timely manner or at all:
  - the trading price of Shares may be adversely affected;
  - Move will have incurred significant transaction and opportunity costs attempting to consummate the Transactions;
  - Move may have lost potential business and employees after announcement of the Offer;
  - Move's business may be subject to significant disruption; and
  - Move's directors, officers and other employees will have expended considerable time and effort to consummate the Transactions.
- *Termination Fee.* The $32,500,000 termination fee payable to Purchaser upon the occurrence of certain events, including the potential effect of such termination fee and expense reimbursement to deter other potential acquirers from publicly making a competing offer for Move that might be more advantageous to Move's stockholders, and the impact of the termination fee and expense reimbursement on Move's ability to engage in certain other transactions for twelve months from the date of the Merger Agreement is terminated in certain circumstances.
- *Tax Treatment.* The fact that the gain realized by Move's stockholders as a result of the Offer and the Merger generally will be taxable to the stockholders for U.S. federal income tax purposes.
- *Restrictions on the Company's Conduct of Business.* The potential limitations on Move's pursuit of business opportunities due to certain pre-closing covenants in the Merger Agreement, whereby Move agreed that it will carry on its business in the ordinary course of business consistent with past practice and, subject to specified exceptions, will not take a number of actions without the prior written consent of Parent. These restrictions could delay or prevent Move from undertaking business opportunities that may arise prior to the consummation of the Offer and that may have a material and adverse effect on Move's ability to respond to changing market and business conditions in a timely manner or at all.

Our Board concluded that the risks, uncertainties, restrictions and potentially negative factors associated with the Offer and Merger were outweighed by the potential benefits of the Offer and Merger.

SM 194

Table of Contents

The foregoing discussion of our Board's reasons for its recommendation to accept the Offer is not meant to be exhaustive, but addresses the material information and factors considered by our Board in consideration of its recommendation. In view of the wide variety of factors considered by our Board in connection with the evaluation of the Offer and the complexity of these matters, our Board did not find it practicable to, and did not, quantify or otherwise assign relative weights to the specific factors considered in reaching its determination and recommendation. Rather, the directors made their determinations and recommendations based on the totality of the information presented to them, and the judgments of individual members of our Board may have been influenced to a greater or lesser degree by different factors. In arriving at their respective recommendations, the members of our Board considered the interests of our executive officers and directors as described under "Past Contacts, Transactions, Negotiations and Agreements" in Item 3 above.

(iii) *Certain Financial Projections*

Move does not, as a matter of course, publicly disclose long term forecasts or internal projections as to potential future performance or results of operations due to the inherent unpredictability of the underlying assumptions and projections. In connection with presenting our growth opportunities to potential buyers, and in our consideration of strategic alternatives for Move, our management prepared financial projections for 2014 through 2017 that reflected the results that management believed could reasonably be achieved if we were to remain independent. We provided the projections described below as Management Cases 1 and 2 to Parent and Purchaser. We also provided the projections described below as Management Cases 1, 2 and 3 to our Board, and made such projections available to Morgan Stanley, our financial advisor, in connection with its financial analyses, presentation to the board and opinion.

The information set forth below is included solely to give Move's stockholders access to certain financial projections that were made available to Parent, our Board and Morgan Stanley. It is not included in this Schedule 14D-9 in order to influence any stockholder's decision to tender Shares in the Offer or any other purpose.

The financial projections were not prepared with a view toward public disclosure, or with a view toward compliance with published guidelines of the SEC, the guidelines established by the American Institute of Certified Public Accountants for preparation and presentation of financial forecasts, or United States generally accepted accounting principles ("GAAP"). Neither our independent registered public accounting firm, nor any other independent accountants, have compiled, examined or performed any procedures with respect to the prospective financial information included below, or expressed any opinion or any other form of assurance on such information or its achievability.

The financial projections contained estimates of revenue, adjusted EBITDA and free cash flow. The financial projections reflected numerous estimates and assumptions made by Move's management with respect to general business, economic, competitive, market and financial conditions and other future events, as well as matters specific to Move's business, all of which were difficult to predict and many of which were beyond Move's control. The financial projections of Move as a stand-alone company were not prepared in accordance with GAAP. Adjusted EBIDTA was not prepared in accordance with GAAP and excluded stock-based compensation expenses and non-recurring expenses. These financial projections are referred to as Management Cases 1, 2 and 3, respectively. Management Case 1 is in line with near-term and long-term analyst guidance, and assumes (a) successful penetration of the rentals market, pricing and model changes to core products that improve yield per listing, higher average revenue per user and increased penetration of software-as-a-service ("SaaS") products; and (b) increased competitive marketing expenditure. Management Case 2 was prepared based on the following key assumptions: (a) faster penetration of new products (i.e., SaaS) and new markets (i.e., rentals) and greater improvement in core product pricing that improves yield per listing; (b) a favorable macro/real estate market environment; and (c) that Move has operating leverage as the preferred alternative in the online real estate market. Management Case 3 was prepared based on the following key assumptions: (a) slower

Table of Contents

penetration of new products (SaaS) and new markets (rentals), and slower improvement in core products; (b) a subdued macro/real estate market environment; and (c) increased investments in research and development and marketing to retain revenue in face of increased competition.

The financial projections reflected subjective judgments and assumptions in many respects and, therefore, these financial projects are susceptible to multiple interpretations and periodic revisions based on actual experience and business developments. Since the financial projections cover multiple years, such information by its nature becomes less reliable with each successive year. No assurances can be given with respect to any such assumptions. The inclusion of the financial projections should not be regarded as an indication that Move, or anyone who received the projections then considered, or now considers, the projections to be material information about Move or necessarily predictive of actual future events, and this information should not be relied upon as such. Move views the financial projections as non-material because of the inherent risks and uncertainties associated with such long-range projections. Move does not intend to, and disclaims any obligation to, update, revise or correct the projections if any of them are or become inaccurate (either in the short or longer term).

The financial projections should be evaluated, if at all, in conjunction with the historical financial statements and other information regarding Move in its public filings with the SEC. The financial projections do not take into account any circumstances or events occurring after the date they were prepared. Further, the financial projections do not take into account the effect of any failure of the Offer or the Merger to be consummated and should not be viewed as accurate or continuing in that context.

Certain matters discussed herein, including, but not limited to these projections, are forward-looking statements that involve risks and uncertainties. Forward-looking statements include the information set forth herein. While presented with numerical specificity, these projections were not prepared by Move in the ordinary course and are based upon a variety of estimates and hypothetical assumptions which may not be accurate, may not be realized, and are also inherently subject to significant business, economic and competitive uncertainties and contingencies, all of which are difficult to predict, and most of which are beyond the control of Move. Accordingly, there can be no assurance that any of the projections will be realized and the actual results for the years ending December 31, 2014, 2015, 2016 and 2017 may vary materially from those shown above. None of Move or any other person to whom these projections were provided assumes any responsibility for the accuracy or validity of these projections. None of Move or any other person to whom these projects were provided to or any of their respective affiliates or representatives has made or makes representation to any person regarding the ultimate performance of Move compared to the information contained in the projections. Forward-looking statements also include those preceded by, followed by or that include the words "believes", "expects", "anticipates" or similar expressions.

Management Projections

Management Case 1

($ Thousands)	2014	2015	2016	2017
Revenue	$253,000	$292,018	$337,190	$388,831
Adjusted EBITDA	$ 27,250	$ 35,061	$ 44,906	$ 57,162
Free Cash Flow	$ 5,060	$ 11,061	$ 17,406	$ 28,162

Management Case 2

($ Thousands)	2014	2015	2016	2017
Revenue, Case 2	$253,000	$300,212	$360,215	$440,007
Adjusted EBITDA	$ 27,250	$ 37,613	$ 51,737	$ 72,001
Free Cash Flow	$ 5,060	$ 13,613	$ 24,237	$ 43,001

SM 196

Table of Contents

Management Case 3

($ Thousands)	2014	2015	2016	2017
Revenue	$253,000	$284,016	$312,417	$343,659
Adjusted EBITDA	$ 27,250	$ 27,520	$ 34,280	$ 42,198
Free Cash Flow	$ 5,060	$ 3,520	$ 6,780	$ 13,198

In light of the foregoing factors and the uncertainties inherent in the financial projections, Stockholders are cautioned not to place undue, if any, reliance on the projections.

(iv) *Intent to Tender*

To our knowledge, after making reasonable inquiry, and, in the case of Steven H. Berkowitz and James S. Caulfield as required by the Executive Tender and Support Agreements, all of our executive officers and directors currently intend to tender or cause to be tendered pursuant to the Offer all Shares held of record by such persons immediately prior to the expiration of the Offer, as it may be extended (other than Shares for which such holder does not have discretionary authority). The foregoing does not include any Shares over which, or with respect to which, any such executive officer or director acts in a fiduciary or representative capacity or is subject to the instructions of a third party with respect to such tender. In addition, certain officers of Move have entered into the Executive Tender and Support Agreement and NAR has entered into the NAR Tender and Support Agreement, pursuant to which each has agreed, in his or its capacity as a stockholder of Move, to tender all of his, her or its Shares, as well as any additional Shares that he, she or it may acquire (pursuant to the exercise of options or otherwise), to Purchaser in the Offer.

The Executive Tender and Support Agreements will terminate upon the earlier of (i) the date the Merger Agreement is validly terminated in accordance with its terms; (ii) the written agreement of the parties thereto to terminate the agreement; (iii) the Effective Time; and (iv) with respect to any stockholder, such date and time as any amendment or change to the Merger Agreement or the Offer that decreases the Offer Price is effected. The NAR Tender and Support Agreement terminates in the event Move terminates the Merger Agreement due to a superior proposal or if both the Company and Parent announce that the Merger Agreement has been terminated. NAR may also withdraw its tendered shares if our Board makes an adverse recommendation change. As of October 13, 2014, the outstanding Shares subject to the Tender and Support Agreements represented approximately 2.34% of the total outstanding Shares.

(v) *Opinion of Move's Financial Advisor*

In connection with the Offer and the Merger, Morgan Stanley & Co. LLC, Move's financial advisor ("Morgan Stanley"), rendered to our Board its oral opinion, subsequently confirmed in writing, that as of September 29, 2014, and based upon and subject to the assumptions made, procedures followed, matters considered and qualifications and limitations on the scope of review undertaken by Morgan Stanley as set forth in the written opinion, the consideration to be received by the holders of shares of our common stock (other than the holders of certain excluded shares) pursuant to the Merger Agreement was fair from a financial point of view to such holders. **The full text of the written opinion of Morgan Stanley to our Board, dated as of September 29, 2014, which sets forth, among other things, the assumptions made, procedures followed, matters considered and qualifications and limitations on the scope of the review undertaken by Morgan Stanley in rendering its opinion, is attached to this Schedule 14D-9 as Annex I and is incorporated by reference in this Schedule 14D-9 in its entirety. The summary of the opinion of Morgan Stanley in this Schedule 14D-9 is qualified in its entirety by reference to the full text of the opinion. You are encouraged to read Morgan Stanley's opinion, this section and the summary of Morgan Stanley's opinion below carefully and in their entirety. Morgan Stanley's opinion is directed to our Board, in its capacity as such, and addresses only the fairness from a financial point of view of the consideration to be received by the holders of shares of our common stock (other than the holders of certain excluded shares) pursuant to the**

Table of Contents

merger agreement as of the date of the opinion and did not address any other aspects or implications of Offer and the Merger. Morgan Stanley's opinion was not intended to, and does not, constitute advice or a recommendation to any holder of our common stock as to whether to tender shares into the Offer, or whether to take any other action with respect to the Offer and Merger.

We retained Morgan Stanley to provide us with financial advisory services in connection with our consideration of strategic alternatives, including a possible sale of the Company, and to render a financial opinion in connection with a possible merger, sale or other strategic business combination. Our Board selected Morgan Stanley to act as our financial advisor based on Morgan Stanley's qualifications, expertise and reputation, its knowledge of and involvement in recent transactions in our industry, and its knowledge of our business and affairs. At the meeting of our Board on September 29, 2014, Morgan Stanley rendered its oral opinion, subsequently confirmed in writing, that as of September 29, 2014, and based upon and subject to the assumptions made, procedures followed, matters considered and qualifications and limitations on the scope of review undertaken by Morgan Stanley as set forth in the written opinion, the $21.00 per share in cash to be received by the holders of shares of our common stock (other than shares (1) owned by Parent, Purchaser, any wholly-owned subsidiary of Parent or any wholly-owned subsidiary of the Company, (2) held in the treasury of the Company or any of our subsidiaries, or (3) as to which dissenters' rights have been perfected, all of which we refer to as excluded shares) pursuant to the Merger Agreement was fair from a financial point of view to such holders.

The full text of the written opinion of Morgan Stanley, dated as of September 29, 2014, which sets forth, among other things, the assumptions made, procedures followed, matters considered and qualifications and limitations on the scope of the review undertaken by Morgan Stanley in rendering its opinion, is attached to this Schedule 14D-9 as Annex I, and is incorporated by reference in this Schedule 14D-9 in its entirety. The summary of the opinion of Morgan Stanley in this Schedule 14D-9 is qualified in its entirety by reference to the full text of the opinion. You are encouraged to read Morgan Stanley's opinion, this section and the summary of Morgan Stanley's opinion carefully and in their entirety. Morgan Stanley's opinion is directed to our Board, in its capacity as such, and addresses only the fairness from a financial point of view of the consideration to be received by the holders of Shares (other than the holders of the excluded shares) pursuant to the Merger Agreement as of the date of the opinion and did not address any other aspects or implications of the Offer and Merger. It was not intended to, and does not, constitute advice or a recommendation to any holder of our common stock as to whether to tender shares into the Offer, or whether to take any other action with respect to the Offer and Merger. The summary of the opinion of Morgan Stanley set forth below is qualified in its entirety by reference to the full text of the opinion.

In connection with rendering its opinion, Morgan Stanley, among other things:

- reviewed certain publicly available financial statements and other business and financial information of the Company;
- reviewed certain internal financial statements and other financial and operating data concerning the Company;
- reviewed certain financial projections prepared by the management of the Company;
- discussed the past and current operations and financial condition and the prospects of the Company with our senior executives;
- reviewed the reported prices and trading activity for our common stock;
- compared our financial performance and the prices and trading activity of our common stock with that of certain other publicly-traded companies comparable with the Company and our securities;
- reviewed the financial terms, to the extent publicly available, of certain comparable acquisition transactions;

Table of Contents

- participated in certain discussions and negotiations among representatives of the Company, Parent, and their financial and legal advisors;
- reviewed the merger agreement and certain related documents; and
- performed such other analyses and reviewed such other information and considered such other factors as Morgan Stanley deemed appropriate.

In arriving at its opinion, Morgan Stanley assumed and relied upon, without independent verification, the accuracy and completeness of the information that was publicly available or supplied or otherwise made available to Morgan Stanley by us and formed a substantial basis for its opinion. Morgan Stanley further relied upon the assurances of our management that it is not aware of any facts or circumstances that would make such information inaccurate or misleading. With respect to the financial projections, Morgan Stanley assumed that they had been reasonably prepared on bases reflecting the best currently available estimates and judgments of our management of the future financial performance of the Company. In addition, Morgan Stanley assumed that the Offer and Merger will be consummated in accordance with the terms set forth in the Merger Agreement without any waiver, amendment or delay of any terms or conditions, and that the definitive Merger Agreement will not differ in any material respect from the draft furnished to Morgan Stanley. Morgan Stanley assumed that, in connection with the receipt of all the necessary governmental, regulatory or other approvals and consents required for the proposed Offer and Merger, no delays, limitations, conditions or restrictions will be imposed that would have a material adverse effect on the contemplated benefits expected to be derived in the proposed Offer and Merger. Morgan Stanley is not a legal, tax or regulatory advisor. Morgan Stanley is a financial advisor only and relied upon, without independent verification, the assessment of the Company and our legal, tax or regulatory advisors with respect to legal, tax or regulatory matters. Morgan Stanley expressed no opinion with respect to the fairness of the amount or nature of the compensation to any of our officers, directors or employees, or any class of such persons, relative to the consideration to be received by the holders of Shares (other than the holders of the excluded shares) in the Offer and Merger. Morgan Stanley did not make any independent valuation or appraisal of our assets or liabilities, nor was Morgan Stanley furnished with any such valuations or appraisals. Morgan Stanley's opinion was necessarily based on financial, economic, market and other conditions as in effect on, and the information made available to Morgan Stanley as of, September 29, 2014. Events occurring after September 29, 2014 may affect Morgan Stanley's opinion and the assumptions used in preparing it, and Morgan Stanley did not assume any obligation to update, revise or reaffirm its opinion.

Summary of Financial Analyses.

The following is a brief summary of the material analyses performed by Morgan Stanley in connection with its oral opinion and the preparation of its written opinion letter, dated September 29, 2014, to our Board. The following summary is not a complete description of Morgan Stanley's opinion or the financial analyses performed and factors considered by Morgan Stanley in connection with its opinion, nor does the order of analyses described represent the relative importance or weight given to those analyses. Except as otherwise noted, the following quantitative information, to the extent that it is based on market data, is based on market data as it existed on or before September 29, 2014, the last full trading day prior to the meeting of our Board to approve and adopt the Merger Agreement, declare the advisability of the Merger Agreement and approve the transactions contemplated thereby, including the Offer and Merger. The various analyses summarized below were based on the closing price of $15.29 per share of our common stock as of September 29, 2014, the last full trading day prior to the meeting of our Board to approve and adopt the Merger Agreement, declare the advisability of the Merger Agreement and approve the transactions contemplated thereby, including the Offer and Merger, and is not necessarily indicative of current market conditions. Some of these summaries of financial analyses include information presented in tabular format. In order to fully understand the financial analyses used by Morgan Stanley, the tables must be read together with the text of each summary. The tables alone do not constitute a complete description of the financial analyses. The analyses listed in the tables and described below must be considered as a whole; considering any portion of such analyses and of the factors considered, without considering all analyses and factors, could create a misleading or incomplete view of the process underlying Morgan Stanley's opinion.

Table of Contents

In performing the financial analysis summarized below and arriving at its opinion, Morgan Stanley used and relied upon certain financial projections provided by our management and referred to below, including the management-provided estimates (which we refer to as Management Cases 1, 2 and 3). For further information regarding these financial projections, see "*Certain Financial Projections*" above.

Trading Range Analysis.

Morgan Stanley performed a trading range analysis with respect to the historical share prices of our common stock for various periods ending on September 29, 2014. Morgan Stanley observed the following:

Period Ending September 29, 2014	Range of Closing Prices
Last 1 Month	$ 14.37 – 15.84
Last 3 Months	$ 13.68 – 16.03
Last 6 Months	$ 9.66 – 16.03
Last 12 Months	$ 9.66 – 18.30

Morgan Stanley observed that our common stock closed at $15.29 on September 29, 2014 (the last full trading day prior to the meeting of our Board to approve and adopt the Merger Agreement, declare the advisability of the Merger Agreement and approve the transactions contemplated thereby, including the Offer and Merger). Morgan Stanley noted that the consideration per share of our common stock of $21.00 pursuant to the Merger Agreement reflected a 37% premium to the closing price per share of our common stock on September 29, 2014, a 36% premium to the average closing price per share of our common stock for the 30 days prior to and including September 29, 2014 and a 15% premium to the highest closing price per share of our common stock for the twelve months prior to and including September 29, 2014.

Equity Research Analysts' Future Price Targets.

Morgan Stanley reviewed and analyzed future public market trading price targets for our common stock prepared and published by equity research analysts that had been compiled by Thomson Reuters prior to September 29, 2014 (the last full trading day prior to the meeting of our Board to approve and adopt the Merger Agreement, declare the advisability of the Merger Agreement and approve the transactions contemplated thereby, including the Offer and Merger). These one year forward targets reflected each analyst's estimate of the future public market trading price of our common stock and were not discounted to reflect present values. The range of undiscounted analyst price targets for our common stock was $18.00 to $23.00 per share as of September 29, 2014. Morgan Stanley discounted the range of analyst price targets per share for our common stock for one year at a rate of 10.5%, which discount rate was selected by Morgan Stanley, upon the application of its professional judgment and experience, to reflect our cost of equity. This analysis indicated an implied range of equity values for our common stock of $16.29 to $20.81 per share as of September 29, 2014.

The public market trading price targets published by equity research analysts do not necessarily reflect current market trading prices for our common stock, and these estimates are subject to uncertainties, including the future financial performance of the Company and future financial market conditions.

Public Trading Comparables Analysis.

Morgan Stanley performed a public trading comparables analysis, which attempts to provide an implied value of a company by comparing it to similar companies that are publicly traded. Morgan Stanley reviewed and compared certain financial estimates for the Company with comparable publicly available consensus equity analyst research estimates for selected companies that share similar business characteristics and have certain comparable operating characteristics including, among other things, similarly sized revenue and/or revenue

Table of Contents

growth rates, market capitalizations, profitability, scale and/or other similar operating characteristics (we refer to these companies as the comparable companies). These companies were the following:

Selected Online Advertising Companies

- AOL Inc.
- Facebook, Inc.
- Google Inc.
- Yahoo! Inc.

Selected Online Vertical Companies

- Bankrate, Inc.
- Dice Holdings, Inc.
- Monster Worldwide, Inc.
- Shutterfly, Inc.
- TechTarget, Inc.
- Travelzoo Inc.
- Trulia, Inc.
- WebMD Health Corp.
- XO Group Inc.
- Zillow, Inc.

For purposes of this analysis, Morgan Stanley analyzed the ratio of aggregate value, which Morgan Stanley defined as fully diluted market capitalization plus total debt, plus non-controlling interest, less cash and cash equivalents, to estimated revenue and Adjusted EBITDA, which is defined as net income excluding net interest expense, income tax expense and certain other non-cash and non-recurring items, principally depreciation, amortization and stock-based compensation and charges, for calendar years 2014 and 2015, of each of these companies based on publicly available financial information compiled by Thomson Reuters for comparison purposes.

Based on its analysis of the relevant metrics for each of the comparable companies and upon the application of its professional judgment and experience, Morgan Stanley selected representative ranges of revenue and Adjusted EBITDA multiples and applied these ranges of multiples to the estimated relevant metric for the Company. For purposes of this analysis and other analyses described below, Morgan Stanley utilized publicly available estimates of revenue and Adjusted EBITDA prepared by equity research analysts, available as of September 29, 2014, which we refer to as the street case.

Table of Contents

Based on the outstanding shares of our common stock on a fully diluted basis (including outstanding options, restricted stock awards, restricted stock units and shares underlying convertible debt) as of September 29, 2014, Morgan Stanley calculated the estimated implied value per share of our common stock as of September 29, 2014 as follows:

Calendar Year Financial Statistic	Selected Comparable Company Multiple Ranges	Implied Value Per Share of Move Common Stock ($)
Street Case		
Aggregate Value to Estimated 2014 Revenue	2.0x – 4.0x	11.96 – 22.51
Aggregate Value to Estimated 2015 Revenue	1.5x – 3.5x	10.39 – 22.56
Street Case		
Aggregate Value to Estimated 2014 Adjusted EBITDA	14.0x – 24.0x	9.33 – 15.41
Aggregate Value to Estimated 2015 Adjusted EBITDA	13.0x – 20.0x	12.40 – 18.56

No company utilized in the public trading comparables analysis is identical to the Company. In evaluating comparable companies, Morgan Stanley made judgments and assumptions with regard to industry performance, general business, economic, market and financial conditions and other matters, many of which are beyond our and Morgan Stanley's control. These include, among other things, the impact of competition on our businesses and the industry generally, industry growth and the absence of any adverse material change in our financial condition and prospects or the industry, or in the financial markets in general. Mathematical analysis (such as determining the average or median) is not in itself a meaningful method of using comparable company data.

Discounted Equity Value Analysis.

Morgan Stanley performed a discounted equity value analysis, which is designed to provide insight into the estimated future value of a company's common equity as a function of the company's estimated future Adjusted EBITDA and a potential range of aggregate value to Adjusted EBITDA multiples. The resulting value is subsequently discounted to arrive at a present value for such company's stock price. In connection with this analysis, Morgan Stanley calculated a range of present equity values per share of our common stock on a stand-alone basis. To calculate the discounted equity value, Morgan Stanley used calendar year 2016 Adjusted EBITDA estimates which were provided by management for Management Cases 1, 2, and 3. Based on its analysis of the relevant metrics for each of the comparable companies, Morgan Stanley applied a range of forward Adjusted EBITDA multiples, selected by application of Morgan Stanley's professional judgment and experience, to these estimates and applied a discount rate of 10.5%, which discount rate was selected by Morgan Stanley, upon the application of its professional judgment and experience, to reflect the Company's weighted average cost of capital.

The following table summarizes Morgan Stanley's analysis:

	Comparable Company Representative Multiple Range	Implied Present Value Per Share of Move Common Stock ($)
Calendar Year 2016 Estimated Adjusted EBITDA		
Case 1	13.0x – 20.0x	11.04 – 17.20
Case 2	13.0x – 20.0x	12.75 – 19.80
Case 3	13.0x – 20.0x	8.44 – 13.20

Discounted Cash Flow Analysis.

Morgan Stanley performed a discounted cash flow analysis, which is designed to provide an implied value of a company by calculating the present value of the estimated future cash flows and terminal value of such company. Morgan Stanley calculated a range of equity values per share for our common stock based on a discounted cash flow analysis to value the Company as a stand-alone entity. Morgan Stanley utilized estimates

SM 202

Table of Contents

from the Management Cases 1, 2, and 3 for purposes of its discounted cash flow analysis. Morgan Stanley first calculated, in each of Management Cases 1, 2, and 3 the estimated free cash flow which is defined as adjusted earnings before interest, taxes, depreciation and amortization, less (1) stock based compensation expense, (2) taxes, (3) capital expenditures, and (4) changes in working capital. With respect to the analysis utilizing Management Cases 1, 2 and 3 estimates through 2017, such analyses were based on projections prepared by our management, and projections for 2018 through 2024 were developed by an extrapolation of 2017 estimates reviewed and approved by management to reach steady state Adjusted EBITDA margins and revenue growth by 2024. Morgan Stanley performed this analysis taking into account the impact of the Company's existing NOLs. Morgan Stanley calculated the net present value of free cash flows for the Company for the years 2015 through 2024 and calculated terminal values in the year 2024 based on a terminal perpetual growth rate ranging from 2.0% to 4.0%. Morgan Stanley selected these terminal perpetual growth rates based on the application of its professional judgment and experience. These values were discounted to present values as of December 31, 2014 at 10.5%, which discount rate was selected, upon the application of Morgan Stanley's professional judgment and experience, to reflect the Company's weighted average cost of capital.

The following table summarizes Morgan Stanley's analysis:

	Implied Present Value Per Share of Move Common Stock ($)
Case 1	11.57 – 13.27
Case 2	16.67 – 19.17
Case 3	7.48 – 8.60

Precedent Transactions Analysis.

Morgan Stanley performed a precedent transactions analysis, which is designed to imply a value of a company based on publicly available financial terms and premia of selected transactions. Morgan Stanley selected such comparable transactions because they shared certain characteristics with the Offer and Merger. In connection with its analysis, Morgan Stanley compared publicly available statistics for select internet transactions with a value greater than $250 million occurring between 2012 and September 29, 2014, select real estate sector transactions occurring between 2012 and September 29, 2014, as well as select general technology transactions with a value of greater than $300 million and all-cash transaction consideration occurring between 2011 and September 29, 2014. The following is a list of the transactions reviewed:

Selected Transactions (Target / Acquiror)

Selected Internet Transactions

Ancestry.com LLC / Permira Advisers Ltd.
Apartments, LLC / CoStar Group Inc.
Cars.com / Gannett Co., Inc.
Conversant, Inc. / Alliance Data Systems Corporation
Ebates Performance Marketing, Inc. / Rakuten, Inc.
Kayak Software Corporation / The Priceline Group Inc.
Market Leader, Inc. / Trulia, Inc.
OpenTable, Inc. / The Priceline Group Inc.
Ticket Monster Inc. / Groupon, Inc.
trivago GmbH / Expedia Inc.
Trulia, Inc. / Zillow, Inc.
Tumblr, Inc. / Yahoo! Inc.
Wotif.com Holdings Limited / Expedia Inc.

SM 203

Table of Contents

Selected Online Real Estate Transactions
Apartments, LLC / CoStar Group Inc.
LoopNet, Inc. / CoStar Group Inc.
Market Leader, Inc. / Trulia, Inc.
Stayz Pty Limited / HomeAway Australia Holdings Pty. Ltd.
Trulia, Inc. / Zillow, Inc.
zipRealty Inc. / Realogy Group LLC

Selected Technology Transactions
Accelrys Inc. / Dassault Systemes SA
Acme Packet, Inc. / Oracle Corporation
Aeroflex Holding Corp. / Cobham plc
Anaren, Inc. / Veritas Capital
Ancestry.com LLC / Permira Advisers Ltd.
Ariba Inc. / SAP America, Inc.
Atheros Communications, Inc. / Qualcomm Incorporated
AuthenTec, Inc. / Apple Inc.
Blackboard Inc. / Providence Equity Partners LLC
Blue Coat Systems Inc. / Thoma Bravo, LLC
BMC Software, Inc. / Bain Capital Private Equity
Compuware Corporation / Thoma Bravo, LLC
Concur Technologies, Inc. / SAP America, Inc.
Conexant Systems Inc. / Golden Gate Capital
Convio, Inc. / Blackbaud Inc.
Dell Inc. / Silver Lake
DemandTec, Inc. / International Business Machines Corporation
EasyLink Services International Corporation / Open Text Corporation
Eloqua, Inc. / Oracle Corporation
Emdeon Inc. / The Blackstone Group L.P.
Epicor Software Corporation / Apax Partners LLP
Epocrates, Inc. / athenahealth , Inc.
ExactTarget, Inc. / Salesforce.com, Inc.
Fusion-io, Inc. / SanDisk Corp.
Gennum Corporation / Semtech Corporation
Greenway Medical Technologies, Inc. / Vista Equity Partners
GSI Commerce (eBay Enterprise, Inc.) / eBay Inc.
Hittite Microwave Corporation / Analog Devices, Inc.
International Rectifier Corporation / Infineon Technologies AG
JDA Software Group Inc. / RedPrairie Corporation
Kenexa Corp. / International Business Machines Corporation
Keynote Systems, Inc. / Thoma Bravo, LLC
Lawson Software Inc. / Infor, Inc.
LSI Corporation / Avago Technologies Limited
Macromill, Inc. / Bain Capital Private Equity
Magma Design Automation LLC / Synopsys Inc.
MModal Inc. / One Equity Partners LLC
Motorola Mobility Holdings, Inc. / Google Inc.
National Semiconductor Corporatoin / Texas Instruments Inc.
NetLogic Microsystems Inc. / Broadcom Corp.
OpenTable, Inc. / The Priceline Group Inc.
Peregrine Semiconductor Corporation / Murata Manufacturing Co., Ltd.
PLX Technologies Inc. / Avago Technologies Limited

SM 204

Table of Contents

Quest Software Inc. / Dell Inc.
Radiant Systems, Inc. / NCR Corp.
Renaissance Learning Inc. / Permira Advisers Ltd.
Responsys, Inc. / Oracle Corporation
RightNow Technologies, Inc. / Oracle Corporation
Riverbed Technologies, Inc. / Elliot Management Corporation
Smart Modular Technologies (WWH), Inc. / Silver Lake
Sourcefire, Inc. / Cisco Systems, Inc.
Standard Microsystems Corporation / Microchip Technology Inc.
sTec, Inc. / Western Digital Corporation
SuccessFactors, Inc. / SAP America, Inc.
Supertex Inc. / Microchip Technology Inc.
Symmetricom Inc. / Microsemi Corporation
Taleo Corp. / Oracle Corporation
Tellabs Inc. / Marlin Equity Partners, LLC
The Active Network, Inc. / Vista Equity Partners
Transcend Services, Inc. / Nuance Communications, Inc.
TripAdvisor Inc. / Liberty Interactive Corporation
UNIT4 N.V. / Advent International Corporation
Varian Medical Systems, Inc. / Applied Materials, Inc.
Vocus Inc. / GTCR, LLC
Volterra Semiconductor Corporation / Maxim Integrated Products, Inc.
Websense, Inc. / Vista Equity Partners
Wolfson Microelectronics plc. / Cirrus Logic Inc.
Wotif.com Holdings Limited / Expedia Inc.

For the internet and online real estate transactions listed above, Morgan Stanley noted the following financial statistics, where available: (1) estimated next twelve months' revenue growth; (2) the multiple of aggregate value of the transaction to last twelve months and next twelve months estimated revenue; and (3) the multiple of aggregate value of the transaction to last twelve months and next twelve months estimated Adjusted EBITDA. For the technology transactions listed above, Morgan Stanley noted the following financial statistics, where available: (1) implied premium to the acquired company's closing share price on the last trading day prior to announcement (or the last trading day prior to the share price being affected by acquisition rumors or similar merger-related news); and (2) implied premium to the acquired company's 30-trading day average closing share price prior to announcement (or the last 30-trading day average closing share price prior to the share price being affected by acquisition rumors or similar merger-related news).

Based on its analysis of the relevant metrics and time frame for each of the transactions listed above and upon the application of its professional judgment and experience, Morgan Stanley selected representative ranges of implied premia and financial multiples of the transactions and applied these ranges of premia and financial multiples to the relevant financial statistic for the Company. For purposes of estimated next twelve months revenue, Morgan Stanley utilized estimates included in the street case. The following table summarizes Morgan Stanley's analysis:

Precedent Transactions Financial Statistic	Representative Ranges	Implied Value Per Share of Move Common Stock ($)
Street Case		
Aggregate Value to Estimated NTM Revenue	2.0x – 5.0x	12.78 – 29.18
Aggregate Value to Estimated NTM Adjusted EBITDA	10.0x – 25.0x	8.47 – 19.82
Aggregate Value to Estimated LTM Adjusted EBITDA	10.0x – 25.0x	5.91 – 13.92
Premia		
Premium to 1-Day Prior Closing Share Price	20.0% – 50.0%	18.35 – 22.94
Premium to 30-Day Average Closing Share Price	25.0% – 55.0%	19.29 – 23.92

SM 206

Table of Contents

No company or transaction utilized in the precedent transactions analysis is identical to us or the Offer and Merger. In evaluating the precedent transactions, Morgan Stanley made judgments and assumptions with regard to industry performance, general business, market and financial conditions and other matters, which are beyond our control, such as the impact of competition on our business or the industry generally, industry growth and the absence of any adverse material change in our financial condition or the industry or in the financial markets in general, which could affect the public trading value of the companies and the aggregate value and equity value of the transactions to which they are being compared. The fact that points in the range of implied present value per share of the Company derived from the valuation of precedent transactions were less than or greater than the consideration for the Offer and Merger is not necessarily dispositive in connection with Morgan Stanley's analysis of the consideration for the Offer and Merger, but one of many factors Morgan Stanley considered.

General.

In connection with the review of the Offer and Merger by our Board, Morgan Stanley performed a variety of financial and comparative analyses for purposes of rendering its opinion. The preparation of a financial opinion is a complex process and is not necessarily susceptible to a partial analysis or summary description. In arriving at its opinion, Morgan Stanley considered the results of all of its analyses as a whole and did not attribute any particular weight to any analysis or factor it considered. Morgan Stanley believes that selecting any portion of its analyses, without considering all analyses as a whole, would create an incomplete view of the process underlying its analyses and opinion. In addition, Morgan Stanley may have given various analyses and factors more or less weight than other analyses and factors, and may have deemed various assumptions more or less probable than other assumptions. As a result, the ranges of valuations resulting from any particular analysis described above should not be taken to be Morgan Stanley's view of the actual value of the Company. In performing its analyses, Morgan Stanley made numerous assumptions with respect to industry performance, general business, regulatory, economic, market and financial conditions and other matters, many of which are beyond our control. These include, among other things, the impact of competition on our businesses and the industry generally, industry growth, and the absence of any adverse material change in the financial condition and prospects of the Company and the industry, and in the financial markets in general. Any estimates contained in Morgan Stanley's analyses are not necessarily indicative of future results or actual values, which may be significantly more or less favorable than those suggested by such estimates.

Morgan Stanley conducted the analyses described above solely as part of its analysis of the fairness from a financial point of view of the consideration to be received by the holders of Shares (other than the holders of the excluded shares) pursuant to the Merger Agreement and in connection with the delivery of its opinion, dated September 29, 2014, to our Board. These analyses do not purport to be appraisals or to reflect the prices at which shares of our common stock might actually trade.

The consideration to be received by the holders of shares of our common stock (other than the holders of the excluded shares) pursuant to the Merger Agreement was determined through arm's length negotiations between the Company and Parent and was approved by our Board. Morgan Stanley provided advice to our Board during these negotiations but did not, however, recommend any specific consideration to the Company or our Board, nor did Morgan Stanley opine that any specific consideration constituted the only appropriate consideration for the Offer and Merger. Morgan Stanley's opinion does not address the relative merits of the Offer and Merger as compared to any other alternative business transactions, or whether or not such alternative business transactions could be achieved or are available. Morgan Stanley's opinion was not intended to, and does not, constitute advice or a recommendation to any holder of our common stock as to whether to tender Shares into the Offer, as to how such holder should vote at any stockholders' meeting to be held in connection with the Merger or whether to take any other action with respect to the Offer or Merger.

Morgan Stanley's opinion and its oral presentation to our Board was one of many factors taken into consideration by our board in deciding to approve and adopt the Merger Agreement, declare the advisability of the Merger Agreement and approve the transactions contemplated thereby, including the Offer and Merger. Consequently, the analyses as described above should not be viewed as determinative of the opinion of our Board

Table of Contents

with respect to the consideration pursuant to the Merger Agreement or of whether our Board would have been willing to agree to different consideration. Morgan Stanley's opinion was approved by a committee of Morgan Stanley investment banking and other professionals in accordance with Morgan Stanley's customary practice.

Our Board retained Morgan Stanley based upon Morgan Stanley's qualifications, experience and expertise. Morgan Stanley is a global financial services firm engaged in the securities, investment management and individual wealth management businesses. Its securities business is engaged in securities underwriting, trading and brokerage activities, foreign exchange, commodities and derivatives trading, prime brokerage, as well as providing investment banking, financing and financial advisory services. Morgan Stanley, its affiliates, directors and officers may at any time invest on a principal basis or manage funds that invest, hold long or short positions, finance positions, and may trade or otherwise structure and effect transactions, for their own account or for the accounts of its customers, in the debt or equity securities or loans of the Company and Parent or any other company, or any currency or commodity, that may be involved in the transactions contemplated by the Merger Agreement, or any related derivative instrument.

Under the terms of its engagement letter, Morgan Stanley provided us financial advisory services and a financial opinion, described in this section and attached to this Schedule 14D-9 as Annex I, in connection with the Offer and Merger, and we have agreed to pay Morgan Stanley a fee of approximately $15 million for its services, $11 million of which is contingent upon the closing of the Offer and $4 million of which has already been paid following the execution of the Merger Agreement and the announcement of the Offer and Merger. We have also agreed to reimburse Morgan Stanley for its expenses, including fees of outside counsel and other professional advisors, incurred in connection with its engagement. In addition, we have agreed to indemnify Morgan Stanley and its affiliates, their respective directors, officers, agents and employees and each person, if any, controlling Morgan Stanley or any of its affiliates against certain liabilities and expenses relating to or arising out of Morgan Stanley's engagement. In the two years prior to the date of its opinion, Morgan Stanley and its affiliates have provided financing services to the Company and have received fees of approximately $2.7 million in connection with such services. In the two years prior to the date of its opinion, Morgan Stanley has not provided financial advisory services or financing services for Parent. Morgan Stanley may seek to provide such services to Parent and the Company in the future and would expect to receive fees for the rendering of these services.

Item 5. Person/Assets Retained, Employed, Compensated or Used.

Pursuant to an engagement letter dated August 25, 2014, which superseded an existing engagement letter dated December 10, 2010, the Company engaged Morgan Stanley to act as its financial advisor in connection with the possible sale of the Company. Pursuant to the terms of this engagement letter, the Company has agreed to pay Morgan Stanley a fee of approximately $15 million for its services, $11 million of which is contingent upon the closing of the Offer and $4 million of which has already been paid following the execution of the Merger Agreement and the announcement of the Offer and Merger. In addition, the Company has agreed to reimburse Morgan Stanley for certain of its expenses, including fees of outside counsel and other professional advisors, as they are required and engaged with our consent, and to indemnify Morgan Stanley and its affiliates, their respective directors, officers, agents and employees and each person, if any, controlling Morgan Stanley or any of its affiliates against certain liabilities and expenses relating to or arising out of Morgan Stanley's engagement. The discussion pertaining to the retention of Morgan Stanley by the Company included above in "Item 4. The Solicitation or Recommendation—Opinion of Move's Financial Advisor" is hereby incorporated by reference in this Item 5.

Except as set forth above, neither Move nor any person acting on its behalf has or currently intends to directly or indirectly employ, retain or compensate any person to make solicitations or recommendations to the stockholders of Move on its behalf with respect to the Offer.

Table of Contents

Item 6. Interest in Securities of the Subject Company.

No transactions with respect to our Shares have been effected by us or, to our knowledge after making reasonable inquiry, by any of our executive officers, directors or affiliates during the 60 days prior to the date of this Schedule 14D-9, except as set forth below.

Name of Person	Transaction Date	Number of Shares	Sale or Exercise Price per Share	Nature of Transaction
Steven H. Berkowitz	8/27/2014	20,000	$ 6.08	Shares acquired pursuant to exercise of stock options; acquisition effected pursuant to a Rule 10b5-1 trading plan
Steven H. Berkowitz	8/27/2014	20,000	$ 15.7937	Sale effected pursuant to a Rule 10b5-1 trading plan
Steven H. Berkowitz	9/10/2014	10,000	$ 6.08	Shares acquired pursuant to exercise of stock options; acquisition effected pursuant to a Rule 10b5-1 trading plan
Steven H. Berkowitz	9/10/2014	10,000	$ 15.414	Sale effected pursuant to Rule 10b5-1 trading plan
Steven H. Berkowitz	9/11/2014	5,000	$ 15.4967	Sale effected pursuant to Rule 10b5-1 trading plan
Steven H. Berkowitz	9/24/2014	10,000	$ 6.08	Shares acquired pursuant to exercise of stock options; acquisition effected pursuant to a Rule 10b5-1 trading plan
Steven H. Berkowitz	9/24/2014	10,000	$ 14.6359	Sale effected pursuant to Rule 10b5-1 trading plan
Steven H. Berkowitz	9/30/2014	45,000	$ 20.9205	Sale effected pursuant to Rule 10b5-1 trading plan
Steven H. Berkowitz	10/8/2014	10,000	$ 6.08	Shares acquired pursuant to exercise of stock options; acquisition effected pursuant to a Rule 10b5-1 trading plan
Steven H. Berkowitz	10/8/2014	10,000	$ 20.9628	Sale effected pursuant to Rule 10b5-1 trading plan
Steven H. Berkowitz	10/9/2014	10,000	$ 20.9484	Sale effected pursuant to Rule 10b5-1 trading plan

During the 60 days prior to the date of this Schedule 14D-9, we may have issued Shares in the ordinary course in respect of the exercise of vested Company Options and/or in settlement of any Company RSUs held by persons other than any of our executive officers, directors, affiliates or subsidiaries.

Item 7. Purposes of the Transaction and Plans or Proposals.

Subject Company Negotiations

(i) Except as set forth in this Schedule 14D-9 (including in the exhibits and annexes hereto) or as incorporated in this Schedule 14D-9 by reference, no negotiations are being undertaken or are underway by us in response to the Offer which relate to a tender offer or other acquisition of our securities by Move, any subsidiary of Move or any other person.

(ii) Except as set forth in this Schedule 14D-9 (including in the exhibits and annexes hereto) or as incorporated in this Schedule 14D-9 by reference, no negotiations are being undertaken or are underway by us in response to the Offer which relate to, or would result in (i) any extraordinary transaction, such as a merger, reorganization or liquidation, involving Move or any subsidiary of Move, (ii) any purchase, sale or transfer of a material amount of assets by Move or any subsidiary of Move or (iii) any material change in the present dividend rate or policy, or indebtedness or capitalization of Move.

(iii) We have agreed that from the date of the Merger Agreement to the Effective Time or the date, if any, on which the Merger Agreement is terminated, we will not, among other matters, solicit alternative acquisition offers. In addition, we have agreed to certain procedures that we must follow in the event Move receives an unsolicited acquisition proposal. The information set forth in Section 11 of the Offer to Purchase under the heading "No Solicitation" is incorporated herein by reference.

Table of Contents

(iv) Except as set forth in this Schedule 14D-9 (including in the exhibits and annexes hereto) or as incorporated in this Schedule 14D-9 by reference, there are no transactions, resolutions of our Board, agreements in principle or signed contracts in response to the Offer that relate to or would result in one or more of the matters referred to in this Item 7.

Item 8. Additional Information.

Golden Parachute Compensation

This section sets forth the information required by Item 402(t) of Regulation S-K regarding the compensation for each of our named executive officers that is based on or otherwise relates to the Offer and the Merger. This compensation is referred to as "golden parachute" compensation by the applicable SEC disclosure rules. The table below summarizes the value of the potential severance, unvested equity awards and other payments and benefits that the named executive officers could be entitled to receive from us under their Severance Agreements, assuming any such officer's employment is terminated by us without cause or by the officer for good reason on October 13, 2014. For purposes of calculating such payments, we have assumed that the closing date of the Merger occurs on October 13, 2014 and the officer incurs a qualifying termination on such date. The amounts set forth in the table are estimates based on multiple assumptions that may or may not actually occur, including assumptions described in this Schedule 14D-9 and in the narrative that follows the table. As a result, the amount, if any, that a named executive officer actually receives may materially differ from the amounts set forth in the table.

	Cash(2)	Equity (3)	Perquisites/ Benefits (4)	Tax Reimbursement (5)	Other	Total
Steven H. Berkowitz	$1,110,020	$18,485,000	$ 36,375	—	—	$19,631,395
Rachel Glaser	$ 474,130	$ 5,521,150	$ 24,250	—	—	$ 6,019,530
Errol Samuelson(1)	—	—	—	—	—	—
John Robison	$ 451,884	$ 6,113,900	$ 24,250	—	—	$ 6,590,034
James S. Caulfield	$ 489,726	$ 4,668,650	$ 24,250	—	—	$ 5,182,626

(1) Mr. Samuelson resigned on March 5, 2014. Accordingly, he will not receive any payments or benefits in connection with the Offer or the Merger that would constitute "golden parachute" compensation for purposes of this applicable SEC disclosure rules. However, Mr. Samuelson may receive consideration in connection with the Offer or the Merger in respect of any Shares he may hold in his capacity as a stockholder of Move.

(2) As described in "Item 3. Past Contacts, Transactions, Negotiations and Agreements. Arrangements with Current Executive Officers and Directors of Move—Executive Severance and Retention Agreements with Executive Officers" above, each current named executive officer has entered into an employment agreement and/or an Executive Severance and Retention Agreement with the Company, each of which has been previously filed with the SEC (each, a "Severance Agreement"). The Severance Agreements provide, among other things, that if the named executive officer's employment is terminated by the Company without cause or by the named executive officer for good reason, in either case, between the period commencing on September 30, 2014 and the date which occurs twelve months following the Effective Time (a "Change in Control Termination"), the named executive officer will be entitled to receive the following cash severance payments from the Company. For Mr. Berkowitz, the amount set forth above represents (i) 12 months of his annual base salary in effect as of October 13, 2014 and (ii) an amount equal to his target annual incentive bonus for 2014, payable in annual installments over the 12 months following termination. For Ms. Glaser and Messrs. Robison and Caulfield, the amount set forth above represents (i) an amount equal to 12 months of annual base salary in effect as of October 13, 2014 (or, in Mr. Caulfield's case, his annual base salary in effect as of 2012), payable in a lump sum 5 business days after the date of termination; (ii) an amount equal to 50% of his or her target annual incentive bonus for 2014 (or, in Mr. Caulfield's case, his target annual incentive bonus for 2012), payable in a lump sum 60 days after the end of the year in which the termination date occurs; and (iii) an additional portion of the executive's incentive bonus amount

Table of Contents

if our financial targets for 2014 are met, prorated for the number of days the executive was employed during such year, less the amount set forth in clause (ii), payable in a lump sum 60 days after the end of the year of termination. For purposes of clause (iii), we have assumed that the Company achieved its financial targets for 2014. These amounts will be paid on a "double-trigger" basis (*i.e.*, only in connection with a qualifying termination of employment in connection with a change in control).

(3) The amounts listed in this column represent, as of October 13, 2014, the aggregate consideration in respect of outstanding Company Options, Company Restricted Stock Awards and Company Restricted Stock Units (determined on a pre-tax basis). This amount is calculated as the sum of: (i) the value of cash amounts payable in respect of outstanding Company Options, calculated on a pre-tax basis by multiplying (x) the excess of the per share Merger Consideration over the respective per share exercise prices of such Company Options by (y) the number of shares subject to such Company Options; (ii) the value of cash amounts payable in respect of Company Restricted Stock Units, calculated on a pre-tax basis, by multiplying (x) the per share Merger Consideration by (y) the number of shares subject to Company Restricted Stock Units; and (iii) the value of cash amounts payable in respect of Company Restricted Stock Awards, calculated on a pre-tax basis by multiplying (x) the per share Merger Consideration by (y) the number of shares subject to such Company Restricted Stock Awards. Pursuant to the Severance Agreements, in the event of a Change in Control Termination, all outstanding and unvested equity awards held by the named executive officer on the date of such termination will vest and become exercisable (if applicable). Accordingly, of the aggregate amounts set forth above, the following portion would only be paid in the event of a Change in Control Termination (a "double-trigger arrangement"): $7,532,369, $3,702,659, $3,931,262, and $1,962,673, for each of Mr. Berkowitz, Ms. Glaser, Mr. Robison and Mr. Caulfield, respectively.

(4) Represents 100% of the executive officer's COBRA premiums to be paid by us for the same or equivalent medical coverage the named executive officer had on the date of his or her termination, for a period not to exceed the earlier of one year (or, in Mr. Berkowitz's case, 18 months) after termination or until the named executive officer becomes eligible for coverage at a new employer. The values shown were determined by multiplying the representative monthly COBRA premiums by 12 months or 18 months, as applicable. These amounts will be paid on a "double-trigger" basis (i.e., only in connection with a qualifying termination of employment in connection with a change in control).

(5) Mr. Berkowitz's Severance Agreement provides that we will reimburse him for any excise taxes imposed under Section 4999 of the Code that are imposed on him and any income and excise taxes that are payable by him as a result of any reimbursement for such excise taxes. Based on estimated calculations prepared by our accounting firm, Mr. Berkowitz would not be subject to any excise taxes imposed under Section 4999 of the Code and accordingly, we would not be obligated to gross him up for such amounts.

The Company may condition receipt of the severance payments and benefits upon the delivery by the named executive officer of a signed mutual release of claims. If the named executive officer receives the severance payments and benefits set forth above, for one year following the executive's termination of employment, the executive agrees not to solicit any employees of Move or otherwise induce any such employees to discontinue their employment relationship with Move. In addition, each named executive officer is subject to a mutual non-disparagement provision.

Please refer to "Item 3. Past Contacts, Transactions, Negotiations and Agreements. Arrangements with Current Executive Officers and Directors of Move—Effect of the Offer and the Merger on Outstanding Securities and Equity Awards" and "Item 3. Past Contacts, Transactions, Negotiations and Agreements. Arrangements with Current Executive Officers and Directors of Move—Executive Severance and Retention Agreements with Executive Officers" for more detail regarding the payments and benefits described in the table above.

See "Item 3. Past Contacts, Transactions, Negotiations and Agreements—Arrangements with Current Executive Officers and Directors of Move—Golden Parachute Compensation" and "Item 3. Past Contacts, Transactions, Negotiations and Agreements—Arrangements with Current Executive Officers and Directors of Move—Executive Severance and Retention Agreements with Executive Officers" for additional information regarding these arrangements.

Table of Contents

Conditions to the Offer

The information set forth in Section 15 of the Offer to Purchase is incorporated herein by reference.

Vote Required to Approve the Merger

On September 29, 2014, our Board unanimously (i) determined that the Merger Agreement and the Transactions, including the Offer and the Merger, are advisable and fair to, and in the best interests of, Move and its stockholders; (ii) approved and adopted the Merger Agreement (including the agreement of merger (as such term is used in Section 251 of the DGCL)) and the Transactions, including the Offer and the Merger, which constitutes approval under Section 203 of the DGCL as a result of which the Merger Agreement and the Transactions are not and would not be subject to any restrictions under Section 203 of the DGCL; (iii) declared the advisability of the Merger Agreement and the Transactions, including the Offer and the Merger; (iv) recommended that the stockholders of Move accept the Offer and tender all of their Shares into the Offer; and (v) elected that any "moratorium," "control share acquisition," "business combination," "fair price" or other form of anti-takeover Laws or regulations of any jurisdiction that purported to be applicable to Move, Parent, the Surviving Corporation, Purchaser, the Offer, the Merger or the Merger Agreement, shall not be applicable to Move, Parent, the Surviving Corporation, Purchaser, the Offer, the Merger or the Merger Agreement. If Purchaser consummates the Offer and the conditions to the Merger are satisfied or waived (to the extent permitted by applicable law), Purchaser intends to effect the Merger without any action by the stockholders of Move pursuant to Section 251(h) of the DGCL.

State Takeover Laws

A number of states (including Delaware, where we are incorporated) have adopted takeover laws and regulations which purport, to varying degrees, to be applicable to attempts to acquire securities of corporations which are incorporated in such states or which have substantial assets, stockholders, principal executive offices or principal places of business therein.

In general, Section 203 of the DGCL prevents a Delaware corporation from engaging in a "business combination" (defined to include mergers and certain other actions) with an "interested stockholder" (including a person who owns or has the right to acquire 15% or more of a corporation's outstanding voting stock) for a period of three years following the time such person became an "interested stockholder" unless, among other things, the "business combination" is approved by our Board of such corporation before such person became an "interested stockholder."

Move, directly or through subsidiaries, conducts business in a number of states throughout the United States, some of which have enacted takeover laws. We do not know whether any of these laws will, by their terms, apply to the Offer or the Merger and have not attempted to comply with any such laws. Should any person seek to apply any state takeover law, we will take such action as then appears desirable, which may include challenging the validity or applicability of any such statute in appropriate court proceedings. In the event any person asserts that the takeover laws of any state are applicable to the Offer or the Merger, and an appropriate court does not determine that it is inapplicable or invalid as applied to the Offer or the Merger, we may be required to file certain information with, or receive approvals from, the relevant state authorities. In addition, if enjoined, Purchaser may be unable to accept for payment any Shares tendered pursuant to the Offer, or be delayed in continuing or consummating the Offer and the Merger. In such case, Purchaser may not be obligated to accept for payment any Shares tendered in the Offer.

In accordance with the provisions of Section 203, our Board has approved the Merger Agreement and the Transactions, as described in Item 4 above and, for purposes of Section 203 of the DGCL.

Table of Contents

Appraisal Rights

No appraisal rights are available to the holders of Shares in connection with the Offer. However, if the Offer is successful and the Merger is consummated, stockholders of Move who have not properly tendered in the Offer and have neither voted in favor of the Merger nor consented thereto in writing, and who otherwise comply with the applicable procedures under Section 262 of the DGCL, and who do not thereafter withdraw their demand for appraisal of their Shares or otherwise lose their appraisal rights, in each case in accordance with the DGCL, will be entitled to receive appraisal rights for the "fair value" of their Shares in accordance with Section 262 of the DGCL. The "fair value" of any Shares could be based upon considerations other than, or in addition to, the price paid in the Offer and the market value of such Shares. Stockholders should be aware that the fair value of their Shares could be more than, the same as or less than the consideration to be received pursuant to the Merger and that an investment banking opinion as to the fairness, from a financial point of view, of the consideration payable in a sale transaction, such as the Offer and the Merger, is not an opinion as to, and does not otherwise address, fair value under Section 262 of the DGCL. Moreover, Purchaser may argue in an appraisal proceeding that, for purposes of such proceeding, the fair value of such Shares is less than such amount. Any stockholder contemplating the exercise of such appraisal rights should review carefully the provisions of Section 262 of the DGCL, particularly the procedural steps required to perfect such rights.

The obligations of Move to notify stockholders of their appraisal rights will depend on how the Merger is effected. If the Merger is effected as expected under Section 251(h) without holding a stockholder meeting, either Move before the effective date of the Merger or the Surviving Corporation within ten days after the date the Merger has become effective, will be required to send a notice to each stockholder of record on the effective date of the Merger. The notice will inform stockholders of the effective date of the Merger and of the availability of, and procedure for demanding, appraisal rights, and will include a copy of Section 262 of the DGCL. If for some unexpected reason the Merger cannot be effected pursuant to Section 251(h) and a meeting of Move's stockholders is held to approve the Merger, Move will be required to send a notice not less than 20 days prior to such meeting to each stockholder of record on the record date established for the stockholder meeting that appraisal rights are available, together with a copy of Section 262 of the DGCL. FAILURE TO FOLLOW THE STEPS REQUIRED BY SECTION 262 OF THE DGCL FOR PERFECTING APPRAISAL RIGHTS MAY RESULT IN THE LOSS OF SUCH RIGHTS. **This Schedule 14D-9 will constitute the formal notice of appraisal rights under Section 262 of the DGCL.**

The foregoing summary of the appraisal rights of stockholders under the DGCL does not purport to be a complete statement of the procedures to be followed by stockholders desiring to exercise any appraisal rights available thereunder and is qualified in its entirety by reference to Section 262 of the DGCL. The proper exercise of appraisal rights requires strict and timely adherence to the applicable provisions of Delaware law. A copy of Section 262 of the DGCL is included as Annex II to this Schedule 14D-9.

The information provided above is for informational purposes only with respect to your alternatives if the Merger is consummated. If you tender your Shares pursuant to the Offer, you will not be entitled to exercise appraisal rights with respect to your Shares but, instead, subject to the Offer Conditions, you will receive the Offer Price for your Shares.

APPRAISAL RIGHTS CANNOT BE EXERCISED AT THIS TIME. THE INFORMATION SET FORTH ABOVE IS FOR INFORMATIONAL PURPOSES ONLY WITH RESPECT TO ALTERNATIVES AVAILABLE TO STOCKHOLDERS IF THE MERGER IS COMPLETED. STOCKHOLDERS WHO WILL BE ENTITLED TO APPRAISAL RIGHTS IN CONNECTION WITH THE MERGER WILL RECEIVE ADDITIONAL INFORMATION CONCERNING APPRAISAL RIGHTS AND THE PROCEDURES TO BE FOLLOWED IN CONNECTION THEREWITH BEFORE SUCH STOCKHOLDERS HAVE TO TAKE ANY ACTION RELATING THERETO.

Table of Contents

Antitrust Compliance

Under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), and the related rules and regulations that have been issued by the Federal Trade Commission (the "FTC"), certain proposed acquisitions may not be consummated until required information and documentary material has been furnished for review by the FTC and the Antitrust Division of the Department of Justice (the "Antitrust Division") and the applicable waiting period requirements have been satisfied. These requirements apply to Purchaser's proposed acquisition of the Shares in the Offer and the Merger.

Under the HSR Act, the purchase of Shares in the Offer may not be completed until the expiration of a 15 calendar day waiting period following the filing by Parent, on behalf of Purchaser, of a Premerger Notification and Report Form concerning the Offer with the FTC and the Antitrust Division, unless the waiting period is earlier terminated by the FTC and the Antitrust Division. If the end of the 15 calendar day waiting period is set to fall on a federal holiday or weekend day, the waiting period is automatically extended until 11:59 p.m., New York City time, the next business day. Each of Parent and Move filed on October 15, 2014 a Premerger Notification and Report Form with the FTC and the Antitrust Division in connection with the purchase of Shares in the Offer. Accordingly, the required waiting period with respect to the Offer will expire at 11:59 p.m., New York City time, on October 30, 2014, unless earlier terminated by the FTC and the Antitrust Division or unless the FTC or the Antitrust Division issues a request for additional information and documentary material (a "Second Request") prior to that time. If within the 15 calendar day waiting period either the FTC or the Antitrust Division issues a Second Request, the waiting period with respect to the Offer would be extended until 10 calendar days following the date of substantial compliance by Parent with that request, unless the FTC or the Antitrust Division terminates the additional waiting period before its expiration. Only one extension of the applicable waiting period pursuant to a Second Request is authorized by the HSR Act rules. After the expiration of the 10 calendar day waiting period, the waiting period could be extended only by court order or with the consent of Parent. In practice, complying with a Second Request can take a significant period of time. Although Move is required to file a Premerger Notification and Report Form with the FTC and the Antitrust Division in connection with the Offer, neither Move's failure to file such Premerger Notification and Report Form nor a Second Request issued to Move from the FTC or the Antitrust Division will extend the waiting period with respect to the purchase of Shares in the Offer. The Merger will not require an additional filing under the HSR Act if Purchaser owns more than 50% of the outstanding Shares at the time of the Merger or if the Merger occurs within one year after the HSR Act waiting period applicable to the Offer expires or is terminated.

The FTC and the Antitrust Division will review the legality under the U.S. federal antitrust laws of Purchaser's proposed acquisition of Move. At any time before or after Purchaser's acceptance for payment of Shares pursuant to the Offer, the Antitrust Division or the FTC could take any action under the antitrust laws that it either considers necessary or desirable in the public interest, including seeking a federal court order enjoining the transaction or, if Shares have already been acquired, requiring divestiture of such Shares, or the divestiture of substantial assets of Parent, Purchaser, Move, or any of their respective subsidiaries or affiliates or requiring other conduct relief. United States state attorneys general and private persons may also bring legal action under the antitrust laws seeking similar relief or seeking conditions to the completion of the Offer. There can be no assurance that a challenge to the Offer on antitrust grounds will not be made or, if such a challenge is made, the result thereof.

Cautionary Note Regarding Forward-Looking Statements

Statements included in this Schedule 14D-9C that are not a description of historical facts are forward-looking statements. Words or phrases such as "believe," "may," "could," "will," "estimate," "continue," "anticipate," "intend," "seek," "plan," "expect," "should," "would" or similar expressions are intended to identify forward-looking statements, and are based on Move's current beliefs and expectations. These forward-looking statements include without limitation statements regarding the planned completion of the Offer and the Merger. You are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date hereof. Move's actual future results may differ materially from Move's current expectations due to the risks

Table of Contents

and uncertainties inherent in its business. These risks include, but are not limited to: uncertainties as to the timing of the Offer and the Merger; uncertainties as to the percentage of Move's stockholders tendering their shares in the Offer; the possibility that competing offers will be made; the possibility that various closing conditions for the Offer or the Merger may not be satisfied or waived, including that a governmental entity may prohibit, delay or refuse to grant approval for the consummation of the Merger; the effects of disruption caused by the transaction making it more difficult to maintain relationships with employees, collaborators, customers, vendors and other business partners; the risk that stockholder litigation in connection with the Offer or the Merger may result in significant costs of defense, indemnification and liability; and risks and uncertainties pertaining to the business of Move, including the risks detailed under "Risk Factors" and elsewhere in Move's public periodic filings with the SEC, as well as the tender offer materials to be filed by Parent and Merger Sub and the Solicitation/Recommendation Statement to be filed by Move in connection with the Offer. All forward-looking statements are qualified in their entirety by this cautionary statement and Move undertakes no obligation to revise or update this report to reflect events or circumstances after the date hereof, except as required by law.

Table of Contents

Item 9. Exhibits.

Exhibit No.	Description
(a)(1)(A)	Offer to Purchase, dated October 15, 2014 (incorporated by reference to Exhibit (a)(1)(A) to the Schedule TO of News Corporation and Magpie Merger Sub, Inc. filed with the Securities and Exchange Commission on October 15, 2014 (the "Schedule TO")).
(a)(1)(B)	Letter of Transmittal (incorporated by reference to Exhibit (a)(1)(B) to the Schedule TO).
(a)(1)(C)	Notice of Guaranteed Delivery (incorporated by reference to Exhibit (a)(1)(C) to the Schedule TO).
(a)(1)(D)	Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees (incorporated by reference to Exhibit (a)(1)(D) to the Schedule TO).
(a)(1)(E)	Letter to Clients for Use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees (incorporated by reference to Exhibit (a)(1)(E) to the Schedule TO).
(a)(5)(A)	Press Release, issued by News Corporation and Move, Inc., dated September 30, 2014 (incorporated herein by reference to the press release filed under the cover of Schedule 14D-9C by Move, Inc. on September 30, 2014).
(a)(5)(B)	Summary Advertisement published in The Wall Street Journal on October 15, 2014 (incorporated by reference to Exhibit (a)(1)(G) to the Schedule TO).
(a)(5)(C)	Opinion, dated September 29, 2014, of Morgan Stanley to our Board of Directors of Move, Inc. (incorporated by referenced to Annex I attached to this Schedule 14D-9).
(e)(1)	Agreement and Plan of Merger, dated as of September 30, 2014, by and among Move, Inc., News Corporation and Magpie Merger Sub, Inc. (incorporated by reference to Exhibit 2.1 to Move, Inc.'s Current Report on Form 8-K filed with the Securities and Exchange Commission on September 30, 2014).
(e)(2)	Form of Executive Tender and Support Agreements, each dated September 30, 2014, by and among News Corporation, Magpie Merger Sub, Inc., and each of Steven H. Berkowitz and James S. Caulfield. (incorporated by reference to Exhibit 99.2 to Move, Inc.'s Current Report on Form 8-K filed with the Securities and Exchange Commission on September 30, 2014).
(e)(3)	NAR Tender and Support Agreement, dated September 30, 2014, by and among News Corporation, Magpie Merger Sub, Inc. and the National Association of Realtors® (incorporated by reference to Exhibit 99.3 to Move, Inc.'s Current Report on Form 8-K filed with the Securities and Exchange Commission on September 30, 2014).
(e)(4)	Confidentiality Agreement, dated October 21, 2013, by and between News Corporation and Move, Inc.
(e)(5)	Amendment 1 to Confidentiality Agreement, dated June 30, 2014, by and between News Corporation and Move, Inc.
(e)(6)	Consent Agreement, dated September 30, 2014, by and among News Corporation, Magpie Merger Sub, Inc., Move, Inc., RealSelect, Inc., the National Association of Realtors® and Realtors® Information Network, Inc. (incorporated by reference to Exhibit 99.1 to Move, Inc.'s Current Report on Form 8-K filed with the Securities and Exchange Commission on September 30, 2014).
(e)(7)	Pertinent portions of the Move, Inc. proxy statement on Schedule 14A, filed with the SEC on April 24, 2014 (incorporated by reference as provided in item 3 hereof).

Table of Contents

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

MOVE, INC.

By:	/s/ Steven H. Berkowitz
Name:	Steven H. Berkowitz
Title:	Chief Executive Officer

Dated: October 15, 2014

Annex I—Opinion, dated September 29, 2014, 2014, of Morgan Stanley to our Board

Annex II—Section 262 of the Delaware General Corporation Law.

SM 217

Table of Contents

Annex I

Opinion of Morgan Stanley to our Board

2725 Sand Hill Road
Suite 200
Menlo Park, CA 94025

Morgan Stanley

September 29, 2014

Board of Directors
Move, Inc.
10 Almaden Blvd., Suite #800
San Jose, CA 95113

Members of the Board:

We understand that Move, Inc. ("**Move**" or the "**Company**"), News Corporation (the "**Acquiror**") and Magpie Merger Sub, Inc., a subsidiary of the Acquiror ("**Merger Sub**"), propose to enter into an Agreement and Plan of Merger, substantially in the form of the draft dated September 29, 2014 (the "**Merger Agreement**"), which provides, among other things, for (i) the commencement by Merger Sub of a tender offer (the "**Tender Offer**") to purchase all of the issued and outstanding shares of common stock of the Company, par value $0.001 per share (the "**Company Common Stock**"), at a price per share equal to $21.00 in cash, and (ii) the subsequent merger (the "**Merger**") of Merger Sub with and into the Company. Pursuant to the Merger, the Company will become a wholly owned subsidiary of the Acquiror, and each issued and outstanding share of the Company Common Stock, other than shares (i) owned by the Acquiror, Merger Sub, any wholly-owned subsidiary of the Acquiror or any wholly-owned subsidiary of the Company, (ii) shares held in the treasury of the Company or any of its subsidiaries, or (iii) shares as to which dissenters' rights have been perfected (collectively, the "**Excluded Shares**"), will be converted into the right to receive in cash an amount per share equal to $21.00 (the "**Consideration**"). The terms and conditions of the Tender Offer and the Merger are more fully set forth in the Merger Agreement.

You have asked for our opinion as to whether the Consideration to be received by the holders of shares of the Company Common Stock (other than the holders of the Excluded Shares) pursuant to the Merger Agreement is fair from a financial point of view to such holders of shares of the Company Common Stock.

For purposes of the opinion set forth herein, we have:

1) Reviewed certain publicly available financial statements and other business and financial information of the Company;
2) Reviewed certain internal financial statements and other financial and operating data concerning the Company;
3) Reviewed certain financial projections prepared by the management of the Company;
4) Discussed the past and current operations and financial condition and the prospects of the Company with senior executives of the Company;
5) Reviewed the reported prices and trading activity for the Company Common Stock;
6) Compared the financial performance of the Company and the prices and trading activity of the Company Common Stock with that of certain other publicly-traded companies comparable with the Company and its securities;

Table of Contents

7) Reviewed the financial terms, to the extent publicly available, of certain comparable acquisition transactions;

8) Participated in certain discussions and negotiations among representatives of the Company and the Acquiror and their financial and legal advisors;

9) Reviewed the Merger Agreement and certain related documents; and

10) Performed such other analyses and reviewed such other information and considered such other factors as we have deemed appropriate.

We have assumed and relied upon, without independent verification, the accuracy and completeness of the information that was publicly available or supplied or otherwise made available to us by the Company, and formed a substantial basis for this opinion. We have further relied upon the assurances of the management of the Company that it is not aware of any facts or circumstances that would make such information inaccurate or misleading. With respect to the financial projections, we have assumed that they have been reasonably prepared on bases reflecting the best currently available estimates and judgments of the management of the Company of the future financial performance of the Company. In addition, we have assumed that the Tender Offer and the Merger will be consummated in accordance with the terms set forth in the Merger Agreement without any waiver, amendment or delay of any terms or conditions and that the definitive Merger Agreement will not differ in any material respect from the draft thereof furnished to us. Morgan Stanley has assumed that in connection with the receipt of all the necessary governmental, regulatory or other approvals and consents required for the proposed Tender Offer and Merger, no delays, limitations, conditions or restrictions will be imposed that would have a material adverse effect on the contemplated benefits expected to be derived in the proposed Tender Offer and Merger. We are not legal, tax or regulatory advisors. We are financial advisors only and have relied upon, without independent verification, the assessment of the Company and its legal, tax or regulatory advisors with respect to legal, tax or regulatory matters. We express no opinion with respect to the fairness of the amount or nature of the compensation to any of the Company's officers, directors or employees, or any class of such persons, relative to the consideration to be received by the holders of shares of the Company Common Stock (other than holders of the Excluded Shares) in the Tender Offer and the Merger. We have not made any independent valuation or appraisal of the assets or liabilities of the Company, nor have we been furnished with any such valuations or appraisals. Our opinion is necessarily based on financial, economic, market and other conditions as in effect on, and the information made available to us as of, the date hereof. Events occurring after the date hereof may affect this opinion and the assumptions used in preparing it, and we do not assume any obligation to update, revise or reaffirm this opinion.

We have acted as financial advisor to the Board of Directors of the Company in connection with this transaction and will receive a fee for our services, a portion of which is contingent upon the execution and announcement of the Merger Agreement by the Company and the substantial remainder of which is contingent upon the closing of the Tender Offer. In the two years prior to the date hereof, we have provided financing services for the Company and have received fees in connection with such services. Morgan Stanley may also seek to provide financial advisory and financing services to the Acquiror and the Company in the future and would expect to receive fees for the rendering of these services.

Please note that Morgan Stanley is a global financial services firm engaged in the securities, investment management and individual wealth management businesses. Our securities business is engaged in securities underwriting, trading and brokerage activities, foreign exchange, commodities and derivatives trading, prime brokerage, as well as providing investment banking, financing and financial advisory services. Morgan Stanley, its affiliates, directors and officers may at any time invest on a principal basis or manage funds that invest, hold long or short positions, finance positions, and may trade or otherwise structure and effect transactions, for their own account or the accounts of its customers, in debt or equity securities or loans of the Acquiror, the Company, or any other company, or any currency or commodity, that may be involved in this transaction, or any related derivative instrument.

Table of Contents

This opinion has been approved by a committee of Morgan Stanley investment banking and other professionals in accordance with our customary practice. This opinion is for the information of the Board of Directors of the Company and may not be used for any other purpose without our prior written consent, except that a copy of this opinion may be included in its entirety in any filing the Company is required to make with the Securities and Exchange Commission in connection with this transaction if such inclusion is required by applicable law.

Our opinion does not address the relative merits of the Tender Offer and Merger as compared to any other alternative business transaction, or other alternatives, or whether or not such alternatives could be achieved or are available. In addition Morgan Stanley expresses no opinion or recommendation as to how the stockholders of the Company should vote at any stockholders' meeting that may be held in connection with the Merger.

Based on and subject to the foregoing, we are of the opinion on the date hereof that the Consideration to be received by the holders of shares of the Company Common Stock (other than the holders of the Excluded Shares) pursuant to the Merger Agreement is fair from a financial point of view to such holders of shares of the Company Common Stock.

Very truly yours,

MORGAN STANLEY & CO. LLC

By: /s/ Michael F. Wyatt

Michael F. Wyatt
Managing Director

Table of Contents

Annex II

Section 262 of the Delaware General Corporation Law

SECTION 262. APPRAISAL RIGHTS.

(a) Any stockholder of a corporation of this State who holds shares of stock on the date of the making of a demand pursuant to subsection (d) of this section with respect to such shares, who continuously holds such shares through the effective date of the merger or consolidation, who has otherwise complied with subsection (d) of this section and who has neither voted in favor of the merger or consolidation nor consented thereto in writing pursuant to §228 of this title shall be entitled to an appraisal by the Court of Chancery of the fair value of the stockholder's shares of stock under the circumstances described in subsections (b) and (c) of this section. As used in this section, the word "stockholder" means a holder of record of stock in a corporation; the words "stock" and "share" mean and include what is ordinarily meant by those words; and the words "depository receipt" mean a receipt or other instrument issued by a depository representing an interest in 1 or more shares, or fractions thereof, solely of stock of a corporation, which stock is deposited with the depository.

(b) Appraisal rights shall be available for the shares of any class or series of stock of a constituent corporation in a merger or consolidation to be effected pursuant to §251 (other than a merger effected pursuant to §251(g) of this title and, subject to paragraph (b)(3) of this section, §251(h) of this title), §252, §254, §255, §256, §257, §258, §263 or §264 of this title:

(1) Provided, however, that, except as expressly provided in §363(b) of this title, no appraisal rights under this section shall be available for the shares of any class or series of stock, which stock, or depository receipts in respect thereof, at the record date fixed to determine the stockholders entitled to receive notice of the meeting of stockholders to act upon the agreement of merger or consolidation, were either (i) listed on a national securities exchange or (ii) held of record by more than 2,000 holders; and further provided that no appraisal rights shall be available for any shares of stock of the constituent corporation surviving a merger if the merger did not require for its approval the vote of the stockholders of the surviving corporation as provided in §251(f) of this title.

(2) Notwithstanding paragraph (b)(1) of this section, appraisal rights under this section shall be available for the shares of any class or series of stock of a constituent corporation if the holders thereof are required by the terms of an agreement of merger or consolidation pursuant to §§251, 252, 254, 255, 256, 257, 258, 263 and 264 of this title to accept for such stock anything except:

a. Shares of stock of the corporation surviving or resulting from such merger or consolidation, or depository receipts in respect thereof;

b. Shares of stock of any other corporation, or depository receipts in respect thereof, which shares of stock (or depository receipts in respect thereof) or depository receipts at the effective date of the merger or consolidation will be either listed on a national securities exchange or held of record by more than 2,000 holders;

c. Cash in lieu of fractional shares or fractional depository receipts described in the foregoing paragraphs (b)(2) a. and b.; or

d. Any combination of the shares of stock, depository receipts and cash in lieu of fractional shares or fractional depository receipts described in the foregoing paragraphs (b)(2) a., b. and c. of this section.

(3) In the event all of the stock of a subsidiary Delaware corporation party to a merger effected under §251(h), §253 or §267 of this title is not owned by the parent immediately prior to the merger, appraisal rights shall be available for the shares of the subsidiary Delaware corporation.

(4) In the event of an amendment to a corporation's certificate of incorporation contemplated by §363(a) of this title, appraisal rights shall be available as contemplated by §363(b) of this title, and the procedures of this

SM 221

Table of Contents

section, including those set forth in subsections (d) and (e) of this section, shall apply as nearly as practicable, with the word "amendment" substituted for the words "merger or consolidation", and the word "corporation" substituted for the words "constituent corporation" and/or "surviving or resulting corporation".

(c) Any corporation may provide in its certificate of incorporation that appraisal rights under this section shall be available for the shares of any class or series of its stock as a result of an amendment to its certificate of incorporation, any merger or consolidation in which the corporation is a constituent corporation or the sale of all or substantially all of the assets of the corporation. If the certificate of incorporation contains such a provision, the procedures of this section, including those set forth in subsections (d) and (e) of this section, shall apply as nearly as is practicable.

(d) Appraisal rights shall be perfected as follows:

(1) If a proposed merger or consolidation for which appraisal rights are provided under this section is to be submitted for approval at a meeting of stockholders, the corporation, not less than 20 days prior to the meeting, shall notify each of its stockholders who was such on the record date for notice of such meeting (or such members who received notice in accordance with §255(c) of this title) with respect to shares for which appraisal rights are available pursuant to subsection (b) or (c) of this section that appraisal rights are available for any or all of the shares of the constituent corporations, and shall include in such notice a copy of this section and, if 1 of the constituent corporations is a nonstock corporation, a copy of §114 of this title. Each stockholder electing to demand the appraisal of such stockholder's shares shall deliver to the corporation, before the taking of the vote on the merger or consolidation, a written demand for appraisal of such stockholder's shares. Such demand will be sufficient if it reasonably informs the corporation of the identity of the stockholder and that the stockholder intends thereby to demand the appraisal of such stockholder's shares. A proxy or vote against the merger or consolidation shall not constitute such a demand. A stockholder electing to take such action must do so by a separate written demand as herein provided. Within 10 days after the effective date of such merger or consolidation, the surviving or resulting corporation shall notify each stockholder of each constituent corporation who has complied with this subsection and has not voted in favor of or consented to the merger or consolidation of the date that the merger or consolidation has become effective; or

(2) If the merger or consolidation was approved pursuant to §228, §251(h), §253, or §267 of this title, then either a constituent corporation before the effective date of the merger or consolidation or the surviving or resulting corporation within 10 days thereafter shall notify each of the holders of any class or series of stock of such constituent corporation who are entitled to appraisal rights of the approval of the merger or consolidation and that appraisal rights are available for any or all shares of such class or series of stock of such constituent corporation, and shall include in such notice a copy of this section and, if 1 of the constituent corporations is a nonstock corporation, a copy of §114 of this title. Such notice may, and, if given on or after the effective date of the merger or consolidation, shall, also notify such stockholders of the effective date of the merger or consolidation. Any stockholder entitled to appraisal rights may, within 20 days after the date of mailing of such notice or, in the case of a merger approved pursuant to §251(h) of this title, within the later of the consummation of the tender or exchange offer contemplated by §251(h) of this title and 20 days after the date of mailing of such notice, demand in writing from the surviving or resulting corporation the appraisal of such holder's shares. Such demand will be sufficient if it reasonably informs the corporation of the identity of the stockholder and that the stockholder intends thereby to demand the appraisal of such holder's shares. If such notice did not notify stockholders of the effective date of the merger or consolidation, either (i) each such constituent corporation shall send a second notice before the effective date of the merger or consolidation notifying each of the holders of any class or series of stock of such constituent corporation that are entitled to appraisal rights of the effective date of the merger or consolidation or (ii) the surviving or resulting corporation shall send such a second notice to all such holders on or within 10 days after such effective date; provided, however, that if such second notice is sent more than 20 days following the sending of the first notice or, in the case of a merger approved pursuant to §251(h) of this title, later than the later of the consummation of the tender or exchange offer contemplated by §251(h) of this title and 20 days following the sending of the first notice, such second notice need only be sent to each stockholder who is entitled to appraisal rights and who has demanded appraisal of such holder's shares in

Table of Contents

accordance with this subsection. An affidavit of the secretary or assistant secretary or of the transfer agent of the corporation that is required to give either notice that such notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated therein. For purposes of determining the stockholders entitled to receive either notice, each constituent corporation may fix, in advance, a record date that shall be not more than 10 days prior to the date the notice is given, provided, that if the notice is given on or after the effective date of the merger or consolidation, the record date shall be such effective date. If no record date is fixed and the notice is given prior to the effective date, the record date shall be the close of business on the day next preceding the day on which the notice is given.

(e) Within 120 days after the effective date of the merger or consolidation, the surviving or resulting corporation or any stockholder who has complied with subsections (a) and (d) of this section hereof and who is otherwise entitled to appraisal rights, may commence an appraisal proceeding by filing a petition in the Court of Chancery demanding a determination of the value of the stock of all such stockholders. Notwithstanding the foregoing, at any time within 60 days after the effective date of the merger or consolidation, any stockholder who has not commenced an appraisal proceeding or joined that proceeding as a named party shall have the right to withdraw such stockholder's demand for appraisal and to accept the terms offered upon the merger or consolidation. Within 120 days after the effective date of the merger or consolidation, any stockholder who has complied with the requirements of subsections (a) and (d) of this section hereof, upon written request, shall be entitled to receive from the corporation surviving the merger or resulting from the consolidation a statement setting forth the aggregate number of shares not voted in favor of the merger or consolidation and with respect to which demands for appraisal have been received and the aggregate number of holders of such shares. Such written statement shall be mailed to the stockholder within 10 days after such stockholder's written request for such a statement is received by the surviving or resulting corporation or within 10 days after expiration of the period for delivery of demands for appraisal under subsection (d) of this section hereof, whichever is later. Notwithstanding subsection (a) of this section, a person who is the beneficial owner of shares of such stock held either in a voting trust or by a nominee on behalf of such person may, in such person's own name, file a petition or request from the corporation the statement described in this subsection.

(f) Upon the filing of any such petition by a stockholder, service of a copy thereof shall be made upon the surviving or resulting corporation, which shall within 20 days after such service file in the office of the Register in Chancery in which the petition was filed a duly verified list containing the names and addresses of all stockholders who have demanded payment for their shares and with whom agreements as to the value of their shares have not been reached by the surviving or resulting corporation. If the petition shall be filed by the surviving or resulting corporation, the petition shall be accompanied by such a duly verified list. The Register in Chancery, if so ordered by the Court, shall give notice of the time and place fixed for the hearing of such petition by registered or certified mail to the surviving or resulting corporation and to the stockholders shown on the list at the addresses therein stated. Such notice shall also be given by 1 or more publications at least 1 week before the day of the hearing, in a newspaper of general circulation published in the City of Wilmington, Delaware or such publication as the Court deems advisable. The forms of the notices by mail and by publication shall be approved by the Court, and the costs thereof shall be borne by the surviving or resulting corporation.

(g) At the hearing on such petition, the Court shall determine the stockholders who have complied with this section and who have become entitled to appraisal rights. The Court may require the stockholders who have demanded an appraisal for their shares and who hold stock represented by certificates to submit their certificates of stock to the Register in Chancery for notation thereon of the pendency of the appraisal proceedings; and if any stockholder fails to comply with such direction, the Court may dismiss the proceedings as to such stockholder.

(h) After the Court determines the stockholders entitled to an appraisal, the appraisal proceeding shall be conducted in accordance with the rules of the Court of Chancery, including any rules specifically governing appraisal proceedings. Through such proceeding the Court shall determine the fair value of the shares exclusive of any element of value arising from the accomplishment or expectation of the merger or consolidation, together with interest, if any, to be paid upon the amount determined to be the fair value. In determining such fair value,

Table of Contents

the Court shall take into account all relevant factors. Unless the Court in its discretion determines otherwise for good cause shown, interest from the effective date of the merger through the date of payment of the judgment shall be compounded quarterly and shall accrue at 5% over the Federal Reserve discount rate (including any surcharge) as established from time to time during the period between the effective date of the merger and the date of payment of the judgment. Upon application by the surviving or resulting corporation or by any stockholder entitled to participate in the appraisal proceeding, the Court may, in its discretion, proceed to trial upon the appraisal prior to the final determination of the stockholders entitled to an appraisal. Any stockholder whose name appears on the list filed by the surviving or resulting corporation pursuant to subsection (f) of this section and who has submitted such stockholder's certificates of stock to the Register in Chancery, if such is required, may participate fully in all proceedings until it is finally determined that such stockholder is not entitled to appraisal rights under this section.

(i) The Court shall direct the payment of the fair value of the shares, together with interest, if any, by the surviving or resulting corporation to the stockholders entitled thereto. Payment shall be so made to each such stockholder, in the case of holders of uncertificated stock forthwith, and the case of holders of shares represented by certificates upon the surrender to the corporation of the certificates representing such stock. The Court's decree may be enforced as other decrees in the Court of Chancery may be enforced, whether such surviving or resulting corporation be a corporation of this State or of any state.

(j) The costs of the proceeding may be determined by the Court and taxed upon the parties as the Court deems equitable in the circumstances. Upon application of a stockholder, the Court may order all or a portion of the expenses incurred by any stockholder in connection with the appraisal proceeding, including, without limitation, reasonable attorney's fees and the fees and expenses of experts, to be charged pro rata against the value of all the shares entitled to an appraisal.

(k) From and after the effective date of the merger or consolidation, no stockholder who has demanded appraisal rights as provided in subsection (d) of this section shall be entitled to vote such stock for any purpose or to receive payment of dividends or other distributions on the stock (except dividends or other distributions payable to stockholders of record at a date which is prior to the effective date of the merger or consolidation); provided, however, that if no petition for an appraisal shall be filed within the time provided in subsection (e) of this section, or if such stockholder shall deliver to the surviving or resulting corporation a written withdrawal of such stockholder's demand for an appraisal and an acceptance of the merger or consolidation, either within 60 days after the effective date of the merger or consolidation as provided in subsection (e) of this section or thereafter with the written approval of the corporation, then the right of such stockholder to an appraisal shall cease. Notwithstanding the foregoing, no appraisal proceeding in the Court of Chancery shall be dismissed as to any stockholder without the approval of the Court, and such approval may be conditioned upon such terms as the Court deems just; provided, however that this provision shall not affect the right of any stockholder who has not commenced an appraisal proceeding or joined that proceeding as a named party to withdraw such stockholder's demand for appraisal and to accept the terms offered upon the merger or consolidation within 60 days after the effective date of the merger or consolidation, as set forth in subsection (e) of this section.

(l) The shares of the surviving or resulting corporation to which the shares of such objecting stockholders would have been converted had they assented to the merger or consolidation shall have the status of authorized and unissued shares of the surviving or resulting corporation.

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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

ZILLOW, INC., Plaintiff, v. TRULIA, INC. Defendant.	Case No. COMPLAINT FOR PATENT INFRINGEMENT DEMAND FOR JURY TRIAL

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16 Plaintiff Zillow, Inc. (Zillow) for its Complaint against the defendant Trulia, Inc.
17 (Trulia), hereby alleges as follows:

18 **THE PARTIES**

19 1. Plaintiff Zillow is a corporation duly organized under the laws of
20 Washington with its principal place of business at 1301 Second Avenue, Floor 31, Seattle,
21 Washington, 98101.
22
23 2. Upon information and belief, Defendant Trulia is a corporation organized
24 and existing under the laws of the State of Delaware, with its principal place of business at
25 116 New Montgomery Street, #300, San Francisco, California, 94105.

26 **JURISDICTION AND VENUE**

27 3. This action arises under the United States Patent Laws, codified at
28 35 U.S.C. § 1, et seq.

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1201 Third Avenue, Suite 3800
Seattle WA 98101-3000

4. This Court has exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. Trulia has sufficiently continuous and systematic contacts with this judicial district and the state of Washington to subject it to the jurisdiction of this Court. Trulia's website, Trulia.com, lists properties in this judicial district and throughout Washington for sale and advertises to users, real estate agents, home buyers, home sellers and residents throughout Washington to buy and sell properties and search for real estate information on Trulia.com. On information and belief, Trulia receives revenue from Washington companies who advertise their products and services on Trulia.com. In addition, Trulia has committed acts of infringement in this District, and continues to commit acts of infringement in this District, entitling Zillow to relief.

6. Venue is proper in the Western District of Washington pursuant to 28 U.S.C. §§ 1391(b), (c) and 1400(b), because Trulia has committed acts of direct and indirect infringement in the Western District of Washington, has transacted business in the Western District of Washington, and has established minimum contacts with the Western District of Washington.

FACTUAL BACKGROUND

7. Zillow launched its real estate information website Zillow.com in 2006, revolutionizing the industry by offering users its patented Zestimate home valuation ("Zestimate") service. Consistent with its mission to empower users, the Zillow Zestimate permits home owners and real estate professionals to update automatic valuations of homes with additional home facts and information to refine the valuation. To date, more than 33 million homes have been updated in this way, or 33 percent of Zillow's database of more than 100 million homes, making the Zillow database substantially more useful and accurate

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for users. Zillow's innovative Zestimates have proved very popular and have played a major role in Zillow's success and growth into the largest real estate website, and the most popular suite of mobile real estate applications for smartphones and tablet computers.

8. On February 3, 2006, Zillow applied for a patent for one of the innovative processes that has helped drive Zillow's success—Zillow's process for using data input by users to refine Zillow's automatic home valuations. On June 28, 2011, the United States Patent and Trademark Office issued United States Patent No. 7,970,674 B2 (the "'674 Patent") to Zillow, for an invention entitled "Automatically Determining A Current Value For A Real Estate Property, Such As A Home, That Is Tailored To Input From A Human User, Such As Its Owner."

9. Trulia runs another real estate information website, Trulia.com, and also offers mobile real estate applications for smartphones and tablet computers, all of which compete with Zillow for web traffic and revenue. Up until September 7, 2011, Trulia offered no automatic home valuation service to users. On that date, Trulia announced that it too would provide automatic home valuations and that it too would use input from homeowners to refine those valuations.

10. Trulia calls its version of Zestimates "Trulia Estimates." Like Zestimates, Trulia Estimates provide automatic valuations of properties based on "recent sales of similar homes and home facts like number of bedrooms and bathrooms, square footage, and more." Also like Zestimates and the invention taught by the '674 Patent, Trulia Estimates permit and rely on homeowners to "claim your home" and provide additional information about their properties to refine the automatic valuations. Trulia states on its website: "Our estimates also incorporate updates from homeowners who claim their homes and enhance the profiles for those homes on Trulia."

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2 11. The invention taught by the '674 Patent is a key feature of Trulia Estimates
3 and it features prominently in Trulia's own descriptions of the Trulia Estimate feature. For
4 example, when Trulia describes Trulia Estimates on its website, in the first paragraph it
5 states: "You can help us improve our accuracy by telling us what you think of your home's
6 Estimate, and by claiming your home and updating its facts." When Trulia launched Trulia
7 Estimates in beta, Trulia's Head of Communications wrote on the Trulia website:
8
9 > Trulia Estimates starts with a number built from local real estate info, including prices of recently sold similar homes, and collects inputs from locals – agents, buyers and owners – to ultimately improve the estimates in those local areas.
10
11 *See* http://corp.truliablog.com/2011/09/07/whats-it-worth-trulia-estimates-launches-
12 in-beta/. And when Trulia launched Trulia Estimates nationwide, Trulia's Head of
13 Communications wrote solely about the homeowner entering data feature to educate
14 homeowners about how they could update the Trulia Estimate for their own home. *See*
15 http://corp.truliablog.com/tag/home-value/.
16
17 12. When Trulia first launched Trulia Estimates, it was obvious to
18 commentators that Trulia was merely copying Zillow. Commentators accused Trulia of
19 being a "copycat" of Zillow's Zestimate service and predicted that Trulia's copycat version
20 might "ding" Zillow's web traffic. Online Marketing Group reported:
21
22 > Trulia is now jumping on the home valuation bandwagon, launching a beta version of what looks like exactly the same thing as a Zestimate, called a "Trulia Estimate," for the San Francisco area. I don't know if Trulia is envious of Zillow's successful IPO, or if they are just trying to expand the resources on their site, but I wish it wasn't by copying Zillow to the letter. At least they are not calling it a "TEstimate."
23
24 *See* http://www.onlinemarketinggrp.com/blog-entry/trulia-launches-its-own-
25 zestimate-copycatting-zillow-again.
26
27 13. An independent technology news site called "GeekWire" published an
28 article about the similarities between the two home valuation services, titled "Trulia takes a

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1
2 swipe at the heart of Zillow, launches its own home valuation tool," which explained that
3 Trulia Estimates threatened Zillow because it copied one of the innovations that helped set
4 Zillow apart from its competitors:

5 One of the key advantages that Zillow has held over its rivals is the Zestimate. Love it or hate it, Zillow's automated home valuation service has helped snare curious
6 users who've wondered about the current value of their own home or the dilapidated cottage down the street.
7

8 *See* http://www.geekwire.com/2011/trulia-takes-swipe-zillow-launches-home-
9 valuation-tool/.

10 14. Property Portal Watch described Trulia's new services and then noted: "Of
11 course, trulia.com competitor zillow.com has been offering its own estimates or
12 'Zestimates' since 2006." *See* http://www.propertyportalwatch.com/2011/09/trulia-
13 launches-value-estimates/. Mark Wellborn of Urban Turf noticed the similarity between
14 the home owner update feature of Zestimates and Trulia Estimates on the day Trulia
15 Estimates launched, stating: "Another interesting aspect of both the Trulia service and the
16 Zestimate is that users can provide feedback on the home valuations that will affect the
17 valuation in some way." *See*
18 http://dc.urbanturf.com/articles/blog/value_added_trulia_launches_beta_version_of_home_
19 valuation_service/4104.
20
21 15. On August 17, 2012, Trulia filed a Form S-1 Registration Statement with
22 the Securities and Exchange Commission in an attempt to raise up to $75 million. In its S-
23 1, Trulia highlighted the importance of its solicitation and receipt of homeowner feedback
24 in refining its automatic home valuations:
25

26 Trulia Estimate is our estimate of an off-market property's value based on our proprietary analysis of relevant home data such as recent sales of similar homes and
27 property facts. This search function allows users to conduct a precise search by
28 street address to find our estimate of the value of that home. Additionally, home

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> owners may claim their home in our database and edit their home's specific facts and details so that our proprietary system can revise its estimated value.

(emphasis added).

16. Trulia's blatant and ongoing copying of Zillow's innovative approach to home valuation infringes Zillow's patent and Zillow is entitled to damages and an injunction against further infringement.

COUNT ONE - INFRINGEMENT OF THE '674 PATENT

17. On June 28, 2011, United States Patent No. 7,970,674 B2 (the '674 Patent) was duly and legally issued for an invention entitled "Automatically Determining A Current Value For A Real Estate Property, Such As A Home, That Is Tailored To Input From A Human User, Such As Its Owner." Zillow was assigned the '674 Patent and continues to hold all rights and interest in the '674 Patent. A true and correct copy of the '674 Patent is attached as Exhibit A.

18. Zillow has practiced the '674 Patent since 2006 by offering home valuations to users called "Zestimates," which are updated by obtaining information from home owners about their homes.

19. Trulia has infringed and continues to infringe the '674 Patent by its use of, for example, the Trulia Estimatefeature, and by Trulia's contributing to the use of, and inducement of others to use, infringing features and services. Under 35 U.S.C. § 271, Trulia is liable for its infringement of the '674 Patent.

20. Trulia's acts of infringement have caused damage to Zillow, and Zillow is entitled to recover from Trulia the damages sustained by Zillow as a result of Trulia's wrongful acts in an amount subject to proof at trial.

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21. Zillow and Trulia compete for consumer traffic and advertisers. Trulia's infringement of Zillow's exclusive rights under the '674 Patent will continue to damage Zillow, causing irreparable harm for which there is no adequate remedy at law, unless and until enjoined by this Court.

JURY DEMAND

22. Zillow demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Zillow prays for relief against Trulia as follows:

a. Judgment that Trulia has infringed the '674 Patent, contributed to infringement of the '674 Patent and induced others to infringe the '674 Patent;

b. Judgment that the '674 Patent is valid and enforceable;

c. A permanent injunction enjoining Defendant, its respective officers, agents, servants, employees, and those acting in privity with it, from further infringement of the '674 patent;

d. Requiring Defendant to file with this Court, within thirty (30) days after entry of final judgment, a written statement under oath setting forth in detail the manner in which it has complied with the injunction;

e. Awarding Zillow damages adequate to compensate for the infringement by Defendant, but in no event less than a reasonable royalty for the use made of the invention by Trulia, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;

f. Declaring this case exceptional pursuant to 35 U.S.C. § 285, and awarding Zillow its attorney fees;

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g. Costs of court; and

h. Awarding to Zillow such other and further relief, in law or equity, as the Court deems just.

Dated: September 12, 2012

/s/ Brooke A. M. Taylor

Brooke A. M. Taylor, WA Bar No. 33190
E-Mail: btaylor@susmangodfrey.com
Jordan Connors, WA Bar No. 41649
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Telephone: (206) 516-3880
Facsimile: (206) 516-3883

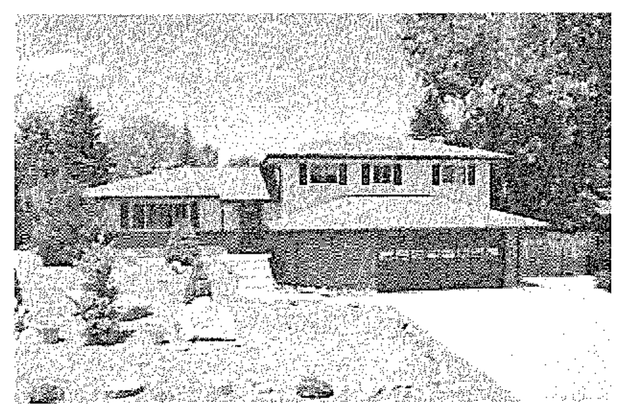
Counsel for Zillow, Inc.

« 8z's Terry: Littleton is coming home for families
Case-Shiller: Home prices up 8.2%

Zillow-Trulia merger raises questions

Highlights:

- **Zillow and Trulia plan to merge.**
- **No. 1 Zillow would pay $3.5 billion for No. 2 Trulia.**
- **MLS could be the big loser.**


Jim Smith is listing this 4-bedroom, 3-bedroom home with 2,890-square-feet in Golden.

Zillow's plan to pay $3.5 billion for Trulia in a merger that combines the two biggest real estate websites, could ultimately be good news for consumers, a threat to multiple listing services and drive up costs for real estate agents, according to local real estate brokers.

Independent local broker **Gary Bauer** said that he think: the vast majority of consumers will continue to use Realtors when buying homes after the merger, just as they do today.

Both Zillow and Trulia plan to retain their individual brands, even if the merger is completed next year, as proposed.

Merger won't eliminate agents

"Most people who are buying homes start their search on the Internet," Bauer said, which often means searching Zillow, Trulia and other search engines.

"But consumers will continue to use real estate agents to buy and sell homes," Bauer predicted. "That won't change."

A merged Zillow and Trulia likely will be good news for buyers and sellers, he said.

"Ultimately, I think it will be good for consumers, because they will have more and better information i the future," Bauer said.

Jim Smith, owner of **Golden Real Estate**, uses both Zillow and Trulia. He pays a monthly fee to Zillow to be a premier agent, in exchange for good play on Zillow for his listings.

Merger would create near monopoly

The Justice Department should not allow the merger, as it would create a near monopoly, Smith said.

"These are the only two major players and I would think the Justice Department would have something to say about this," Smith said.

"They already charge you an arm and a leg and if both brands were owned by the same company, that would open the door for it to charge even more," Smith added.
"If they merge, that will the last impediment to competition," Smith continued.

He and others say that Multiple Listing Service companies, such as Metrolist in the Denver area and realtor.com nationally, have been foolish to give away their data to Zillow and Trulia, which then effectively repackages the information and charge agents for information they own.

Smith said the loves the revamped Metrolist site, **REColorado.com**, but he said realtor.com it and Realtor.com, owned by the National Association of Realtors and operated by Move Inc., are losing market share to Zillow and Trulia.

"They are swimming upstream," Smith said. "There is an old saying that you ride the horse in the direction it is going."

John Skrabec, founder and owner of **Live Urban Real Estate** in West Highland in Denver, said the proposed merger is interesting on a number of levels.

Hyper-local brokers key

"I think that it will mean that it will be more and more important for Realtors to focus on hyper-local markets," Skrabec said.

"Real estate agents that live and work in neighborhoods have more to offer than the big guys like Trulia and Zillow, because they will never know and understand a local market the way an agent does who lives in a neighborhood," Skrabec continued.

"An algorithm is never going to replace the knowledge of a Realtor living in a neighborhood," Skrabec said.

A MLS has to take away the same message, he said.

"It is going to raise the bar for multiple listing services, too," Skrabec said. "Like real estate agents, a MLS is going to have to be on top of its game to compete."

However, he agreed with Bauer that a merger could be eventually be good for consumers.

"I think it will be great for consumers because more information is always better," Skrabec said. "That is a good thing."

However, **Larry Hotz,** a broker with **Kentwood Real Estate,** is not a fan of Zillow.

"I think this will be great for Zillow, but so great for Realtors," Hotz said.

"This merger will allow Zillow to further dominate the search-engine market, which in the long term will not be good news for Realtors," he said.

For consumers, he said he thinks the merger will be a mixed-bag.

"Zillow does have some features that consumers like," Hotz said. "But I don't think it really treats consumers great, either. Zillow purposely leaves its content listings after the home has been sold to act as bait to get more real estate listings. I wish it provided better information to consumers."

Overpaying

One prominent Denver executive spoke to **InsideRealEstateNews.com** on the condition that neither his name nor the company he works for is identified, said he thinks Zillow is overpaying for Trulia.

The potential economies of scale will not overcome the huge premium that Zillow is proposing to pay for Trulia, he said.

"I can't get my arms around this deal why it makes sense financially," he said.

SM 253

He said both Zillow and Trulia depend upon real estate agents to buy ads from them and that will not change after the merger, if it is approved.

“This merger doesn't create any new revenue streams,” he said. "It was real estate agents before the merger and it will continue to be real estate agents after the merger.”

He agreed the big losers in Colorado and the country will be multiple listing services.

“I don't think this is going to hurt consumers and I don't think this is going to hurt brokers,” he said.

“It is going to hurt Multiple Listing Services. This is 2014 and we don't have a single MLS for all of Colorado. That is just crazy.”

Kirby Slunaker, the CEO and president of Metrolist, could not immediately be reached on Tuesday.

From the horse's mouth

Spencer Rascoff, CEO of Seattle-based **Zillow**, said the mission of the company will not change, post merger.

"We started Zillow as a media property, not a real-estate brokerage," Rascoff told the Wall Street Journal.
“We sell ads, not houses,” Rascoff added.

Zillow, the bigger of the two, has offered more than $71 per share for Trulia, the second largest real estate portal, which is more than double Trulia's market close before the news of the deal became known a week ago.

“This combination sets the stage for us to offer even more real estate tools and services to empower consumers and has the potential to drive even more business to the local real estate agents and brokers to whom your organization provides vital services,” Peter Flint, CEO of **Trulia** said in a statement.

“You will also find this makes us a better resource collaborator when it comes to meeting your needs and providing innovative partnership opportunities for your members," Flint said.

Have a story idea or real estate tip? Contact John Rebchook at JRCHOOK@gmail.com. InsideRealEstateNews.com is sponsored by Universal Lending, Land Title Guarantee and 8z Real Estate. To read more articles by John Rebchook, subscribe to the Colorado Real Estate Journal.

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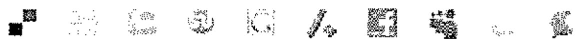

Related Posts:

- **Metrolist unveils updated search engine**
- **REcolorado revamps website**
- **Real estate brands top portals**
- **Metrolist forges partnership**
- **Niederman pushes for statewide MLS**

July 30th, 2014 | Tags: Metrolist, MLS, Real Estate, Real Estate Agents, REColorado.com, Residential Housing, Trulia, Zillow | Category: Denver Housing, News, Real Estate

Comments are closed.

SM 254

- **12 Replies**
- **8 Comments**
- **4 Tweets**

Lovejoy Declaration EXHIBIT 4, Page 3 of 5

- **0 Facebook**
- **0 Pingbacks**

Last reply was 4 months ago

1. ***@JohnRebchook***
   View 4 months ago

   Zillow-Trulia merger raises questions **http://t.co/UCwyHL6rKu**

2. ***@JohnRebchook***
   View 4 months ago

   Inside Real Estate: Zillow-Trulia merger raises questions **http://t.co/8DMcclIGdu** #johnrebchook

3. *Jason*
   View **4 months ago**

   "The Justice Department should not allow the merger, as it would create a near monopoly, Smith said.

   "These are the only two major players and I would think the Justice Department would have something to say about this," Smith said."

   It's absolutely humorous to hear a Realtor arguing to have the Justice dept stop a monopoly. Are you aware of the 6% monopoly that's been going on for decades? In any case, there is no way they won't let this deal happen. Thei is virtually no barrier to entry and have you forgotten about Realtor.com? Realtors, if you don't like zillow and Truli you could shut it down in a heartbeat. 95% of their revenue comes from Realtors. Just stop playing then for leads.

   Ziruliia, will become a reality....

   - *Jason*replied:
     View **4 months ago**

     One prominent Denver executive spoke to InsideRealEstateNews.com on the condition that neither his name nor the company he works for is identified, said he thinks Zillow is overpaying for Trulia.

     The potential economies of scale will not overcome the huge premium that Zillow is proposing to pay for Trulia, he said.

     First, it's an all stock deal(no cash) and last I checked Zillow's stock is very rich right now, so why not spend it? There are many synergies(job cuts) that will take place. Also, Zillow's and Trulia are really in different spaces and each have unique users that won't cannibalize each other. I think it makes total sense and with Zillow's stock trading at $150 per share the market agrees.

   - *Dave Barnes*replied:
     View **4 months ago**

     Humorous indeed.
     Hopefully, this merger will eventually lead to lower transaction costs.
     Maybe we could 2.2% as in Australia **http://www.sellmycastle.com.au/articles/real-estate-agent-commission-and-fees/91/**

4. *Jason*
   View **4 months ago**

   "They already charge you an arm and a leg and if both brands were owned by the same company, that would open the door for it to charge even more," Smith added.
   "If they merge, that will the last impediment to competition," Smith continued."

   Mr Smith, if you don't like how much they charge you can spend your advertising dollars elsewhere. For example, Google, Facebook, Inside Denver Real Estate News, Twitter, Sirius radio, your local newspaper, your city newspaper, ect.

   The reason they charge so much is the lead they are selling are worth the money. It's called free market and that i the market clearing price for leads. Realogy cut a sweetheart deal with Zillow for ad rates. So, stop complaining, you really sound ridiculous.

SM 255

5. *Hank Y.*
   View **4 months ago**

Ultimately, I believe the new, merged company will become a nationwide brokerage, and will be in direct competition with real estate agents – as long as they can replace their income stream from ad sales. It will happer Game over.

- *Jason*replied:
  View **4 months ago**

  @Hank Y-

  If you are correct the golden goose was killed off 100% by NAR in 2008 settlement with the DOJ and Reology(Zillow's income stream). All I can say is "irony." Even if you take Rascoff at his word that Zillow will not get into the brokerage business, it would not prevent a company like Amazon or Walmart to buy Zillow and turn it into what ever they feel will add shareholder value. I agree with hank, good possibility Zillow will be a disruptor to the industry going forward.

6. ***@DenverMetroRent***
   View 4 months ago

   Latest Real Estate n Zillow-Trulia merger raises questions – "An algorithm is never going to replace the knowled… **http://t.co/C5Bt741U3m**

7. ***@DenverMetroRent***
   View 4 months ago

   Zillow-Trulia merger raises questions – "An algorithm is never going to replace the knowledge of a Realtc living… **http://t.co/03qrb7TBr5**

8. *JohnD*
   View **4 months ago**

   I don't know what or even if there is a dollar minimum for the justice department to get involved in blocking a merger. But Zillow/Trulia at a combined market cap of about $6 Billion is very small potatoes in the grand scheme of things. The Comcast/Time Warner merger is at least ten times as important to the public interest as Z/TRLA merging. I have heard zero concern expressed by on air financial commentators about the Z/TRLA dea going through. An lol to Jason for the Realtor monopoly irony comment. I agree with the person that said $Z is ove paying for $TRLA, but it makes more sense if you realize that 6 or so hedge funds own huge interests in both $Z and $TRLA, so a large part of the voting stock of $Z are over paying themselves for $TRLA. I would not be surprised to see Yahoo buy the combined company after they cash out on their Alibaba position.

   - *Jason*replied:
     View **4 months ago**

     JohnD, are you sticking with MDC? Might be tough for any builder to gain traction with perceived rate hikes coming in the next 8 months. Breaking $27 on the downside is not good. Muti year closing low.

SM 256

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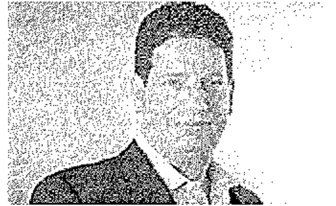
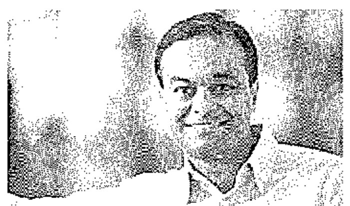
It's hard not to thrive in a culture where innovation is contagious. And it starts from the top down. Imagine being able to create something new every day. Now imagine doing it with the guidance of extraordinary leaders who have been there themselves, on the ground floor. Around here, we care as much about our people as we do about building cool stuff that helps people find the right place to live. That's why we're committed to investing in our business in ways that will make both our employees and our users smile. And that's really what it's all about.

Leadership Team

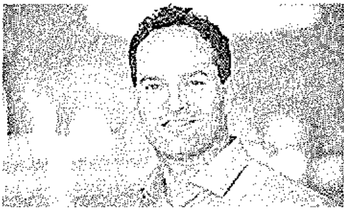
Pete Flint
Co-Founder & CEO



Paul Levine
Chief Operating Officer



Sean Aggarwal
Chief Financial Officer



Scott Darling
VP, General Counsel

Daniele Farnedi
Chief Technology Officer

Heather Mirjahangir Fernandez
SVP & GM, Business Services

Jed Kolko
Chief Economist & VP, Analytics

Eric Oldfield
VP, Ad Sales & Operations

Lloyd Martin
VP, Controller

SM 257

Dan Hang
VP, Business Products

Alon Chaver
VP, Industry Services

Elizabeth Brown
VP, Human Resources

Jeff McConathy
VP, Engineering - Consumer Services

Rob Cross
VP, Business Development & Integration

Investors

Starting and running a successful company requires dedication and support from a lot of people — and have we got a fantastic group behind us. In addition to support from great angel investors, we're backed by respected firms Accel Partners, Sequoia Capital, Fayez Sarofim & Co., SV Angel and Deep Fork Capital.

Board of Directors

In addition, Pete Flint serves on the Board of Directors.

Robert Moles
Chairman, Intero Real Estate Services

Theresia Gouw
Board of Directors, Aspect Ventures

Greg Waldorf
Executive in Residence, Accel Partners

Sami Inkinen
Co-Founder, Trulia

Erik Bardman
Chief Financial Officer, Roku

Steve Hafner
Co-Founder and CEO, KAYAK

SM 258

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Lovejoy Declaration EXHIBIT 5, Page 2 of 4

SM 259

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Alon Chaver
Vice President, Industry Services

As Vice President of Industry Services, Alon is responsible for the strategy and direction of Trulia's Broker, MLS and Data quality teams. He also leads Trulia's efforts to build new services for Brokers and MLSs, expand data quality initiatives and strengthen partnerships with Brokers and MLSs to empower their agents and members with the tools they need to grow their businesses. Alon has extensive experience in real estate, data management and online real estate products. Prior to joining Trulia, Alon was the CEO of iHomefinder, a premium IDX technology provider that grew to be a trusted partner under Alon's leadership, serving over 1,500 brokerages, thousands of agents in hundreds of MLSs, over 250 technology vendors, local Associations of Realtors and leading regional MLSs.

Alon received his B.S. (Magna Cum Laude) and J.D. from U.C. Berkeley.

When Alon isn't working he spends time with his family, and pursues his life-long passion for gardening. He is also an avid yoga practitioner, mountain biker, hiker, and backpacker.

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SM 260

SPECIAL MASTER
THE HONORABLE BRUCE HILYER (RET.)
Noted for Consideration: December 10, 2014

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

FOR THE COUNTY OF KING

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation, TOP PRODUCER SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation, Plaintiffs, vs. ZILLOW, INC., a Washington corporation, and ERROL SAMUELSON, an individual, Defendants.	Case No. 14-2-07669-0 SEA **[PROPOSED] ORDER DENYING ZILLOW'S MOTION FOR PROTECTIVE ORDER (TRULIA SUBPOENA)**

This matter came before the Special Master on Zillow's Motion for Protective Order (Trulia Subpoena). The Special Master considered the following:

1. Zillow's Motion for Protective Order (Trulia Subpoena);

SM 261

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1000 SECOND AVENUE, SUITE 3500
SEATTLE, WASHINGTON 98104-1048
(206) 292-8800

2. Declaration of Susan Foster in Support of Zillow's Motion for Protective Order (Trulia Subpoena), with exhibits;

3. Declaration of Brad Owens in Support of Zillow's Motion for Protective Order (Trulia Subpoena);

4. Plaintiff's Opposition;

5. Declaration of Jack Lovejoy, with exhibits;

6. Zillow's Reply; and

7. The pleadings, records and files herein.

The Special Master is fully advised. Now therefore, it is ORDERED, ADJUDGED AND DECREED:

1. Zillow's Motion for Protective Order (Trulia Subpoena) is DENIED.

DATED this ______ day of December, 2014, at Seattle, Washington.

____
Hon. Bruce Hilyer (Ret.), Special Master

Presented By:

CABLE, LANGENBACH, KINERK & BAUER, LLP

/s/ Jack M. Lovejoy
Jack M. Lovejoy, WSBA No. 36962
Lawrence R. Cock, WSBA No. 20326
Attorneys for Plaintiffs

SM 262

CABLE, LANGENBACH, KINERK & BAUER, LLP
1000 SECOND AVENUE, SUITE 3500
SEATTLE, WASHINGTON 98104-1048
(206) 292-8800

Exhibit B

SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation, TOP PRODUCER SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation, Plaintiffs, vs. ZILLOW, INC., a Washington corporation, ERROL SAMUELSON, an individual, and DOES 1-20, Defendants.	)	No. 14-2-07669-0 SEA ANSWER OF DEFENDANT SAMUELSON TO AMENDED COMPLAINT

Defendant Errol Samuelson ("Samuelson" or "Defendant"), answers Plaintiffs Move, Inc., RealSelect, Inc., Top Producer Systems Company, National Association of Realtors® and Realtors® Information Network, Inc.'s ("Plaintiffs") Amended Complaint as follows:

1.1 Samuelson admits the allegations in paragraph 1.1.

1.2 Samuelson admits the allegations in paragraph 1.2.

1.3 Samuelson admits the allegations in paragraph 1.3.

1.4 Samuelson admits the allegations in paragraph 1.4.

1.5 Samuelson admits the allegations in paragraph 1.5.

GRAHAM & DUNN PC
Pier 70, 2801 Alaskan Way ~ Suite 300
Seattle, Washington 98121-1128
(206) 624-8300/Fax: (206) 340-9599

1 3.5 Samuelson denies the allegations in paragraph 3.5.

2 3.6 Samuelson denies the allegations in paragraph 3.6.

3 3.7 Samuelson denies the allegations in paragraph 3.7.

4 3.8 Samuelson denies the allegations in paragraph 3.8.

5 3.9 Samuelson denies the allegations in paragraph 3.9.

6 3.10 Samuelson denies the allegations in paragraph 3.10.

7 3.11 Samuelson denies the allegations in paragraph 3.11.

8 3.12 Responding to paragraph 3.12, Samuelson admits that he and Zillow agreed to a
9 limited indemnification that was as broad as he could negotiate, but denies the remaining
10 allegations.

11 3.13 Responding to paragraph 3.13, although this paragraph relates to Zillow's
12 perspective, not Samuelson's, from Samuelson's perspective he would admit that one of the
13 reasons Zillow hired him was his insights about the industry and the major players in the
14 industry, as well as the personal relationships he had with those players, but Samuelson denies
15 that the "insights" Zillow was interested in had anything to do with Plaintiffs' trade secrets or
16 confidential information. Samuelson also admits that Zillow wanted him to work on
17 strengthening and expanding Zillow's relationships with MLS's and brokers. Samuelson also
18 admits he was an officer and employee of Move as of March 1, 2014, and that shortly before the
19 terms of his employment agreement were finalized, he provided input about his contemplated
20 position and what would be accurate to say about it.

21 3.14 Responding to paragraph 3.14, Samuelson admits that Zillow has given him a say
22 in how Zillow creates certain business-to-business products, but denies the remaining
23 allegations.

24 3.15 Samuelson denies the allegations in paragraph 3.15.

25 3.16 Samuelson denies the allegations in paragraph 3.16.

26 3.17 Samuelson denies the allegations in paragraph 3.17.

GRAHAM & DUNN PC
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SPECIAL MASTER
THE HONORABLE BRUCE HILYER (RET.)
Noted For Consideration: December 10, 2014

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation, TOP PRODUCERS SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation, Plaintiffs, v. ZILLOW, INC., a Washington corporation, ERROL SAMUELSON, an individual, and DOES 1-20, Defendants.	No. 14-2-07669-0 SEA DECLARATION OF MARIA SEREDINA IN SUPPORT OF DEFENDANT ZILLOW, INC.'S MOTION FOR PROTECTIVE ORDER (TRULIA SUBPOENA) **CONTAINS INFORMATION PROTECTED BY PROTECTIVE ORDER** **Exhibit A is ATTORNEYS' EYES ONLY (Don't Show Plaintiffs)**

1. I have personal knowledge of the facts stated below and am competent to testify regarding the same.

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

2. I am Senior Manager of Corporate Development for Defendant Zillow, Inc. ("Zillow"). Previously, between February 2013 and September 1, 2014, I was Manager of Investor Relations for Zillow.

3. In my role as Manager of Investor Relations, I routinely reviewed the SEC filings of Zillow's competitors and prepared summaries.

4. Every quarter between Q1 2013 and Q2 2014, the period during which I was Manager of Investor Relations, I routinely prepared a summary of Trulia's quarterly Earnings Conference Call.

5. Zillow0038395 is the routine quarterly summary I prepared regarding Trulia for Q1 2014.

6. By way of example, attached as Exhibit A is a true and correct copy of the routine quarterly summary I prepared for Q4 2013 regarding Trulia, excluding lengthy attachments.

I declare under penalty of perjury of the State of Washington that the foregoing is true and correct.

Signed at Seattle, Washington, this 8th day of December, 2014.

Maria Seredina

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

CERTIFICATE OF SERVICE

On December 9th, 2014, I caused to be served upon counsel of record, at the address stated below, via the method of service indicated, a true and correct copy of the following document: **DECLARATION OF MARIA SEREDINA IN SUPPORT OF ZILLOW INC.'S MOTION FOR PROTECTIVE ORDER (TRULIA SUBPOENA).**

Jack M. Lovejoy, WSBA No. 36962 Lawrence R. Cock, WSBA No. 20326 Cable, Langenbach, Kinerk & Bauer, LLP Suite 3500, 1000 Second Avenue Building Seattle, WA 98104-1048 Telephone: (206) 292-8800 Facsimile: (206) 292-0494 jlovejoy@cablelang.com LRC@cablelang.com kalbritton@cablelang.com jpetersen@cablelang.com	☐ Via Hand Delivery ☐ Via U.S. Mail, 1st Class, Postage Prepaid ☐ Via Overnight Delivery ☐ Via Facsimile ☐ Via E-filing ☑ Via E-mail
Clemens H. Barnes, Esq., WSBA No. 4905 Estera Gordon, WSBA No. 12655 Graham & Dunn PC Pier 70 2801 Alaskan Way, Suite 300 Seattle, WA 98121-1128 Facsimile: (206) 340-9599 cbarnes@grahamdunn.com egordon@grahamdunn.com chays@grahamdunn.com doates@grahamdunn.com rmittenthal@grahamdunn.com	☐ Via Hand Delivery ☐ Via U.S. Mail, 1st Class, Postage Prepaid ☐ Via Overnight Delivery ☐ Via Facsimile ☐ Via E-filing ☑ Via E-mail

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 9th day of December, 2014.

s/Jenny Griffiths
Jenny Griffiths,
Legal Secretary

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

SPECIAL MASTER
THE HONORABLE BRUCE HILYER (RET.)

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation TOP PRODUCERS SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation,

Plaintiffs,

v.

ZILLOW, INC., a Washington corporation, ERROL SAMUELSON, an individual, and DOES 1-20,

Defendants.

No. 14-2-07669-0

[~~PROPOSED~~] ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT ZILLOW, INC.'S MOTION FOR PROTECTIVE ORDER (TRULIA SUBPOENA)

THIS MATTER came before the Special Master on Defendant Zillow Inc.'s Motion for Protective Order (Trulia Subpoena). Before the Special Master was Zillow's Motion, supporting materials, the opposition briefing from Plaintiffs, and Zillow's reply materials.

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The Special Master heard argument on December 12, 2014, and being fully advised in the premises hereby rules as follows:

ORDERED that Defendant Zillow Inc.'s Motion for Protective Order is:

GRANTED with respect to request No. 3 in Exhibit A to the Subpoena Duces Tecum Directed to Trulia, Inc., and therefore request No. 3 is quashed without prejudice;

DENIED IN PART AND RESERVED IN PART with respect to request No. 4 in Exhibit A to the Subpoena Duces Tecum directed to Trulia, Inc. Zillow is ordered to produce for in camera review by the Special Master documents sufficient to show that Zillow was considering an acquisition of Trulia prior to March 5, 2014. Upon review of such documents provided by Zillow, the Special Master will rule on Zillow's motion with respect to request No. 4 in Exhibit A to the Subpoena Duces Tecum directed to Trulia, Inc.; and

DENIED with respect to requests Nos. 1, 2, 5, 6, 7 and 8 in Exhibit A to the Subpoena Duces Tecum Directed to Trulia, Inc.

ENTERED this 12 day of Dec, 2014.

THE HONORABLE BRUCE HILYER (RET.)

Perkins Coie LLP
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Presented by:

PERKINS COIE LLP

By: s/ *Susan Foster*
Susan E. Foster, WSBA No. 18030
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Attorneys for Defendant Zillow, Inc.

CABLE, LANGENBACH, KINERK & BAUER LLP

By: s/*Jack Lovejoy*
Jack M. Lovejoy, WSBA No. 36962
Lawrence R. Cock, WSBA No. 20326

Attorneys for Plaintiffs

GRAHAM & DUNN PC

By: s/ *Clem Barnes*
Clemens H. Barnes, WSBA No. 4905
Estera Gordon, WSBA No. 12655
Attorneys for Defendant Errol Samuelson

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CERTIFICATE OF SERVICE

On December 12th, 2014, I caused to be served upon counsel of record, at the address stated below, via the method of service indicated, a true and correct copy of the following document: **[PROPOSED] ORDER GRANTING IN PART AND DENYING IN PART ZILLOW'S MOTION FOR PROTECTIVE ORDER**

Jack M. Lovejoy, WSBA No. 36962 Lawrence R. Cock, WSBA No. 20326 Cable, Langenbach, Kinerk & Bauer, LLP Suite 3500, 1000 Second Avenue Building Seattle, WA 98104-1048 Telephone: (206) 292-8800 Facsimile: (206) 292-0494 jlovejoy@cablelang.com LRC@cablelang.com kalbritton@cablelang.com jpetersen@cablelang.com	☐ ☐ ☐ ☐ ☐ ☒	Via Hand Delivery Via U.S. Mail, 1st Class, Postage Prepaid Via Overnight Delivery Via Facsimile Via E-filing Via E-mail
Clemens H. Barnes, Esq., WSBA No. 4905 Estera Gordon, WSBA No. 12655 Daniel Oates, WSBA No. 39334 Robert Mittenthal Graham & Dunn PC 2801 Alaskan Way, Suite 300 Seattle, WA 98121-1128 Facsimile: (206) 340-9599 cbarnes@grahamdunn.com egordon@grahamdunn.com chays@grahamdunn.com doates@grahamdunn.com rmittenthal@grahamdunn.com	☐ ☐ ☐ ☐ ☐ ☒	Via Hand Delivery Via U.S. Mail, 1st Class, Postage Prepaid Via Overnight Delivery Via Facsimile Via E-filing Via E-mail

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 12th day of December, 2014.

Jennifer Griffiths
Legal Secretary

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

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5 The Honorable Bruce W. Hilyer (Ret.)
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7 SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation TOP PRODUCERS SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., and Illinois corporation, Plaintiffs, vs ZILLOW, INC., a Washington corporation, ERROL SAMUELSON, an individual, and DOES 1-20, Defendants.	NO. 14-2-07669-0 SEA **SUPPLEMENTAL ORDER RE: DECEMBER 12 ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT ZILLOW'S MOTION FOR PROTECTIVE ORDER (TRULIA SUBPOENA)**

8 9 10 11 12 13 14 15 16 17

18 On December 12, 2014, the Special Master ("SM") ruled that Zillow was to submit for
19 in camera review, documents to establish that Zillow was considering an acquisition of Trulia
20 prior to March 5, 2014.

21 On January 6, 2015, Zillow produced 93 pages of confidential/proprietary documents
22 and that in camera review is now complete. As a result, the SM has concluded that the Zillow
23 documents establish that Zillow was considering an acquisition of Trulia prior to March 5, 2014.
24 Provided further, that Zillow's Motion for Protective Order re: Subpoena Duces Tecum directed
25 to Trulia re: Item No. 4 is GRANTED and, therefore, said discovery request of Item No. 4 is
26 QUASHED.

SM 296

Hilyer Dispute Resolution
1000 Second Ave 30th Floor
Seattle, Washington 98101
T: (206) 623-0068

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IT IS SO ORDERED this 26th day of January, 2015.

Bruce W. Hilyer

Judge Bruce Hilyer (ret), Special Master

SM 297

Hilyer Dispute Resolution
1000 Second Ave 30th Floor
Seattle, Washington 98101
T: (206) 623-0068

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

MOVE, INC. vs. ZILLOW, INC. and ERROL SAMUELSON	**NO. 14-2-07669-0 SEA** **NOTICE FOR HEARING** **SEATTLE COURTHOUSE ONLY** (Clerk's Action Required) (NTHG)

TO: **THE CLERK OF THE COURT** and to all other parties per list on Page 2:
PLEASE TAKE NOTICE that an issue of law in this case will be heard on the date below and the Clerk is directed to note this issue on the calendar checked below.

Calendar Date: February 10, 2015 **Day of Week**: Tuesday
Nature of Motion: Plaintiffs' Motion for Reconsideration

CASES ASSIGNED TO INDIVIDUAL JUDGES – SEATTLE

If oral argument on the motion is allowed (LCR 7(b)(2)), contact staff of assigned judge to schedule date and time before filing this notice. **Working Papers**: The judge's name, date and time of hearing must be noted in the upper right corner of the Judge's copy. **Deliver Judge's copies to Judges' Mailroom at C203**

[ ] Without oral argument (Mon – Fri) [XXX] With oral argument

Date/Time: **February 10, 2015**

Judge's Name: **Special Master: Hon. Bruce Hilyer** Trial Date: **May 11, 2015**

CHIEF CRIMINAL DEPARTMENT – SEATTLE (E1201)

[ ] Bond Forfeiture 3:15 pm, 2nd Thursday of each month
[ ] Certificates of Rehabilitation- Weapon Possession (**Convictions from Limited Jurisdiction Courts**) 3:30 First Tues of each month

CHIEF CIVIL DEPARTMENT – SEATTLE (Please report to E863 for assignment)

***Deliver working copies to Judges' Mailroom, Room C203**. In upper right corner of papers write "Chief Civil Department" or judge's name and date of hearing*

[ ] Extraordinary Writs (Show Cause Hearing) (LCR 98.40) 1:30 p.m. **Thurs/Fri** -report to Room E863
[ ] Supplemental Proceedings/ Judicial Subpoenas (1:30 pm **Thurs/Fri**)(LCR 69)
[ ] Motions to Consolidate with multiple judges assigned (LCR 40(a)(4) (without oral argument) M-F
[ ] Structured Settlements (1:30 pm **Thurs/Fri**))(LCR 40(2)(S))

Non-Assigned Cases:

[ ] Non-Dispositive Motions M-F (without oral argument).
[ ] Dispositive Motions and Revisions (1:30 pm **Thurs/Fri**).
[ ] Certificates of Rehabilitation (**Employment**) 1:30 pm **Thurs/Fri** (LR 40(a)(2)(B))

You may list an address that is not your residential address where you agree to accept legal documents.

Sign:	s/Lawrence Cock	Print/Type Name:	Lawrence R. Cock
WSBA #	20326 (if attorney)	Attorney for:	Plaintiffs
Address:	1000 Second Avenue, Suite 3500	City, State, Zip:	Seattle, WA 98104
Telephone:	206.292.8800	Date:	February 2, 2015

DO NOT USE THIS FORM FOR FAMILY LAW OR EX PARTE MOTIONS.

SM 298

LIST NAMES AND SERVICE ADDRESSES FOR ALL NECESSARY PARTIES REQUIRING NOTICE

Clemens H. Barnes
Estera Gordon
Daniel J. Oates
MILLER NASH GRAHAM & DUNN, PC
Pier 70, Alaskan Way, Suite 300
Seattle, WA 98121

Susan E. Foster
Kathleen M. O'Sullivan
Katherine G. Galipeau
Judith B. Jennison
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101

IMPORTANT NOTICE REGARDING CASES

Party requesting hearing must file motion & affidavits separately along with this notice. List the names, addresses and telephone numbers of all parties requiring notice (including GAL) on this page. Serve a copy of this notice, with motion documents, on all parties.

The original must be filed at the Clerk's Office not less than **six** court days prior to requested hearing date, except for Summary Judgment Motions (to be filed with Clerk 28 days in advance).

THIS IS ONLY A PARTIAL SUMMARY OF THE LOCAL RULES AND ALL PARTIES ARE ADVISED TO CONSULT WITH AN ATTORNEY.

The SEATTLE COURTHOUSE is in Seattle, Washington at 516 Third Avenue. The Clerk's Office is on the sixth floor, room E609. The Judges' Mailroom is Room C203.

SM 299

SPECIAL MASTER
THE HONORABLE BRUCE HILYER (RET.)
Noted for Consideration: February 10, 2015

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

FOR THE COUNTY OF KING

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation, TOP PRODUCER SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation,

Plaintiffs,

vs.

ZILLOW, INC., a Washington corporation, ERROL SAMUELSON, an individual, and DOES 1-20,

Defendants.

Case No. 14-2-07669-0 SEA

DECLARATION OF JACK M. LOVEJOY RE: PLAINTIFFS' MOTION FOR REVISION OF THE SPECIAL MASTER'S JANUARY 26, 2015 SUPPLEMENTAL ORDER

EXHIBIT 2 CONTAINS INFORMATION PROTECTED BY PROTECTIVE ORDER AEO (DON'T SHOW ZILLOW)

JACK M. LOVEJOY declares and states:

1. I am an attorney for plaintiffs in the above captioned action. I am over 21 years old and I have personal knowledge of the facts herein.

2. Exhibit 1 is a true and correct copy of documents produced by Move in this litigation. (MOVE_ESI 228620-228626).

CABLE, LANGENBACH,
KINERK & BAUER, LLP
1000 SECOND AVENUE, SUITE 3500
SEATTLE, WASHINGTON 98104-1048
(206) 292-8800

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3. Exhibit 2 is a true and correct copy of pages taken from EDGARonline, the SEC document filing website, indicating it is the Zillow Inc. Form DEFM14A (Proxy Statement-Merger or Acquistion (definitive)).

4. Exhibit 3 is a true and correct copy of an email I received this morning.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED February 2, 2015, at Seattle, Washington.

s.Jack M. Lovejoy

Jack M. Lovejoy, WSBA No. 36962
CABLE, LANGENBACH, KINERK & BAUER, LLP
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CERTIFICATE OF SERVICE

I hereby certify that on February 2, 2015, I served the foregoing by email transmission at the email addresses provided to the following:

Clemens H. Barnes
Estera Gordon
Daniel J. Oates
Miller Nash Graham & Dunn, LLP
clem.barnes@millernash.com;estera.gordon@millernash.com
connie.Hays@millernash.com; donna.cauthorn@millernash.com
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Counsel for Errol Samuelson

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jennifergriffiths@perkinscoie.com; swyatt@perkinscoie.com; jjennison@perkinscoie.com
Counsel for Zillow, Inc.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED at Seattle, Washington on February 2, 2015.

/s/ Janet Petersen
Janet Petersen, Legal Assistant
CABLE, LANGENBACH, KINERK & BAUER, LLP
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SM 317

ZILLOW INC

FORM DEFM14A
(Proxy Statement - Merger or Acquistion (definitive))

Filed 11/18/14

Address	1301 SECOND AVENUE FLOOR 31 SEATTLE, WA 98101
Telephone	206-470-7000
CIK	0001334814
Symbol	Z
SIC Code	7389 - Business Services, Not Elsewhere Classified
Industry	Real Estate Operations
Sector	Services
Fiscal Year	12/31

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THE MERGERS

General

On July 27, 2014, the Zillow board and the Trulia board adopted and approved, respectively, the merger agreement, attached hereto as Annex A, which provides for two separate mergers involving each of Zillow and Trulia. First, the merger agreement provides for Zillow Merger Sub, a to-be-formed, wholly owned subsidiary of Holdco, to merge with and into Zillow, with Zillow surviving the merger as a wholly owned subsidiary of Holdco. Second, immediately following the completion of the Zillow merger, the merger agreement provides for the merger of Trulia Merger Sub, another to-be-formed, wholly owned subsidiary of Holdco, with and into Trulia, with Trulia surviving the merger as a wholly owned subsidiary of Holdco. As a result of the mergers, each of the surviving entities of the Zillow merger and the Trulia merger will become a wholly owned subsidiary of Holdco, which will be a publicly traded corporation. You are encouraged to read the merger agreement in its entirety, a copy of which is attached as Annex A to this joint proxy statement/prospectus.

At the effective time of the Zillow merger, any shares of Zillow common stock held by Zillow, Holdco, Trulia, or any direct or indirect wholly owned subsidiary of Zillow or Trulia immediately prior to the effective time of the Zillow merger will be canceled and cease to exist and no consideration will be paid or payable for these shares (the "Zillow excluded shares"). Subject to various restrictions, (1) each share of Zillow Class A common stock issued and outstanding immediately prior to the effective time of the Zillow merger, other than Zillow excluded shares and Zillow dissenting shares, will be converted into the right to receive one share of fully paid and nonassessable Holdco Class A common stock and (2) each share of Zillow Class B common stock issued and outstanding immediately prior to the effective time of the Zillow merger, other than Zillow excluded shares and Zillow dissenting shares, will be converted into the right to receive one share of fully paid and nonassessable Holdco Class B common stock.

At the effective time of the Trulia merger, any shares of Trulia common stock that are held by Trulia, Holdco, Zillow, or any direct or indirect wholly owned subsidiary of Trulia or Zillow as of immediately prior to the effective time of the Trulia merger will be canceled and cease to exist and no consideration will be paid or payable for those shares (the "Trulia excluded shares"). Subject to various restrictions, each share of Trulia common stock that is outstanding immediately prior to the effective time of the Trulia merger, other than Trulia excluded shares, will be converted into the right to receive 0.444 of a share of fully paid and nonassessable Holdco Class A common stock.

Background of the Mergers

The management and boards of directors of each of Zillow and Trulia have regularly reviewed their respective companies' results of operations and prospects, as well as their respective strategic options in light of company-specific and industry conditions, including, among other things, whether the continued execution of their respective strategies as stand-alone companies or the possible combination with a third party offers the best avenue to enhance value.

In late 2011, Zillow approached Trulia to explore a potential strategic business combination. In connection with this approach, Trulia retained Qatalyst Partners LP ("Qatalyst") as its financial advisor. These discussions were inconclusive and discontinued by the parties in early 2012, due on Trulia's part to the belief at the time that its stand-alone prospects would provide superior long-term value creation for Trulia stockholders through increasing customers and revenue and through pursuing an initial public offering of its common stock.

In August 2012, while Trulia was nearing the completion of its initial public offering, Zillow again approached Trulia to discuss a potential strategic business combination. In connection with these discussions, Trulia sought and received advice from Qatalyst and J.P. Morgan Securities LLC ("J.P. Morgan") as its financial advisors. These discussions were inconclusive and discontinued by the parties in August 2012, due on Trulia's part to the continued belief that the completion of an initial public offering would provide superior long-term value to Trulia stockholders.

During the spring of 2014, members of the Zillow board and management had various internal discussions and began preliminary discussions with outside advisors, including Shearman & Sterling LLP ("Shearman & Sterling"), regarding various possible strategic opportunities, including a possible acquisition of Trulia.

In late May 2014 through mid-June 2014, Zillow entered into confidentiality agreements, and had various discussions, with certain unaffiliated significant holders of both its and Trulia's common stock (the "Significant Shareholders") regarding possible strategic opportunities, including the acquisition of Trulia.

On June 1, 2014, Zillow engaged Goldman, Sachs & Co. ("Goldman Sachs") in connection with a possible acquisition of Trulia and subsequently, on June 5, executed its formal engagement agreement with Goldman Sachs.

On June 3, 2014, Richard Barton, co-founder and Executive Chairman of Zillow, contacted Peter Flint, co-founder and Chief Executive Officer of Trulia and Chairman of the Trulia board, requesting that they meet for dinner. On June 4, 2014, Mr. Flint indicated that his near-term schedule would not accommodate a dinner.

At a regularly scheduled meeting on June 4, 2014, the Zillow board discussed the possible acquisition of Trulia and expressed its support for Mr. Barton's and management's continued engagement with Trulia.

On June 5, 2014, Mr. Barton contacted Mr. Flint and indicated that the Zillow board supported a potential strategic business combination with Trulia and that he intended to send a letter to Trulia outlining that proposal. Mr. Barton also noted during the conversation that Zillow had had recent discussions with the Significant Shareholders during which such Significant Shareholders had also expressed support for a business combination between Zillow and Trulia.

On June 9, 2014, Mr. Barton sent a written, non-binding proposal to Mr. Flint and Gregory Waldorf, the lead independent director of the Trulia board, proposing a transaction in which Zillow would acquire Trulia in a stock-for-stock merger and Trulia stockholders would receive 0.39 of a share of Zillow Class A common stock for each share of Trulia common stock (the "June 9th Proposal"). The proposed exchange ratio represented an implied price of approximately $45.53 per share of Trulia common stock, which implied a premium of 15% to the closing price of Trulia common stock on June 6th, and pro forma ownership of the combined company by Trulia stockholders of approximately 30% (all pro forma ownership numbers included in this Background section reflect the dilution from Trulia's outstanding convertible notes, as well as both companies' outstanding equity awards). The June 9th Proposal also referenced the value creation for the Trulia stockholders resulting from Zillow's preliminary estimate of potential synergies that could be achieved from a business combination between Zillow and Trulia.

On June 10, 2014, the Trulia board held a telephonic meeting at which members of Trulia's management, representatives of Trulia's outside legal advisors, Wilson Sonsini Goodrich & Rosati, P.C. ("Wilson Sonsini") and Goodwin Procter LLP ("Goodwin Procter"), and representatives of J.P. Morgan were present. At the meeting, the Trulia board discussed the June 9th Proposal from Zillow, Trulia's stand-alone prospects, certain preliminary financial analyses prepared by J.P. Morgan, and the ownership interests of the Significant Shareholders in each of Trulia and Zillow. The Trulia board also discussed the prior proposals from Zillow and the changing dynamics in the marketplace that made a business combination between the two companies potentially more attractive to Trulia stockholders at this time. In doing so, the Trulia board noted the growing challenges faced by Trulia as a stand-alone company since its initial public offering in what has continued to be an evolving industry, which includes increasing competition, the ways in which consumers and real estate professionals interface with online and mobile applications, the development and deployment of new advertising products and services for participants in the residential real estate industry, and the availability of other forms of offline, online and mobile advertising. As a result of these dynamics, Trulia faced increased risks associated with future revenue generation and the substantial marketing and product development costs that would be required to continue to effectively scale the business. Wilson Sonsini and Goodwin Procter also reviewed the Trulia board's fiduciary duties in connection with its receipt of the June 9th Proposal from Zillow. After discussion, the Trulia board instructed management and the advisors to continue discussions with Zillow, but to inform Zillow that it would need to improve its proposal to warrant further substantive discussions regarding a potential business combination between the companies.

In addition, at the June 10 th meeting, the Trulia board determined that its standing strategic transactions committee (referred to as the "Trulia transaction committee") should manage the strategic review process in order to provide an efficient manner in which to actively supervise and direct the process with Zillow (in the event that further discussions were to occur) and to have the ability to meet as often as needed. The Trulia transaction committee consists of three independent directors, Mr. Waldorf, Erik Bardman, and Theresia Gouw. The Trulia transaction committee had been formed in November 2013 to evaluate, negotiate, and make recommendations to the Trulia board regarding strategic transactions, including business combination transactions, acquisitions, sales of businesses or assets, and financing transactions. The Trulia transaction committee subsequently held a telephonic meeting on June 11, 2014 to further discuss Zillow's June 9 th Proposal and potential responses.

On June 12, 2014, the Trulia transaction committee held a telephonic meeting at which members of Trulia's management and representatives of Wilson Sonsini, Goodwin Procter, and J.P. Morgan were present. At the meeting, the Trulia transaction committee further discussed potential responses to Zillow's June 9 th Proposal and the ownership of the Significant Shareholders, and J.P. Morgan reviewed certain preliminary financial analyses with the committee. The Trulia transaction committee determined that, based on preliminary information, Zillow's June 9 th Proposal did not reflect an appropriate valuation for Trulia.

On June 13, 2014, the Trulia transaction committee held a telephonic meeting at which members of Trulia's management and representatives of Wilson Sonsini, Goodwin Procter, and J.P. Morgan were present. At the meeting, the Trulia transaction committee again discussed Zillow's June 9 th Proposal and, after discussion, directed J.P. Morgan to respond on behalf of Trulia to Goldman Sachs that Zillow's proposal did not reflect an appropriate valuation for Trulia, but that Trulia was willing to continue discussions and provide some financial due diligence information if Zillow was willing to revisit its views on valuation and provide Trulia with reciprocal financial due diligence information.

On June 16, 2014, representatives of J.P. Morgan telephoned representatives of Goldman Sachs to deliver Trulia's response to Zillow's June 9 th Proposal as discussed at the June 13 th meeting of the Trulia transaction committee.

On June 17, 2014, the Trulia transaction committee held a telephonic meeting at which members of Trulia's management and representatives of Wilson Sonsini, Goodwin Procter, and J.P. Morgan were present. At the meeting, J.P. Morgan reviewed additional preliminary financial analyses related to Zillow's June 9 th Proposal that further supported the Trulia transaction committee's previous determination that the Trulia stockholders should receive a higher pro forma ownership percentage of the combined company in a business combination between Zillow and Trulia than Zillow had provided in its June 9 th Proposal.

Also on June 17, 2014, Mr. Flint and Prashant "Sean" Aggarwal, Trulia's Chief Financial Officer, attended a dinner with representatives of one of the Significant Shareholders in San Francisco, California, which had been scheduled prior to Trulia's receipt of Zillow's June 9 th Proposal. At the dinner, representatives of the Significant Shareholder expressed support for a strategic business combination between Trulia and Zillow, but Messrs. Flint and Aggarwal did not comment on the terms or status of Zillow's June 9 th Proposal or the views of the Trulia board with respect to such proposal.

On June 18, 2014, Jay Hoag, a Zillow director, and Mr. Waldorf had a telephone conversation during which they discussed Zillow's June 9 th Proposal, and Mr. Barton and Mr. Flint had a telephone conversation regarding the consideration being proposed by Zillow and possible next steps in their mutual consideration and evaluation of a business combination between the two companies. Thereafter, representatives of Goldman Sachs contacted representatives of J.P. Morgan to suggest that a dinner be scheduled between the Trulia and Zillow representatives.

Also on June 18, 2014, the Trulia transaction committee held a telephonic meeting to further discuss Zillow's June 9 th Proposal, at which members of Trulia's management and representatives of Wilson Sonsini, Goodwin Procter, and J.P. Morgan were present.

On June 19, 2014 and June 20, 2014, Mr. Barton and one of the Significant Shareholders discussed Mr. Barton's June 18 th call with Mr. Flint and the Significant Shareholder's recent discussions with Trulia's management.

On June 23, 2014, Messrs. Waldorf, Flint, and Aggarwal and Paul Levine, Trulia's Chief Operating Officer, attended a dinner with Mr. Barton, Lloyd Frink, co-founder and Vice Chairman of Zillow, and Spencer Rascoff, Chief Executive Officer and a director of Zillow, in San Francisco, California. At the dinner, the participants discussed the strategic and cultural aspects of a potential business combination between Trulia and Zillow. The participants did not discuss price or any other terms of a possible transaction during this dinner.

On June 24, 2014, Mr. Barton updated two of the Significant Shareholders on the discussions between Zillow and Trulia.

On June 26, 2014, Mr. Barton sent Mr. Flint a revised written, non-binding proposal for a transaction in which Zillow would acquire Trulia in a stock-for-stock merger and Trulia stockholders would receive 0.434 of a share of Zillow Class A common stock for each share of Trulia common stock (which would correspond to pro forma ownership of the combined company by Trulia stockholders of approximately 32.5%) (the "June 26 th Proposal"). Mr. Barton subsequently telephoned Mr. Flint to discuss the proposal, and also notified the Significant Shareholders that Zillow had made a revised non-binding proposal to Trulia.

Later on June 26, 2014, the Trulia transaction committee held a telephonic meeting at which members of Trulia's management and representatives of Wilson Sonsini, Goodwin Procter, and J.P. Morgan were present. At the meeting, the Trulia transaction committee discussed Zillow's June 26 th Proposal, and J.P. Morgan reviewed certain preliminary financial analyses that had been updated to reflect the terms of such proposal. Based on these discussions and review of the preliminary financial analyses, the Trulia transaction committee directed J.P. Morgan to respond to Goldman Sachs on behalf of Trulia that Zillow's June 26 th Proposal continued to undervalue Trulia, but Trulia remained interested in further discussions and exchanging reciprocal financial due diligence information if Zillow was willing to again revisit its views on valuation following such exchange.

On June 30, 2014, representatives of J.P. Morgan telephoned representatives of Goldman Sachs to deliver Trulia's response to Zillow's June 26 th Proposal as discussed at the June 26 th meeting of the Trulia transaction committee.

On June 30, 2014 and July 1, 2014, Mr. Barton corresponded separately with certain of the Significant Shareholders to update them on the discussions with Trulia.

On July 1, 2014, Mr. Barton telephoned Mr. Flint to discuss Trulia's request to exchange reciprocal financial due diligence information. Later that day, at the direction of Mr. Barton, representatives of Goldman Sachs telephoned representatives of J.P. Morgan and indicated that Zillow was willing to exchange reciprocal financial due diligence information as proposed by Trulia.

On July 2, 2014, the Trulia transaction committee held a telephonic meeting at which members of Trulia's management and representatives of Wilson Sonsini, Goodwin Procter, and J.P. Morgan were present. At the meeting, the Trulia transaction committee further discussed Zillow's June 26 th Proposal and the expected exchange of reciprocal financial due diligence information between Trulia and Zillow. The Trulia transaction committee also discussed whether and at what point it might be advisable to explore a potential strategic transaction with a third party other than Zillow. In particular, the Trulia transaction committee discussed: (1) potential disruptions to Trulia's business of a protracted process; (2) the risk of leaks that might arise from making contact with other parties in the industry; (3) the potential impact on Trulia's business and employees of such leaks; (4) the potential loss of Zillow as a strategic partner if Zillow learned of Trulia's exploration of other alternatives or the strategic process were materially delayed; (5) the likelihood that making outbound calls would actually generate interest by a third party in a transaction with Trulia, whether or not on more favorable terms than those proffered by Zillow; and (6) Trulia's own strong knowledge and understanding of its business prospects and value as a stand-alone enterprise. In addition, the meeting participants discussed the possibility of including a "go-shop" provision in the potential merger agreement with Zillow to allow Trulia to actively explore strategic alternatives on a post-signing basis. Based on the foregoing considerations and the fact that the Trulia

board had not decided to accept the Zillow proposal or generally proceed with the sale of the company, the Trulia transaction committee concluded not to approach potential strategic partners or buyers at this time.

Later on July 2, 2014, representatives from J.P. Morgan sent a reciprocal confidentiality agreement, including a one-year standstill provision, and a due diligence request list to Goldman Sachs on behalf of Trulia as a predicate to the exchange of financial due diligence information by the parties.

Also on July 2, 2014, Mr. Flint telephoned Mr. Barton and indicated to Mr. Barton that Trulia remained interested in further discussions regarding a potential business combination transaction given Zillow's agreement to exchange reciprocal financial due diligence information. During this conversation, Mr. Flint suggested a higher exchange ratio corresponding to pro forma ownership of the combined company by Trulia stockholders of 37%. Mr. Flint and Mr. Barton also discussed operational and cultural aspects of a possible transaction, branding issues, and the need to retain Trulia's management and other key employees if a transaction were to occur. Mr. Barton asked Mr. Flint to provide information with respect to a retention program that Mr. Flint believed would likely be required to retain Trulia's management and other key employees following the closing of a transaction in order to facilitate the post-closing value creation at the combined company.

On July 3, 2014, Mr. Barton telephoned Mr. Flint to further discuss a possible transaction with Trulia. During this conversation, Mr. Barton indicated that he believed that the Zillow board could support an exchange ratio of 0.465 (which would correspond to pro forma ownership of the combined company by Trulia stockholders of approximately 34%), but that this was likely Zillow's upper limit for a potential transaction. Mr. Barton and Mr. Flint also discussed operational and cultural aspects of a possible transaction, branding issues and potential seats on the board of directors of the combined company for Trulia designees.

On July 4, 2014, Mr. Barton and Mr. Flint had a telephone conversation during which they continued their discussions from the prior few days, including ideas for the best way to retain key employees, as well as two potential seats on the board of directors of the combined company for Trulia designees.

On July 5, 2014, Messrs. Barton, Frink and Flint had several telephone conversations to further discuss a possible transaction. Mr. Barton and Mr. Flint discussed various parameters of a potential business combination transaction between Zillow and Trulia, including operational arrangements and seats on the board of directors of the combined company, potentially for Mr. Flint and another Trulia designee, and Mr. Flint suggested that a retention program of 2.0 million restricted stock units would be sufficient to retain Trulia's management and other key employees following the closing of the proposed transaction. Mr. Barton rejected this suggestion, and further discussions during the course of the day focused on a retention program that would provide for 1.1 million restricted stock units for Trulia's management and other key employees to remain with the combined company following the closing. In addition, Mr. Barton and Mr. Flint each indicated his belief that, subject to the completion of financial and other due diligence, his board would ultimately support a transaction providing for pro forma ownership of the combined company by Trulia stockholders of 33%. Messrs. Barton and Frink proposed to Mr. Flint that the exchange of financial due diligence information should proceed on the basis of the foregoing discussion.

On July 6, 2014, Mr. Flint telephoned Mr. Barton to accept the proposal to allow the exchange of financial due diligence to proceed on the basis of the transaction parameters discussed on July 5, 2014 and to discuss further the exchange of financial due diligence information.

On July 7, 2014, the Zillow board met telephonically to discuss the proposed transaction with Trulia, including Mr. Barton giving a summary of his July 5th and 6th discussions with Mr. Flint.

Also on July 7, 2014, Zillow provided comments to the proposed reciprocal confidentiality agreement, Mr. Rascoff called Mr. Flint to discuss the confidentiality agreement, and thereafter the legal advisors to Zillow and Trulia negotiated the terms of such confidentiality agreement.

On July 8, 2014, Mr. Barton telephoned Mr. Flint to discuss the status of Trulia's consideration of Zillow's proposal, the proposed reciprocal confidentiality agreement between the parties and related exchange of financial due diligence information, and the persons from each party who would lead the due diligence efforts. Mr. Barton and Mr. Flint agreed that Mr. Frink and Mr. Aggarwal would coordinate the due diligence efforts on each side.

On July 9, 2014, Messrs. Flint and Aggarwal organized a conference call with the members of the Trulia transaction committee to provide them with a brief update limited to the status of the negotiations with respect to the reciprocal confidentiality agreement and the proposed exchange of financial due diligence information.

On July 10, 2014, Mr. Barton called Mr. Flint to discuss the status of Trulia's consideration of Zillow's proposal. Also on that day, the parties executed the reciprocal confidentiality agreement, which included a nine-month standstill provision, and Mr. Frink and Mr. Aggarwal discussed the exchange of financial due diligence information.

On July 11, 2014, representatives from Trulia and Zillow and their respective financial advisors participated in a conference call during which the parties presented the preliminary financial results of their respective companies for the second quarter of 2014 and their preliminary outlook for 2014 through 2016. During this conference call, Zillow presented internal financial projections that were higher than the estimates that had been previously used by Trulia and J.P. Morgan to analyze the proposed strategic business combination (which estimates had been based on publicly-available analyst estimates and certain growth assumptions provided by Trulia management). Also during this conference call, Trulia presented internal financial projections that reflected preliminary actual results for the second quarter of 2014 and refined assumptions by Trulia management (see "—Financial Projections Reviewed by the Trulia Board and Trulia's Financial Advisor").

On July 12, 2014, Shearman & Sterling distributed a draft merger agreement to Wilson Sonsini and Goodwin Procter.

On July 13, 2014, Mr. Barton and Mr. Flint had a telephone conversation during which they discussed operational aspects of a possible transaction, including branding issues, functional alignment, organizational structure and potential seats on the board of directors of the combined company for Trulia designees. Also on that day, Mr. Flint sent Mr. Barton additional details regarding the retention program that they had discussed on July 5, 2014. Mr. Barton and Mr. Flint discussed a possible retention program, including an additional component comprised of $20 million of equity for key non-management employees to remain with Trulia through the closing of a transaction.

On July 14, 2014, the Trulia transaction committee held a telephonic meeting at which members of Trulia's management and representatives of Wilson Sonsini, Goodwin Procter, and J.P. Morgan were present. At the meeting, the Trulia transaction committee received an update on the reciprocal exchange of financial due diligence information. In addition, J.P. Morgan presented revised preliminary financial analyses that were updated based on Zillow's June 26th Proposal and Zillow's and Trulia's internal financial projections discussed by the parties on July 11th. Mr. Flint told the meeting participants that Mr. Barton had indicated to him that Zillow would likely not go above 33% pro forma ownership of the combined company by Trulia stockholders. Based on the review of the preliminary financial analyses and the ensuing discussions at the meeting, the Trulia transaction committee determined that the strategic business combination described in Zillow's June 26th Proposal appeared to be a financially attractive opportunity for the Trulia stockholders. Also, Wilson Sonsini and Goodwin Procter outlined the key terms of Zillow's draft merger agreement.

On July 15, 2014, the Trulia board held a telephonic meeting at which members of Trulia's management and representatives of Wilson Sonsini, Goodwin Procter, and J.P. Morgan were present. At the meeting, the Trulia board further discussed J.P. Morgan's preliminary financial analyses of Zillow's June 26th Proposal, the key terms of the draft merger agreement, and Trulia's strategic alternatives, noting the factors considered at the July 2nd meeting of the Trulia transaction committee.

Later on July 15, 2014, Messrs. Flint and Aggarwal attended a dinner with Messrs. Barton, Frink, and Rascoff, in San Francisco, California in preparation for in-person meetings the following day.

On July 16, 2014, the same individuals as well as Mr. Waldorf and certain other representatives from Zillow and Trulia, along with representatives from Shearman & Sterling, Goldman Sachs, J.P. Morgan, Wilson Sonsini, and Goodwin Procter, held in-person due diligence meetings at Shearman & Sterling's offices in San Francisco, California. Later that same day, representatives from Zillow and Trulia, along with representatives from Shearman & Sterling, Wilson Sonsini, and Goodwin Procter, held in-person meetings in San Francisco, California to discuss certain regulatory matters.

On July 16, 2014, Mr. Flint sent Mr. Barton additional details regarding terms and allocations under the potential retention program that they had discussed.

On July 17, 2014, Chad Cohen, Zillow's Chief Financial Officer, and other Zillow representatives and Mr. Aggarwal and other Trulia representatives, met in San Francisco, California to discuss financial due diligence. Each of Trulia and Zillow also provided the other party and its advisors with access to a virtual data room containing requested business and legal due diligence materials.

Also on July 17, 2014, the Trulia board held a telephonic meeting at which members of Trulia's management and representatives of Wilson Sonsini, Goodwin Procter, and J.P. Morgan were present. At the meeting, the Trulia board was provided an update on the reciprocal exchange of financial due diligence information. The Trulia board also reviewed preliminary financial analyses prepared by J.P. Morgan, which had been updated to reflect the due diligence meetings held on July 16, 2014, and discussed Trulia's stand-alone prospects and the potential for a strategic transaction with another party, concluding again not to approach possible strategic partners or buyers for the reasons previously discussed. The Trulia board also discussed the terms of a counteroffer to Zillow's June 26th Proposal and directed Trulia's legal and financial advisors to present such counteroffer to Zillow's legal and financial advisors.

Later on July 17, 2014, the legal and financial advisors of Trulia and Zillow met in person at Shearman & Sterling's offices in San Francisco, California. At this meeting, the Trulia advisors presented the Zillow advisors with a term sheet setting forth the key terms of a counteroffer to Zillow's June 26th Proposal as authorized by the Trulia board at the meeting held earlier in the day, including an increase in the exchange ratio from 0.434 to 0.474 of a share of Zillow Class A common stock (which would correspond to pro forma ownership of the combined company by Trulia stockholders of approximately 34.5%). The counteroffer also proposed other terms, such as price protection, a "go-shop" provision and a fiduciary right of termination (with related merger break-up fees payable to Zillow of 1.5% during the "go-shop" period and 3.0% thereafter), a $250 million termination fee payable to Trulia in the event that the required antitrust approvals were not obtained (the "antitrust termination fee"), and undesignated board seats of the combined company.

In response to the Trulia counteroffer, later in the day on July 17, 2014, the Zillow advisors presented Trulia's advisors with a revised term sheet, including an exchange ratio of 0.444 (which would correspond to pro forma ownership of the combined company by Trulia stockholders of approximately 33%) (the "July 17th Proposal"). The July 17th Proposal also included improvement in a number of non-price terms from Zillow's June 26th Proposal, such as a $50 million antitrust termination fee (plus up to $25 million in expense reimbursement) and a fiduciary right of termination with a merger break-up fee payable to Zillow of 3.6% of Trulia's enterprise value. In connection with the presentation of the July 17th Proposal, the Zillow advisors indicated that the proposed exchange ratio was Zillow's final offer.

On July 19, 2014, the Trulia transaction committee held a telephonic meeting at which members of Trulia's management and representatives of Wilson Sonsini, Goodwin Procter, and J.P. Morgan were present. At the meeting, the Trulia transaction committee discussed the status of the negotiations of the parties and potential responses to Zillow's July 17th Proposal. Also, given Zillow's refusal to accept a "go-shop" provision, the

members of the Trulia transaction committee further discussed the potential for a strategic transaction with another party and concluded again not to approach possible strategic partners or buyers for the reasons previously discussed. The Trulia transaction committee determined to accept the proposed Trulia exchange ratio of 0.444 contingent upon Zillow agreeing to improve certain non-price terms (including the merger break-up fee and antitrust termination fee), and directed J.P. Morgan to assist in negotiating those terms.

Also on July 19, 2014, representatives of J.P. Morgan contacted representatives of Goldman Sachs to provide a counteroffer on certain non-price deal terms in Zillow's July 17th Proposal as directed by the Trulia transaction committee, including a $250 million antitrust termination fee and a merger break-up fee equal to 2.75% of Trulia's enterprise value.

On July 21, 2014, representatives from Zillow and Trulia participated telephonically in a legal due diligence session.

Also on July 21, 2014, Mr. Frink and Mr. Aggarwal had a telephone call to discuss progress of the due diligence process, and Messrs. Frink, Flint and Aggarwal had a telephone conversation during which they continued to discuss the terms and allocations under a potential retention program.

On July 22, 2014, representatives of J.P. Morgan called representatives of Goldman Sachs to discuss certain of the outstanding terms of the transaction, and representatives from Zillow and Trulia met in person in San Francisco, California to discuss technology due diligence. In addition, Mr. Frink had a telephone call with Mr. Flint and Mr. Aggarwal to discuss progress of the due diligence process and the terms and allocations under a potential retention program.

On July 22, 2014, the Zillow board met telephonically to discuss the status of the negotiations with Trulia and the remaining open deal terms. Shearman & Sterling discussed certain legal issues and Goldman Sachs reviewed certain preliminary financial analyses. Following the meeting, representatives of Shearman & Sterling and Goldman Sachs were directed to continue negotiations with Trulia's advisors, and Shearman & Sterling distributed draft forms of voting agreements to be signed by Zillow's founders and the directors of Trulia, pursuant to which they would agree to vote their shares in favor of the proposed transaction.

Also on July 22, 2014, the Trulia board held a telephonic meeting at which members of Trulia's management and representatives of Wilson Sonsini, Goodwin Procter, and J.P. Morgan were present. At the meeting, the Trulia board was provided with an update from its legal and financial advisors on the status of the negotiations between Trulia and Zillow and remaining open deal terms.

From July 23, 2014 through July 27, 2014, representatives from Zillow and Shearman & Sterling had various discussions with representatives of certain of the Significant Shareholders regarding the possibility of such Significant Shareholders executing voting agreements pursuant to which they would agree to vote their shares of Trulia common stock in favor of the proposed transaction. Ultimately, no agreements were reached with those Significant Shareholders.

On July 23, 2014, Messrs. Rascoff and Flint discussed telephonically the status of negotiations.

Also on July 23, 2014, representatives of Wilson Sonsini and Goodwin Procter distributed to representatives of Shearman & Sterling a revised merger agreement, which included a $150 million antitrust termination fee and a merger break-up fee equal to 2.75% of Trulia's enterprise value, and representatives of Wilson Sonsini, Goodwin Procter, and Shearman & Sterling discussed certain terms of the draft merger agreement and voting agreements.

On July 24, 2014, representatives of Zillow and Trulia met in Seattle, Washington to discuss technology due diligence.

Also on July 24, 2014, Bloomberg published an article indicating that it understood that Zillow and Trulia were in advanced negotiations regarding a potential business combination. Trulia's stock price closed at $40.58

on the prior trading day, which the Trulia board viewed as the unaffected trading price. The proposed exchange ratio of 0.444 represented an implied price of approximately $64.72 per share of Trulia common stock based on the closing price of Zillow Class A common stock on July 24, 2014, and represented an implied premium of 59% to the unaffected trading price of Trulia common stock.

In addition, on July 24, 2014, Mr. Flint presented via electronic mail to the compensation committee of the Trulia board, and on July 25, 2014, Mr. Flint presented via electronic mail to the Trulia board, a summary of the retention program that had been under discussion between Zillow and Trulia management.

On July 25, 2014, the Trulia board held a telephonic meeting at which members of Trulia's management and representatives of Wilson Sonsini, Goodwin Procter, and J.P. Morgan were present. At the meeting, the Trulia board received an update from its legal and financial advisors on the status of the negotiations with Zillow and discussed open deal terms, including the request for payment of a termination fee to Trulia in the event that the Zillow shareholders failed to approve the merger agreement for any reason (the "Zillow shareholder termination fee"). Following this discussion, with Trulia's legal advisors, the independent directors met in executive session to discuss the proposed retention program for Trulia management and other key employees that Mr. Flint had presented via electronic mail to the compensation committee on July 24, 2014 and to the Trulia board on July 25, 2014, and made determinations with respect to such retention program, including that any retention discussions should be limited to the pre-closing period and to the retention of key non-management employees and that Trulia's negotiating team should seek to increase the amount devoted to this more limited retention program. Mr. Waldorf communicated these determinations to Mr. Flint following conclusion of the executive session.

Also on July 25, 2014, Trulia executed its formal engagement agreement, effective as of June 5, 2014, with J.P. Morgan.

At a special telephonic meeting of the board of Zillow, on July 25, 2014, Mr. Rascoff briefed the Zillow board on the status of the negotiations with Trulia. Representatives of Shearman & Sterling described legal issues related to the proposed transaction with Trulia and Brad Owens, Zillow's Assistant General Counsel, briefed the Zillow board on the results of the due diligence process to date. Representatives from Goldman Sachs reviewed certain preliminary financial analyses. Later on July 25, 2014, representatives of Shearman & Sterling distributed to representatives of Wilson Sonsini and Goodwin Procter a revised merger agreement, which included, among other things, a provision permitting Holdco to amend its articles of incorporation prior to closing of the mergers without Trulia's consent to add a new class of nonvoting Class C capital stock.

On July 26, 2014, the Trulia transaction committee held a telephonic meeting at which members of Trulia's management and representatives of Wilson Sonsini and Goodwin Procter were present. At the meeting, the Trulia transaction committee received an update from its legal advisors on the status of the negotiations with Zillow and open deal terms, including Trulia's request for a Zillow shareholder termination fee and Zillow's request to include a new Class C capital stock in the charter of the holding company.

Throughout July 26, 2014 and July 27, 2014, representatives of each party's in-house legal teams, Shearman & Sterling, Wilson Sonsini, and Goodwin Procter continued to negotiate the remaining open items in the merger agreement and voting agreements. In addition, on July 27, 2014, Shearman & Sterling provided the proposed form of amended and restated articles of incorporation of Holdco to Wilson Sonsini and Goodwin Procter, which form included the terms of a new class of nonvoting Class C capital stock. Shearman & Sterling communicated Zillow's view that the merger agreement should provide for the mandatory adoption by Holdco of such form of articles of incorporation to provide Holdco with the flexibility to issue Holdco Class C capital stock in the future without diluting the relative voting interests of holders of Holdco Class A common stock and Holdco Class B common stock, including Zillow's founders, who would have the ability to exercise voting control of Holdco upon closing of the merger.

On July 27, 2014, Mr. Frink contacted Mr. Waldorf and Mr. Flint to discuss the outstanding deal terms, and Mr. Waldorf contacted a representative of Goldman Sachs to discuss the outstanding deal terms. During the conversations between Mr. Frink and Mr. Waldorf, Mr. Frink agreed to recommend to the Zillow board that the retention program for key non-management employees of Trulia during the pre-closing period be comprised of $33 million of equity. Thereafter, on July 27, 2014, representatives from each of Zillow's and Trulia's legal and financial advisors participated in multiple telephone conferences to discuss and resolve the remaining open deal terms. Based on these discussions, Zillow agreed to include in the merger agreement a Zillow shareholder termination fee of $150 million. In addition, it was agreed that the merger agreement would include, among other things, a provision requiring Holdco to adopt the form of articles of incorporation that Zillow had proposed (which form included a new class of nonvoting Class C capital stock).

Later on July 27, 2014, the Trulia board held a telephonic meeting at which members of Trulia's management and representatives of Wilson Sonsini, Goodwin Procter, and J.P. Morgan were present. During the meeting, J.P. Morgan reviewed its financial analysis of the proposed transaction and delivered to the Trulia board its oral opinion, which was confirmed by delivery of a written opinion dated July 27, 2014, to the effect that, as of such date and based upon and subject to the factors and assumptions set forth in its opinion, the Trulia exchange ratio of 0.444 in the proposed transaction was fair, from a financial point of view, to the holders of Trulia common stock. Wilson Sonsini and Goodwin Procter reviewed the Trulia board's fiduciary duties and the key provisions of the merger agreement. The Trulia board asked questions and discussed the merger agreement provisions and related matters. After discussion in which the Trulia board considered the factors discussed further in "—Recommendation of the Trulia Board; Trulia's Reasons for the Trulia Merger," the members of the Trulia board present at the meeting unanimously approved the merger agreement and the transactions contemplated by the merger agreement. The Trulia board also deemed it advisable, and in the best interests of Trulia and its stockholders, to consummate the Trulia merger and the other transactions contemplated by the merger agreement, on the terms and subject to the conditions set forth in the merger agreement, and to recommend that Trulia stockholders adopt the merger agreement.

At a special telephonic meeting of the Zillow board held on July 27, 2014, the Zillow board met to discuss approval of the proposed transaction. The Zillow board was provided with an update of the results of the due diligence process prior to the meeting, and representatives of Shearman & Sterling provided the Zillow board with an update of the legal process of the proposed transaction with Trulia. Representatives of Goldman Sachs reviewed its financial analysis of the proposed transaction and delivered to the Zillow board an oral opinion, which was subsequently confirmed by delivery of a written opinion to the Zillow board dated July 28, 2014, to the effect that, as of such date and based on and subject to various assumptions and limitations discussed in its opinion, taking into account the Trulia merger, the Zillow Class A exchange ratio and the Zillow Class B exchange ratio pursuant to the merger agreement were fair from a financial point of view to the holders of shares of Zillow Class A common stock and Zillow Class B common stock. After discussion in which the Zillow board considered the factors discussed further in "—Recommendation of the Zillow Board; Zillow's Reasons for the Merger," the Zillow board, acting unanimously, determined that the proposed business transaction with Trulia, including the Zillow merger, was advisable and fair to, and in the best interest of, Zillow and its shareholders, approved the merger agreement, the Zillow merger, the voting agreements between Zillow and certain stockholders of Trulia, and other transactions contemplated by the merger agreement and resolved to recommend that Zillow shareholders vote in favor of the mergers and to approve the merger agreement.

On July 28, 2014, Zillow and Trulia executed the merger agreement, and all signatories to the voting agreements executed such agreements. Zillow and Trulia issued a joint press release announcing the execution of the merger agreement before the open of trading on July 28, 2014.

Recommendation of the Zillow Board; Zillow's Reasons for the Merger

Following a review and discussion of all relevant information regarding the mergers, at a meeting held on July 27, 2014, the Zillow board unanimously (1) adopted the merger agreement and approved the transactions

From:	Foster, Susan E. (Perkins Coie)
To:	Court, Chun; Galipeau, Katherine G. (Katie) (Perkins Coie)
Cc:	Jack Lovejoy; Lawrence Cock; Barnes, Clem (CBarnes@GrahamDunn.com); egordon@grahamdunn.com; O"Sullivan, Kathleen M. (Perkins Coie)
Subject:	RE: Move v. Zillow Order to Seal Case No. 14-2-07669-0
Date:	Monday, February 02, 2015 11:08:51 AM

Hi – Defendants are seeking clarification through the special master as to the scope of Plaintiffs claims and at present it is difficult to estimate the duration of trial. At present, best estimate is 2-4 weeks.
Susan

From: Court, Chun [mailto:Chun.Court@kingcounty.gov]
Sent: Monday, February 02, 2015 9:56 AM
To: Galipeau, Katherine G. (Katie) (Perkins Coie)
Cc: jlovejoy@cablelang.com; lrc@cablelang.com; Barnes, Clem (CBarnes@GrahamDunn.com); egordon@grahamdunn.com; Foster, Susan E. (Perkins Coie); O'Sullivan, Kathleen M. (Perkins Coie)
Subject: RE: Move v. Zillow Order to Seal Case No. 14-2-07669-0
Importance: High

Counsel, the court would like to know how long of a trial this case is? Thank you.

Jill Gerontis
Bailiff to Judge John H. Chun
King County Courthouse – W921
(206) 477-1423
Chun.court@kingcounty.gov
IMPORTANT: Please DO NOT email working copies to the bailiff absent advance authorization. In order to avoid inappropriate ex-parte contact, you are hereby directed to forward this communication to all other counsel not already copied on this e-mail.

From: Galipeau, Katherine G. (Katie) (Perkins Coie) [mailto:KGalipeau@perkinscoie.com]
Sent: Friday, January 30, 2015 11:59 AM
To: Court, Chun
Cc: jlovejoy@cablelang.com; lrc@cablelang.com; Barnes, Clem (CBarnes@GrahamDunn.com); egordon@grahamdunn.com; Foster, Susan E. (Perkins Coie); O'Sullivan, Kathleen M. (Perkins Coie)
Subject: Move v. Zillow Order to Seal Case No. 14-2-07669-0

Ms. Gerontis,

Please see the attached stipulation and order for Judge Chun. If you require a more detailed order, please let me know and I will provide one right away.

Thank you very much,

Katie

Katherine Galipeau | **Perkins Coie LLP**
COUNSEL
1201 Third Avenue Suite 4900
Seattle, WA 98101-3099
D. +1.206.359.8075
F. +1.206.359.9075
E. KGalipeau@perkinscoie.com

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EXHIBIT G

HONORABLE JOHN CHUN

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

FOR THE COUNTY OF KING

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation, TOP PRODUCER SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation, Plaintiffs, vs. ZILLOW, INC., a Washington corporation, and ERROL SAMUELSON, an individual, Defendants.	Case No. 14-2-07669-0 SEA **PLAINTIFFS' SIXTH DISCOVERY REQUESTS TO DEFENDANT ZILLOW, INC.**

TO: Defendant Zillow, Inc.

AND TO: Susan E. Foster, Kathleen M. O'Sullivan, Katherine G. Galipeau, Judith B. Jennison and Perkins Coie LLP

INSTRUCTIONS

SMI389

CABLE, LANGENBACH, KINERK & BAUER, LLP
1000 SECOND AVENUE, SUITE 3500
SEATTLE, WASHINGTON 98104-1048
(206) 292-8800

Pursuant to the provisions of Rules 26 and 34 of the Civil Rules for Superior Court of the State of Washington, you are hereby requested to respond to the following discovery requests for within thirty (30) days after the service hereof. You have been served with the original of these discovery requests ("requests"). You should respond to each request within the space provided or use additional pages if necessary. Within the time allowed by the rules, you should serve the original with your responses on the attorneys for plaintiffs Move, Inc., Realselect, Inc., Top Producer Systems Company, National Association of Realtors, and Realtors® Information Network, Inc.

Under Civil Rule 34 you are requested to produce, and permit plaintiffs Move, Inc., Realselect, Inc., Top Producer Systems Company, National Association of Realtors, and Realtors® Information Network, Inc.'s attorneys to inspect and copy, the documents hereinafter designated which are in your possession, custody and control, at the offices of Cable, Langenbach, Kinerk & Bauer, LLP, 1000 Second Avenue, Suite 3500, Seattle, Washington 98104-1048, at such time and place as may be agreed upon by the parties.

These requests are intended to be continuing in nature. In accordance with the obligation to supplement responses imposed by Civil Rule 26(e), you are asked to provide any information which would materially alter the answers now given at the time you obtain such additional information. Any additional information relating to these requests which you acquire subsequent to the date of your responses, up to and including the time of trial, should be furnished to as supplemental responses promptly after such information is acquired.

DEFINITIONS AND PROCEDURES

Please respond fully to the following interrogatories as required by Civil Rules 26 and 33. You are to comply with the following definitions and procedures.

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SEATTLE, WASHINGTON 98104-1048
(206) 292-8800

DEFINITIONS

1. "Defendant(s)," "you," "your," or "Zillow" means Zillow, Inc.

2. "Person" means natural persons, firms, proprietorships, associations, partnerships, corporations and every other type of organization or entity.

3. "Communication" shall mean any transmission of information, the information transmitted and any process by which information is transmitted, and shall include written communications and oral communications.

4. "Document" means any tangible materials, electronically stored information, and other information stored in any form; any written, recorded, electronically or digitally stored, graphic matter, however produced or reproduced; and copies and drafts thereof. Without limiting the foregoing, plaintiff intends the term "document" to mean any form of information within the scope and definition of Washington Civil Rule 34, and includes the following items within your possession, subject to your control, or of which you have knowledge: correspondence; telegrams; memoranda; reports; notes; drafts; minutes; contracts; agreements; books; records; vouchers; invoices; diaries; logs; calendar notes; computer print-outs; e-mails; text messages; back-up materials of any kind; card files; press clippings; newspapers or newsletters; sworn or unsworn statements of employees; lists; audits; tables of organization; deposit slips; monthly or other periodic statements; ledgers; journals; notices; affidavits; court papers; appointment books; minutes or records of conferences or telephone calls; brochures; receipts; written reports or opinions of investigators or experts; status reports; drawings; charts; photographs; negatives; tape recordings; electronic mail; computer file on a hard drive or RAM, floppy disk, CD-ROM, DVD, or other magnetic or optical storage medium.

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SEATTLE, WASHINGTON 98104-1048
(206) 292-8800

5. "Identify", "identification", or "identity", means:

a. When referring to a natural person, state her full name; her present or last-known business and home address; her present or last-known business position; and, if different, her business position at the time to which the interrogatory or your response to the interrogatory has reference; and, a brief description of the responsibilities of such position.

b. When referring to a document, state its title and date; identify the author or person who prepared it and any signatories to it; give the type of document (e.g., letter, memorandum, invoice); its present location and custodian; a summary of its contents, or principal terms and provisions; the identity of its addressee and all other persons receiving it or copies of it. If the document so identified was, but is no longer, in your possession, custody or control, state what disposition has been made of it. Attach a copy of it to your response to these interrogatories.

c. When referring to a person other than a natural person, set forth:

1) Full lawful name, and all other names or styles used, at any time, and for any purposes whether or not registered.

2) Type of entity (e.g., general partnership, limited partnership, corporation, trust, limited liability company).

3) Present business address and telephone, or last known business address and telephone.

4) Registered office address and name of registered agent.

5) States and foreign countries where qualified to do business.

6) All business addresses and telephone numbers in this state.

7) State and date of incorporation.

8) Names and addresses of Washington agent for service of process.

9) Name, principal office, state and date of incorporation, and name of chief executive officer of:

a) Any controlling corporation;

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1 b) Any subsidiary corporation.

2 10) Name and address of all persons owning a controlling interest, and a description of the extent of such interest.

3

4 11) Identify its partners, shareholders, principals, officers, directors, members and managers at the present time, and, if different, at the times to which the interrogatory and your response to the interrogatory refer.

5

6 6. "Trulia" means Trulia, Inc.

7 7. "Move" means Move, Inc.

8 **NOTICE TO DEFENDANT ZILLOW, INC. AND ITS COUNSEL REGARDING DISCOVERY OF COMPUTER/ELECTRONIC DATA OR MEDIA.**

9 Notice is given that defendant's discovery requests, including future requests, include within

10 their scope information and data which is stored or maintained by computer or electronic means.

11 Such information and data must be preserved and protected for purposes of this litigation.

12 Plaintiff(s) is instructed to comply with the following:

13 1. Defendant(s) should not initiate any procedures which would alter any active,

14 deleted, or fragmented files. Such procedures may include, but are not limited to, storing

15 (saving) newly created files to existing drives and diskettes, loading new software such as

16 application programs, running data compression and disk defragmentation (optimization)

17 routines, or the use of utility programs to permanently wipe files, disks or drives.

18 2. Defendant(s) should stop any rotation, alteration and/or destruction of electronic

19 media that may result in the alteration or loss of any electronic data. Backup tapes and disks

20 should be pulled from their rotation queues and be replaced with new tapes.

21 3. Defendant(s) should not alter and/or erase active, deleted files or file fragments on

22 any electronic media that may have any relation to this litigation.

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1 4. Defendant(s) should not dispose of any electronic media storage devices replaced
2 due to failure and/or upgrade that may contain electronic data having any relation to this
3 litigation.

4 **REQUESTS FOR PRODUCTION**

5 **REQUEST FOR PRODUCTION NO. 142:** Produce all documents that you submitted to
6 the Special Master pursuant to the December 12, 2014 discovery order.

7 **RESPONSE:**

8

9 **REQUEST FOR PRODUCTION NO. 143:** Produce all communications between
10 January 1, 2013 and July 28, 2014 regarding your acquisition of Trulia.

11 **RESPONSE:**

12

13 **REQUEST FOR PRODUCTION NO. 144:** Produce documents created between August
14 2012 and the spring of 2014 sufficient to show when Zillow began to consider an acquisition of
15 Trulia as stated in Zillow's SEC filings, including page 94 of Zillow's Schedule 14A filing with the
16 Securities and Exchange Commission, dated November 18, 2014.

17 **RESPONSE:**

18

19 **REQUEST FOR PRODUCTION NO. 145:** Produce all copies of any strategy or Board
20 memos created between January 1, 2013 and July 28, 2014 related to your acquisition of Trulia.

21 **RESPONSE:**

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KINERK & BAUER, LLP
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(206) 292-8800

1 **REQUEST FOR PRODUCTION NO. 146:** Produce all documents related to your
2 valuation of Trulia and created between January 1, 2013 and July 28, 2014.
3 **RESPONSE:**
4
5 **REQUEST FOR PRODUCTION NO. 147:** Produce all documents created between
6 January 1, 2013 and July 28, 2014 that refer or relate to your reasons for initiating or continuing
7 merger discussions with Trulia.
8 **RESPONSE:**
9
10 **REQUEST FOR PRODUCTION NO. 148:** Produce all documents created between
11 January 1, 2013 and July 28, 2014 that analyze, discuss or otherwise refer to the impact that your
12 merger with Trulia would have on Move.
13 **RESPONSE:**
14
15 **REQUEST FOR PRODUCTION NO. 149:** Produce all communications that Errol
16 Samuelson and/or Curt Beardsley had with Trulia regarding any proposed or actual acquisition of
17 Trulia.
18 **RESPONSE:**
19
20 **REQUEST FOR PRODUCTION NO. 150:** Produce all communications that Errol
21 Samuelson and/or Curt Beardsley had with you regarding Trulia before July 28, 2014.
22 **RESPONSE:**
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SEATTLE, WASHINGTON 98104-1048
(206) 292-8800

1 **REQUEST FOR PRODUCTION NO. 151**: Produce all non-privileged communications
2 between you and Shearman & Sterling LLP regarding a possible acquisition of Trulia.
3 **RESPONSE**:
4
5 **REQUEST FOR PRODUCTION NO. 152**: Produce all communications between you
6 and Goldman Sachs regarding a possible acquisition of Trulia.
7 **RESPONSE**:
8
9 **REQUEST FOR PRODUCTION NO. 153**: Produce all copies, including drafts, of any
10 letters of intent related to your acquisition of Trulia.
11 **RESPONSE**:
12
13 **REQUEST FOR PRODUCTION NO. 154**: Produce all communications between you
14 and "unaffiliated significant holders of both [Zillow's] and Trulia's common stock " regarding your
15 acquisition of Trulia as stated in Zillow's SEC filings, including page 94 of Zillow's Schedule 14A
16 filing with the Securities and Exchange Commission, dated November 18, 2014.
17 **RESPONSE**:
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SM 396

CABLE, LANGENBACH,
KINERK & BAUER, LLP
1000 SECOND AVENUE, SUITE 3500
SEATTLE, WASHINGTON 98104-1048
(206) 292-8800

1 DATED this 3d day of February, 2015.

2 CABLE, LANGENBACH, KINERK & BAUER, LLP

3

4 ______________________________

5 Jack M. Lovejoy, WSBA No. 36962
Lawrence R. Cock, WSBA No. 20326
6 Attorneys for Plaintiffs

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SEATTLE, WASHINGTON 98104-1048
(206) 292-8800

1 STATE OF WASHINGTON)
) ss.
2 COUNTY OF KING)

3 ______________________________ affirms and states that he/she is a

4 **Defendant,** has read the foregoing Plaintiffs' Sixth Discovery Requests to Defendant

5 Zillow, Inc. and Responses thereto, and that the answers are true and correct, and that

6 **Defendant** has not interposed any answers or objections for any improper purpose, such as

7 to harass or to cause unnecessary delay or needless increase in the cost of litigation.

8

9 By: ______________________________

10

11 SUBSCRIBED AND AFFIRMED TO before me this __________ day of

12 ____________________, 2015.

13 ______________________________

Notary Public

14

15 ______________________________

16 ______________________________

(Address)

My Commission Expires:

17

18 ______________________________

19

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KINERK & BAUER, LLP
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CERTIFICATION

I, ____________________, the attorney for **Defendant Zillow, Inc.**, certify that I have read the answers and objections (if any) to the foregoing Plaintiffs' Sixth Discovery Requests to Defendant Zillow, Inc. and Responses thereto and, to the best of my knowledge, information, and belief formed after a reasonable inquiry are (1) consistent with these rules and warranted by existing law or good faith argument for the extension, modification, or reversal of existing law, (2) not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the costs of litigation, and (3) not unreasonably or unduly burdensome or expensive, given the needs of the case, the discovery already had in the case, the amount of controversy, and the importance of the issues at stake in this litigation.

CERTIFICATION DATED this __________ day of __________________, 2015.

PERKINS COIE LLP

By: ________________________________

____
Attorney for Defendant Zillow, Inc.

SM 399

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KINERK & BAUER, LLP
1000 SECOND AVENUE, SUITE 3500
SEATTLE, WASHINGTON 98104-1048
(206) 292-8800

CERTIFICATE OF SERVICE

The undersigned certifies that on February ___, 2015, I caused service of the foregoing upon the party and in the manner indicated below:

VIA EMAIL:

Susan E. Foster
Kathleen O'Sullivan
Katherine G. Galipeau
Judith B. Jennison
Perkins Coie LLP
1201 Third Ave., Suite 4900
Seattle, WA 98101-3099
Attorneys for Zillow, Inc.

Clemens H. Barnes
Estera Gordon
Daniel J. Oates
Miller Nash Graham & Dunn PC
Pier 70, Alaskan Way, Suite 300
Seattle, WA 98121-1128
Attorneys for Errol Samuelson

I declare under penalty of perjury that the foregoing is true and correct.

DATED at Seattle, Washington, on February 3, 2015.

Janet Brazill, Legal Assistant

SM 400

CABLE, LANGENBACH, KINERK & BAUER, LLP
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(206) 292-8800

EXHIBIT I

THE REAL DEAL

NEW YORK CITY REAL ESTATE NEWS

Trulia head stands by strategy, despite stock shock: VIDEO

Stocks in the company fell 18 percent Friday

February 17, 2014 03:30PM

Despite a big drop in its share price, Trulia management is digging in its heels on a decision to undertake a $45 million strategic marketing campaign.

Trulia investors, less than thrilled with the company's fast-growing expenses, drove the share price of the real estate listing specialist down by nearly 18% on Friday. Still, CEO Pete Flint stood by the company's decision to snag a portion of the $27 billion real estate advertising market in the U.S. — saying now is the time to make a move.

"We think this is the rich long-term opportunity for the business," Flint said on CNBC's "Squawk on the Street." "We see a tremendous opportunity."

The strategy is akin to that of Zillow, Trulia's biggest rival, which recently also decided to ratchet up advertising spending to $65 million in 2014, up from $40 million in 2013. Zillow's shares took a dip on Friday as well, though a smaller one, with the shares of the company closing the day down around 10 percent.

Asked whether Trulia would consider making additional buys in the year ahead, on top of its planned purchase of a marketing company next year, Flint said that he is open to such possibilities.

"We see this as an industry in consolidation," he told CNBC's Jim Cramer. "Only a couple of players will survive and scale over the next several years." [CNBC] — *Julie Strickland*

Tags: peter flint, trulia

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Fredrik Eklund lists his own Chelsea pad for $3.25 millionFredrik Eklund lists his own Chelsea pad for $3.25 million

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SM 406

Buffett's Empire Is In Peril... And He Knows It

EXHIBIT J

THE FORTUNE INTERVIEW

RUPERT MURDOCH

By Patricia Sellers

Photographs by Marco Grob

Defending a newspaper empire amid scandal, splitting a global media conglomerate into two public companies, enduring a high-profile divorce, and struggling to repair frayed relationships with grown children—it's been a trying few years for Rupert Murdoch. A week after turning 83, Murdoch sat down with *Fortune* senior editor-at-large Pattie Sellers for his first wide-ranging interview with the press since 2009. He was feisty, highly opinionated, and game to talk about the biggest challenges of his storied life (save for the allegations of phone hacking by News Corp. journalists in Britain, which he declined to discuss for legal reasons). ¶ And though battered by turmoil and strife—and a recent fall on his head, as he revealed in this Q&A—Murdoch seems newly secure as the world's most powerful global media billionaire. Starting with a single Australian newspaper that he inherited from his father in 1952, Murdoch built News Corp., which owns the *Wall Street Journal*, the *New York Post*, the *Times* of London, the leading newspapers in Australia, and book publisher HarperCollins. Last July he split News Corp. from 21st Century Fox, which owns the Fox broadcast network, cable assets including Fox News and new ESPN rival Fox Sports 1, the 21st Century Fox movie studio, and satellite broadcasting operations across Europe, Asia, and the Middle East. The combined stock market value of his two companies exceeds $80 billion. Murdoch owns nearly 40%, controls the voting stock, and calls the shots. ¶ Murdoch recently handed the keys to the kingdom to his two sons. Lachlan, 42, is the new nonexecutive chairman of both News Corp. and 21st Century Fox—a stunning comeback for Murdoch's elder son, who in 2005 quit his News Corp. job over clashes with senior management and returned to Australia to build his own empire. Son James, 41, who was tarnished in News Corp.'s phone-hacking scandal, moved up to co-chief operating officer at 21st Century Fox.

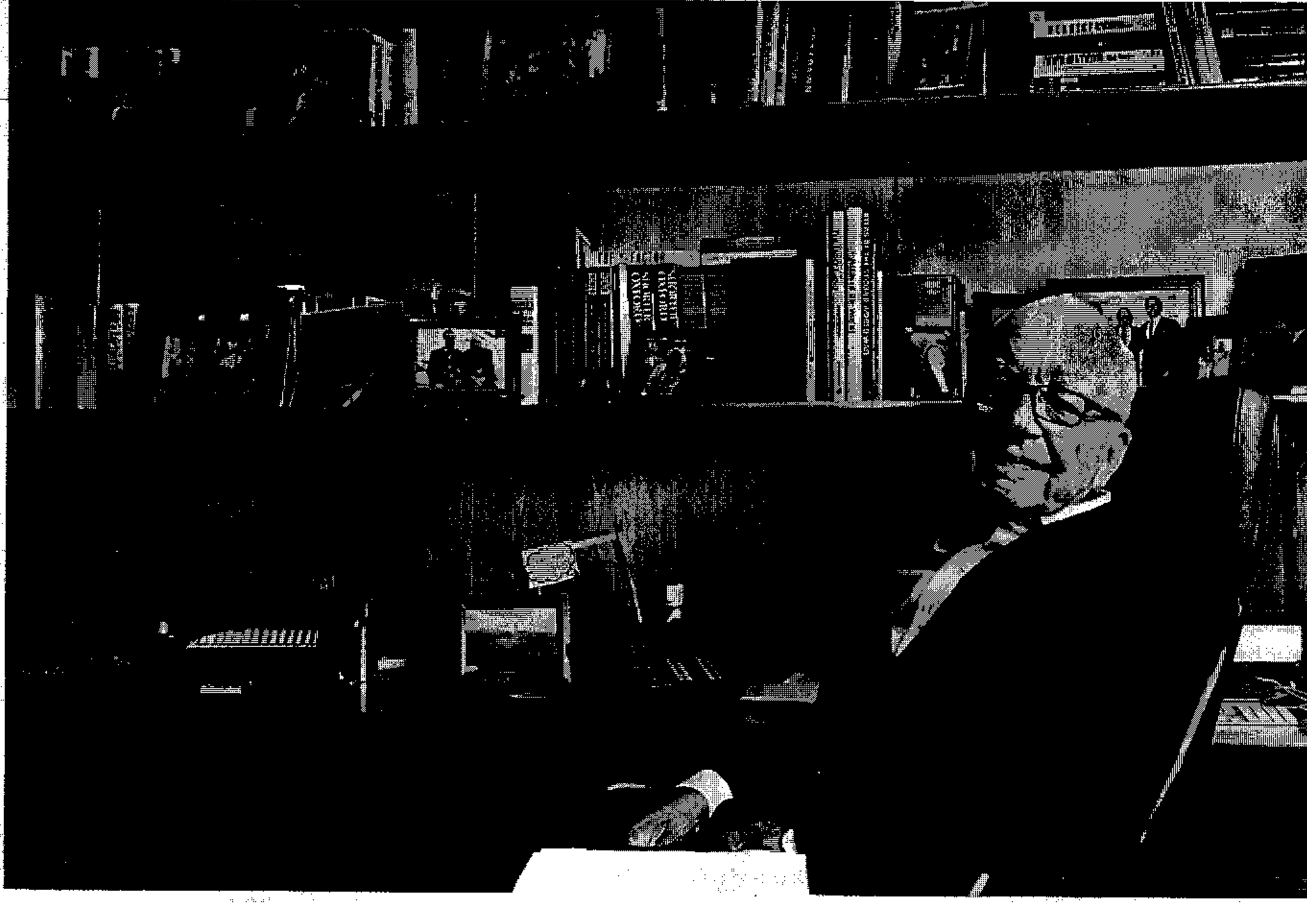
SM

FORTUNE: You've had a very eventful past few years. How have you come out of this, and has it taught you anything?
Murdoch: Oh, it's been stressful. I'm quite open about it. I was reluctant to see the company split, and now I've got to say that I've been proved wrong. I think it's been a great success. And I'm not talking about the share market. I think the two companies, which were all in one before, are now much more focused, which will lead to faster growth.
Why were you reluctant to split the company? I guess it was emotional.
You, some say, "endowed" News Corp. with close to $3 billion in cash. Meanwhile, Time Inc. is spinning off from Time Warner with $1.3 billion in debt. Does that make sense to you? No. Well, I don't want to criticize here. It's a very fine company with great assets. But print is going through a tough time. There's got to be a lot of money spent on digitizing everything. You've got to keep improving and competing in a new world, as well as keeping your old world going. So to have some spare cash gives you a lot of security. Whereas at Time I would imagine that the new management is going to be looking immediately at how can they save money. I hope we're not wasting money, but we're spending.
What don't people understand about you? Well, they perhaps tend to think I've not got as thick a skin as I have. You know, I don't mind what people say about me. I've never read a book about myself.
Has this been your toughest period ever? Well, everything has sort of come at once. But I was in an unhappy situation, and all I'm worried about or do worry about is two beautiful little girls from that marriage [to Wendi Deng, whom he divorced last November]. And they come and stay with me a great deal. I feel like I've turned over a new page in my life.
How long do you think you will live? Well, my mother just died at 103, so that's a start. You should live 20 years longer than your parents. [*Laughs.*] That may not be realistic, but I'm in good physical shape, according to the doctors. And don't worry—my children will be the first to tell me if I start losing some mental ability. That will be the time to step back.

News Corp. acquired Dow Jones in 2007, bringing the *Wall Street Journal* into its stable of print assets needing to adapt to a digital age. Efforts to leverage Dow Jones's Factiva business database have faltered.

Let's talk about the newspaper business. Is it fair to say that the game is to cut costs faster than revenue declines and— No!
Why is that wrong? Well, obviously when you come to a difficult period, you look at all your costs very, very carefully. But we haven't gone nearly as far as some of the other papers have, like the *L.A. Times* and the *Chicago Tribune* or a lot of lesser papers. We've added a lot of things to the *Wall Street Journal.* We honestly believe that it's the best newspaper in America, if not the world.
Why keep the *New York Post* going? I don't know what it lost last year, but I think that in 2012 it lost $40 million. It's in that area.
Why keep it alive? Advertising has been very difficult. We're looking at various plans for the *Post.* We are working very hard on the digital edition.
Are you suggesting that in the next five years the *Post* as a print newspaper could go away and digital would be it? I would be surprised. I'm not saying it's impossible. I would think it might be quite likely in 10 years.
What about the *Wall Street Journal*? Is that likely to exist in print form in 10 years? I think so. Maybe not in 20. A lot of people are very happy to read their newspaper either on their iPad or—startlingly and faster and faster the figures go up—on their telephone, on their smartphone. At the London *Times* a third of our circulation is on a tablet. And people who read it on their tablet are spending 20% more time than if they're reading the paper.
In looking to expand News Corp., the biggest challenge, I would assume, is monetizing digital efforts. Yeah, and that leads us to all sorts of things. For instance, in London our digital includes video. We bought the video rights to the Premier League [England's top soccer league] and their highlights. Now if you look at the London *Times,* you'll find that with quite a number of the photographs, you touch them and they turn into videos. I think newspapers come alive that way. We talk about "papers." We should cut out the word "paper," you know? It's "news organizations."
That's a good idea. We have duties to our shareholders to give them the best possible returns, but we see them also as much more. They can be a great power for good. And that takes me back all the way to my father, who specifically had left me, by the standards of those days, a silver spoon—but still a tiny paper, half a tiny paper, my sisters and I. He hoped that I would have the opportunity to have a useful life in media. And he wasn't talking about making money.
Do you think about your father a lot? Yes. If I'm looking backward, which I don't do much, he's quite the most important sort of formative influence and figure that I would admire in the past.
News Corp. created a subscription-based web venture, DJX, that bundles data services to compete with Bloomberg and Thomson Reuters. It stumbled out of the gate, didn't it? Yes.
What is the lesson and what's the future of that? Well, I

SM 410



Murdoch at his desk at News Corp. headquarters in New York City

think the lesson was that we didn't do a good job. I think the concept is absolutely right, but we should have taken longer and got all those things right. The heart of that is Factiva, which we are now spending a lot of time improving, and repairing the relations with the people. People loved Factiva. [We said to Factiva customers:] "Look, you've got to pay much, much more money, and you've got to take everything or nothing." They said, "Nothing." So we're now repairing that. First we get Factiva right; then we get the other special services right. Whether we'll bundle them exactly in that way, I'm not sure.

Do you look with envy or admiration at Bloomberg? The company, not the man. I look at the man more than the company.

What do you think of the man? I like the man. And admire him. As for the company, he took an incredible stroke of luck and saw this great opportunity and established something. And he kept pushing it. And now those who use it buy it at a huge price—can't live without it. Mike's got a virtual monopoly there. When their costs go up a bit, they put the prices up, and no one cancels. And they keep growing slowly. It's a very small market, a very elite market. I remember when he rang me one day to complain about some criticism in the *Post*. I said, "I've just read *Bloomberg View*, and it absolutely lacerated me." He said, "Oh, nobody reads that." [*Laughs.*]

News Corp. owns a successful Australian business called Realestate.com.au that many of our readers have probably never heard of. It's been growing so fast. My son Lachlan bought that. He bought the first 44% in 2001 for $1 million.

Are you serious? Yes. And some free publicity. And it cost us about $100 million to buy the next 18%. Now we've got 60-odd percent. And it's got a market cap of $7 billion Australian [$6.5 billion U.S.]. It's got huge viewership. People go to it just to look at how other people live in houses. And some of them say, "Oh, perhaps I'll buy that." If you talk to any agent in Australia, they'll say that over 90% of their business comes from REA, which of course has devastated the classified advertising in some of our newspapers.

What's the lesson? And is Realestate.com.au replicable? We're looking at expanding REA a lot outside Australia. We've looked at all the companies in America that stand out: Zillow and Trulia and so on. And we've thought they were overpriced.

News Corp. began expanding into the TV and movie businesses in the mid-1980s. Today 21st Century Fox, the holding company for those assets, has a market cap more than seven times as large as Murdoch's once-core newspaper business.

Let's talk about 21st Century Fox. The film company is doing very well, and of course it's got a bonus now with the

Netflixes and the Amazons coming in buying programs. We plan to step up our production of major films. We've got on our plate one or two or maybe more sequels to *Avatar*, which was the biggest film in history.

I knew about one. There may be two sequels? The end of '16 is the first sequel. If we make it, it will be the first time Jim Cameron's been on time or on budget. But he's never lost me. When he finally comes through, they're just huge hits.

Are you going to hire [DreamWorks CEO] Stacey Snider? I would like to. I'm a great admirer of hers. And I've had long talks with her. I think they're at a stage—it would be improper to talk more about that. It's really for [Fox Studio chief] Jim Gianopulos to hire her.

Your new Fox Sports 1 network is a very big bet. Well, it's a pretty big bet. We certainly expect to lose a couple hundred million dollars for a year or two, and then we expect it to turn, and we'll gradually make it into a major alternative to ESPN. We're not going to put ESPN out of business.

Why does ESPN need an alternative? I think the public deserves choice.

Why? ESPN is a very, very good operation, and it's a gold mine. It's an even bigger gold mine than Fox News. Not that Fox News won't get there. Fox News is going to make over $1 billion this year, and can do a lot better. No cable company in the world is going to drop it unless they want their houses burned down. [*Laughter.*] But ESPN has managed to ride this *Monday Night Football* to the point where they're charging every home in America with cable. Over $5 a head. How many people watch ESPN? A third of the public, half the public?

21st Century Fox sold its 47% stake in STAR China TV in January. Why bail on China? Is this coincidental with your divorce? No. We had a couple of channels in China, which were making nothing. And to our happiness and surprise, they were valued at a couple hundred million by Shanghai Media Capital. They took 52% and made it profitable. And then they took up their option to buy us out of the other half.

But is it fair to say that you kind of got fed up with China? Look, if you want to run your own media—have control of it in China—you'll get fed up very quick. But is there room to make interesting investments in China? It's obvious, yes. There's a huge amount of innovation going on in China. And we have a lot of relationships there: partly friendships, like with [Alibaba founder] Jack Ma, but also with Edward Tian, who's starting a vast cloud operation in Beijing. He runs funds, a few funds, in which we have 20% stakes, which have done very well. As for making movies in China, we're going to try again. But in the past it has been impossible to get American directors to go there. Because once you get there, they want to censor every line in every movie, and they can take a month giving you a decision on one line.

Part of the reason Murdoch is so globally powerful—and controversial—is that he has used his media properties to wield political clout. In the U.S. there's no better example than Fox News, which routinely tramples on its own slogan, "Fair and balanced."

Does it bother you at all, Rupert, that there is a view that Fox News has contributed in a big way to the political discontent in the U.S., degraded the political process, and maybe, in spotlighting the Tea Party, even hurt the Republican Party? I think it has absolutely saved it. It has certainly given voice and hope to people who didn't like all that liberal championing thrown at them on CNN. By the way, we don't promote the Tea Party. That's bullshit. We recognize their existence.

Does it bother you that Facebook is as successful as it is, and MySpace could have been Facebook? I think that was one of our great screwups of all time.

What was the mistake? Buying it? It was part of Fox. No one knew anything about it, so they [installed] a bunch of people to try to watch it. If they weren't happy with the people running it, they should have gone and hired Mark Zuckerberg or someone like him, all right? I mean, when Mark came, we had just bought it for $600 million. Everybody thought [it was worth] $6 billion, and we were hailed everywhere for a very short time. I remember Mark coming down to visit my ranch. He was a very shy, quiet young man of about 20 or 21. And he was all for us getting together. And I didn't take him up on it. I think he's done a brilliant job.

Would you put your money into Facebook today? The people in Silicon Valley don't agree with me, but I think that $200 billion [market cap] for that, no matter how good the company, is going to be very hard to justify in the long term. I don't have confidence in the permanence of any particular social app or social network, you know?

Obviously you like Twitter. My family are horrified that I'm on it. They think it's ridiculous. And people like [News Corp. CEO] Robert Thomson have said, "No, it's extremely good personal public relations to show you're interested in more than just making money."

Is cable consolidation your biggest worry? No. We're all standing back at the moment and having a look at this big cable consolidation and haven't decided yet whether it's any threat to us. And that would go for other broadcasting companies and Silicon Valley companies. We've not decided to make any submissions or get too excited about it. Look, Comcast gives a very good service. And if they could make Time

SM 412

Warner as good as they are, a lot of people would benefit.

What kind of a leader are you? I'm a permanently curious person. I probably waste my time being curious about things that have got nothing to do with the business sometimes. What keeps me alive, certainly, is curiosity.

What are your thoughts on the next U.S. presidential race? Oh, I have no settled thoughts at all. I'm watching it with great interest.

What are your unsettled thoughts? I think there are some very interesting candidates.

Could you live with Hillary Clinton as President? I could live with Hillary as President. We have to live with who we get. We don't have any choice.

Can you envision yourself supporting Hillary? It would depend on the Republican candidate totally.

Who do you think the Republican candidate will be, or who would you like it to be? I think it's between four or five people. It's not necessarily, although slightly, in order of preference: Jeb Bush, Paul Ryan, whom I have particular admiration for. I do for both. [Chris] Christie could recover. Scott Walker, whom I don't know, and Rand Paul, whom I agree with on a great number of things but disagree strongly on some things—too strongly perhaps to vote for him.

You disagree with Paul most strongly on what? Foreign policy.

Why do you admire Paul Ryan? He is the straightest arrow I've ever met. He's hardworking. He knows where every dollar goes in Washington. He's emerging as the natural leader. I almost think that because of the position he's in, he's not the most important, but he's the most influential Republican in his party at the moment in Washington.

What do you like about Jeb Bush? I think he's a man of very fine character. He was a great governor. And I particularly like his policy on education, which I'm hardest on. My number one.

You're spending a lot of money in the education space. I've read about Amplify. It looks like, "Oh, boy, this is one of Rupert Murdoch's passion plays." It's a big passion play gamble, yes. Well, we would not think it a gamble. We have hundreds of people on it, preparing these classes and the software that goes into them. When you get a tablet, which allows the teacher to assess each child day by day, it's a huge teachers' aid and a huge aid to kids. Because kids, when they're 3 years old, never mind when they're 10, would rather be working on an electronic device and learning. Every lesson now is animated, so that's what's taking time. And then we test them in front of kids and bring in groups of teachers on every single 40-minute class we prepare.

Do you envision this to be a high-return business? Potentially it will be, but it's a few years out.

Let's talk briefly about HarperCollins. Book publishing is another business under great stress. We were going to make a record profit this year. We find electronic publishing of books very good. People are buying more books. They buy them at lower prices. We still get a good margin, and we don't have to have huge warehouses and take returns from every bookshop in the world. Our experience with ebooks is very good, and we intend to expand it.

Do you read books on your iPad? I've got to confess, I don't. It's a generational thing. I've never bought a Kindle. I ought to get one, I guess. If you look at our business, Kindle is infinitely bigger (than the iPad), Amazon infinitely bigger than Apple. Apple may catch them, I don't know.

It's been a challenging decade for Murdoch's adult children. After Lachlan left News Corp. to go back to Australia in 2005, James served his father loyally—and got tarred in the phone-hacking scandal after taking charge of News Corp.'s British newspapers in 2007. Family ties frayed in 2012 when Rupert's daughter Elisabeth, who chairs London-based TV production company Shine Limited, spoke disapprovingly of News Corp.'s handling of the hacking scandal while delivering an address in Scotland known as the MacTaggart Lecture.

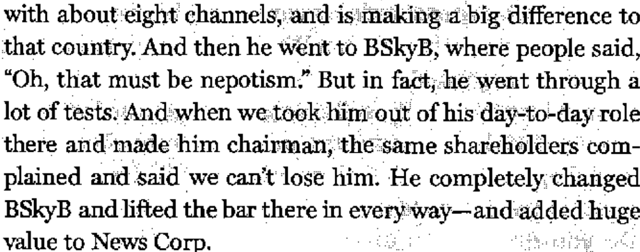
Do James and Lachlan's new positions mean that they are first in line to lead the businesses after you retire? Well, the job is not over yet. But yes, it does. But I'm going to be here for a long time. And so will [21st Century Fox president and COO] Chase Carey and Robert Thomson, the CEO of News Corp. Robert is the youngest of the three of us, so we'll get more years out of him.

Is James an equal or almost-equal to Chase Carey, who is president and COO at 21st Century Fox? Chase is president of the company. [James] certainly will be reporting to Chase, but a lot more people [than before] will be reporting to James.

How did you persuade Lachlan to come back? Look, he was always going to come back. Lachlan is someone who's been in love with media from the age of 12. He spent all his vacations working in pressrooms. But Lachlan and James and I had a very serious talk about how we can work as a team in July of last year. It was at the Allen & Co. conference. We broke away for a meal. We had two or three hours together. Lachlan was not *not* going to come back. It was a question of how we would work together. How would we be a team?

Lachlan is a wonderful human being with his feet very firmly on the ground. He has built a very interesting business in Australia for himself, although he stayed on our boards.

And James too. Everyone talks about hacking in London. That all happened long before James took charge. He took STAR television and [made it] the No. 1 broadcaster in India,



with about eight channels, and is making a big difference to that country. And then he went to BSkyB, where people said, "Oh, that must be nepotism." But in fact, he went through a lot of tests. And when we took him out of his day-to-day role there and made him chairman, the same shareholders complained and said we can't lose him. He completely changed BSkyB and lifted the bar there in every way—and added huge value to News Corp.

Liz sold her production company, Shine, to News Corp. Why did she decline to go on the News Corp. board? I don't know. I'd rather not go into that. We're a very, very close family. You know what close families are like. They meet at breakfast. They meet at dinner. And they have good arguments. That doesn't mean they don't love each other or have room for each other in each other's lives.

Were you bothered by Liz's MacTaggart Lecture? She put a lot of work into that and was very proud of it and got congratulations from everybody, except me. Because I thought it was falling in line too much with the sort of BBC and establishment. I think she was hurt when I said I didn't really love it or like it.

Do you feel that stresses in the family have been repaired? Oh, I hope so. I had a long and warm and loving hour with her on the phone yesterday. But mainly talking about her kids and not about the business.

Is it likely that she will get involved in the business again? It's more than possible. That's all I will say.

Murdoch and Wendi Deng divorced last November after 14 years of marriage. A *Vanity Fair* story in March included alleged diary entries by Deng about other men. Since the divorce, Murdoch has bought a 13-acre vineyard, Moraga, above Bel Air, Calif. He also purchased a 10,000-square-foot apartment, near Madison Square Park in Manhattan, for $57.25 million.

Rupert, what did you think when you read Wendi's [alleged] diary entries? I was shocked. But I didn't read them and I was not given them until after I had filed for divorce.

I'm sure it made you feel as if you made the right decision. Right. I mean, I regret the whole *Vanity Fair* thing. I wish we just could have got divorced quietly.

There is this view out there, and I'm sure you've heard it: "Boy, Rupert, he makes a decision and he moves on." Well, you know, everybody was talking about these things and never telling me anything. I don't really want to go into this. But then I was told two pretty circumstantial things about the ranch [where Deng had been staying, according to *Vanity Fair*]. I was in Australia. When I got back, I naturally asked the staff, and it opened up. That's the story. And then, you know, a week later I filed. As soon as I could find a lawyer.

You're moving on now and buying real estate. You bought Moraga, a new ranch, plus a new apartment in New York. Well, it's like turning a new leaf. I saw the story in the *Wall Street Journal* Mansion section about Moraga and realized that I had met the owner 20 or 25 years ago with President Reagan at a social party, although he wasn't a very political person. He was dying because he was 93 and had very bad emphysema. And he wanted to sell it to someone who said, "I will keep it going and not subdivide this land."

The owner was Tom Jones, a former CEO of Northrop, which became Northrop Grumman. He had a fascinating life. At 19, he [worked on designing] dive-bombers, which sank the Japanese and saved Australia. Before his retirement he invested in the stealth bomber. So I wanted to talk about his career at Northrop Grumman. He wanted to talk about how to grow grapes and get better wine. So we formed a real friendship. I expected him to live a bit longer, but I said he could stay in the house. I've now taken possession of the house. I have hired a modest decorator. I just want it to be rustic.

You have another house near Moraga, don't you? Yes. I have a beautiful house, which the family is screaming about me selling. I don't want two houses a couple of miles from each other.

Is the other house on the market? It was, and I took it off. On the pleas of James and Lachlan.

Did they say, "That's our house and you can't sell it"? I said, "Put your money up." But I haven't seen it.

And how did you find your New York apartment? Natalie [Ravitz, his chief of staff] found it. I was away. I'd been ill. I had a very bad month in January and February. I had a fall in San Francisco. I fell on my head. It was just stupidity in a hotel room. I'd put on some boots to go for a hike around San Francisco to be shown by Natalie, and I went down and hit my head very hard. And I got, I guess you'd call it, a hair fracture across my spine. I landed on a carpet, but on my head. I've never had such pain in my life. A friend of mine sent a friend of his, a neurosurgeon, down to see me, who quickly said I didn't have any concussion. After that, I just went to my ranch and rested for three weeks.

You were lucky. When will your New York apartment be ready? Ask the decorator. I told him four months, and he said eight. And everyone tells me it's 12.

It's like James Cameron making a movie. Yeah. I will be fairly modest, to start with. I'm not going to put in great antiques or have major things that take a long time to do. I'll buy nice, not-too-modern furniture. But it's a modern place. It's very high.

What floor? On 58, 59, and 60. It's a triplex. And I assume that my two daughters will each have their own rooms for the first time in their lives. And they're decorating them, they think. ■

SM 414

EXHIBIT K

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ZILLOW, INC. (Z, FAIR VALUE, PT: NONE, CLOSE: $82.31)

Z - Solid Beat & Raise 3Q; Reit. Fair Value on Valuation

November 6, 2013

Estimate Changes Fair Value - PT: None

Z reported a solid clean beat and raise 3Q. Revenue and EBITDA came in at $53 million and $4 million, well above CRT/Street's estimates of approximately $51 million and $3 million. Furthermore, the Company's Q4 guide was better than the Street, with midpoint revenue of $55.5 million and EBITDA of $8.8 million, vs. the Street's $52/$8 million estimates. Real Estate & Rentals revenue of $33 million beat our estimate by 2%, and Z added a record number of Premier Agent subscribers at 5.9K. However the source of beat was a bit weak, as it came from Z's Display Advertising business, which posted $12 million in revenue, better than our $10 million estimate. Also, Mortgage revenue of $5.7 million came in 7% below our expectation. The company plans on pulling back ad spend in Q4 to account for a seasonally slower quarter, but plans to spend the same, if not more, in 2014. We believe Zillow remains the clear leader in the online real-estate category and should take share from the secular shift to online. However, despite a solid beat & raise, we remain on the sidelines primarily on valuation, as Z trades ~58x 2014 EV/EBITDA.

- **What We Liked from the Quarter** – **1)** Strong beat & raise Q3 – Zillow's management continues to execute well; **2)** Record Premier Agent subscriber additions of 5,942 during the quarter which lead to strong PA revenue of $33M, roughly in-line with our estimates. We note that there was immaterial contribution from StreetEasy; **3)** Solid EBITDA of $4.1M but the margin was 8%, which is the lowest we've seen in years; **4)** Strong 4Q guide, better than consensus revenue and EBITDA, as Zillow cuts back on advertising spend in a seasonally weaker.
- **So, Why are We Not Buyers?** – 1) Valuation still remains lofty at 58x 2014 EV/EBITDA; 2) the 3Q beat came primarily from the Company's Display Advertising business, and not its core PA segment; and 3) Mortgages came in about 7% below our expectations and declined QoQ – a first time we've seen a sequential decline (due partially to higher interest rates).
- **Raising Estimates and Maintaining Fair Value** – We are raising or 2014 revenue by 7% to $283M, and raising our EBITDA estimate 2% to $48.3M. Given valuation and the source of 3Q revenue beat, we remain on the sidelines.

Actions Taken:
Estimate Change

Key Data

Rating	**Fair Value**
Price Target	**None**
Price (11/05/2013 Close)	$82.31
52 Week High-Low	$103.00 - $23.00
Market Cap ($ mm)	$2,642
Shares Out (mm)	32.1
90-day Average Daily Vol	1.4M
Public Market Float	77%

CRT Estimates

FY December	2013E	2014E	2015E	
Total Revenue	$196	$283	$386	--
EBITDA	$25	$48	$94	--
EPS Non-GAAP	$0.07	$0.33	$1.22	--
P/E	1,175.9x	249.4x	67.5x	
Total Revenue	**Q1**	**Q2**	**Q3**	**Q4**
2013	$39A	$47A	$53A	$57E
Prev.	--	--	$51E	$53E
2014	$62E	$69E	$75E	$76E
EBITDA				
2013	$5A	$5A	$4A	$10E
Prev.	--	--	$3E	$8E
2014	$9E	$11E	$13E	$15E
EPS Non-GAAP				
2013	$0.01A	$0.01A	($0.05)A	$0.08E
Prev.	--	--	($0.08)E	$0.04E
2014	$0.04E	$0.07E	$0.08E	$0.13E

$s in millions, except per share.

CRT vs. Street Consensus

	Consensus	CRT Estimate
2013E EPS	$(0.04)	$0.07
2014E EPS	$0.54	$0.33
2015E EPS	--	$1.22
2013E Revenue	$189	$196
2014E Revenue	$262	$283
2015E Revenue	--	$386

Source: Company Financials, CRT & Bloomberg LLP

SM 416

Zillow, Inc. (Z, Fair Value, PT:NA)

Model Summary

Financials	2011A	2012A	2013E	2014E	2015E	'12-'15 CAGR
Revenue ($M)	**$66.1**	**$116.6**	**$196.2**	**$283.0**	**$386.4**	**49%**
YoY Change	*117%*	*76%*	*68%*	*44%*	*37%*	
EBITDA ($M)	**$11.9**	**$25.2**	**$24.8**	**$48.5**	**$93.8**	**55%**
YoY Change	*NM*	*112%*	*-2%*	*96%*	*94%*	
Margin	*18%*	*22%*	*13%*	*17%*	*24%*	
GAAP EPS	**$0.05**	**$0.18**	**($0.53)**	**($0.18)**	**$0.68**	**NM**
YoY Change	*NM*	*279%*	*NM*	*NM*	*NM*	
Non-GAAP EPS	**$0.21**	**$0.38**	**$0.07**	**$0.33**	**$1.22**	**47%**
YoY Change	*NM*	*85%*	*-82%*	*384%*	*274%*	

Valuation Methodology

Our $90 valuation estimate is based on our EV/EBTIDA valuation and supported by our DCF valuation. We apply a 38x multiple to our 2015E EBITDA of approximately $94M, adjusting for approximately $422M in 2014 year-end net cash to reach a $90 valuation estimate. Our target multiple is largely driven by growth assumptions, historical multiple ranges, comps, and other qualitative factors such as product innovation, potential new markets, and management's track record. For context, we are modeling a 55% CAGR in Zillow's EBITDA from 2012 to 2015. We acknowledge that this is one of the highest EV/EBITDA valuation multiples in our sector, but Zillow's growth outlook is one of the highest as well.

Our 10-Year DCF is based on a 12% WACC and a 6% Future Growth Rate. This yields a valuation estimate of $90.

Valuation Summary

Valuation	2011A	2012A	2013E	2014E	2015E
P/Sales	**45.7x**	**25.9x**	**15.4x**	**10.7x**	**7.8x**
EV/EBITDA	**NM**	**104.5x**	**106.3x**	**54.3x**	**28.0x**
GAAP P/E	**NM**	**NM**	**NM**	**NM**	**120.7x**
Non-GAAP P/E	**NM**	**NM**	**NM**	**NM**	**67.7x**
P/E/G	**NM**	**NM**	**NM**	**NM**	**1.4x**

Rating Rationale

We maintain our Fair Value rating on Z shares: **1)** Z is well-positioned in mobile and SaaS Audience; **2)** Z has demonstrated the ability to monetize its consumer user base through multiple revenue streams, including real estate agent leads, mortgage clicks, and display advertising; **3)** we see new and material potential revenue streams in rentals and home services; **4)** Z's consumer audience continues to grow rapidly (unique visitors up 67% YoY in September 2013). However, we note that the stock is up nearly 130% YoY, and shares now trade at ~54x 2014 EV/EBITDA. Also, assuming that brand investments will continue into 2014, we believe Street EBITDA estimates for 2014 could be aggressive. Hence, we are staying on the sidelines and waiting for a better entry point or for Marketing spend to come down.

Risk Summary

1) Heavy investment in advertising which is putting pressure on EBITDA margins; 2014 Street EBITDA estimates could be at risk if heavy ad spend continues into next year; 2) Z has been very acquisitive over the past 24 months which could lead to some potential integration risk; and 3) strong competition from other online real estate sites.

SM 417

Key Positives From the Quarter

1) Clean Beat and Raise (Though Driven By Display Outperformance)

- **Revenue** – Zillow reported revenue of $53.3M, 5% higher than our forecast of $50.7M, 4% higher than Street consensus of $51.4M, and well above management guidance of $49.5M-$59.5M. Revenue grew 67% YoY, representing a modest deceleration versus 69% YoY growth in 2Q on an eight-point easier comp. We note, however, that revenue outperformance was driven mainly by the Display business, which accounted for 23% of total revenue in the quarter. Display Revenue of 12.4M (up 50% YoY, versus 29% YoY growth in 2Q) came in 21% higher than our forecast, while Marketplace Revenue of $40.9M (up 73% YoY versus 86% YoY growth in 2Q) came in just 1% higher than our forecast.
- **Gross Margin** – Gross margin of 90.8% improved 180 bps YoY but declined 40 bps QoQ.
- **Operating Expenses –** Pro forma operating expenses came in 1% higher than our forecast at $53.9M. Sales and marketing expense of $30.3M (57% of revenue, up ~300 bps QoQ) was 5% higher than our forecast. Technology and development of $11.2M (21% of revenue, flat versus 2Q) was 12% lower than our forecast. G&A of $8.6M (16% of revenue, flat versus 2Q) was 13% higher than our forecast.
- **EBITDA –** Zillow reported EBITDA of $4.1M (8% margin), 57% higher than our forecast of $2.6M, 47% higher than Street consensus of $2.8M, and well above management guidance of $1.5-$2.0M. EBITDA margin declined 300 bps QoQ and 1,600 bps YoY.
- **EPS –** Zillow reported Non-GAAP EPS of ($0.05), two cents higher than our forecast and consensus of ($0.07).

2) Strong 4Q13 Guidance, Dialing Back Ad Spend

- **Revenue** – Management guided 4Q revenue of $55M-$56M (62% YoY growth at the midpoint of the range) versus our prior forecast of $52.9M and prior consensus of $53.6M.
- **Marketing Expense**. Management guided 4Q marketing expense in the range of $25.5-$26M, a planned decrease versus 3Q, as the Company pulls back during the seasonally slower home shopping period.
- **EBITDA**. Management guided 4Q EBITDA of $8.5-$9.0M (16% margin at the midpoint of the range), versus our prior forecast and consensus of $8.2M.

3) Premier Agent Revenue Solid – Record Sub Adds, But Continued Pressure on ARPU

Premier Agent revenue of $33.1M (up 65% YoY, down from 78% YoY growth in 2Q on a 1-point harder comp) was 2% higher than our forecast of $32.5M. Premier Agent subscribers of 44,749 came in 1% higher than our forecast of 44,240, and the Company recorded a record number of net subscriber additions in the quarter, 5,942, up 48% YoY.

SM 418

However, average monthly revenue per subscriber of $264 showed a (2%) YoY and (1%) QoQ decline. With new agents coming onto the system, we believe that they are opting for fewer impressions to test how Zillow performs, which we believe, is putting pressure on ARPU.

Key Concerns From the Quarter

1) Mortgage Revenue Misses Our Estimate, Down QoQ

Mortgage revenue of $5.7M grew 120% YoY, but declined (1%) QoQ and missed our forecast by 7%. Zillow Mortgage Marketplace (ZMM) was the primary source of weakness—ZMM revenue was approximately $4.1M, up 58% YoY but down 4% QoQ. While loan requests reached a record of approximately 5.9M (up 88% YoY) in the quarter, we believe that mix shift to purchase mortgage loan requests drove pricing down—we believe refi pricing is generally higher due to higher conversion rates. We estimate that average revenue per loan request in the quarter was $0.74, down approximately 15% YoY and QoQ.

2) Ad Spend Will Ramp Again in 2014

While Zillow plans to dial back its ad spend during the seasonally slower 4Q, management stated that the Company plans to spend at least as much as it did in 2013, *or more*¸ in 2014.

3) Zillow Focused on StreetEasy Audience Growth, Not Monetization

Zillow released some details on StreetEasy's historical financials—the company generated approximately $3.5M in revenue in 1H13 and was generated positive EBITDA. Given StreetEasy's audience of ~1M monthly unique visitors and its strong positioning in the New York City real estate market, we believe that the property has historically been undermonetized. However, management emphasized that the Company's current priority is to continue to build StreetEasy's audience, not ramp monetization.

SM 419

Valuation

Our $90 valuation estimate is based on our EV/EBTIDA valuation and supported by our DCF valuation. We apply a 38x multiple to our 2015E EBITDA of approximately $94M, adjusting for approximately $422M in 2014 year-end net cash to reach a $90 valuation estimate. Our target multiple is largely driven by growth assumptions, historical multiple ranges, comps, and other qualitative factors such as product innovation, potential new markets, and management's track record. For context, we are modeling a 55% CAGR in Zillow's EBITDA from 2012 to 2015. We acknowledge that this is one of the highest EV/EBITDA valuation multiples in our sector, but Zillow's growth outlook is one of the highest as well.

Our 10-Year DCF is based on a 12% WACC and a 6% Future Growth Rate. This yields a valuation estimate of $90.

SM 420

Changes to Estimates

We highlight the changes to our estimates for 2014 and 2015, based on the Company's 3Q13 performance and management commentary. We note that, while our revenue and EBITDA forecasts have increased, our EPS forecasts have declined materially on a significantly higher assumed share count and slightly lower interest income assumptions.

Exhibit 3. Z Changes To Estimates

	2014E			2015E		
	Old	New	% Change	Old	New	% Change
Total Revenue ($M)	$264,156	$282,952	7%	$362,820	$386,421	7%
EBITDA ($M)	$47,672	$48,473	2%	$92,813	$93,807	1%
GAAP EPS	($0.05)	($0.18)	--	$0.82	$0.68	-17%
PF EPS	$0.39	$0.33	-18%	$1.28	$1.22	-5%

Source: Company reports and CRT Capital Group LLC estimates

Z Model

We highlight our historical and projected P&L for Z.

SM 421

Zillow, Inc. (Z, Fair Value, PT:NA)

Z Income Statement	2012A				2013E				2014E			
($000s, except EPS data)	3/12A	6/12A	9/12A	12/12A	3/13A	6/13A	9/13A	12/13E	3/14E	6/14E	9/14E	12/14E
Total Revenue	**$22,833**	**$27,765**	**$31,915**	**$34,337**	**$38,966**	**$46,920**	**$53,311**	**$57,047**	**$61,991**	**$69,471**	**$75,481**	**$76,009**
Marketplace Revenue	16,593	19,623	23,616	26,838	31,018	36,451	40,878	45,608	49,981	53,738	57,387	60,629
Display Revenue	6,240	8,142	8,299	7,499	7,948	10,469	12,433	11,438	12,010	15,733	18,093	15,379
Cost Of Revenue (ex-SBC)	3,265	3,172	3,529	3,697	3,967	4,118	4,931	5,572	5,691	5,403	6,227	6,664
Gross Profit	**19,568**	**24,593**	**28,386**	**30,640**	**34,999**	**42,802**	**48,380**	**51,475**	**56,300**	**64,069**	**69,254**	**69,345**
Operating Expenses	17,875	23,295	26,091	30,129	38,801	53,149	53,904	52,687	59,620	66,503	71,336	69,815
Sales & Marketing (ex-SBC)	8,125	11,864	13,248	13,435	18,567	25,147	30,324	25,671	30,996	34,736	37,740	35,724
Technology & Development (ex-SBC)	4,720	5,320	6,313	8,375	9,577	10,037	11,182	12,550	14,258	15,978	16,606	15,962
G&A (ex-SBC)	3,612	4,886	4,818	6,063	6,511	7,498	8,630	9,698	9,299	10,421	11,322	12,161
Stock Based Compensation	1,418	1,225	1,712	2,256	4,146	10,467	3,768	4,768	5,068	5,368	5,668	5,968
Other	0	0	0	0	0	0	0	0	0	0	0	0
Operating Income	**$1,693**	**$1,298**	**$2,295**	**$511**	**($3,802)**	**($10,347)**	**($5,524)**	**($1,212)**	**($3,320)**	**($2,434)**	**($2,082)**	**($470)**
Other Income	31	34	39	38	55	115	70	90	110	130	150	170
Earnings Before Taxes	1,724	1,332	2,334	549	(3,747)	(10,232)	(5,454)	(1,122)	(3,210)	(2,304)	(1,932)	(300)
Taxes	0	0	0	0	0	0	0	0	0	0	0	0
Net Income (Loss) -- GAAP	**$1,724**	**$1,332**	**$2,334**	**$549**	**($3,747)**	**($10,232)**	**($5,454)**	**($1,122)**	**($3,210)**	**($2,304)**	**($1,932)**	**($300)**
EPS -- GAAP	**$0.06**	**$0.04**	**$0.07**	**$0.02**	**($0.10)**	**($0.27)**	**($0.15)**	**($0.03)**	**($0.07)**	**($0.05)**	**($0.04)**	**($0.01)**
Net Income -- Non-GAAP (SBC Add Back)	**$3,142**	**$2,557**	**$4,046**	**$2,805**	**$399**	**$235**	**($1,686)**	**$3,646**	**$1,858**	**$3,064**	**$3,736**	**$5,668**
EPS -- Non-GAAP	**$0.10**	**$0.08**	**$0.13**	**$0.08**	**$0.01**	**$0.01**	**($0.05)**	**$0.08**	**$0.04**	**$0.07**	**$0.08**	**$0.13**
Shares Outstanding -- Basic	28,348	28,946	30,040	33,408	33,770	34,553	36,667	40,000	40,200	40,400	40,600	40,800
Shares Outstanding -- Fully Diluted	30,994	31,320	32,230	36,292	36,756	37,242	36,667	43,500	43,700	43,900	44,100	44,300
EBITDA Calculation												
Operating Income	1,693	1,298	2,295	511	(3,802)	(10,347)	(5,524)	(1,212)	(3,320)	(2,434)	(2,082)	(470)
+Stock Based Compensation	1,418	1,225	1,712	2,256	4,146	10,467	3,768	4,768	5,068	5,368	5,668	5,968
+Depreciation & Amortization	2,336	2,749	3,617	4,071	4,779	5,155	5,877	6,677	7,477	8,277	9,077	9,877
+Other	0	0	0	0	0	0	0	0	0	0	0	0
Adjusted EBITDA	**$5,447**	**$5,272**	**$7,624**	**$6,838**	**$5,123**	**$5,275**	**$4,121**	**$10,233**	**$9,225**	**$11,211**	**$12,663**	**$15,375**
Growth Rate												
Revenue (YoY)	103%	75%	67%	73%	71%	69%	67%	66%	59%	48%	42%	33%
Revenue (QoQ)	15%	22%	15%	8%	13%	20%	14%	7%	9%	12%	9%	1%
EBITDA (YoY)	418%	37%	109%	106%	-6%	0%	-46%	50%	80%	113%	207%	50%
GAAP EPS (YoY)	-190%	-35%	-405%	-50%	-283%	-746%	-305%	-271%	-28%	-81%	-71%	-74%
Margin Analysis												
Gross Margin	85.7%	88.6%	88.9%	89.2%	89.8%	91.2%	90.8%	90.2%	90.8%	92.2%	91.8%	91.2%
EBITDA Margin	24%	19%	24%	20%	13%	11%	8%	18%	15%	16%	17%	20%
Incremental Adjusted EBITDA Margin	38%	12%	31%	24%	-2%	0%	-16%	15%	18%	26%	39%	27%
Sales & Marketing	36%	43%	42%	39%	48%	54%	57%	45%	50%	50%	50%	47%
Technology & Development	21%	19%	20%	24%	25%	21%	21%	22%	23%	23%	22%	21%
G&A	16%	18%	15%	18%	17%	16%	16%	17%	15%	15%	15%	16%
Stock Based Compensation	6%	4%	5%	7%	11%	22%	7%	8%	8%	8%	8%	8%
Tax Rate	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%

Z Income Statement	Annual				
($000s, except EPS data)	2011A	2012A	2013E	2014E	2015E
Total Revenue	**$66,053**	**$116,550**	**$196,244**	**$282,952**	**$386,421**
Marketplace Revenue	42,190	86,370	153,955	221,735	308,063
Display Revenue	23,863	30,180	42,288	61,217	78,357
Cost Of Revenue (ex-SBC)	10,386	13,363	18,588	23,984	27,049
Gross Profit	**55,667**	**103,187**	**177,656**	**258,968**	**359,371**
Operating Expenses	54,670	97,390	198,541	267,274	329,344
Sales & Marketing (ex-SBC)	25,337	46,672	99,709	139,196	177,753
Technology & Development (ex-SBC)	13,597	24,728	43,346	62,804	77,284
G&A (ex-SBC)	13,791	19,379	32,337	43,203	50,235
Stock Based Compensation	1,945	6,611	23,149	22,072	24,072
Other	0	0	0	0	0
Operating Income	**$997**	**$5,797**	**($20,885)**	**($8,307)**	**$30,027**
Other Income	105	142	330	560	650
Earnings Before Taxes	1,102	5,939	(20,555)	(7,747)	30,677
Taxes	0	0	0	0	0
Net Income (Loss) -- GAAP	**$1,102**	**$5,939**	**($20,555)**	**($7,747)**	**$30,677**
EPS -- GAAP	**$0.05**	**$0.18**	**($0.53)**	**($0.18)**	**$0.68**
Net Income -- Non-GAAP (SBC Add Back)	**$4,784**	**$12,550**	**$2,594**	**$14,325**	**$54,749**
EPS -- Non-GAAP	**$0.21**	**$0.38**	**$0.07**	**$0.33**	**$1.22**
Shares Outstanding -- Basic	19,764	30,186	36,248	40,500	41,500
Shares Outstanding -- Fully Diluted	23,016	32,709	38,541	44,000	45,000
EBITDA Calculation					
Operating Income	997	5,797	(20,885)	(8,307)	30,027
+Stock Based Compensation	1,945	6,611	23,149	22,072	24,072
+Depreciation & Amortization	7,190	12,773	22,488	34,708	39,708
+Other	1,737	0	0	0	0
Adjusted EBITDA	**$11,869**	**$25,181**	**$24,752**	**$48,473**	**$93,807**
Growth Rate					
Revenue (YoY)	117%	76%	68%	44%	37%
Revenue (QoQ)	--	--	--	--	--
EBITDA (YoY)	8378%	112%	-2%	96%	94%
GAAP EPS (YoY)	-109%	279%	-394%	-67%	-487%
Margin Analysis					
Gross Margin	84.3%	88.5%	90.5%	91.5%	93.0%
EBITDA Margin	18%	22%	13%	17%	24%
Incremental Adjusted EBITDA Margin	33%	26%	-1%	27%	44%
Sales & Marketing	38%	40%	51%	49%	46%
Technology & Development	21%	21%	22%	[illegible]	20%
G&A	21%	17%	16%	15%	13%
Stock Based Compensation	3%	6%	12%	8%	6%
Tax Rate	0%	0%	0%	0%	0%

Sources: CRT Capital Group LLC estimates; Company reports

SM 422

Zillow, Inc. (Z, Fair Value, PT:NA)

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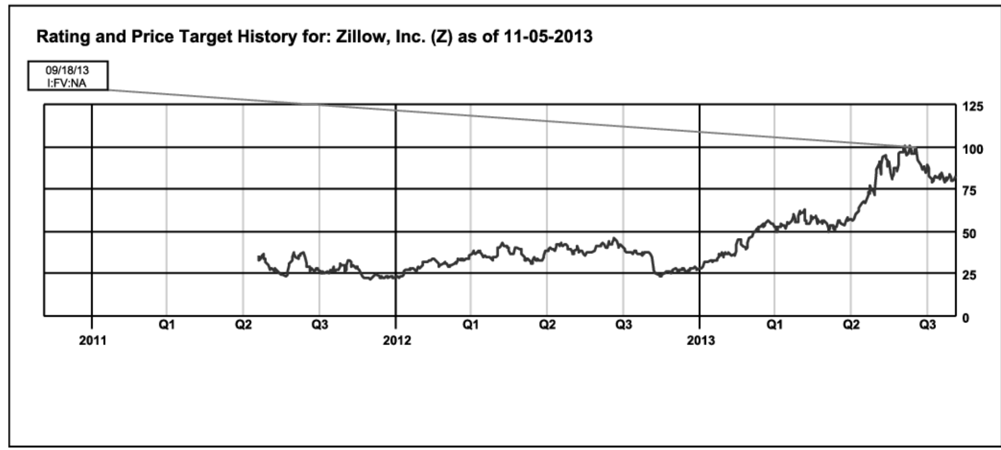
The recommendations and guidance expressed in this research report accurately reflect the personal recommendations and guidance of the research analyst principally responsible for the preparation of this report

No part of the compensation received by the analyst principally responsible for the preparation of this report was, is or will be directly or indirectly related to the specific recommendations and guidance expressed in this report. Direct or indirect analyst compensation may be based on performance-related considerations associated with the recommendations and guidance expressed by the analyst in this report

The research analyst primarily responsible for the preparation of this report received compensation that is based upon CRT Capital Group LLC's total business revenues, including revenues derived from CRT's investment banking business



Rating	Meaning
Buy	Expected rate of return on investment at current prices levels is above that rate required, in CRT's view, to undertake the attendant risks perceived- positive risk/reward investment balance.
Fair Value	Expected rate of return on investment at current prices levels is in line with that rate required, in CRT's view, to undertake the attendant risks perceived- equitable/reward investment balance.
Sell	Expected rate of return on investment at current prices levels is below that rate required, in CRT's view, to undertake the attendant risks perceived- negative risk/reward investment balance.

As of the time of this publication, CRT Capital Group LLC makes a market in the securities of Zillow, Inc..

CRT Equity Securities Ratings Percentages As of November 6, 2013	Percentage of Banking Clients Within Each Rating Category As of November 6, 2013
Buy 46.23%	14.29%
Fair Value 51.89%	0.00%
Sell 1.89%	0.00%

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SM-423

Zillow, Inc. (Z, Fair Value, PT:NA)

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SM 424

Zillow, Inc. (Z, Fair Value, PT:NA)

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SM 425

EXHIBIT L

Rating
Buy

North America
United States

TMT
Internet

Company
Trulia Inc.

Reuters	Bloomberg	Exchange	Ticker
TRLA.N	TRLA US	NYS	TRLA

Date
14 February 2014

Forecast Change

Price at 13 Feb 2013 (USD)	36.43
Price target	43.00
52-week range	51.68 - 23.84

Dusting Off The Cold War Thesis

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Trulia Enters Adspend Arms race

We maintain our Buy rating on Trulia, despite a strategy pivot toward shockingly large ad spend. Having focused, historically, on building a highly qualified audience through product, some investors will consider Trulia (and the space) as uninvestable. The shareholder base turnover may be painful near term. We think ad wars may hasten the end game where margins bottom out and we see the space consolidate. Multiple players can survive but not thrive. Trulia continues to trade at a big discount to the group, and we see the analyst day, cross-selling and the new inventory slot as the next catalysts. We cut our target to $43 (from $55).

Core Trends Solid

Core TRLA sub adds of 2.9K beat our estimate of 1.7K. ARPU for core TRLA was $192, up from $186 in 3Q and management expects ARPU to continue increasing throughout 2014. While agent ads and ARPU were solid, core MAU of 29.2m, was a deceleration from 42% in 3Q to 24% in 4Q, likely helping explain the plans to pivot to advertising. While we were shocked by the magnitude of the marketing campaign, adjusted EBITDA guidance for 2014 ex-marketing would have been ~$65m at the midpoint, well above consensus. Display trends, however, were not positive. Media segment revenue missed our estimates as mobile monetization is focused on the core TMA product.

Market Leader Remains Soft but NRT Rollout Ahead

Core results largely surprised to the upside, though LEDR results were soft. LEDR sales slightly missed our estimate, which we viewed as conservative. Premium agent ads in 4Q were underwhelming. However, our work around LEDR points to a meaningful opportunity to ramp NRT and other deals.

Trulia Launches $45m Marketing Campaign & Potentially A Cold War

Trulia announced a $45m marketing campaign for 2014, which will include TV, a massive pivot, in our view. Management plans to evaluate the ROI after a year, but the risk is that this spending become permanent, impairing EBITDA margins, particularly as Zillow remains aggressive. After Zillow's escalation and Realtor.com plans to spend, we fear another "Cold War" situation could be going hot in online real estate.

Revs go Up but We Slash EBITDA On Marketing Spend

We have reduced our 2014 and 2015 EBITDA estimates sharply to reflect higher spending on sales and marketing and we have increased our 2014 and 2015 revenue estimates.

Valuation & Risk

We reduce our TP to $43 from $55. Our $43 TP for TRLA is based on an average of metrics including 25x 2015E EV/EBITDA and 8x 2015E EV/revenue (no change). Shares currently trade at 4x 2015 revenue and 23x on EBITDA, below the peer group trading at ~9x and ~34x respectively and compounding revenue at a similar rate from '13-'15. Risks include: intense competition, dependency on search and non-exclusive data, acquisition integration, macro economic trends. (See page 7).

Key changes

Price target	55.00 to 43.00	↓	-21.8%
EPS (USD)	0.62 to 0.56	↓	-9.9%
Revenue (USDm)	142.8 to 143.4	↑	0.5%

Source: Deutsche Bank

Price/price relative

Performance (%)	1m	3m	12m
Absolute	1.4	-8.1	25.6
S&P 500 INDEX	0.6	2.7	20.4

Source: Deutsche Bank

SM 427

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Model updated:14 February 2014

Running the numbers

North America

United States

Internet

Trulia Inc.

Reuters: TRLA.N — Bloomberg: TRLA US

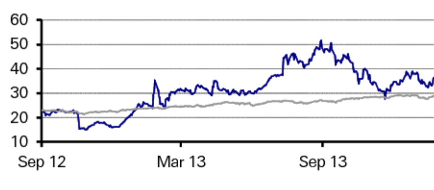
Buy

Price (13 Feb 13)	USD 36.43
Target Price	USD 43.00
52 Week range	USD 23.84 - 51.68
Market Cap (m)	USDm 1,052
	EURm 770

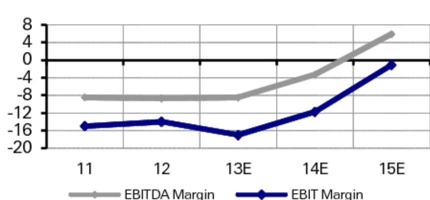
Company Profile

Trulia, Inc. is a real estate search engine company. The Company helps in finding homes for sale and provides real estate information. The Company is also a tool for real estate professionals to market their listings, view real estate data and promote their services. It provides local information, community insights, market data and national listings.

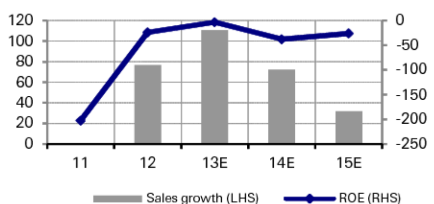
Price Performance



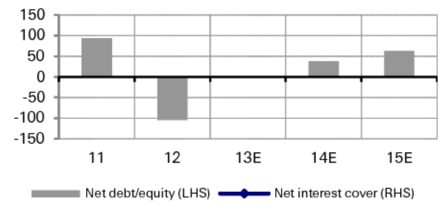
Margin Trends



Growth & Profitability



Solvency



Lloyd Walmsley
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Fiscal year end 31-Dec	2011	2012	2013E	2014E	2015E
Financial Summary					
DB EPS (USD)	-0.13	-0.27	0.56	-2.13	-0.67
Reported EPS (USD)	-0.93	-0.87	-0.30	-2.71	-1.42
DPS (USD)	0.00	0.00	0.00	0.00	0.00
BVPS (USD)	0.46	6.90	13.20	6.01	4.96
Valuation Metrics					
Price/Sales (x)	nm	3.5	7.3	4.3	3.2
P/E (DB) (x)	nm	nm	65.2	nm	nm
P/E (Reported) (x)	nm	nm	nm	nm	nm
P/BV (x)	0.0	2.4	2.8	6.1	7.3
FCF yield (%)	na	nm	nm	nm	nm
Dividend yield (%)	na	0.0	0.0	0.0	0.0
EV/Sales	nm	2.2	7.4	4.7	3.7
EV/EBITDA	nm	nm	nm	nm	62.7
EV/EBIT	nm	nm	nm	nm	nm
Income Statement (USDm)					
Sales	39	68	143	247	326
EBITDA	-3	-6	-12	-8	19
EBIT	-6	-10	-24	-29	-4
Pre-tax profit	-6	-11	-26	-125	-100
Net income	-6	-11	-9	-126	-68
Cash Flow (USDm)					
Cash flow from operations	1	4	8	-80	-12
Net Capex	-5	-6	-17	-16	-19
Free cash flow	-4	-2	-9	-96	-30
Equity raised/(bought back)	0	91	112	0	0
Dividends paid	0	0	0	0	0
Net inc/(dec) in borrowings	8	0	190	0	0
Other investing/financing cash flows	-2	4	-159	0	0
Net cash flow	3	93	135	-96	-30
Change in working capital	*3*	*8*	*-12*	*2*	*3*
Balance Sheet (USDm)					
Cash and cash equivalents	7	100	227	125	81
Property, plant & equipment	6	7	22	25	29
Goodwill	0	0	0	0	0
Other assets	12	11	406	406	415
Total assets	24	119	655	556	525
Debt	10	10	230	230	230
Other liabilities	11	22	44	46	57
Total liabilities	21	32	274	276	288
Total shareholders' equity	3	87	381	279	238
Net debt	*3*	*-90*	*3*	*105*	*149*
Key Company Metrics					
Sales growth (%)	nm	76.8	110.7	72.4	31.9
DB EPS growth (%)	na	-102.5	na	na	68.6
Payout ratio (%)	nm	nm	nm	nm	nm
EBITDA Margin (%)	-8.5	-8.7	-8.5	-3.3	5.9
EBIT Margin (%)	-15.0	-14.0	-17.0	-11.8	-1.1
ROE (%)	-202.5	-24.4	-3.8	-38.2	-26.4
Net debt/equity (%)	93.6	-104.5	0.8	37.7	62.5
Net interest cover (x)	nm	nm	nm	nm	nm
DuPont Analysis					
EBIT margin (%)	-15.0	-14.0	-17.0	-11.8	-1.1
x Asset turnover (x)	1.6	1.0	0.4	0.4	0.6
x Financial cost ratio (x)	1.1	1.1	1.0	4.3	27.4
x Tax and other effects (x)	1.0	1.0	0.3	1.0	0.7
= ROA (post tax) (%)	-25.4	-15.3	-2.3	-20.8	-12.6
x Financial leverage (x)	8.0	1.6	1.7	1.8	2.1
= ROE (%)	-202.5	-24.4	-3.8	-38.2	-26.4
annual growth (%)	*na*	*88.0*	*84.6*	*-914.1*	*30.9*
x NTA/share (avg) (x)	0.5	3.6	8.1	7.1	5.4
= Reported EPS	-0.93	-0.87	-0.30	-2.71	-1.42
annual growth (%)	*na*	*6.6*	*65.0*	*-790.1*	*47.6*

Source: Company data, Deutsche Bank estimates

SM 428

Trulia, Inc.

4Q13 results

Figure 1: Summary of key metrics

(USD in mn, unless noted)	Actual	DB Estimate	Delta	Consensus	Prior Year Quarter	Change / Prior Year	Change / Prior Quarter
Key Metrics							
Total Subscribers	39,300	38,051	3.3%		24,443	61%	8%
Net sub adds	2,899	1,650	75.7%		1,680	73%	-32%
ARPU	$192	$191	0.3%		$172	12%	3%
Income Statement							
Marketplace revenue	27,400	25,440	7.7%		14,500	89%	10%
Agent Marketplace	21,802	21,379	2.0%		12,179	79%	-15%
Other Marketplace	3,598	2,702	33.1%		1,689	113%	136%
Mortgage related	2,000	NA	NA		632	217%	5%
Media revenue	7,630	8,778	-13.1%		6,054	26%	-15%
LEDR revenue	14,700	14,863	-1.1%		-		
Revenue	**49,730**	**49,081**	**1.3%**	**49,390**	**20,554**	**142%**	**23%**
Gross Profit	40,722	45,096	-9.7%		17,874	128%	18%
Gross Profit Margin	81.9%	91.9%	-1000 bps		87.0%	-507 bps	-415 bps
Operating Expenses:							
Sales & Marketing	22,271	24,170	-7.9%		9,987	123%	19%
Technology & Development	9,791	8,264	18.5%		4,758	106%	22%
General & Administrative	6,901	8,656	-20.3%		3,677	88%	10%
Stock Based Compensation	12,305	6,538	88.2%		761	1517%	69%
Total Operating Expenses	51,268	48,627	5.4%		19,183	167%	16%
Operating Income	(10,546)	(3,531)	198.7%		(1,309)	706%	6%
PF Operating Income	1,759	4,007	-56.1%		(548)	-421%	23%
Adjusted EBITDA	**7,683**	**6,844**	**12.3%**	**6,900**	**564**	**1262%**	**60%**
Adjusted EBITDA Margin	15.4%	13.9%	151 bps	14.0%	2.7%	1271 bps	2936 bps
Interest expense/(income), net	(442)	(9)	4555.0%		(283)	56%	165%
Pretax Income	(11,129)	(3,540)	214.4%		(1,592)	599%	10%
Reported Net Income	(11,146)	(3,745)	197.6%		(1,592)	600%	-259%
Adjusted EPS	$0.03	$0.09	-68.0%	$0.07	($0.03)	-195%	-94%

Source: Company data, Deutsche Bank

SM 429

Figure 2: Summary of estimate changes

	1Q14E			2014E				2015E			
	New Est.	Old Est.	Delta	New Est.	Old Est.	Delta	Delta $	New Est.	Old Est.	Delta	Delta $
Ending subs	85,100	83,251	2.2%	97,150	90,201	7.7%	6,949	111,613	102,926	8.4%	8,68
Net sub adds	57,180	55,331	3.3%	15,750	10,050	56.7%	5,700	14,463	12,725	13.7%	1,73
Marketplace revenue	30,512	$28,238	8.1%	$144,247	$132,033	9.3%	$12,214	200,854	$179,273	12.0%	$21,58
Media revenue	7,322	7,503	-2.4%	37,000	38,813	-4.7%	(1,812)	45,188	47,402	-4.7%	(2,21
Revenues from LEDR	15,276	15,318	-0.3%	66,064	68,473	-3.5%	(2,409)	80,151	85,278	-6.0%	(5,12
Total Revenue	**53,111**	**51,059**	**4.0%**	**247,311**	**239,319**	**3.3%**	**7,992**	**326,193**	**311,953**	**4.6%**	**14,24**
Cost of Revenues	4,640	4,060	14.3%	15,942	18,923	-15.8%	(2,982)	19,245	23,972	-19.7%	(4,72
Gross Profit	48,470	46,998	3.1%	231,369	220,395	5.0%	10,974	306,948	287,980	6.6%	18,96
Gross Profit Margin	86.9%	86.9%	00 bps	84.4%	87.9%	-344 bps	-3.4%	93.6%	92.1%	146 bps	1.5
Operating Expenses:											
Sales & Marketing	32,171	25,208	27.6%	158,118	108,872	45.2%	49,245	182,267	125,820	44.9%	56,44
Total Operating Expenses	58,130	49,733	16.9%	260,431	214,277	21.5%	46,154	310,583	252,504	23.0%	58,07
							-				-
Operating Income	(9,660)	(2,735)	253.2%	(29,062)	6,118	-575.0%	(35,180)	(3,635)	35,477	-110.2%	(39,11
PF Operating Income	(3,333)	3,295	-201.2%	(2,039)	31,977	-106.4%	(34,016)	32,502	69,450	-53.2%	(36,94
							-				-
Adjusted EBITDA	**1,454**	**$7,635**	**-81.0%**	**$18,881**	**$52,153**	**-63.8%**	**($33,272)**	**55,279**	**$91,579**	**-39.6%**	**($36,29**
Adjusted EBITDA Margin	2.7%	15.0%	-1222 bps	7.6%	21.8%	-1416 bps	-14.2%	16.9%	29.4%	-1241 bps	-12.4

Source: Company data, Deutsche Bank

Taking A Closer Look At Marketing Spend

We looked at Zillow's advertising program over the past few years to try to assess how its advertising spend is drove incremental user growth and revenue growth. Given $39mn of ad spend in 2013 for 20.1mn incremental users, Zillow spent $1.92 per incremental user. This basic analysis, however, assumes Zillow would not have grown users without the ad spend. To adjust for that, we looked at how Zillow's ad spend drove user growth *in excess of* Trulia's MAU growth in 2013, given Trulia spent nominally last year and still added 9.5mn MAUs. Excluding Trulia's 9.5mn incremental MAU growth, Zillow appears to have spent $3.63 in advertising spend per incremental user above what Trulia added, based on $38.7mn of spend over 10.7mn of incremental users ahead of what Trulia added.

Interestingly, as Zillow ramped it's ad spend, the ad spend per incremental user versus Trulia has gone from $1.17 in 2011 to $2.67 in 2012 and $3.63 in 2013. While we do not know exactly how Trulia did it's analysis, which was mostly likely far more complicated (or perhaps far simpler), the increasing spend per incremental user likely informed Trulia's plan to spend $45mn initially.

SM 430

Figure 3: Zillow Return On Incremental Ad Dollar Estimate

	2011	2012	2013
Advertising Spend ('000s)	$4,000	$11,100	$38,700
Incremental Ad Spend ('000s)	4,000	7,100	27,600
Unique Users (MM)	21.5	34.0	54.1
Incremental Unique Users (MM)	10.3	12.5	20.1
Incremental Unique Users (vs Trulia)	3.4	4.2	10.7
Advertising Spend per Incremental User	$ 0.39	$ 0.89	$ 1.92
Advertising Spend per Incremental User vs Trulia	$ 1.17	$ 2.67	$ 3.63
Agent Revenue ('000s)	$36,364	$72,379	$124,651
Incremental Agent Revenue ('000s)	25,266	36,015	52,272
Agent Revenue per User	$ 1.70	$ 2.13	$ 2.30
Incremental Revenue per Incremental User	$ 2.46	$ 2.88	$ 2.60
Return on Incremental Ad Dollar	2.1x	1.1x	0.7x

Source: Deutsche Bank, Company data

Looking at the revenue equation, Zillow added $52mn in revenue in 2013 in its Premier Agent business, or about $2.60 per total incremental users (20.1mn). As such, it appears like the incremental spending does drive revenue but at a great cost. If a user generated a lot of repeat usage over a longer lifetime, it could justify the spend. And on some level, users on these sites generate a lot of page views, and today, the company's charge on an impression basis (or share of voice basis), not a specific per-lead basis. So adding users who generate impressions, assuming the company's can sell-through the inventory, does generate advertising revenue. But the reality is that the way agents see the world is in the cost per lead. On that basis, a home shopper generates only one or a handful of truly valuable leads and at most one real close every 7 years or so (and with each move a user is more likely to use its existing agent). In fact, many Trulia and Zillow users probably do not generate a lead at all.

Taking the Zillow data and tying it back to Trulia's ad spend plan, it would suggest based on Zillow's 2013 metrics – a year in which they spent less than what Trulia plans to spend in 2014 then Trulia's $45mn of ad spend could drive an incremental 12.4mn of MAUs and $32mn of incremental revenue.

SM 431

Figure 4: Implied Incremental Revenue Opportunity For Trulia

			Comment
Trulia Ad Spend - 2014E		$45,000	Guidance
Incremental Ad Spend		40,000	Assumes $5mn in 2013
Ad Spend per Incr User	$	3.63	Zillow 2013 estimate
Implied Incremental Users		12,390	Assumes all new users come from Ad Spend
Incremental Revs per User	$	2.60	Zillow 2013 estimate
Implied Incremental Revenues		$32,165	
2013 Trulia Agent Revs		73,424	DBe
2014 Trulia Agent Revs		112,827	DBe
2014 Incremental Revs as Modeled		$39,403	

Source: Deutsche Bank, Company data

We recognize this analysis has many shortcoming, and we hope to dig into it further with management teams and industry contacts, but let this be our first stab at digging into the true value of these massive amounts of advertising spend.

As somewhat of an aside, given the plan to spend, we would rather see Trulia hasten its spending program given the busy home selling season has already started. It strikes us as odd that the company, which has been analyzing this for so long, ultimately concluded to do a massive campaign and yet did so without preparing it in time to catch the full Spring selling season, which typically starts after the Superbowl.

Trulia Remains Among Cheapest Internet Names For Growth On 2015

Despite our numbers cut, we continue to see Trulia as one of the most compelling valuations relative to growth in small- and mid-cap internet peers. Trulia shares now trade at 4.0x our new 2015 EV/Sales estimate. This represents a discount of 56% to an average of 9.0x for the high-growth internet peer group which consists of HomeAway, LinkedIn, Shutterstock, TripAdvisor, and Yelp. Pro forma Trulia is growing sales at a CAGR of 35% between 2013 and 2015 (as if they owned Market Leader for all of 2013), slightly above the peer group average of 33%. Given slightly better sales growth, we view the steep discount to peers on an EV/Sales basis is unwarranted.

SM 432

Valuation

Buy Rating & $43 Price Target

Our $43 price target (down from $55) is based on an average of metrics including 25x 2015E EV/EBITDA and 8x 2015E EV/revenue. We use lower valuation metrics for 2015, in line with the peer group. Trulia currently trades at a meaningful discount to Zillow, which we do not feel is warranted.

Figure 5: Valuation

Trulia -- Pro Forma Valuation Worksheet
($ in millions, except per share amounts)

Current Price	$36.43	13-Feb
Basic shares (10-Q)	37.3	
Diluted Shares Outstanding	41.7	
Convert shares	6.4	
Less Convert related buyback	(1.1)	
FD Shares (w convert)	47.0	
Current Market Cap	1,518.9	
PF Net debt	(227.1)	Convert treated as equity
Adjusted Enterprise Value - PF	$1,291.9	

EV to Revenue		**2013**	**2014E**	**2015E**
PF Revenues		$178	$247	$326
Current EV/Rev Multiple		7.3x	5.2x	4.0x
Target Multiple		**10.0x**	**10.0x**	**8.0x**
Enterprise Value		$1,781	$2,473	$2,610
Plus: YE Cash		248	148	109
Less: YE Debt		8.0	8.0	8.0
Equity Market Capitalization		$2,021	$2,613	$2,711
FY End Projected Sharecount	Convert treated as equity	47.0	47.4	48.3
Implied Stock Price on Forward Revenue		**$43**	**$55**	**$56**

EV to EBITDA		**2013E**	**2014E**	**2015E**
PF EBITDA		$21	$19	$55
Current EV/EBITDA Multiple		61.2x	68.4x	23.4x
Target Multiple		**40.0x**	**40.0x**	**25.0x**
Enterprise Value		$845	$755	$1,382
Plus: YE Cash		248	148	109
Less: YE Debt		8.0	8.0	8.0
Equity Market Capitalization		$1,085	$895	$1,483
FY End Projected Sharecount	Convert treated as equity	47.0	47.4	48.3
Implied Stock Price on Forward EBITDA		**$23**	**$19**	**$31**
	Average			**$43**

Source: Deutsche Bank

Risks

Risks include: lack of GAAP profitability and valuation support, competition, reliance on nonexclusive data, dependency on search, concentration of media customers, potential backlash from agents, acquisition integration and exposure to real estate volatility.

SM 433

Figure 6: Income Statement

FY Dec	2010A	2011A	1QA	2QA	3QA	4QA	2012A	1QA	2QA	3QA	4QA	2013A	1QE	2QE	3QE	4QE	2014E	2015E
Marketplace revenue	$9,350	$22,653	$9,100	$11,500	$12,700	$14,500	$47,000	$10,000	$22,000	$24,000	$27,400	$92,200	$30,512	$35,205	$37,024	$40,326	$144,247	$200,054
Media revenue	10,427	15,865	3,062	5,325	5,844	6,054	20,285	6,002	7,713	8,983	7,630	30,328	7,322	9,410	10,959	9,309	37,000	45,188
Revenues from LEDR	-	-	-	-	-	-	-	-	-	6,217	14,700	20,917	15,276	16,405	16,921	17,462	66,064	80,151
Revenue	**19,785**	**38,518**	**12,162**	**16,825**	**18,544**	**20,554**	**68,085**	**24,002**	**29,713**	**40,283**	**49,730**	**143,728**	**53,111**	**61,099**	**65,704**	**67,396**	**247,311**	**326,193**
Cost of Revenues	3,649	5,784	2,200	2,479	2,609	2,680	9,968	3,140	4,386	5,869	9,008	22,403	4,640	3,510	3,281	4,509	15,942	19,245
Gross Profit	16,136	32,734	9,962	14,346	15,935	17,874	58,117	20,862	25,327	34,414	40,722	121,325	48,470	57,589	62,423	62,387	231,369	306,948
Operating Expenses:																		
Sales & Marketing	8,541	17,534	6,020	8,938	8,404	9,987	33,349	11,956	12,817	18,663	22,271	65,707	32,171	41,819	42,571	41,557	158,113	182,267
Technology & Development	8,261	13,460	4,180	4,928	4,922	4,758	18,788	4,486	5,951	8,019	9,791	28,247	10,937	10,191	10,257	9,400	40,785	50,555
General & Administrative	2,428	5,315	2,758	2,820	3,194	3,677	12,449	4,569	4,704	6,301	6,901	22,475	8,696	7,542	9,278	8,991	34,506	41,625
Stock Based Compensation	354	1,484	465	551	793	761	2,570	1,392	1,986	7,290	12,305	22,973	6,327	6,430	7,476	6,790	27,022	36,136
Amort. of product dev. / merger costs / other	366	708	274	207	-	-	481	-	2,005	4,060	0	6,065	-	-	-	-	-	-
Other Non-recurring	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Operating Expenses	19,950	38,501	13,697	17,444	17,313	19,183	67,637	22,403	27,463	44,333	51,268	145,467	58,130	65,982	69,581	66,738	260,431	310,583
Operating Income	(3,814)	(5,767)	(3,735)	(3,098)	(1,378)	(1,309)	(9,520)	(1,541)	(2,136)	(9,919)	(10,546)	(24,142)	(9,660)	(8,393)	(7,158)	(3,351)	(29,062)	(3,635)
PF Operating Income	(3,094)	(3,575)	(2,996)	(2,340)	(585)	(548)	(6,469)	(149)	1,855	1,431	1,759	4,896	(3,333)	(1,963)	318	2,339	(2,039)	32,502
Depreciation & Amortization	963	2,496	797	789	886	1,112	3,584	1,360	1,548	3,380	5,924	12,212	4,787	5,097	5,445	5,591	20,920	22,778
Stock Based Compensation	354	1,484	465	551	793	761	2,570	1,392	1,986	7,290	12,305	22,973	6,327	6,430	7,476	6,790	27,022	36,136
Adjusted EBITDA	**(2,497)**	**(1,787)**	**(2,473)**	**(1,758)**	**301**	**564**	**(3,366)**	**1,211**	**3,403**	**4,811**	**7,683**	**17,108**	**1,454**	**3,134**	**5,763**	**8,530**	**18,881**	**55,279**
Interest expense/(income), net	(24)	(372)	(249)	(235)	(265)	(283)	(1,032)	(210)	(165)	(167)	(442)	(984)	(24,015)	(24,032)	(23,943)	(23,399)	(95,989)	(96,007)
Change in fair value of warrant liability	0	(16)	(216)	(107)	(46)	-	(369)	-	-	-	(141)	(141)	-	-	-	-	-	-
Pretax Income	(3,838)	(6,155)	(4,200)	(3,440)	(1,689)	(1,592)	(10,921)	(1,751)	(2,301)	(10,086)	(11,129)	(25,267)	(33,675)	(32,425)	(31,101)	(27,350)	(125,051)	(99,641)
Income Tax Expense (benefit)	-	-	-	-	-	-	-	231	110	(17,107)	17	(16,749)	262	218	250	244	1,005	(31,424)
Net Income before noncontrolling interest	(3,838)	(6,155)	(4,200)	(3,440)	(1,689)	(1,592)	(10,921)	(1,982)	(2,411)	7,021	(11,146)	(8,518)	(33,937)	(32,673)	(31,351)	(28,394)	(126,056)	(68,217)
Loss from noncontrolling interest - LEDR											-	-	-	-	-	-	-	-
Reported Net Income	(3,838)	(6,155)	(4,200)	(3,440)	(1,689)	(1,592)	(10,921)	(1,982)	(2,411)	7,021	(11,146)	(8,518)	(33,937)	(32,673)	(31,351)	(28,394)	(126,056)	(68,217)
PF Net income (excl. non-cash comp)	(3,118)	(3,963)	(3,461)	(2,682)	(896)	(831)	(7,870)	(359)	1,690	13,371	1,176	20,878	(27,611)	(26,243)	(23,875)	(21,304)	(99,033)	(32,081)
Diluted Earnings per Share																		
Diluted EPS		($0.93)	($0.61)	($0.50)	($0.19)	($0.06)	($0.87)	($0.59)	($0.07)	$0.19	($0.27)	($0.75)	($0.75)	($0.70)	($0.67)	($0.59)	($2.71)	($1.42)
Adjusted EPS		**($0.13)**	**($0.12)**	**($0.09)**	**($0.03)**	**($0.03)**	**($0.27)**	**($0.01)**	**$0.05**	**$0.49**	**$0.03**	**$0.56**	**($0.61)**	**($0.56)**	**($0.51)**	**($0.45)**	**($2.13)**	**($0.67)**
Diluted Shares Outstanding		6,597	6,882	6,882	8,806	27,328	12,539	3,346	34,017	37,428	40,718	28,877	45,012	46,558	46,952	47,350	46,463	47,949
Pro forma Shares Outstanding		29,607	29,607	29,607	29,607	27,328	29,037	34,688	34,017	37,428	40,718	36,713	45,012	46,558	46,952	47,350	46,463	47,949
Margin Analysis																		
Gross Profit Margin	81.6%	85.0%	81.9%	85.3%	85.9%	87.0%	85.4%	86.9%	85.2%	85.4%	81.9%	84.4%	91.3%	94.3%	95.0%	92.6%	93.6%	94.1%
Sales & Marketing as % of Revenue	43.2%	45.5%	49.5%	53.1%	45.3%	48.6%	49.0%	49.8%	43.1%	46.3%	44.8%	45.7%	60.6%	68.4%	64.8%	61.7%	63.9%	55.9%
Research & Development as % of Revenue	41.8%	34.9%	34.4%	29.3%	26.5%	23.1%	27.6%	18.7%	20.0%	19.9%	19.7%	19.7%	20.6%	16.7%	15.6%	13.9%	16.5%	15.5%
General & Administrative as % of Revenue	12.3%	13.8%	22.7%	16.8%	17.2%	17.9%	18.3%	19.0%	15.8%	15.6%	13.9%	15.6%	16.4%	12.3%	14.1%	13.3%	14.0%	12.8%
Stock Based Compensation as % of Revenue	1.8%	3.9%	3.8%	3.3%	4.3%	3.7%	3.8%	5.8%	6.7%	18.1%	24.7%	16.0%	11.9%	10.5%	11.4%	10.1%	10.9%	11.1%
Total Operating Expenses as % of Revenue	100.8%	100.0%	112.6%	103.7%	93.4%	93.3%	99.3%	93.3%	92.4%	110.1%	103.1%	101.2%	109.5%	108.0%	105.9%	99.0%	105.3%	95.2%
GAAP Operating Margin	-19.3%	-15.0%	-30.7%	-18.4%	-7.4%	-6.4%	-14.0%	-6.4%	-7.2%	-24.6%	-21.2%	-16.8%	-18.2%	-13.7%	-10.9%	-5.7%	-11.8%	-1.1%
Non-GAAP Operating Margin	-15.6%	-9.3%	-24.6%	-13.9%	-3.2%	-2.7%	-9.5%	-0.6%	6.2%	3.6%	3.5%	3.4%	-6.3%	-3.2%	0.5%	4.4%	-0.8%	10.0%
Adjusted EBITDA Margin	**-12.6%**	**-4.6%**	**-20.3%**	**-10.4%**	**1.6%**	**2.7%**	**-4.9%**	**5.0%**	**11.5%**	**11.9%**	**15.4%**	**11.9%**	**2.7%**	**5.1%**	**8.8%**	**12.7%**	**7.6%**	**16.9%**
Incremental EBITDA Margin	-12.6%	3.8%	-35.5%	-22.2%	8.8%	14.0%	-5.3%	31.1%	40.0%	20.7%	24.4%	27.1%	0.8%	-0.9%	3.7%	4.8%	1.7%	46.1%
Effective Tax Rate	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-13.2%	-4.8%	169.6%	-0.2%	66.3%	-0.8%	-0.8%	-0.8%	-0.9%	-0.8%	31.5%
Reported Net Income	-19.4%	-16.0%	-34.5%	-20.4%	-9.1%	-7.7%	-16.0%	-8.3%	-8.1%	17.4%	-22.4%	-5.9%	-63.9%	-53.5%	-47.7%	-41.7%	-51.0%	-20.9%
Year Over Year Growth																		
Net Revenue			75.1%	80.9%	76.1%	75.1%	76.8%	97.4%	76.6%	117.2%	141.9%	111.1%	121.3%	105.6%	63.1%	35.5%	72.1%	31.9%
Net Revenue - PF		**64.1%**	**57.5%**	**58.3%**	**55.0%**	**53.6%**	**55.9%**	**65.2%**	**55.6%**	**59.0%**	**52.6%**	**57.5%**	**43.8%**	**40.8%**	**36.6%**	**35.5%**	**38.8%**	**31.9%**
Gross Profit			67.9%	80.2%	79.1%	79.7%	77.5%	109.4%	76.5%	116.0%	127.8%	108.8%	132.3%	127.4%	81.4%	54.4%	90.7%	32.7%
Operating Expenses			80.3%	96.8%	68.1%	63.4%	75.7%	63.6%	57.4%	156.1%	167.3%	115.1%	159.5%	140.3%	57.0%	30.2%	79.0%	19.3%
Operating Income			124.3%	241.9%	-1.9%	-26.9%	65.1%	-58.7%	-31.1%	619.8%	705.7%	153.6%	526.9%	292.9%	-27.8%	-63.5%	20.4%	-87.5%
Adjusted EBITDA			297.0%	1831.9%	-175.3%	-183.8%	88.4%	-149.0%	-293.6%	1498.3%	1262.2%	-608.3%	20.0%	-7.9%	19.8%	11.0%	10.4%	192.8%
Reported Net Income			148.5%	275.5%	13.0%	-22.5%	77.4%	-52.8%	-29.9%	-515.7%	600.1%	-22.0%	1612.3%	1255.2%	-546.5%	152.1%	1379.9%	-45.9%
Adjusted Earnings per Share			255.3%	405.1%	-11.1%	-37.9%	102.5%	-91.1%	-154.8%	-1721.9%	-195.0%	-306.3%	5825.9%	-1234.6%	-203.6%	-1657.9%	-481.2%	-68.6%
Other Metrics																		
Total subscribers (period end)	10,070	16,849	19,639	21,544	22,763	24,443	24,443	27,920	32,123	36,401	81,400	81,400	85,100	89,400	94,350	97,150	97,150	111,613
Monthly ARPU - marketplace agent																		

Source: Company data. Deutsche Bank

SM 434

Appendix 1

Important Disclosures

Additional information available upon request

Disclosure checklist

Company	Ticker	Recent price*	Disclosure
Trulia Inc.	TRLA.N	36.43 (USD) 13 Feb 14	1,7,8

*Prices are sourced from local exchanges via Reuters, Bloomberg and other vendors. Data is sourced from Deutsche Bank and subject companies

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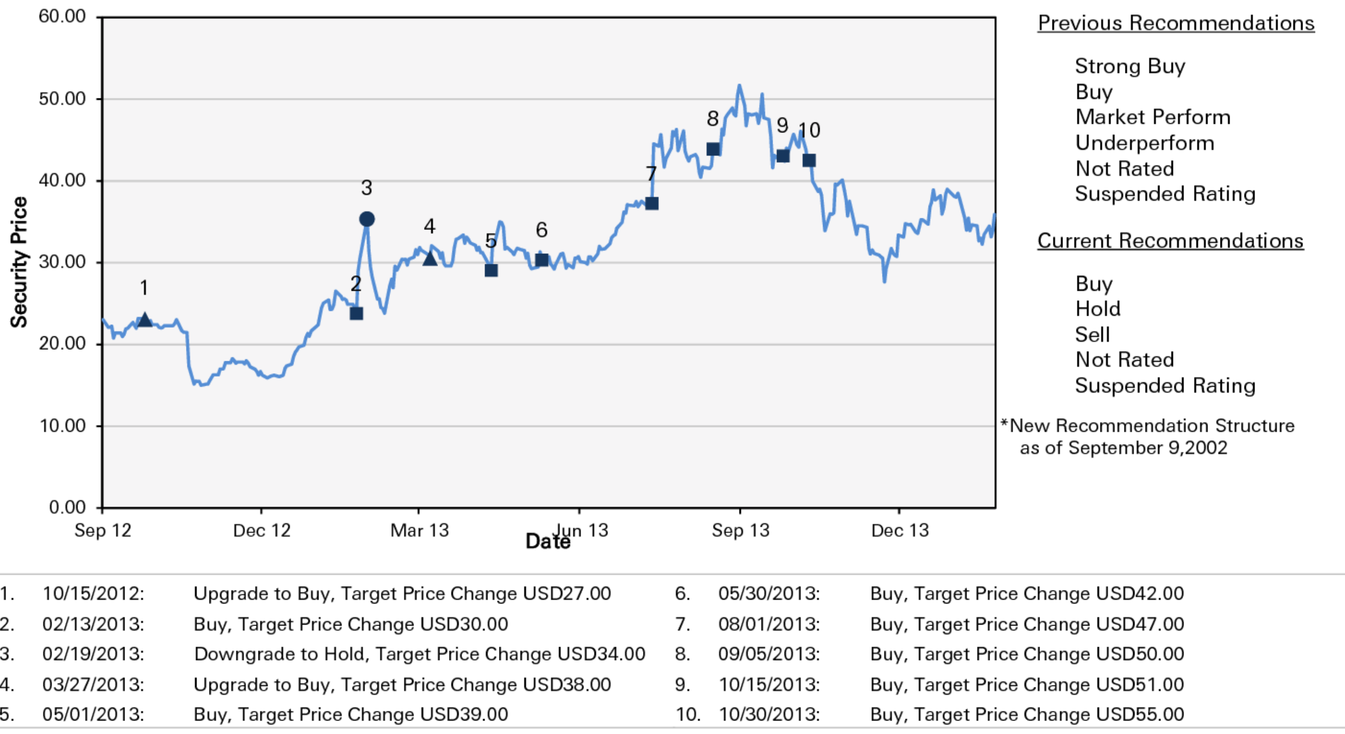
SM 435

Historical recommendations and target price: Trulia Inc. (TRLA.N)

(as of 2/13/2014)



1.	10/15/2012:	Upgrade to Buy, Target Price Change USD27.00	6.	05/30/2013:	Buy, Target Price Change USD42.00
2.	02/13/2013:	Buy, Target Price Change USD30.00	7.	08/01/2013:	Buy, Target Price Change USD47.00
3.	02/19/2013:	Downgrade to Hold, Target Price Change USD34.00	8.	09/05/2013:	Buy, Target Price Change USD50.00
4.	03/27/2013:	Upgrade to Buy, Target Price Change USD38.00	9.	10/15/2013:	Buy, Target Price Change USD51.00
5.	05/01/2013:	Buy, Target Price Change USD39.00	10.	10/30/2013:	Buy, Target Price Change USD55.00

Equity rating key

Buy: Based on a current 12- month view of total share-holder return (TSR = percentage change in share price from current price to projected target price plus pro-jected dividend yield) , we recommend that investors buy the stock.
Sell: Based on a current 12-month view of total share-holder return, we recommend that investors sell the stock
Hold: We take a neutral view on the stock 12-months out and, based on this time horizon, do not recommend either a Buy or Sell.
Notes:

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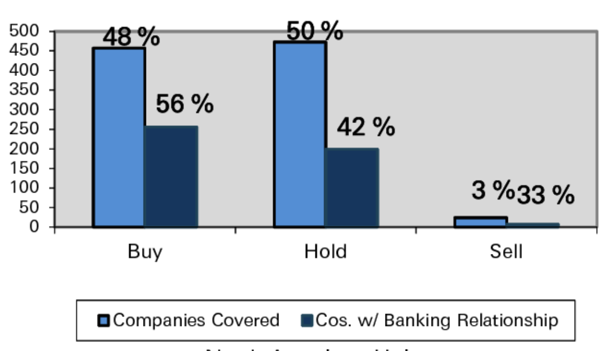
2. Ratings definitions prior to 27 January, 2007 were:

    Buy: Expected total return (including dividends) of 10% or more over a 12-month period
    Hold: Expected total return (including dividends) between -10% and 10% over a 12-month period
    Sell: Expected total return (including dividends) of -10% or worse over a 12-month period

Equity rating dispersion and banking relationships



North American Universe

SM 436

Regulatory Disclosures

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SM 437

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EXHIBIT M

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Table of Contents

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14A
(Rule 14a-101)

INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934
(Amendment No.)

Filed by the Registrant ☒ Filed by a Party other than the Registrant ☐

Check the appropriate box:

☐ Preliminary Proxy Statement

☐ **Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**

☒ Definitive Proxy Statement

☐ Definitive Additional Materials

☐ Soliciting Material pursuant to § 240.14a-12

ZILLOW, INC.
(Name of Registrant as Specified in its Charter)

N/A
(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

☒ No fee required.

☐ Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

☐ Fee paid previously with preliminary materials.

SM 440

Table of Contents

Zillow, Inc.

Trulia, Inc.

TO THE SHAREHOLDERS OF ZILLOW, INC. AND STOCKHOLDERS OF TRULIA, INC.
MERGER PROPOSAL — YOUR VOTE IS VERY IMPORTANT

November 17, 2014

Dear Shareholders:

Zillow, Inc. ("Zillow") and Trulia, Inc. ("Trulia") have entered into a merger agreement, pursuant to which Zillow will acquire Trulia under a newly formed holding company, currently named Zebra Holdco, Inc. ("Holdco"). Following successive merger transactions (the "mergers"), Zillow and Trulia will become wholly owned subsidiaries of Holdco. The combined company will maintain both the Zillow and Trulia consumer brands, offering buyers, sellers, homeowners and renters access to vital information about homes and real estate for free, and providing advertising and software solutions that help real estate professionals grow their businesses.

Upon completion of the mergers, holders of Zillow Class A common stock will receive one share of Holdco Class A common stock for each share of Zillow Class A common stock, holders of Zillow Class B common stock will receive one share of Holdco Class B common stock for each share of Zillow Class B common stock, and holders of Trulia common stock will receive 0.444 of a share of Holdco Class A common stock for each share of Trulia common stock. The Holdco Class A common stock will have one vote per share, and the Holdco Class B common stock will have ten votes per share, similar to the current capital structure of Zillow. We anticipate that Zillow shareholders will hold approximately 67% of Holdco common stock and Trulia stockholders will hold approximately 33% of Holdco common stock, on a fully-diluted basis immediately after completion of the mergers, based on outstanding shares of common stock, stock options, restricted stock units, and stock appreciation rights of Zillow and Trulia, as applicable, and shares issuable upon conversion of Trulia's outstanding convertible notes, as of June 30, 2014. The actual relative ownership percentages of the Zillow shareholders and the Trulia stockholders in Holdco immediately after completion of the mergers will vary based on the number of outstanding shares of common stock, and securities exercisable or convertible into common stock, of Zillow and Trulia immediately prior to completion of the mergers. Holdco intends to apply to list its Class A common stock on the NASDAQ Global Stock Market under the symbol "Z," subject to official notice of issuance. Based on the outstanding shares of Zillow and Trulia common stock as of October 9, 2014, and assuming no Zillow or Trulia stock options, restricted stock units, stock appreciation rights, or convertible notes are exercised, settled, or converted, as applicable, between October 9, 2014 and the effective times of the mergers, Holdco would be required to issue 51,188,746 shares of Holdco Class A common stock and 6,217,447 shares of Holdco Class B common stock upon completion of the mergers.

Completion of the mergers requires, among other things, the separate approvals of both Zillow shareholders and Trulia stockholders. To obtain these required approvals, Zillow will hold a special meeting of Zillow shareholders on December 18, 2014, and Trulia will hold a special meeting of Trulia stockholders on December 18, 2014. As a result of their beneficial ownership of more than a majority of the outstanding voting power of the shares of Zillow Class A common stock and Zillow Class B common stock, Zillow's founders, Richard Barton and Lloyd Frink, will have the power to approve each of the Zillow proposals without the affirmative vote of any other Zillow shareholder. Messrs. Barton and Frink have entered into a voting agreement with each other pursuant to which they agreed to, among other things, vote their shares of Zillow common stock in favor of each of the Zillow proposals.

THE ZILLOW AND TRULIA BOARDS OF DIRECTORS RECOMMEND THAT YOU VOTE "FOR" THE PROPOSALS TO APPROVE OR ADOPT THE MERGER AGREEMENT, AS APPLICABLE.

Information about the special meetings, the mergers, and the other business to be considered by Zillow shareholders and Trulia stockholders is contained in the accompanying joint proxy statement/prospectus and the documents incorporated by reference, which we urge you to read carefully. In particular, see "Risk Factors" beginning on page 42 of the accompanying joint proxy statement/prospectus.

Your vote is very important. Whether or not you plan to attend the special meeting of Zillow shareholders or the special meeting of Trulia stockholders, as applicable, please submit a proxy to vote your shares as soon as possible to make sure your shares are represented at the applicable special meeting. Your failure to vote will have the same effect as voting "AGAINST" the proposal to approve or adopt the merger agreement, as applicable.

Spencer Rascoff
Chief Executive Officer
Zillow, Inc.

Peter Flint
Chief Executive Officer
Trulia, Inc.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved the securities to be issued in connection with the mergers or determined if the accompanying joint proxy statement/prospectus is accurate or complete. Any representation to the contrary is a criminal offense.

SM 441

The accompanying joint proxy statement/prospectus is dated November 17, 2014, and is first being mailed or otherwise delivered to Zillow shareholders and Trulia stockholders on or about November 19, 2014.

Table of Contents

Opinion of Financial Advisor to Zillow

Goldman Sachs rendered its opinion to the Zillow board that, as of July 28, 2014 and based upon and subject to the factors and assumptions set forth therein, and taking into account the Trulia merger, the Zillow exchange ratio pursuant to the merger agreement was fair from a financial point of view to the holders of Zillow common stock.

The full text of the written opinion of Goldman Sachs, dated July 28, 2014, which sets forth assumptions made, procedures followed, matters considered and limitations on the review undertaken in connection with the opinion, is attached as Annex D to this joint proxy statement/prospectus. Goldman Sachs provided its opinion for the information and assistance of the Zillow board in connection with its consideration of the mergers. The Goldman Sachs opinion is not a recommendation as to how any holder of Zillow common stock should vote with respect to the mergers, or any other matter.

In connection with rendering the opinion described above and performing its related financial analyses, Goldman Sachs reviewed, among other things:

- the merger agreement;
- annual reports to shareholders or stockholders, as applicable, and Annual Reports on Form 10-K of Zillow for the three fiscal years ended December 31, 2011, December 31, 2012, and December 31, 2013, and Annual Reports on Form 10-K and Form 10-K/A, as applicable, of Trulia for the two fiscal years ended December 31, 2012 and December 31, 2013;
- Zillow's Registration Statement on Form S-1, including the prospectus contained therein dated July 2011 related to the public offering of the Zillow Class A common stock;
- Trulia's Registration Statement on Form S-1, including the prospectus contained therein dated September 2012 related to the public offering of the Trulia common stock;
- certain interim reports to shareholders or stockholders, as applicable, and Quarterly Reports on Form 10-Q of Zillow and Trulia;
- certain other communications from Zillow and Trulia to their respective shareholders or stockholders, as applicable;
- certain publicly available research analyst reports for each of Zillow and Trulia;
- certain internal financial analyses and forecasts for Trulia prepared by its management; and
- certain internal financial analyses and forecasts for Zillow and certain financial analyses and forecasts for Trulia, in each case, as prepared by the management of Zillow and approved for Goldman Sachs' use by Zillow (the "Forecasts") and certain operating synergies projected by the managements of Zillow and Trulia to result from the mergers, as approved for Goldman Sachs' use by Zillow (the "Synergies") (see " — Certain Prospective Financial Information Reviewed by the Zillow Board and Zillow's Financial Advisor").

Goldman Sachs also (1) held discussions with members of the senior managements of Zillow and Trulia regarding their assessment of the strategic rationale for, and the potential benefits of, the mergers and the past and current business operations, financial condition, and future prospects of Zillow and Trulia; (2) reviewed the reported price and trading activity for the Zillow Class A common stock and the Trulia common stock; (3) compared certain financial and stock market information for Zillow and Trulia with similar information for certain other companies, the securities of which are publicly traded; (4) reviewed the financial terms of certain recent business combinations in the Internet industry and in other industries; and (5) performed such other studies and analyses, and considered such other factors, as it deemed appropriate.

For purposes of rendering this opinion, Goldman Sachs, with Zillow's consent, relied upon and assumed the accuracy and completeness of all of the financial, legal, regulatory, tax, accounting and other information provided to, discussed with or reviewed by, it, without assuming any responsibility for independent verification

SM 443

Table of Contents

thereof. In that regard, Goldman Sachs assumed, with Zillow's consent, that the Forecasts and the Synergies were reasonably prepared on a basis reflecting the best currently available estimates and judgments of the management of Zillow. Goldman Sachs did not make an independent evaluation or appraisal of the assets and liabilities (including any contingent, derivative or other off-balance-sheet assets and liabilities) of Zillow, Trulia, Holdco, or any of their respective subsidiaries and it was not furnished with any such evaluation or appraisal. Goldman Sachs assumed that all governmental, regulatory or other consents and approvals necessary for the consummation of the mergers will be obtained without any adverse effect on Zillow, Trulia, or Holdco or on the expected benefits of the mergers in any way meaningful to its analysis. Goldman Sachs also assumed that the mergers will be consummated on the terms set forth in the merger agreement, without the waiver or modification of any term or condition the effect of which would be in any way meaningful to its analysis. For purposes of rendering its opinion, Goldman Sachs did not take into account any differential voting or other rights between the Holdco Class A common stock and the Holdco Class B common stock.

Goldman Sachs' opinion does not address the underlying business decision of Zillow to engage in the transaction or the relative merits of the transaction as compared to any strategic alternatives that may be available to Zillow; nor does it address any legal, regulatory, tax or accounting matters. Goldman Sachs' opinion addresses only the fairness of the Zillow exchange ratio from a financial point of view to the holders of Zillow common stock, as of the date of the opinion and taking into account the Trulia merger pursuant to the merger agreement. Goldman Sachs' opinion does not express any view on, and does not address, any other term or aspect of the merger agreement or the mergers or any term or aspect of any other agreement or instrument contemplated by the merger agreement or entered into or amended in connection with the mergers, including any allocation of the aggregate consideration in the Zillow merger among the holders of Zillow Class A common stock and Zillow Class B common stock, the fairness of the mergers to, or any consideration received in connection therewith by, the holders of any other class of securities, creditors, or other constituencies of Zillow; nor as to the fairness of the amount or nature of any compensation to be paid or payable to any of the officers, directors or employees of Zillow or Trulia, or any class of such persons in connection with the mergers, whether relative to the Zillow exchange ratio pursuant to the merger agreement or otherwise. Goldman Sachs does not express any opinion as to the prices at which shares of Holdco common stock will trade at any time or as to the impact of the mergers on the solvency or viability of Zillow, Trulia or Holdco or the ability of Zillow, Trulia or Holdco to pay their respective obligations when they come due. Goldman Sachs' opinion was necessarily based on economic, monetary market and other conditions, as in effect on, and the information made available to it as of the date of the opinion and Goldman Sachs assumed no responsibility for updating, revising or reaffirming its opinion based on circumstances, developments or events occurring after the date of its opinion. Goldman Sachs' opinion was approved by a fairness committee of Goldman Sachs.

The following is a summary of the material financial analyses delivered by Goldman Sachs to the Zillow board of directors in connection with rendering the opinion described above. The following summary, however, does not purport to be a complete description of the financial analyses performed by Goldman Sachs, nor does the order of analyses described represent relative importance or weight given to those analyses by Goldman Sachs. Some of the summaries of the financial analyses include information presented in tabular format. The tables must be read together with the full text of each summary and are alone not a complete description of Goldman Sachs' financial analyses. Except as otherwise noted, the following quantitative information, to the extent that it is based on market data, is based on market data as they existed on or before July 23, 2014, the last trading day before media reports of a possible acquisition of Trulia by Zillow were first published, and is not necessarily indicative of current market conditions.

Historical Exchange Ratio Analysis

Goldman Sachs reviewed the historical trading prices for Zillow Class A common stock and Trulia common stock since Trulia's initial public offering on September 20, 2012. Goldman Sachs calculated historical average exchange ratios over various periods by first dividing the closing price per share of Trulia common stock on each trading day during the period by the closing price per share of Zillow Class A common stock on the same trading day, and subsequently taking the average of these daily historical exchange ratios over such periods, which is referred to as the average exchange ratio for such period. Goldman Sachs then calculated the premiums implied

Table of Contents

by the Trulia exchange ratio to the historical average exchange ratio over various periods. Additionally, Goldman Sachs reviewed the 32.9% Trulia stockholders' ownership in the combined company implied by the Trulia exchange ratio to the ownership implied by the historical average exchange ratios over such periods. This analysis was undertaken to assist the Zillow board in understanding how the Trulia exchange ratio compared to the at market exchange ratio as of July 23, 2014, the at market exchange ratio as of July 25, 2014 and historical average exchange ratios and also how Trulia's stockholders' ownership in the combined company implied by the Trulia exchange ratio compared to the ownership implied by the at market exchange ratio as of July 23, 2014, the at market exchange ratio as of July 25, 2014, and historical average exchange ratios. The following table presents the results of this analysis:

Historical Date or Period	Exchange Ratio	Premium/(Discount) of Trulia Exchange Ratio to Historical Average Exchange Ratio	Implied Trulia Stockholder Ownership
Trulia exchange ratio per the merger agreement	0.444x		32.9%
July 25, 2014	0.355x	25.2%	28.1%
July 23, 2014	0.321x	38.4%	26.1%
30 calendar days ended July 23, 2014	0.325x	36.7%	26.4%
90 calendar days ended July 23, 2014	0.326x	36.3%	26.4%
Since January 1, 2014	0.359x	23.6%	28.4%
Since September 20, 2012	0.497x	(10.7)%	35.6%

Illustrative Financial Contribution Analysis

Goldman Sachs compared the implied equity contribution that Zillow's shareholders would contribute based on specific historical and estimated future financial metrics, namely revenue and Adjusted EBITDA for Zillow and Trulia before taking into account the Synergies that may be realized following the completion of the mergers, for actual 2013 and estimated years 2014 through 2016, using the Forecasts. This analysis was undertaken to assist the Zillow board in understanding how Zillow shareholders' ownership of 67.1% in the combined company implied by the Zillow exchange ratio, taking into account the Trulia Merger, compared with the implied equity contribution for Zillow based on certain future financial metrics for Zillow and Trulia.

To calculate the implied equity contribution for each of Zillow and Trulia, Goldman Sachs first obtained for each of Zillow and Trulia, an implied standalone enterprise value by calculating a weighted average valuation multiple for each of revenue and Adjusted EBITDA in each applicable year and then applying the weighted average valuation multiple to each company's respective financial metrics in such year. Goldman Sachs then adjusted each implied standalone enterprise value by each company's respective net cash position to arrive at each company's implied standalone equity market capitalization, which was then used to calculate the implied equity contribution based on each particular financial metric in a given year. This analysis resulted in the following illustrative ranges of the implied equity contribution of Zillow and Trulia, respectively, to the combined entity, in each case for each particular financial metric and for the calendar years 2013 through 2016:

	Implied Equity Contribution		Implied Exchange Ratio
	Zillow	Trulia	
Revenue			
2013A	59%	41%	0.628x
2014E	56%	44%	0.693x
2015E	59%	41%	0.613x
2016E	61%	39%	0.573x
Adjusted EBITDA			
2013A	64%	36%	0.510x
2014E	65%	35%	0.492x
2015E	63%	37%	0.524x
2016E	64%	36%	0.512x

Table of Contents

Illustrative Discounted Cash Flow Analysis

Goldman Sachs performed an illustrative discounted cash flow analysis on the Synergies and on Zillow to calculate the total equity value of the Synergies and the percent per share value impact to Zillow common stock of the mergers, determined by taking the illustrative value indication for the number of shares of Holdco common stock equal to the Zillow exchange ratio, taking into account the Synergies, and subtracting the illustrative per share value indication of Zillow common stock on a standalone basis. This analysis was undertaken to assist the Zillow board in understanding how the implied present values per share of Zillow common stock, on a standalone basis, compared to implied present values per share of Holdco common stock to be held by shareholders of Zillow following consummation of the mergers. This analysis was performed using the Forecasts and the Synergies, and assumed a June 30, 2014 base date.

Synergies

Goldman Sachs calculated indications of net present value of free cash flows for the Synergies for calendar years 2014 through 2023 using illustrative discount rates ranging from 13.1% to 15.1% reflecting estimates of the weighted average cost of capital for Holdco, 10% annual unlevered free cash flow growth for calendar years 2024 through 2028, and illustrative terminal values based on perpetuity growth rates ranging from 4.0% to 5.0% beginning in year 2029. This analysis resulted in illustrative value indications of the Synergies of $2.2 billion to $3.1 billion.

Per Share Value Impact

Goldman Sachs also performed an illustrative discounted cash flow analysis for Holdco to calculate indications of the implied value to be received by holders of Zillow common stock taking into account the Synergies less the implied value per share of Zillow common stock on a standalone basis (based on an illustrative discounted cash flow analysis for Zillow) to indicate the percent impact per share value of Zillow common stock of the mergers. Goldman Sachs calculated indications of net present value of free cash flow for Holdco for calendar years 2014 through 2023 using illustrative discount rates ranging from 13.1% to 15.1%, reflecting estimates of the weighted average cost of capital for Holdco. Goldman Sachs calculated indications of net present value of free cash flow for Zillow for calendar years 2014 through 2023 using illustrative discount rates ranging from 12.0% to 14.0%, reflecting estimates of the weighted average cost of capital for Zillow. Goldman Sachs calculated implied prices per share of Holdco common stock and for Zillow common stock assuming 10% annual unlevered free cash flow growth for calendar years 2024 through 2028 and illustrative terminal values based on perpetuity growth rates ranging from 4.0% to 5.0% beginning in year 2029. These terminal values were then discounted to calculate implied indications of present value using illustrative discount rates ranging from 13.1% to 15.1% in the case of Holdco, and 12.0% to 14.0% in the case of Zillow. This analysis resulted in a range of implied impact per share of Zillow common stock of 19.5% to 23.5%.

Illustrative Present Value of Future Share Price Analysis

Goldman Sachs performed an illustrative analysis of the implied percent value impact per share of Zillow common stock in the mergers, defined as the implied present value of the future price for the number of shares of Holdco at the Zillow exchange ratio on a pro forma basis less the present value of the future price per share of Zillow common stock, on a standalone basis. This analysis was designed to provide to the Zillow board an indication of the relative difference in present value of a theoretical future value for Zillow and Holdco as a function of the estimated future earnings and assumed price to future earnings per share multiple for both Zillow and Holdco, respectively. For this analysis, Goldman Sachs used the Forecasts and the Synergies for each of the fiscal years 2016 and 2017. Goldman Sachs applied a levered market capitalization, which is the market value of common equity plus the book value of debt less cash, to forward EBITDA multiple range of 20.0x to 30.0x to estimated EBITDA of Zillow and to estimated EBITDA for Holdco including the Synergies, for the fiscal years 2016 and 2017. These illustrative EBITDA multiples were derived by Goldman Sachs utilizing its professional judgment and experience, taking into account current and historical trading data and the current EBITDA multiples for Zillow and the selected companies (as defined below). Goldman Sachs then adjusted the implied enterprise value of each of Zillow and Holdco by each respective future net cash position and future weighted

Table of Contents

average shares outstanding to arrive at the implied future value per share of each of Zillow and Holdco. Goldman Sachs then discounted such 2016 and 2017 values back to June 30, 2014 using an illustrative discount rate of 13.0% for Zillow, reflecting an estimate of Zillow's cost of equity, and an illustrative discount rate of 14.1% for Holdco, reflecting an estimate of Holdco's cost of equity. Based on this analysis, Goldman Sachs calculated an implied percent per share value impact in the range of 5.6% to 123.7% for 2016, and 2.8% to 119.3% for 2017.

Selected Companies Analysis

Using publicly available information, Goldman Sachs reviewed and compared certain financial information for Zillow and Trulia to corresponding financial information, ratios and public market multiples of all publicly traded companies with greater than $500 million in market capitalization in the consumer internet and online real-estate verticals, that, in Goldman Sachs' experience and professional judgment, have operations that, for purposes of analysis, may be considered similar to certain operations of Zillow and Trulia (collectively referred to as the selected companies):

International Online Real Estate Networks

- REA Group Ltd.
- Rightmove plc

Mid Cap Peers

- Bankrate, Inc.
- CoStar Group, Inc.
- Move, Inc.
- Groupon, Inc.
- GrubHub Inc.
- HomeAway Inc.
- RetailMeNot, Inc.
- WebMD Health Corp.

Large Cap Peers

- Amazon.com, Inc.
- eBay Inc.
- Expedia, Inc.
- Facebook Inc.
- Google Inc.
- LinkedIn Corp.
- Priceline Group Inc.
- TripAdvisor, Inc.
- Twitter, Inc.
- Yelp Inc.

This analysis was undertaken in order to assist the Zillow board in understanding how the various companies within the Internet industry and other industries were then currently trading with respect to certain commonly used financial metrics and in understanding if the shares of Zillow and Trulia were trading at a

Table of Contents

relative premium or discount to such companies. Although none of the selected companies is directly comparable to Zillow or Trulia, the companies included were chosen because they are publicly traded companies with operations that, for purposes of analysis, may be considered similar to certain operations of Zillow and Trulia.

Goldman Sachs also calculated and compared various financial multiples and ratios based on information it obtained from publicly available historical data and Institutional Brokers' Estimate System ("IBES") estimates. The multiples and ratios were calculated using the applicable closing price on July 23, 2014, the last trading day before media reports of a possible acquisition of Trulia by Zillow were first published. The multiples and ratios of Zillow and Trulia were calculated using the Forecasts and IBES estimates. The multiples and ratios for each of the selected companies were based on the most recent publicly available information and IBES estimates. With respect to the selected companies and Zillow and Trulia, Goldman Sachs calculated:

- levered market capitalization, which is the market value of common equity plus the book value of debt less cash, as a multiple of 2014 revenue;
- levered market capitalization as a multiple of 2015 revenue;
- levered market capitalization as a multiple of 2016 revenue;
- levered market capitalization as a multiple of 2014 EBITDA;
- levered market capitalization as a multiple of 2015 EBITDA;
- levered market capitalization as a multiple of 2016 EBITDA;

The results of these analyses are summarized as follows:

Levered Market Capitalization as a multiple of:	Int'l Online Real Estate Networks		Mid Cap Peers		Large Cap Peers		Zillow		Trulia	
	Range	Median	Range	Median	Range	Median	Mgmt	IBES	Mgmt	IBES
2014 Sales	12.5x-13.1x	12.8x	1.1x-12.0x	4.3x	1.8x-19.8x	8.5x	15.7x	16.5x	6.6x	7.0x
2015 Sales	10.6x-11.7x	11.1x	1.0x-9.6x	3.6x	1.6x-12.4x	6.7x	9.9x	12.2x	4.8x	5.3x
2016 Sales	9.2x-10.4x	9.8x	0.8x-7.8x	3.2x	1.3x-8.9x	5.3x	6.9x	9.6x	3.6x	4.1x
2014 EBITDA	23.2x-17.6x	20.4x	11.6x-43.5x	17.8x	9.9x-119.8x	27.8x	96.8x	102.8x	59.8x	81.9x
2015 EBITDA	18.7x-15.5x	17.1x	8.7x-33.4x	14.2x	8.6x-54.7x	21.0x	42.4x	59.0x	24.4x	33.6x
2016 EBITDA	16.2x-14.0x	15.1x	7.0x-24.2x	11.6x	7.5x-31.2x	15.1x	24.7x	38.8x	14.6x	20.8x

Goldman Sachs also considered calendar year 2014 to calendar year 2016 annual compounded growth for revenue and EBITDA, and calendar year 2015 gross margin and EBITDA margin based on IBES estimates for the selected companies and IBES estimates and the Forecasts for Zillow and Trulia.

The following table presents the results of this analysis:

Levered Market Capitalization as a multiple of:	Int'l Online Real Estate Networks		Mid Cap Peers		Large Cap Peers		Zillow		Trulia	
	Range	Median	Range	Median	Range	Median	Mgmt	IBES	Mgmt	IBES
2014-'16 Revenue Growth	12.4-16.3%	14.3%	10.0-24.3%	15.5%	11.9-54.8%	22.5%	50.1%	31.5%	35.1%	29.6%
2014-'16 EBITDA Growth	12.2-19.5%	15.9%	19.3-34.1%	26.8%	14.3-96.1%	29.0%	98.1%	62.8%	102.4%	98.4%
2015 Gross Margin	N/A-74.6%	56.7-75.3%	51.2-93.6%	73.5%	29.8-97.7%	79.6%	90.2%	92.1%	85.0%	90.2%
2015 EBITDA Margin	74.6%	66.0%	11.0-39.3%	28.7%	6.3-62.3%	29.1%	23.4%	20.8%	19.7%	23.4%

Illustrative Pro Forma Accretion / Dilution Analysis

Goldman Sachs performed illustrative pro forma analyses of the potential financial impact of the mergers using earnings estimates for Zillow and Trulia set forth in the Forecasts and the Synergies. For the estimated years 2016 and 2017, Goldman Sachs compared the projected earnings per share of Zillow common stock, on a standalone basis, to the projected earnings per share of Holdco common stock in each case taking into account a range of potential Synergies (including a range of $25 million less than and greater than potential synergies

estimates in each year per the Synergies) realized. Based on such analyses, the proposed transaction would be accretive to Zillow's shareholders on an earnings per share basis in all of the above scenarios in the years 2016 and 2017 in the range of 77% to 133%.

This analysis was undertaken to assist the Zillow board in understanding whether the proposed mergers would be dilutive or accretive to Zillow shareholders on an earnings per share basis. In each of the above scenarios, the market price for Zillow Class A common stock was as of July 25, 2014.

Based on such analyses, the proposed transaction would be accretive to Zillow's shareholders on an earnings per share basis in all of the above scenarios in the years 2016 and 2017.

Selected Transactions Analysis

Goldman Sachs analyzed certain publicly available information relating to all change of control transactions of greater than $300 million in enterprise value in the consumer internet and online real-estate verticals that, in the experience and professional judgment of Goldman Sachs, involve companies that are engaged in businesses analogous to Zillow and Trulia's businesses. Although none of the selected transactions is directly comparable to the mergers, the target companies in the selected transactions are companies with operations that, for the purposes of analysis, may be considered similar to certain operations of Zillow and Trulia.

Date Announced	Acquirer	Target
June 2014	Priceline Group Inc.	OpenTable Inc.
May 2013	Trulia, Inc.	Market Leader, Inc.
January 2013	Avis Budget Group, Inc.	Zipcar, Inc.
November 2012	Priceline Group Inc.	KAYAK Software Corp.
June 2011	Digital Generation, Inc.	MediaMind Technologies Inc.
April 2011	CoStar Group, Inc.	LoopNet, Inc.
May 2011	eBay Inc.	GSI Commerce, Inc.
May 2008	CBS Corporation	CNET Networks, Inc.

This analysis was undertaken in order to assist the Zillow board in understanding how the multiples for the various selected transactions compared with the same multiple implied by the proposed transaction.

For each of the selected transactions, Goldman Sachs calculated and compared levered aggregate consideration as a multiple of next twelve months ("NTM") revenues and levered aggregate consideration as a multiple of next twelve months EBITDA. The following table presents the results of this analysis:

	Selected Transactions	
Enterprise Valuation as a Multiple of:	Range	Median
NTM Revenues	1.3x-10.2x	4.1x
NTM EBITDA	12.4x-38.2x	18.9x

Table of Contents

Implied Premia Analysis for Transactions

Goldman Sachs calculated, based on publicly available information, the distribution of premia (expressed as a percentage of the per share merger consideration over the closing price on the trading day prior to announcement or undisturbed price) for transactions announced from 2004 through 2014 (as of June 2014). The analysis included change of control transactions in which the target's primary industry is technology and the levered aggregate consideration exceeded $100 million. The following table presents the results of this analysis:

Premium	Number of Deals	Cumulative Percentage
<0%	36	6%
0-10%	52	14%
10-20%	90	28%
20-30%	117	46%
30-40%	115	64%
40-50%	83	77%
50-60%	47	85%
60-70%	27	89%
>70%	71	100%

Goldman Sachs also reviewed the premium of 25.2% to the closing price of $56.35 per share of Trulia common stock as of July 25, 2014 and the premium of 38.4% to the stock price of $40.58 per share of Trulia common stock as of July 23, 2014, the last trading day before media reports of a possible acquisition of Trulia by Zillow were first published.

The preparation of a fairness opinion is a complex process and is not necessarily susceptible to partial analysis or summary description. Selecting portions of the analyses or of the summary set forth above, without considering the analyses as a whole, could create an incomplete view of the processes underlying Goldman Sachs' opinion. In arriving at its fairness determination, Goldman Sachs considered the results of all of its analyses and did not attribute any particular weight to any factor or analysis considered by it. Rather, Goldman Sachs made its determination as to fairness on the basis of its experience and professional judgment after considering the results of all of its analyses. No company or transaction used in the above analyses as a comparison is directly comparable to Zillow or Trulia or the contemplated transaction. The nature and scope of Goldman Sachs' investigation as well as the scope, form and substance of Goldman Sachs' opinion was as Goldman Sachs considered appropriate.

Goldman Sachs prepared these analyses for purposes of Goldman Sachs providing its opinion to the Zillow board as to the fairness of the Zillow exchange ratio from a financial point of view to the holders of Zillow Class A common stock and Zillow Class B common stock. These analyses do not purport to be appraisals nor do they necessarily reflect the prices at which businesses or securities actually may be sold. Analyses based upon forecasts of future results are not necessarily indicative of actual future results, which may be significantly more or less favorable than suggested by these analyses. Because these analyses are inherently subject to uncertainty, being based upon numerous factors or events beyond the control of the parties or their respective advisors, none of Zillow, Trulia, Holdco, Goldman Sachs or any other person assumes responsibility if future results are materially different from those forecast.

The Zillow exchange ratio and the Trulia exchange ratio were determined through arm's-length negotiations between Zillow and Trulia and were approved by the Zillow board. Goldman Sachs provided advice to Zillow during these negotiations. Goldman Sachs did not, however, recommend any specific exchange ratio to Zillow or its board or that any specific exchange ratio constituted the only appropriate exchange ratio for the mergers.

As described above, Goldman Sachs' opinion to the Zillow board was one of many factors taken into consideration by the Zillow board in making its determination to adopt the merger agreement. The foregoing summary does not purport to be a complete description of the analyses performed by Goldman Sachs in

SM 451

Table of Contents

connection with the fairness opinion and is qualified in its entirety by reference to the written opinion of Goldman Sachs attached as Annex D to this joint proxy statement/prospectus.

Goldman Sachs and its affiliates are engaged in advisory, underwriting and financing, principal investing, sales and trading, research, investment management and other financial and non-financial activities and services for various persons and entities. Goldman Sachs and its affiliates and employees, and funds or other entities in which they invest or with which they co-invest, may at any time purchase, sell, hold or vote long or short positions and investments in securities, derivatives, loans, commodities, currencies, credit default swaps and other financial instruments of Zillow, Trulia, Holdco and any of their respective affiliates and third parties, or any currency or commodity that may be involved in the transaction contemplated by the merger agreement for the accounts of Goldman Sachs and its affiliates and employees and their customers. Goldman Sachs acted as financial advisor to Zillow in connection with, and participated in certain of the negotiations leading to, the transaction contemplated by the agreement. Goldman Sachs has provided certain financial advisory and/or underwriting services to Zillow and/or its affiliates from time to time, for which Goldman Sachs' Investment Banking Division has received, and may receive, compensation, including having acted as joint bookrunner on the public offering of 4,000,000 shares of Zillow Class A common stock in September 2012, and as joint bookrunner with respect to a public offering of 5,023,486 shares of Zillow Class A common stock in August 2013. During the two year period ended July 28, 2014, the Investment Banking Division of Goldman Sachs has received compensation for financial advisory and/or underwriting services provided to Zillow and/or its affiliates of approximately $9,000,000. Goldman Sachs may also in the future provide financial advisory and/or underwriting services to the Zillow, Trulia, Holdco and their respective affiliates for which Goldman Sachs' Investment Banking Division may receive compensation.

The Zillow board selected Goldman Sachs as its financial advisor because it is an internationally recognized investment banking firm that has substantial experience in transactions similar to the mergers. Pursuant to a letter agreement dated June 5, 2014, Zillow engaged Goldman Sachs to act as its financial advisor in connection with the contemplated transaction. Pursuant to the terms of the engagement letter, Zillow has agreed to pay Goldman Sachs a transaction fee of $14.0 million plus an additional amount in Zillow's sole and absolute discretion of up to $2.0 million. Upon the execution of the merger agreement, $5.0 million of the transaction fee became payable, and the remainder is payable upon and is contingent upon the successful completion of the mergers. In addition, Zillow has agreed to reimburse Goldman Sachs for certain of its expenses, including attorneys' fees and disbursements, and to indemnify Goldman Sachs and related persons against various liabilities, including certain liabilities under the federal securities laws.

Recommendation of the Trulia Board; Trulia's Reasons for the Merger

Following a review and discussion of all relevant information regarding the Trulia merger, at a meeting held on July 27, 2014, the Trulia board (1) determined that the merger agreement and the Trulia merger are in the best interests of Trulia and its stockholders, (2) approved the merger agreement and the transactions contemplated by the merger agreement, including the Trulia merger, and declared the merger agreement advisable, (3) recommended that the Trulia stockholders adopt the merger agreement, and (4) directed that the merger agreement be submitted for consideration by the Trulia stockholders at the Trulia special meeting.

ACCORDINGLY, THE TRULIA BOARD RECOMMENDS THAT TRULIA STOCKHOLDERS VOTE "FOR" THE PROPOSAL TO ADOPT THE MERGER AGREEMENT, "FOR" THE PROPOSAL TO APPROVE THE AUTHORIZATION OF NONVOTING CLASS C CAPITAL STOCK IN HOLDCO'S AMENDED AND RESTATED ARTICLES OF INCORPORATION, AND "FOR" THE PROPOSAL TO APPROVE THE ADJOURNMENT OF THE TRULIA SPECIAL MEETING IF NECESSARY OR APPROPRIATE TO SOLICIT ADDITIONAL PROXIES IF THERE ARE NOT SUFFICIENT VOTES TO ADOPT THE MERGER AGREEMENT OR TO APPROVE THE AUTHORIZATION OF NONVOTING CLASS C CAPITAL STOCK IN HOLDCO'S AMENDED AND RESTATED ARTICLES OF INCORPORATION.

EXHIBIT N

EX-99.4 6 d797176dex994.htm EX-99.4

Exhibit 99.4

News Corp To Acquire Move, Inc.

Will become a leading player in rapidly growing US online real estate sector

Move to benefit from News Corp's scale and reach

New York, NY (September 30, 2014) – News Corp and Move, Inc. ("Move") announced today that News Corp has agreed to acquire Move, a leading online real estate business that brings consumers and Realtors® together to facilitate the sale and rental of real estate in the United States.

REA Group Limited ("REA"), which is 61.6% owned by News Corp and is the operator of the leading Australian residential property website, realestate.com.au, plans to hold a 20% stake in Move with 80% held by News Corp.

Through realtor.com® and its mobile applications, Move displays more than 98% of all for-sale properties listed in the US, sourced directly from relationships with more than 800 Multiple Listing Services ("MLS") across the country. As a result, Move has the most up-to-date and accurate for-sale listings of any online real estate company in America. The Move Network of websites, which also includes Move.com, reaches approximately 35 million people per month, who spend an average of 22 minutes each on its sites[1].

Move's content advantage makes it well positioned to capitalize on the fast-growing US online real estate sector and the world's largest residential real estate market. More than five million homes in the United States are bought and sold each year, representing more than $1 trillion in annual transaction volume. Agents and brokers are expected to spend approximately $14 billion in 2014 marketing homes (up from approximately $11 billion in 2012), and an additional $11 billion will be spent by mortgage providers[2].

Under the acquisition agreement, which has been unanimously approved by the board of directors of Move, News Corp will acquire all the outstanding shares of Move for $21 per share, or approximately $950 million (net of Move's existing cash balance), via an all-cash tender offer. This represents a premium of 37% over Move's closing stock price on September 29, 2014. REA's share will be acquired for approximately US$200 million. News Corp intends to commence a tender offer for all of the shares of common stock of Move within 10 business days, followed by a merger to acquire any untendered shares.

SM 454

"This acquisition will accelerate News Corp's digital and global expansion and contribute to the transformation of our company, making online real estate a powerful pillar of our portfolio," said Robert Thomson, Chief Executive of News Corp. "We intend to use our media platforms and compelling content to turbo-charge traffic growth and create the most successful real estate website in the US. We are building on our existing real estate expertise and expect to leverage the potential of Move and its valuable connections with Realtors® and consumers around the country."

"In addition to boosting Move's subscription, advertising and software services, this acquisition will give News Corp a significant marketing platform for our media assets, which will benefit from the high-quality geographic data generated by real estate searches," said Mr. Thomson. "We certainly expect this deal to amount to far more than the sum of the parts."

"News Corp's acquisition of Move speaks powerfully to the quality and value of our content, audience and industry relationships," said Steve Berkowitz, Chief Executive Officer of Move. "We provide people with the information, tools and professional expertise they need to make the best and most informed real estate decisions, and we work to uphold the indispensable role of the professional in the real estate experience. News Corp shares our vision, which is one of the many reasons this combination is such good news for our customers, consumers and the industry as a whole."

REA Group Chief Executive Tracey Fellows said: "This is a fantastic opportunity for REA Group to invest in a leading player in the largest real estate market in the world. We see strong growth potential for Move, given the size of the US market, the significant proportion of real estate advertising yet to move online, and recent industry consolidation. We believe that our digital real estate know-how, combined with News Corp's content, distribution and marketing strengths, will be a winning combination for Move and for our shareholders."

Move has an exclusive, strategic relationship with the National Association of Realtors® ("NAR"), the largest trade organization in the United States, with more than one million members, and NAR has given its consent to the acquisition. Move is focused on providing high ROI for agents and benefits from their invaluable marketing support and high quality listings for vendors and potential purchasers.

"This partnership will help shape the future of real estate," said National Association of Realtors® President Steve Brown. "News Corp's ability to reach and engage consumers, combined with realtor.com®'s quality content and the real insights Realtors® provide will transform the current landscape. Working together, Realtors®, Move and News Corp will truly make home happen."

Move owns ListHub, a digital platform that aggregates and syndicates MLS data to more than 130 online publishers, reaching approximately 900 websites.

SM 455

The Move audience is highly engaged and transaction ready; over 90% of page views on their websites are on 'for sale' properties,[3] helping generate the highest conversion rate of qualified leads in the industry[4]. The connection between agents and customers is strengthened by robust web and mobile-based customer-relationship management offerings to help facilitate transactions. Approximately 60% of traffic for Move websites comes from mobile devices.

For the year ended December 31, 2013, Move reported $227 million in revenues, and $29 million in adjusted EBITDA[5], and generated the highest revenue per unique user in the industry.

Move will become an operating business of News Corp and remain headquartered in San Jose, California. The company, started in 1993, has 913 employees.

Some of the expected key benefits of the transaction include:

- **Broadened reach** for Move through News Corp's robust platform including WSJ Digital Network (approximately 500 million average monthly page views[6]) and News America Marketing (nearly 74 million households)
- **Increased sales and marketing support** to drive higher brand awareness and traffic
- **Cross-platform promotion** and audience monetization expertise
- **Leverage of News Corp's and REA's real estate and digital expertise** to drive improved product innovation, consumer engagement and audience growth
- **Boost traffic and digital dwell times** with high quality News Corp content

###

In addition to its leading position in Australia, REA's operations and investments include leading online real estate websites in Italy (casa.it) and Luxembourg (atHome.lu) with presence also in regional France. In Asia, REA operates MyFun.com for the Chinese market and squarefoot.com.hk in Hong Kong and recently acquired a 17.22% stake in iProperty, the leading online real estate advertising business across South East Asia.

Along with its connection to REA, News Corp also has substantial expertise in real estate via its newspaper holdings, including The Wall Street Journal and the New York Post. In 2012, the Journal began publishing *Mansion*, a successful global luxury real estate section, under the leadership of Mr. Thomson, who was then the Journal's Managing Editor. News Corp's UK publications also provide readers with online access to home and apartment listings throughout Great Britain. The Times of London's lucrative *Bricks & Mortar* section was also commissioned and overseen by Mr. Thomson while he was Editor of that publication.

SM 456

"We have great faith in America's potential and the long-term asset value of housing, which is continuing its recovery and has yet to regain its full potency," said Mr. Thomson. "It is forecast that the number of Millennial households will increase from 13.3 million in 2013 to 21.6 million in 2018, and they will spend more than $2 trillion on home purchases and rent by 2018[7]. Many will begin their search online and use tools and content on realtor.com®. Buying a home is the most important investment decision any family will make."

The acquisition is subject to the satisfaction of customary closing conditions, including regulatory approvals and a minimum tender of at least a majority of the outstanding Move shares, and is expected to close by the end of calendar year 2014.

Advisors on the transaction include Goldman Sachs, as financial advisor, and Skadden, Arps, Slate, Meagher and Flom LLP, as legal advisor, for News Corp and Morgan Stanley, as financial advisor, and Cooley LLP, as legal advisor, for Move.

####

Conference Call for Analysts and Media

News Corp will host a call with analysts and media to discuss the proposed acquisition at 8:30 a.m. EDT (Sydney: 10:30 p.m. AEST), September 30, 2014. Reporters are invited to join the call on a listen-only basis.

A live audio webcast of the call will be available via: http://investors.newscorp.com.

The call can also be accessed by dialing:

US Participants: 1-800-967-7188
Non-US Participants: 1-719-325-2138
Passcode: 6791228

A replay will be available approximately three hours following the conclusion of the call and for 10 business days thereafter by dialing:

US Participants: 1-888-203-1112
Non-US Participants: 1-719-457-0820
Passcode: 6791228

Forward- Looking Statements

This document contains forward-looking statements based on current expectations or beliefs, as well as a number of assumptions about future events, and these statements are subject to factors and uncertainties that could cause actual results to differ materially from those described in the forward-looking statements.

Forward-looking statements can often be identified by words such as "anticipates," "expects," "intends," "plans," "predicts," "believes," "seeks," "estimates," "may," "will," "should," "would," "could," "potential," "continue," "ongoing," similar expressions, and variations or negatives of these words. The reader is cautioned not to place undue reliance on these forward-looking statements, which are not a guarantee of future performance and are subject to a number of uncertainties, risks, assumptions and other factors, many of which are outside the control of News Corporation ("News Corp") and Move. The forward-looking statements in this document address a variety of subjects including, for example, the expected date of closing of the acquisition and the potential benefits of the proposed acquisition, including integration plans and expected synergies. The following factors, among others, could cause actual results to differ materially from those described in these forward-looking statements: the risk that Move's business will not be successfully integrated with News Corp's business; matters arising in connection with the parties' efforts to comply with and satisfy applicable regulatory approvals and closing conditions relating to the transaction; and other events that could adversely impact the completion of the transaction, including industry or economic conditions outside of our control. In addition, actual results are subject to other risks and uncertainties that relate more broadly to News Corp's overall business, including those more fully described in News Corp's filings with the U.S. Securities and Exchange Commission ("SEC") including its annual report on Form 10-K for the fiscal year ended June 30, 2014, and its quarterly reports filed on Form 10-Q for the current fiscal year, and Move's overall business and financial condition, including those more fully described in Move's filings with the SEC including its annual report on Form 10-K for the fiscal year ended December 31, 2013, and its quarterly reports filed on Form 10-Q for the current fiscal year. The forward-looking statements in this document speak only as of this date. We expressly disclaim any current intention to update or revise any forward-looking statements contained in this document to reflect any change of expectations with regard thereto or to reflect any change in events, conditions, or circumstances on which any such forward-looking statement is based, in whole or in part.

Additional Information Regarding the Proposed Transaction

This communication does not constitute an offer to buy or a solicitation of an offer to sell any securities. No tender offer for the shares of Move has commenced at this time. In connection with the proposed transaction, News Corp intends to file tender offer documents with the SEC. Any definitive tender offer documents will be mailed to shareholders of Move. **INVESTORS AND SECURITY HOLDERS OF MOVE ARE URGED TO READ THESE AND OTHER DOCUMENTS FILED WITH THE SEC CAREFULLY IN THEIR ENTIRETY WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT THE PROPOSED TRANSACTION.** Investors and security holders will be able to obtain free copies of these documents (if and when available) and other documents filed with the SEC by News Corp through the SEC website at http://www.sec.gov or through the News Corp website at http://investors.newscorp.com.

About News Corp

News Corp (NASDAQ: NWS, NWSA; ASX: NWS, NWSLV) is a global, diversified media and information services company focused on creating and distributing authoritative and engaging content to consumers throughout the world. The company comprises businesses across a range of media, including: news and information services, cable network programming in Australia, digital real estate services, book publishing, digital education, and pay-TV distribution in Australia. Headquartered in New York, the activities of News Corp are conducted primarily in the United States, Australia, and the United Kingdom. More information: http://www.newscorp.com.

About Move, Inc.

Move, Inc. (NASDAQ: MOVE), a leading provider of online real estate services, operates realtor.com®, which connects people to the essential, accurate information needed to identify their perfect home and to the REALTORS® whose expertise guides consumers through buying and selling. As the official website for the National Association of REALTORS®, realtor.com® empowers consumers to make smart home buying, selling and renting decisions by leveraging its direct, real-time connections with more than 800 multiple listing services (MLS) via all types of computers, tablets and smart telephones. Realtor.com® is where home happens. Move is based in the heart of the Silicon Valley — San Jose, CA. REALTOR® and REALTOR.COM® are trademarks of the National Association of REALTORS® and are used with its permission.

About REA Group

REA Group Limited ACN 068 349 066 (ASX:REA) is a leading digital advertising business specialising in property. REA Group operates Australia's No.1 residential and commercial property websites, realestate.com.au and realcommercial.com.au, as well as the market-leading Italian property site, casa.it, squarefoot.com.hk in Hong Kong, myfun.com in China and other property sites and apps across Europe. www.rea-group.com.

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[1] Move, Inc. Internal data (August 2014).
[2] Borrell Associates (August 27, 2014).
[3] Move, Inc. Internal data (August 2014).
[4] PAA Research Independent Study.
[5] Adjusted EBITDA excludes stock-based compensation.
[6] Adobe Omniture, for the year ended June 30, 2014.
[7] 2013 Demand Institute Housing & Community Survey.

SPECIAL MASTER
THE HONORABLE BRUCE HILYER (RET.)

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation, TOP PRODUCERS SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation, Plaintiffs, v. ZILLOW, INC., a Washington corporation, ERROL SAMUELSON, an individual, and DOES 1-20, Defendants.	No. 14-2-07669-0 SEA DECLARATION OF SPENCER RASCOFF IN SUPPORT OF DEFENDANT ZILLOW, INC.'S OPPOSITION TO PLAINTIFFS' MOTION FOR RECONSIDERATION OF THE SPECIAL MASTER'S JANUARY 26, 2015 SUPPLEMENTAL ORDER (TRULIA SUBPOENA)

I, SPENCER RASCOFF, hereby declare:

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1. I am Zillow's Chief Executive Officer and a Director. I have personal knowledge of the facts stated below and am competent to testify regarding the same.

2. I never discussed a potential acquisition of Trulia with Errol Samuelson prior to its announcement and did not even disclose to him our interest in such a transaction until June 27, 2014. At that time I announced to the Executive Team, of which Mr. Samuelson was a member, that we were considering an acquisition. Errol did not participate in any of the Trulia negotiations or due diligence.

3. Errol Samuelson never disclosed or discussed with me any plans Move may have had with respect to Trulia and nothing discussed in my conversations or other communications with Mr. Samuelson influenced my decision to initiate or pursue the acquisition of Trulia.

I declare under penalty of perjury of the State of Washington that the foregoing is true and correct.

Signed at Seattle, WA, this 25th day of February, 2015.

Spencer Rascoff

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

CERTIFICATE OF SERVICE

On February 25, 2015, I caused to be served upon counsel of record, at the address stated below, via the method of service indicated, a true and correct copy of the following document: DECLARATION OF SPENCER RASCOFF IN SUPPORT OF DEFENDANT ZILLOW, INC.'S OPPOSITION TO PLAINTIFFS' MOTION FOR RECONSIDERATION OF THE SPECIAL MASTER'S JANUARY 26, 2015 SUPPLEMENTAL ORDER (TRULIA SUBPOENA)

Jack M. Lovejoy, WSBA No. 36962 Lawrence R. Cock, WSBA No. 20326 Cable, Langenbach, Kinerk & Bauer, LLP Suite 3500, 1000 Second Avenue Building Seattle, WA 98104-1048 Telephone: (206) 292-8800 Facsimile: (206) 292-0494 jlovejoy@cablelang.com LRC@cablelang.com kalbritton@cablelang.com jpetersen@cablelang.com	☐ Via Hand Delivery ☐ Via U.S. Mail, 1st Class, Postage Prepaid ☐ Via Overnight Delivery ☐ Via Facsimile ☐ Via E-filing ☒ Via E-mail
Clemens H. Barnes, Esq., WSBA No. 4905 Estera Gordon, WSBA No. 12655 Daniel Oates, WSBA No. 39334 Miller Nash Graham & Dunn LLP Pier 70 2801 Alaskan Way, Suite 300 Seattle, WA 98121-1128 Telephone: (206) 624-8300 Facsimile: (206) 340-9599 clemens.barnes@millernash.com connie.hays@millernash.com estera.gordon@millernash.com dan.oates@millernash.com robert.mittenthal@millernash.com	☐ Via Hand Delivery ☐ Via U.S. Mail, 1st Class, Postage Prepaid ☐ Via Overnight Delivery ☐ Via Facsimile ☐ Via E-filing ☒ Via E-mail

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Brent Caslin, WSBA No. 36145
Richard Lee Stone , (*Pro Hac Vice*)
Nick G. Saros, (*Pro Hac Vice*)
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☒ Via E-mail

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 25th day of February, 2015.

s/Maryellen Walsh
Maryellen Walsh, Legal Secretary

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SPECIAL MASTER
THE HONORABLE BRUCE HILYER (RET.)

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation TOP PRODUCERS SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation, Plaintiffs, v. ZILLOW, INC., a Washington corporation, ERROL SAMUELSON, an individual, and DOES 1-20, Defendants.	No. 14-2-07669-0 SEA [PROPOSED] ORDER DENYING PLAINTIFFS' MOTION FOR RECONSIDERATION OF THE SPECIAL MASTER'S JANUARY 26, 2015 SUPPLEMENTAL ORDER (TRULIA SUBPOENA)

THIS MATTER came before the Special Master on Plaintiffs' Motion for Reconsideration of the Special Master's January 26, 2015 Supplemental Order (Trulia Subpoena). The Special Master, having considered all pleadings and papers submitted in connection with the Plaintiffs' Motion for Reconsideration, the argument of counsel, and being fully advised in the premises,

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IT IS ORDERED that Plaintiffs' Motion for Reconsideration is DENIED.

ENTERED this ______ day of February, 2015.

____
THE HONORABLE BRUCE HILYER (RET.)

Presented by:

PERKINS COIE LLP

By: *s/ Susan E. Foster*
Susan E. Foster, WSBA No. 18030
Kathleen O'Sullivan, WSBA No. 27850
Katherine G. Galipeau, WSBA No. 40812

Attorneys for Defendant Zillow, Inc.

CERTIFICATE OF SERVICE

On February 25, 2015, I caused to be served upon counsel of record, at the address stated below, via the method of service indicated, a true and correct copy of the following document: [PROPOSED] ORDER DENYING PLAINTIFFS' MOTION FOR RECONSIDERATION OF THE SPECIAL MASTER'S JANUARY 26, 2015 SUPPLEMENTAL ORDER (TRULIA SUBPOENA)

Jack M. Lovejoy, WSBA No. 36962 Lawrence R. Cock, WSBA No. 20326 Cable, Langenbach, Kinerk & Bauer, LLP Suite 3500, 1000 Second Avenue Building Seattle, WA 98104-1048 Telephone: (206) 292-8800 Facsimile: (206) 292-0494 jlovejoy@cablelang.com LRC@cablelang.com kalbritton@cablelang.com jpetersen@cablelang.com	☐ ☐ ☐ ☐ ☐ ☒	Via Hand Delivery Via U.S. Mail, 1st Class, Postage Prepaid Via Overnight Delivery Via Facsimile Via E-filing Via E-mail
Clemens H. Barnes, Esq., WSBA No. 4905 Estera Gordon, WSBA No. 12655 Daniel Oates, WSBA No. 39334 Miller Nash Graham & Dunn LLP Pier 70 2801 Alaskan Way, Suite 300 Seattle, WA 98121-1128 Telephone: (206) 624-8300 Facsimile: (206) 340-9599 clemens.barnes@millernash.com connie.hays@millernash.com estera.gordon@millernash.com dan.oates@millernash.com robert.mittenthal@millernash.com	☐ ☐ ☐ ☐ ☐ ☒	Via Hand Delivery Via U.S. Mail, 1st Class, Postage Prepaid Via Overnight Delivery Via Facsimile Via E-filing Via E-mail

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☒ Via E-mail

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 25th day of February, 2015.

s/Maryellen Walsh
Maryellen Walsh, Legal Secretary

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SPECIAL MASTER
THE HONORABLE BRUCE HILYER (RET.)

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation, TOP PRODUCERS SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation,

Plaintiffs,

v.

ZILLOW, INC., a Washington corporation, ERROL SAMUELSON, an individual, and DOES 1-20,

Defendants.

No. 14-2-07669-0 SEA

DEFENDANT ZILLOW, INC.'S INDEX OF SIGNIFICANT AUTHORITIES CITED IN ITS OPPOSITION TO PLAINTIFFS' MOTION FOR RECONSIDERATION OF THE SPECIAL MASTER'S JANUARY 26, 2015 SUPPLEMENTAL ORDER (TRULIA SUBPOENA)

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Defendant Zillow, Inc. submits copies of the following cases cited in its Opposition to Plaintiffs' Motion for Reconsideration of the Special Master's January 26, 2015 Supplemental Order (Trulia Subpoena):

1. Brent Caslin, "Secret Weapon: Understanding what constitutes 'reasonable particularity' can be the decisive element in trade secret litigation," *Los Angeles Lawyer* (April 2004);
2. *Microwave Research Corporation v. Sanders Associates, Inc.*, 110 F.R.D. 669 (D. Mass. 1986);
3. *Cedell v. Farmers Insurance Company of Washington*, 176 Wn.2d 686 (2013);
4. *Lynn v. Regents of University of California*, 656 F.2d 1337 (9th Cir. 1981).

DATED: February 25, 2015

s/Kathleen M. O'Sullivan

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Attorneys for Defendant
Zillow, Inc.

CERTIFICATE OF SERVICE

On February 25, 2015, I caused to be served upon counsel of record, at the address stated below, via the method of service indicated, a true and correct copy of the following document: DEFENDANT ZILLOW, INC.'S INDEX OF SIGNIFICANT AUTHORITIES CITED IN ITS OPPOSITION TO PLAINTIFFS' MOTION FOR RECONSIDERATION OF THE SPECIAL MASTER'S JANUARY 26, 2015 SUPPLEMENTAL ORDER (TRULIA SUBPOENA)

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I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 25th day of February, 2015.

s/Maryellen Walsh
Maryellen Walsh, Legal Secretary

Exhibit 1

Understanding what constitutes "reasonable particularity" can be the decisive element in trade secret litigation

Secret Weapon

By Brent Caslin

FAIRNESS DEMANDS that those who accuse others of theft describe the allegedly stolen property, especially before being allowed to rummage through the belongings of the accused. This principle applies well to trade secret disputes. While the description of a commercial trade secret is usually more complicated than that, say, of a stolen bicycle, written specifications of allegedly misappropriated trade secrets are now required at the outset of most actions involving trade secret claims.

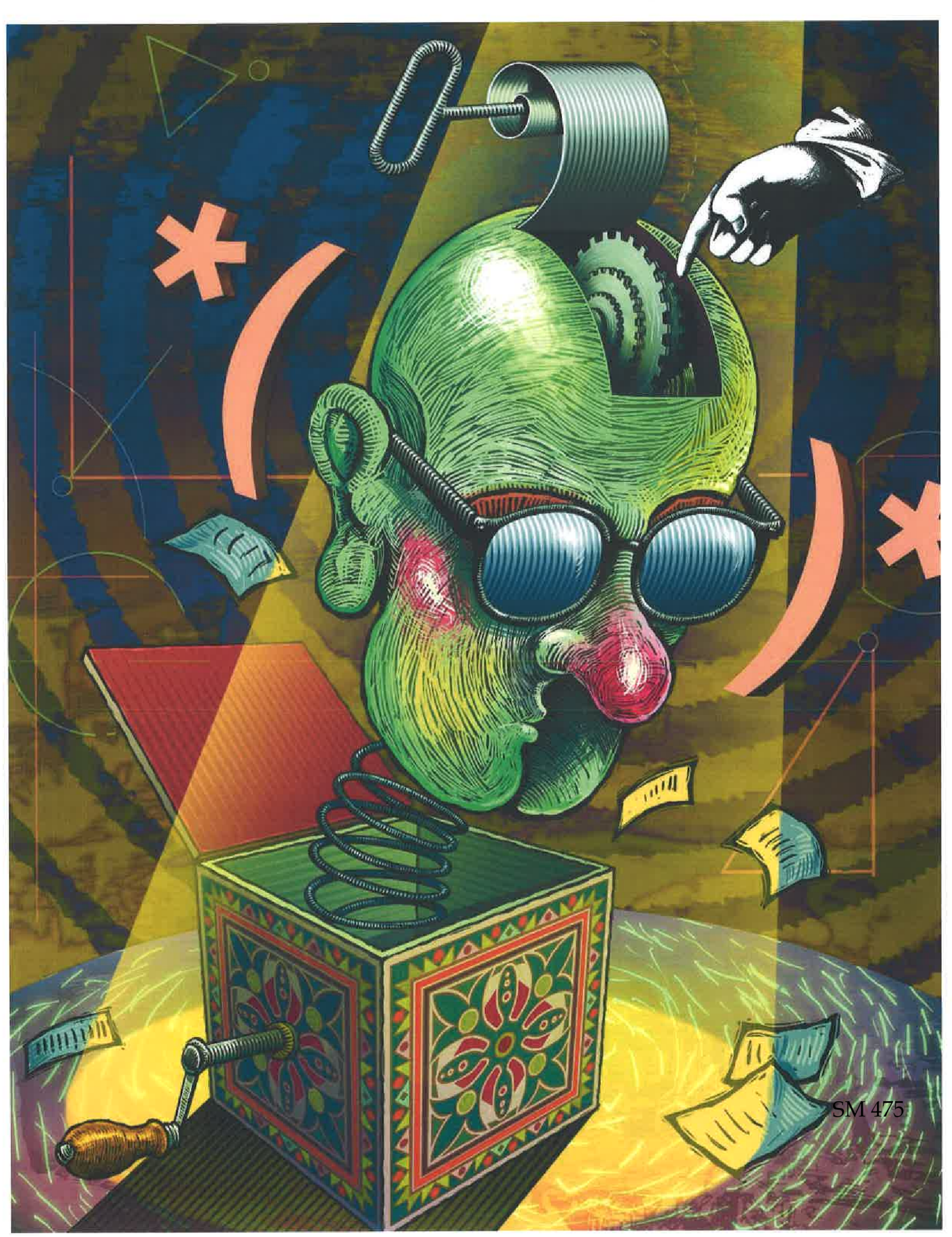
Obtaining a full and complete trade secret specification sometimes entails a great deal of effort at the beginning of a dispute. Quick study of the technology at issue is ordinarily necessary. Experts may be needed immediately. And a motion requesting a specification, or a more detailed specification, may be the only way to force disclosure of key details of the information claimed as the trade secret. Nevertheless, these efforts are worth their cost. The trade secret defendant who requests a specification at the right moment, presses the request until true particularity is provided, and uses the specification properly will gain some control over the subject of the dispute. The defendant who does not will have little or no control.

When should a defendant request a trade secret specification? In California state court, the Code of Civil Procedure largely answers this question with the requirement that every plaintiff identify its allegedly misappropriated trade secret "before commencing discovery relating to the trade secret."[1] Consequently, at the beginning of most cases, when the diligent plaintiff follows a complaint with discovery requests, the defendant should immediately request disclosure of the alleged trade secret's specifics.[2] If the plaintiff refuses to provide the identification required by Code of Civil Procedure Section 2019(d), the defendant can either move for a protective order preventing discovery by the plaintiff until the disclosure is prepared, or simply object and

SM 474

Brent Caslin is a senior associate in the Los Angeles office of Kirkland & Ellis LLP, where he focuses on international and domestic commercial disputes.

KEN SUSYNSKI


SM 475

wait to defend a motion to compel. Either motion should be won easily against those who altogether refuse to produce a trade secret specification. In most cases, however, the plaintiff will recognize its obligation to provide a Section 2019(d) disclosure and agree to prepare one. After the specification is produced, the wrangling can begin over its particulars.

Two circumstances merit special attention as defendants consider when they should request a trade secret definition: prefiling settlement discussions and provisional remedy situations. As to the first, settlement discussions clearly do not always precede the filing of formal misappropriation claims. But when a plaintiff asks to discuss its claim before filing a complaint, the effort should not be ignored. Not only might settlement discussions be a good alternative for the defendant not totally free from guilt, or the perception of guilt, but they also may give the defendant an opportunity to figure out exactly what it has been accused of misappropriating. In fact, much can be gained by requesting a specific identification of the purported trade secret at the beginning or in advance of a prefiling settlement talk. It is difficult, and perhaps impossible, for a defendant to evaluate a trade secret claim and determine whether settlement discussions are worthwhile without knowing exactly what the plaintiff thinks was misappropriated.

This is perhaps truer today than at any time in the past because the difficulty of analyzing trade secret claims has increased with the advance of technology. Thirty years ago, for example, it may have meant something for a plaintiff to state that its allegedly misappropriated trade secret was the process, unknown in every way to all others, by which a hand-held camera could take pictures without film and store the pictures on an internal data chip. Today, however, such a broad statement means almost nothing to those in the electronics industry. Indeed, every manufacturer has or could have the technology to create and market digital cameras, and most of the specifics of the technology have been revealed in patent applications across the globe. If a trade secret exists in 2004 with respect to digital camera technology, it probably relates to a specific manufacturing process or a previously unknown and unpatented improvement on existing technology. The details of that process or improvement would be at the heart of any trade secret claim. They should also be at the center of any settlement discussion.

When considering whether to request a trade secret definition in response to motions for provisional remedies, counsel should know that in California, when expedited discovery is requested in connection with an application for a temporary restraining order or preliminary injunction, Section 2019(d) must be raised immediately. Better prepared defendants will ask the plaintiff for a reasonably particular trade secret specification before the first court appearance, even if the pressing schedule permits the request just hours before an expedited hearing. If the request is made but no specification provided, the failure can be placed with the plaintiff. The plaintiff chose the fast pace of the litigation when it requested a provisional remedy. It must know the details of the alleged trade secret, and it must know that the law requires a reasonably particular specification. Indeed, the absence of a proper specification may be enough for the court to deny the application for a temporary restraining order or preliminary injunction.[3] On the other hand, if the plaintiff provides a specification before a hearing on a provisional remedy, any inadequacies can be brought to the court's attention at the hearing.[4]

A reasonably particular trade secret specification should also be requested if a plaintiff requests a provisional remedy but no immediate discovery. Although the language of Section 2019(d) does not require a trade secret specification outside the discovery context, courts rule almost uniformly that plaintiffs must show the existence of a specific trade secret at the outset of litigation. In *FSI International* v. *Shumway*,[5] for example, the plaintiff, FSI, a supplier of equipment used to manufacture microelectronics, sought a temporary restraining order to prevent one of its account managers from working for a competitor. FSI alleged the account manager had "numerous trade secrets and other confidential and proprietary information as a necessary component of his sales position," including "valuable customer, pricing, marketing, and product formula and manufacturing information that is not generally known to FSI's competitors." The district court did not rely on any statute when it concluded that the order should be denied because FSI's listing of broad information categories was not an appropriate trade secret disclosure: "Given FSI's lack of specificity in identifying what is a trade secret, it is impossible for the Court to fashion a meaningful injunction that would not overly restrict legitimate competition."[6]

Other courts in California, including state and federal courts, also have required reasonably particular trade secret specifications outside the realm of discovery,[7] including in situations involving provisional remedies.[8] Some courts in California and elsewhere have gone so far as to find that a specifically identified trade secret is a necessary piece of a trade secret cause of action, effectively making the specification compulsory to every claim.[9] In 1999, a Massachusetts court wrote, "A plaintiff has no cognizable trade secret claim until it has adequately identified the specific trade secrets that are at issue."[10]

Requesting a trade secret specification at the beginning of every case, including those involving provisional remedies, is a trend that is gathering steam around the country. In the past year, several courts in an assortment of states have denied preliminary injunctions, or reversed their entry, when plaintiffs failed to adequately define the allegedly misappropriated trade secret.[11] Defendants should thus demand a specification immediately and request that all provisional relief and discovery be denied until the plaintiff adequately specifies its alleged trade secret.

The Appropriate Trade Secret Definition

Detailing the particulars of an allegedly misappropriated trade secret is sometimes simple. If, for example, a company that sells cookies alleges that another corporation stole its secret recipe for chocolate chip cookies, the company might simply provide the recipe as its trade secret disclosure—1/2 cup unsalted butter, 1 cup brown sugar, 1 egg, 2 teaspoons vanilla, and so forth. Of course, cases as straightforward as this are few and far between. In the many cases in which the alleged trade secret is not as easy to define as a cookie recipe, defendants should seek to calibrate the disclosure to the level of specificity that will prevent the plaintiff from later changing the alleged trade secret in order to navigate through discovery disputes and other problems that might harm the plaintiff's case.

To determine what level of specificity is required in more complex cases, the natural starting point is the language of California's statute. Section 2019(d) requires plaintiffs to "identify the trade secret with reasonable particularity." The "reasonable particularity" standard means different things to different people, and there is not much information regarding its precise meaning for those who drafted Section 2019(d). Dictionary definitions can help to illuminate the meaning of the words chosen by the drafters of the statute. Merriam-Webster defines "particularity" as "1 a: a minute detail...b: an individual characteristic...2: the quality or state of being particular as distinguished from universal...3 a: attentiveness to detail...."[12] Similarly, Oxford defines "particular" as "relating to or considered as one thing or person as distinct from others."[13] Both definitions are in line with the primary purpose behind Section 2019(d) and the goal of defendants who rely on the statute—to obtain enough detail about the plaintiff's allegedly secret information that

SM 476

the trade secret definition can be distinguished from other similar information and not later transformed to match something the plaintiff finds in the defendant's files.

Drafting the necessary level of specificity is easier said than done. Plaintiffs may not simply allege that a defendant has misappropriated trade secrets but provide no information other than the most basic allegation.[14] Disclosures that identify the class or type of information that makes up the trade secret, but not the information itself, are also improper.[15] It is not enough, for example, to disclose that the allegedly secret information is a method of producing a particular product. The method itself must be described with reasonable particularity.

Frequently, it will be necessary to contact an expert early in the case to determine what degree of specificity might be needed in the trade secret specification to later defend the case effectively. When preparing their reports, for example, testifying experts will likely require sufficient detail regarding the alleged trade secret to compare it with the defendant's own confidential information, as well as prior art and the library of information generally known to the relevant industry. Generally, it is best to determine exactly how much detail will be needed by the expert before the court rules on how much detail the plaintiff must provide in its trade secret specification. Not doing so may tie the hands of the testifying expert while giving the plaintiff and its experts room to maneuver.

A leading case, *Imax Corporation* v. *Cinema Technologies, Inc.*,[16] offers further instruction regarding the level of detail necessary for an appropriate trade secret definition. In the case, Imax claimed the precise dimensions and tolerances of its rolling loop projector were misappropriated by Cinema Technologies. But Imax failed, after four attempts, to provide a trade secret definition identifying those precise dimensions and tolerances. The district court eventually granted summary judgment because of Imax's failures, and the Ninth Circuit affirmed.[17] The *Imax* case confirms that plaintiffs cannot simply claim their trade secret comprises certain types of information, such as dimensions, measurements, tolerances, and ingredients. They must identify those dimensions, measurements, tolerances, or ingredients. As another court wrote, plaintiffs must provide "specific, concrete secrets."[18]

In their quest for detail, trade secret defendants should be vigilant of plaintiffs who provide too much information but no real specifics. The plaintiff in *Imax* attempted this approach, stating "every dimension and tolerance" in its projector was a trade secret.[19] The Ninth Circuit disapproved, concluding it was unlikely a district court or jury would have the expertise to evaluate the projector and determine which dimensions and tolerances were secret.[20] In a recent case, *IDX Systems Corporation* v. *Epic Systems Corporation*, the plaintiff's explanation of an entire software package as a trade secret was also rejected as overinclusive.[21] As in *Imax*, the *IDX* court communicated that it is not the court's responsibility to dig through a product specification and determine exactly what is and what is not part of the alleged trade secret.[22] When preparing a trade secret specification, the simple rule to remember is that indicating an entire process or a product itself is ordinarily not enough for the specification to pass muster with a court.[23]

Using the Specification

The obvious and immediate best use of a trade secret disclosure is investigation of the claim. The defendant should examine the files and memories in every relevant business unit with the specification in hand to determine if a mistake actually was made—or if circumstances exist so that a conclusion can be drawn that a mistake may have been made—in the defendant's handling of the identified trade secret information. If so, it may be more economical to settle before costly discovery. If not, the disclosure should be used to begin framing a complete story about the alleged trade secret. How was the alleged secret information received from the plaintiff? Was it received at all? What duties of confidentiality were attached to the information? A crucial aspect of some cases is determining what uses and disclosures the plaintiff authorized regarding the secret.

The defendant must proceed to a determination of what conduct the plaintiff claims was wrong. Did the alleged use or disclosure actually occur, or is the plaintiff mistaken? The defendant should investigate how the plaintiff's belief about the alleged use or disclosure of the secret may be addressed at trial. The defendant, and an expert witness if appropriate, must also begin investigating its files and patent applications, as well as industry journals and all other public sources of information, to discern if the alleged secret really was a secret at the time it was given to the defendant. Finally, the defendant should begin planning how to discover the plaintiff's efforts to protect the alleged trade secret and any unprotected disclosures of the allegedly secret information.

None of these key considerations in the defense of a trade secret case can be properly analyzed without first determining exactly what information is at issue in the case. Consider the difficulty of defending a patent case or a trademark case without reference to the patent or the ability to review the details

SM 477

of the trademark.

The specification required by Section 2019(d) not only relates to discovery but also usually governs its scope. As the U.S. District Court for the Southern District of California wrote, the trade secret specification requirement "assists the court in framing the appropriate scope of discovery and in determining whether plaintiff's discovery requests fall within that scope."[24] Many courts outside California agree, and they regularly halt discovery until an appropriate trade secret definition is available and appropriate bounds can be placed on discovery.[25]

Because the information requested in almost every trade secret dispute is itself valuable,[26] defendants should not be reticent about attempting to place tight restrictions on discovery. Limits on discovery are often approved, even those that are novel in their approach. In *Microwave Research Corporation* v. *Sanders Association*, for example, a court required a plaintiff to demonstrate a "substantial factual basis" for the trade secret claim before it would allow any discovery into the defendant's confidential information.[27] Finding no such basis, it denied the plaintiff's request to take discovery of the defendant's confidential files.[28] Other courts have limited discovery by requiring plaintiffs to show relevance, based on the trade secret definition, as well as a necessity for the requested confidential information.[29]

Perhaps the most important use of the trade secret definition arrives near the close of discovery, as the parties progress through summary judgment proceedings and into trial. Plaintiffs frequently face enormous incentives at these junctures to modify, if only slightly, the identity of the allegedly misappropriated trade secret. Some want the alleged trade secret to more closely match the misappropriation theory developed during the course of the case.[30] Others need to avoid summary judgment because the defendant discovered a patent or some other form of public information identical to the plaintiff's alleged secret, making the alleged secret no secret at all.[31] Plaintiffs may have good intentions—they believe their secret was stolen and they do not want their claim to fail because the specification varies slightly from the evidence—but defendants should nevertheless attempt to prevent last-minute changes to the plaintiff's trade secret specifications. Several have had success in stopping plaintiffs from asserting trade secret information that is a variation from their original claims.[32]

Most of these changes occur during summary judgment proceedings, and courts are increasingly concerned about allowing the plaintiff to deviate from its original trade secret specifications at this stage of litigation.[33] In *Combined Metals of Chicago Limited Partnership* v. *Airtek*, for example, a district court wary of the potential for a late amendment to a trade secret disclosure warned early in the case that no change would be allowed.[34] Remarking that the identity of a trade secret had caused "confusion" during summary judgment proceedings in a previous case, the court wrote that it "would not entertain such a dispute at such a late stage in the proceeding again." With candid language the court ordered the plaintiff to state its trade secret and not modify it:

> [The plaintiff] will be held to those trade secrets, *i.e.*, it will not be permitted to change or narrow them as the case progresses.... [The plaintiff] better put [the defendant] on notice of such technology now...or forfeit the right to claim such technology as a trade secret at a later time in this case.[35]

In 1995 the Central District of California expressed similar concerns. The court stopped a plaintiff from switching trade secrets in the midst of litigation, writing that the "plaintiff must be judicially estopped from arguing, in a desperate attempt to avert summary judgment, that these 'different' trade secrets are really the subject of its claims."[36]

Summary judgment is not the only procedure that can be used against plaintiffs who refuse to properly identify their alleged trade secrets or try to change their trade secret specifications late in a case. A motion to dismiss might be successful if the plaintiff fails to plead facts identifying the trade secret or if the plaintiff continually fails to define the alleged trade secret.[37] Sanctions under Rule 37 of the Federal Rules of Civil Procedure were granted in at least one case following a plaintiff's repeated failure to abide by a court's order to prepare a proper specification.[38] Motions in limine are also an obvious tool with which to exclude new theories going into trial, and these motions might be useful in excluding undefined aspects of purported trade secrets.[39] The Ninth Circuit effectively did just that in *Twin Vision Corporation* v. *BellSouth Communication Systems, Inc.*, when it refused to examine a district court's summary adjudication of several trade secret claims.[40] The appellate court simply ignored the trade secrets that were not properly defined and only analyzed the merits of a single properly defined secret. The logic used by the appeals court seems equally applicable to motions in limine before trial.

The recent success of defense tactics—chiefly motions for summary judgment—in cases involving allegations of trade secret misappropriation, and courts' increasing focus on trade secret definitions at provisional remedy hearings, may reflect a renewed recognition of the primary reason for the rule requiring trade secret specifications: basic fairness. These developments almost certainly reflect the practical concerns of courts. Without a trade secret specification, it is difficult to control discovery—and it is nearly impossible to compare similar collections of sophisticated information at summary judgment or trial without first knowing the specifics of the alleged secret at issue. Trade secret disclosures provide the specifics and thus a baseline against which to judge information allegedly used or disclosed by the defendant. They also give defendants something against which they can compare information in the public domain, information developed on their own, and the public disclosures of plaintiffs. Without a properly detailed trade secret specification, the defendant will have a difficult time making these comparisons. The trade secret, and thus the case, could be subject to a plaintiff's changing directions, leaving the defendant little opportunity to effectively defend its position. ■

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[1] CODE CIV. PROC. §2019(d).

[2] The parties might negotiate a protective order regarding confidentiality as they discuss a trade secret specification. Code of Civil Procedure §2019(d) specifically refers to the provisions of the Uniform Trade Secrets Act regarding the maintenance of confidentiality in trade secret disputes (Civil Code §3426.5). *See generally* MELVIN F. JAGER, TRADE SECRETS LAW §5:33 (2003) [hereinafter JAGER]; JAMES F. POOLEY, TRADE SECRETS §11.03 (2003); TRADE SECRETS PRACTICE IN CALIFORNIA §11.28 (2d ed. 2002).

[3] FSI Int'l, Inc. v. Shumway, No. CIV02-402RHKSRN, 2002 WL 334409, at *9 (D. Minn. Feb. 26, 2002); Analog Devices, Inc. v. Michalski, 579 S.E. 2d 449, 452-54 (N.C. App. 2003); Southwest Research Inst. v. Keraplast Techs., Ltd., 103 S.W. 3d 478, 482-83 (Tex. App. 2003) (noting "every order granting an injunction must be specific in its terms and describe in reasonable detail the act or acts to be restrained" and ruling that the plaintiff failed to specify its alleged trade secret); Motorola, Inc. v. DBTEL Inc., No. 02C3336, 2002 WL 1610982, at *16-*17 (N.D. Ill. July 22, 2002); AMP, Inc. v. Fleischhacker, 823 F. 2d 1199, 1203 (7th Cir. 1987).

[4] Counsel should avoid a situation in which an unhelpful trade secret specification is drafted and approved by the court in haste and becomes the definition of the trade secret for the entire case.

[5] FSI Int'l, 2002 WL 334409, at *9.

[6] *Id.*

[7] Imax Corp. v. Cinema Techs., Inc., 152 F. 3d 1161, 1164-67 (9th Cir. 1998) (affirming summary judgment of trade secret claim after the plaintiff failed to properly identify the trade secret); Whyte v. Schlage Lock Co., 101 Cal. App. 4th 1443, 1452-56 (2002) (examining whether the plaintiff sufficiently specified its alleged trade secrets in connection with a request for a TRO and preliminary injunction); Diodes, Inc. v. Franzen, 260 Cal. App. 2d 244, 250-53 (1968) (affirming dismissal based on the plaintiff's failure to properly plead the identity of its trade secret).

[8] Whyte, 101 Cal. App. 4th at 1452-56; Cinebase Software, Inc. v. Media Guar. Trust, Inc., No. C98-1100FMS, 1998 WL 661465, at *10-*13 (N.D. Cal. Sept. 22, 1998) ("Defendants are correct that for the purposes of obtaining a preliminary injunction based on

SM478

actual use of a trade secret, plaintiff has failed to adequately identify what portions of its overall software architecture are trade secrets.").

[9] Canter v. West Publ'g Co., Inc., 31 F. Supp. 2d 1193 (N.D. Cal. 1999) (opinion withdrawn) (granting summary judgment partially on ground that the plaintiffs' "failure to adequately designate their trade secret constitutes a failure to carry their burden on this necessary element of their claim"); Cambridge Internet Solutions, Inc. v. The Avicon Group, No. 99-1841, 1999 Mass. Super. LEXIS 387, at *4 (Mass. Super. Sept. 20, 1999) (citing Microwave Research Corp. v. Sanders Assoc., 110 F.R.D. 669, 672 (D. Mass. 1986)).

[10] Cambridge Internet Solutions, 1999 Mass. Super. LEXIS 387, at *4.

[11] Analog Devices, Inc. v. Michalski, 579 S.E. 2d 449, 452-54 (N.C. App. 2003); Southwest Research Inst. v. Keraplast Techs., 103 S.W. 3d 478, 482-83 (Tex. App. 2003); Motorola, Inc. v. DBTEL, No. 02C3336, 2002 WL 1610982, at *16-*17 (N.D. Ill. July 22, 2002); AMP, Inc., v. Fleischhacker, 823 F. 2d 1199, 1203 (7th Cir. 1987).

[12] Merriam-Webster OnLine Dictionary (2003), *available at* http://www.m-w.com/home.htm.

[13] THE OXFORD DICTIONARY AND THESAURUS 1087 (Am. ed. 1996).

[14] Universal Analytics, Inc. v. The MacNeal-Schwendler Corp., 707 F. Supp. 1170, 1177-78 (C.D. Cal. 1989); *see generally* JAGER, *supra* note 2, at §5:32.

[15] FSI Int'l, Inc. v. Shumway, No CIV02-402RHKSRN, 2002 WL 334409, at *9 (D. Minn. Feb. 26, 2002); Mai Sys. Corp. v. Peak Computer, Inc., 991 F. 2d 511, 522-23 (9th Cir. 1993) (vacating injunction because the plaintiff stated only that the trade secret was in computer software); 3M v. Pribyl, 259 F. 3d 587, 595 n.2 (7th Cir. 2001); Combined Metals of Chicago Ltd. P'ship v. Airtek, Inc., 985 F. Supp. 827, 832 (N.D. Ill. 1997) ("[T]he court expects an amended counterclaim from Airtek identifying specific, concrete secrets underlying the process of producing the catalytic converters."); Thermodyne Food Serv. Prods., Inc. v. McDonald's Corp., 940 F. Supp. 1300, 1305 n.4 (N.D. Ill. 1996) ("The court is mindful that it is not enough for a plaintiff to point to broad areas of technology and assert that something there must have been secret and misappropriated.") (citing Composite Mariner Propellers, Inc. v. Van Der Woude, 962 F. 2d 1263, 1266 (7th Cir. 1992)).

[16] Imax Corp. v. Cinema Techs., Inc., 152 F. 3d 1161 (9th Cir. 1998).

[17] *Id.*

[18] Combined Metals of Chicago, 985 F. Supp. at 832.

[19] Imax, 152 F. 3d at 1166 (paragraph bb of the trade secret definition).

[20] *Id.* at 1167.

[21] IDX Systems Corp. v. Epic Sys. Corp., 285 F. 3d 581, 583 (7th Cir. 2002).

[22] *Id.* Similarly, courts also do not allow parties to insert catch-all provisions in specifications. Struthers Scientific & Int'l Corp. v. General Foods Corp., 51 F.R.D. 149, 153 (D. Del. 1970).

[23] A magistrate recently rejected an attempt to define an entire software program as a trade secret. Compuware Corp. v. Health Care Serv. Corp., No. 01C0873, 2002 WL 485710, at *2 (N.D. Ill. Apr. 1, 2002). Because of repeated failures by the plaintiff to identify its trade secret, the magistrate recommended dismissal of claims relating to 9 of 12 products. *Id.* at *7-*8.

[24] Computer Econ., Inc. v. Gartner Group, Inc., 50 F. Supp. 2d 980, 985-86 (S.D. Cal. 1999).

[25] Leucadia, Inc. v. Applied Extrusion Techs., Inc., 755 F. Supp. 635, 637 (D. Del. 1991) ("[D]isclosure of plaintiff's trade secrets prior to discovery of defendant may be necessary to enable the defendant and ultimately the Court to ascertain the relevance of plaintiff's discovery."); Xerox Corp. v. IBM Corp., 64 F.R.D. 367, 371-72 (S.D. N.Y. 1974); Engelhard Corp. v. Savin Corp., 505 A. 2d 30 (Del. Ch. 1985) (specification necessary to set ground rules for relevancy); Struthers Scientific, 51 F.R.D. at 154 ("Struthers' discovery will be limited to those specific trade secrets which it claims were disclosed to General Foods.") Of course, federal courts have discretion to order the sequence for the taking of discovery. *See* FED. R. CIV. P. 26 (d).

[26] A court decision resulting in the disclosure of valuable confidential information may trigger the taking clause of the U.S. Constitution. *See generally* James R. McKown, *Taking Property: Constitutional Ramifications of Litigation Involving Trade Secrets*, 13 REV. LITIG. 253 (1994).

[27] Microwave Research Corp. v. Sanders Assoc., 110 F.R.D. 669, 672 (D. Mass. 1986).

[28] *Id.*; *see also* Puritan-Bennett Corp. v. Pruitt, 142 F.R.D. 306 (S.D. Iowa 1992) ("[T]he court is not yet persuaded that P-B has demonstrated 'a substantial factual basis for its claim.'") *and* MBL Corp. v. Diekman, 445 N.E. 2d 418, 426-27 (Ill. App. 1983) (The court refused to allow questioning of the defendant regarding its confidential information until the plaintiff evidenced a protectable trade secret.).

[29] Duracell, Inc. v. SW Consultants, Inc., 126 F.R.D. 576, 579 (N.D. Ga. 1989); A-Mark Auction, Inc. v. American Numismatic Assoc., No. 3-99-MC-0014-P, 1999 U.S. Dist. LEXIS 15192, at *7-*9 (N.D. Tex. Sept. 24, 1999) (Discovery of trade secrets "should be allowed only if the competitor can demonstrate a true need for the confidential information and can establish the potential harm is outweighed by the need for discovery.").

[30] American Airlines, Inc. v. KLM Royal Dutch Airlines, Inc., 114 F. 3d 108, 109-10 (8th Cir. 1997).

[31] Stutz Motor Car of Am., Inc. v. Reebok Int'l, Ltd., 909 F. Supp. 1353, 1360 (C.D. Cal. 1995), *aff'd*, 113 F. 3d 1258 (Fed. Cir. 1997).

[32] American Airlines, 114 F. 3d at 109-10. American Airlines initially claimed as its trade secret a combination of five elements in an algorithm used to predict customer demand. After it was revealed that the defendant received only four of the five elements, and a motion for summary judgment was filed on this basis, American claimed the four elements as its secret. The court did not allow the change, however, and granted summary judgment. *Id.* at 111-12. *See also* Thermodyne Food Serv. Prods., Inc. v. McDonald's Corp., 940 F. Supp. 1300, 1305 n.4 (N.D. Ill. 1996); Stutz Motor Car, 909 F. Supp. at 1360. *But see* Vacco Indus., Inc. v. Van Den Berg, 5 Cal. App. 4th 34, 51 n.16 (1992) (The plaintiff was permitted to amend its trade secret disclosure during discovery.).

[33] American Airlines, 114 F. 3d at 109-10; Thermodyne, 940 F. Supp. at 1305 n.4; Stutz Motor Car, 909 F. Supp. at 1360.

[34] Combined Metals of Chicago Ltd. P'ship v. Airtek, Inc., 985 F. Supp. 827, 832 (N.D. Ill. 1997).

[35] *Id.*

[36] Stutz Motor Car, 909 F. Supp. at 1360.

[37] Diodes, Inc. v. Franzen, 260 Cal. App. 2d 244, 250-53 (1968). *See also* Victoria A. Cundiff, *How to Identify Your Trade Secrets in Litigation*, 574 PLI/Pat 557, 572 (1999) ("[T]o hold off a motion to dismiss, plaintiffs can recite in the complaint that a more detailed specification of the secrets will be provided once the protective order is issued."). Cundiff's PLI lesson is an excellent resource on trade secret specification requirements.

[38] Compuware Corp. v. Health Care Serv. Corp., No. 01C0873, 2002 WL 485710, at *7-*8 (N.D. Ill. Apr. 1, 2002).

[39] *See generally* JAGER, *supra* note 2, at §5:32.

[40] Twin Vision Corp. v. BellSouth Communications Sys., Inc., No. 97-55231, 1998 WL 385135, at *2 (9th Cir. June 22, 1998).

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SM 479

Exhibit 2

110 F.R.D. 669
United States District Court,
D. Massachusetts.

MICROWAVE RESEARCH CORPORATION,
v.
SANDERS ASSOCIATES, INC.

Civ. A. No. 83–2158–N. | June 30, 1986.

In action for misappropriation of trade secrets and confidential information, microwave manufacturer moved for order compelling competitor to produce documents. The District Court, Robert B. Collings, United States Magistrate, held that manufacturer failed to establish substantial factual basis for its claim of misappropriation of trade secrets and/ or confidential information, and thus was not entitled to broad discovery including all blueprints and samples of all competitor's products.

Motion denied.

Attorneys and Law Firms

***669** Leo V. Boyle, Warren F. Fitzgerald, Meehan, Boyle & Cohen, Boston, Mass., for plaintiffs.

John M. Harrington, Jr., William F. McCarthy, John P. Dennis, Ropes & Gray, Boston, Mass., for defendants.

*670 MEMORANDUM AND ORDER ON PLAINTIFF, MICROWAVE RESEARCH CORPORATION'S, MOTION FOR AN ORDER COMPELLING DEFENDANT SANDERS ASSOCIATES, INC., TO PRODUCE DOCUMENTS AND THINGS (# 67)

ROBERT B. COLLINGS, United States Magistrate.

The question presented by Plaintiff, Microwave Research Corporation's, Motion For An Order Compelling Defendant, Sanders Associates, Inc., To Produce Documents And Things (# 67) is in what circumstances can a corporate plaintiff, which alleges misappropriation of trade secrets and confidential information, obtain discovery of trade secrets and confidential information of a corporate defendant in order to discover whether or not any of the corporate plaintiff's trade secrets have been appropriated and used by the corporate defendant.

In its Complaint (# 1–C), the plaintiff (hereinafter, "Microwave") alleges that it is engaged in "... the research, development, manufacture and sale of state-of-the-art microwave components and subsystems for both military and commercial applications", that the defendant through its Component Products Group (hereinafter "Sanders") "... is primarily engaged in the research, development, manufacture and sale of state-of-the-art microwave systems, products and components for both military and commercial applications", and that Microwave and Sanders "... are in direct competition with respect to the development, manufacture and sale of microwave products and components to certain customers." Between February and June, 1983, representatives of Microwave and Sanders discussed a possible acquisition of Microwave by Sanders. As part of the negotiations, Microwave furnished Sanders with documents concerning Microwave's operations and financial condition. On March 8, 1983, an attorney for Microwave, Carl R. Croce, Esquire, wrote a letter to Sanders, a copy of which is attached to the Complaint as Exhibit A. The second paragraph of the letter reads as follows:

> I understand that representatives of Sanders Associates, Inc. have met with Dr. Hefni [President of Microwave] and Jerry Hermann to discuss a possible acquisition or merger. Please acknowledge your agreement to maintain the confidentiality of all confidential materials and information furnished you by MRC [Microwave] by signing and returning the enclosed copy of this letter for your files.

The letter is endorsed as "Acknowledged and Agreed to" by Sanders' Vice-President for Corporate Development.

The Complaint further alleges that various meetings were held between representatives of Microwave and Sanders from March to June, 1983 and that at these meetings, Microwave, at Sanders' request, "in good faith" disclosed to Sanders "... confidential information and material relating to [Microwave's] customers, backlog and manufacturing processes and techniques" and that Sanders' "representatives ... requested and were allowed to inspect [Microwave's] plant facilities, equipment and inventories and were furnished with copies of [Microwave's] financial

SM 481

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records, tax returns, payroll ledgers and other financial data including a projection of future business prepared especially for Sanders at its request." Complaint, ¶ 9.

As a result of these discussions, Microwave and Sanders entered into a "Memorandum of Understanding" on June 8, 1983. A copy of the Memorandum is attached to the Complaint as Exhibit B. Paragraph 7 of the Memorandum reads, in pertinent part, as follows:

> 7. *Closing.* The acquisition will be completed on or before June 30, 1983.

> [Microwave] will provide [Sanders] with total and free access to all information relating to the [Microwave] BUSINESS subject to [Sanders'] agreement to maintain ***671** the confidentiality of such information.

> The foregoing is merely a statement of intention subject in all respects to and the execution and delivery of a definitive Asset Purchase Agreement, and no party shall have any obligation to the other until such execution.

Paragraph 13 of the Complaint reads:

> After the signing of the June 8th Agreement, [Sanders] requested and [Microwave] provided ... total and free access to all information related to [Microwave's] business for the purpose of compiling the lists and schedules identifying the tangible assets (other than inventory) to be acquired pursuant to the Agreement. [Sanders] requested and was allowed to inventory assets without restriction and, in fact, proceeded to identify assets by means of numbered stickers attached to each item of property.

On June 23, 1983, Sanders notified Microwave that it had determined not to go through with the acquisition.

Based on these allegations, Microwave seeks damages for breach of contract (Count I), unfair and deceptive acts (Count II) and misappropriation of confidential and proprietary assets (Count III).

The misappropriation claim is based on ¶ 23 of the Complaint which reads:

> ... [Microwave] fears and suspects that Sanders is utilizing confidential and proprietary information of [Microwave] obtained during the course of its acquisition negotiations to obtain a competitive advantage over [Microwave].

Count III reads:

> 34. Defendant's aforesaid acts constitute misappropriations of the confidential and proprietary assets of the plaintiff.
>
> 35. As a result of Defendant's aforesaid acts, Plaintiff has suffered, and will continue to suffer, damages in an amount to be determined, but not less than $1,000,000.

On October 30, 1984, Microwave filed Plaintiff's Request For Production And Inspection Of Documents And Tangible Things, Pursuant To Rule 34, F.R.C.P. (# 56). The document requested Sanders to allow Dr. Hefni to inspect and copy the following:

All blueprints and samples of all

(1) products,

(2) production equipment and machinery,

(3) production methods, procedures or techniques

(4) microwave couplers,

(5) microwave power dividers,

(6) microwave matrices,

(7) waveguides,

(8) coaxial cables

of Sanders' Component Products Group which were

> "developed, modified, enhanced or changed in any way since February 9, 1983 and all products presently under development by the Component Products Group."

SM 482

All Sanders production machines and equipment and manufacturing methods, procedures, protocols, and/or techniques which are presently under development or which have been developed, designed, acquired, manufactured, modified, enhanced or in any way changed since February 9, 1983.

Sanders filed a response (# 63) on November 14, 1984 objecting to all requests on three grounds, the second of which reads that "... the Request calls for the disclosure of highly sensitive trade secret information relating to ongoing product development which is irrelevant to any good faith allegation of the complaint."

In considering this objection, the Court must first determine whether the requested discovery is "relevant". There is no question but that the requested discovery is "relevant" as that term is used in Rule 26(b)(1), F.R.Civ.P. The Supreme Court has discussed the definition of "relevant" as used in the Rule in the case of *Oppenheimer Fund, Inc. v. Sanders,* 437 U.S. 340, 351, 98 S.Ct. 2380, 2389, 57 L.Ed.2d 253 (1978):

***672** The key phrase in this definition—"relevant to the subject matter involved in the pending action"—has been construed broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case. See *Hickman v. Taylor,* 329 U.S. 495, 501, 67 S.Ct. 385, 388–89, 91 L.Ed. 451 (1947).

And in a footnote immediately following the citation to the *Hickman* case, the Court cited Professor Moore as follows:

"[T]he Court should and ordinarily does interpret 'relevant' very broadly to mean matter that is relevant to anything that is or may become an issue in the litigation." 4 J. Moore, Federal Practice, Sec. 26.56(1), p. 26–131 (2d ed. 1976).

[1] Under this definition, the discovery sought is "relevant" to the claim contained in Count III of the Complaint.

[2] However, when discovery of a defendant's alleged trade secrets and confidential information is sought in litigation regarding misappropriation by a defendant of a plaintiff's trade secrets or confidential information, it is not enough to analyze the requested discovery in terms of relevance. In order to protect a corporate defendant from having to reveal its trade secrets and confidential information to a competitor during discovery, a plaintiff must demonstrate that there is a factual basis for its claim. As was stated by Judge Weinfeld in the case of *Ray v. Allied Chemical Corporation,* 34 F.R.D. 456, 457 (S.D.N.Y., 1964):

... [T]he circumstance that a litigant in his complaint alleges that he disclosed confidential and secret processes to a defendant, which the latter in turn denies, does not automatically entitle the plaintiff to obtain disclosure of the alleged offending processes in aid of discovery—otherwise it would be a simple matter to obtain one's trade secret by the mere assertion of a claim. The end result of disclosure, where ultimately it develops that the asserted claim is without substance, may be so destructive of the interests of the prevailing party that more is required than mere allegation to warrant pretrial disclosure.

In cases involving the disclosure of confidential information and/or trade secrets, the Court must strike a balance.

[T]he court must weigh on the one hand the right of the plaintiff to examine with respect to everything relevant, and to have the production for copying of documents which are relevant and for which the plaintiff has established good cause, and on the other hand, the right of the defendant to be protected ... as justice demands in his trade secrets.

DeLong Corporation v. Lucas, 138 F.Supp. 805, 808 (S.D.N.Y., 1956).

In striking the balance, courts have implemented various procedures, depending on the facts of a given case. In some cases, discovery of a defendant's secret processes is delayed until trial "... to meet the problem posed by the conflict between a plaintiff's right to discovery and a defendant's right to be protected against devastating injury which may result if it develops that plaintiff's claim is without substance." *Ray v. Allied Chemical Corp.,* 34 F.R.D. 456, 458 (S.D.N.Y., 1964) (footnote omitted). A delay until the plaintiff has done sufficient other discovery to resist a motion for summary judgment has been suggested by the Court of Appeals for the

SM 483

Seventh Circuit in the case of *Marrese v. American Academy of Orthopedic Surgeons*, 706 F.2d 1488 (7 Cir., 1983). In that case, the Court wrote:

> ... Rule 26(d) of the Federal Rules of Civil Procedure (sequence and timing of discovery) provides a method of accommodating the competing interests with minimal damage to either. If there is other discovery that the plaintiffs must complete in order to be able to resist a motion by the defendant for summary judgment, and thus a significant chance that the plaintiff's case will fail regardless of what the internal files that they are seeking may show, the district judge should use his power under Rule 26(d) to ***673** require the plaintiffs to complete the other, nonsensitive discovery first.

Id. at 1494.

A further procedure employed is to require a plaintiff to specify in detail the trade secrets and confidential information alleged to have been misappropriated. Judge Edelstein has written that "... until this is done, neither the court nor the parties can know, with any degree of certainty, whether discovery is relevant or not ..." *Xerox Corp. v. International Business Machines Corp.*, 64 F.R.D. 367, 371 (S.D.N.Y., 1974).

Another procedure is for the parties to agree to the appointment of an independent expert or experts. As one commentator has written:

> ... [T]he parties may find it advantageous to agree to the use of court-appointed impartial experts in controlling the areas of discovery. In one case, with the consent of the parties, the court appointed two independent experts to inspect both parties' plants and papers and to report which aspects of plaintiff's plants were substantially similar to defendant's. The experts were also directed to identify those aspects which, although substantially similar, they considered to be in the public domain and to set forth the basis for their opinion. On the basis of such a report, the court could confine discovery to those aspects found to be substantially similar, and, if no important areas of similarity were found, the parties would be spared the considerable expense of further litigation.
>
> J. Doyle & A.S. Joslyn, "The Role of Counsel in Litigation Involving Technically Complex Trade Secrets," 6 Boston College Industrial and Commercial L.Rev. 743, 747 (1965) (footnotes omitted).

Of course, implementing this procedure assumes "... that experts unconnected with any competitor can be found." *Id.* at 744, n. 3.

None of these procedures seem suited to the present case. The problem which plaintiff faces is that unless it receives the discovery which it seeks from the defendant, it will be unable to prove a misappropriation of trade secrets and/or confidential information. Thus, delay of discovery until trial will not solve the problem, nor does it appear that the plaintiff will be able to resist a motion for summary judgment on Count III without the requested discovery.

In response to Sanders' interrogatories, Microwave has attempted to state the trade secrets and confidential information which it claims have been misappropriated. Thus, in response to interrogatory 1(a) of Sanders' interrogatories which asked for an identification of each trade secret misappropriated by the defendant, plaintiff answered, in pertinent part:

> [Between June 8th and June 22nd, 1983] ... Sanders employees conducted a detailed and extensive physical inspection of all of the facilities at [Microwave] including the tooling and equipment used for the manufacture of [Microwave's] microwave and millimeterwave components and the prototypes, drawings and documents supporting [Microwave's] product designs. In addition, such persons asked questions and were educated as to [Microwave's] operations by [Microwave's] employees engaged in the production and testing departments. As a result, Sanders gained the necessary knowledge regarding [Microwave's] production, manufacture, fabrication and testing methods to permit Sanders to duplicate [Microwave's] microwave and millimeterwave components. The designs and methods of production, manufacture, fabrication and testing which [Microwave] considers as trade secrets (and to which Sanders had access) include those related to the following products manufactured by [Microwave]:
>
> 1. *Filters*—Absorptive and reflective filters for applications in waveguide, coaxial and stripline components.

SM 484

2. *High-Power Couplers and Dividers*

***674** 3. *Special Waveguide to coaxial transitions*

4. *Matrices*—Matrices for phased array and for power combining and dividing.

5. *Transitions*—Transitions between waveguide and coaxial and stripline components.

6. *Antennas*—Feeds and multifeed structures and corrugated and high-gain antennas.

7. *High Power Terminations*—Terminations for waveguide, coaxial and stripline components.

8. *High Power Ferrite Broadband Circulators/Isolators*

As is evident, the plaintiff has not listed any trade secrets; rather, it has listed products which it claims contain trade secrets. A list of products is perhaps helpful to the extent that the discovery possibly could be limited to documents relating to those of the defendant's products which compete with plaintiff's products. The defendant in the instant case does not oppose production of those documents and represents that it "... has already produced over 3,600 pages of its trade secret and technical data related to the only two components that directly competed with [Microwave] products during the period material to the complaint." Memorandum In Opposition, Etc. (# 77) at p. 18. This representation is not contradicted by Microwave. However, as indicated *supra,* Microwave requests discovery of a far broader range of products either in production or under development without regard to whether the products compete with those which it manufactures and sells.

Lastly, the feasibility of finding and appointing experts is unknown.

[3] **[4]** In these circumstances, when a plaintiff cannot specify the trade secrets and/or confidential information which it claims were misappropriated, the test of whether or not such a plaintiff is entitled to the kind of broad discovery which Microwave seeks in the instant case, i.e. all documents relative to all products which Sanders has "developed, modified, enhanced or changed in any way since February 8, 1983" and "all products currently under development", is whether there is a substantial factual basis for plaintiff's claim that the defendant has misappropriated its trade secrets. This requires something more than what is required in order to file a count alleging misappropriation of trade secrets. In the instant case, it can be argued that there is a "factual basis" for Microwave's "fears and suspicions" that Sanders misappropriated its trade secrets, i.e. the "fact" that Sanders' employees were given access to the information and cancelled (with no good-faith basis for doing so) an agreement for acquisition shortly after gaining access. These circumstances and the inferences which may be drawn from them *may* be sufficient under the provisions of Rule 11, F.R.Civ.P. (as amended August 1, 1983) to support a "belief" by the plaintiff which is "well-grounded in fact" that trade secrets have been misappropriated, although one can certainly question the degree to which the belief is "well-grounded" as opposed to merely "grounded" in fact. But before a plaintiff is entitled to the type of broad discovery into a defendant's trade secrets, it must show that other evidence which it has gathered through discovery provides a substantial factual basis for its claim. In my opinion, the plaintiff has failed to make such a showing in this case.

First, Microwave has had the opportunity to depose the employees of Sanders who were given access to the confidential information and/or trade secrets. It also has access to its own employees who were present when Sanders' employees were at Microwave's facilities and either witnessed the activities of Sanders' personnel at the premises and/or personally provided information to Sanders' employees. While a plaintiff is not required to accept testimony of a defendant's employees that they did not misappropriate any confidential information and/or trade secrets, it would seem ***675** that the plaintiff, after interviewing its own employees and deposing Sanders' employees, would be able to point to some circumstances which would support an inference that Sanders' employees were interested in obtaining confidential information for purposes of misappropriation. However, Microwave is not able to point to any circumstances which add in any way to the "fear and suspicion" which it had before it commenced discovery.

Second, as indicated, Microwave has received discovery regarding Sanders' products which compete with those which Microwave produces. Yet Microwave has been unable to point to any inclusion of its trade secrets or confidential information in any of those products. It would seem that if trade secrets were misappropriated, some would be found in Sanders' products which compete with Microwave's products. But Microwave is not able to point to anything in Sanders'

SM 485

products with which it competes which would indicate that any trade secrets have been misappropriated.

Third, in a deposition, Jerry Hermann, now President and chief executive officer of the company which ultimately purchased Microwave after the deal with Sanders fell through, testified on November 26, 1984 that he has encountered no situation or information which would lead him to believe that Sanders was using confidential information or trade secrets obtained from Microwave. If there were a misappropriation, it seems likely that some of Sanders' products on the market in the year following would reflect the use of such secrets or confidential information.

In sum, plaintiff has not demonstrated that there is a substantial factual basis for its claims of misappropriation of trade secrets and/or confidential information.

Accordingly, it is ORDERED that Plaintiff, Microwave Research Corporation's, Motion For An Order Compelling Defendant, Sanders Associates, Inc., To Produce Documents And Things (# 67) be, and the same hereby is, DENIED.

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SM 486

Exhibit 3

176 Wash.2d 686
Supreme Court of Washington,
En Banc.

Bruce CEDELL, a single man, Petitioner,
v.
FARMERS INSURANCE COMPANY
OF WASHINGTON, doing business in
the State of Washington, Respondent.

No. 85366–5. | Argued Sept. 22, 2011. | Decided Feb. 21, 2013.

Synopsis
Background: Insured brought action against homeowners' insurer alleging bad faith in failing to provide coverage for fire. Insured moved to compel production of documents and responses to interrogatories, and insurer sought protective order preventing discovery of privileged communications. The Superior Court, Grays Harbor County, David L. Edwards, J., ordered production of documents. Insurer appealed. The Court of Appeals, 157 Wash.App. 267, 237 P.3d 309,reversed and remanded. Insured sought discretionary review, which was granted.

[Holding:] The Supreme Court, En Banc, Chambers, J., held that attorney performed quasi-fiduciary tasks so as to support waiver of attorney-client privilege by insurer.

Affirmed in part, reversed in part, and remanded.

Alexander, J., filed dissenting opinion in which Madsen, C.J., Owens and Johnson, JJ., joined.

Attorneys and Law Firms

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Pamela A. Okano, Michael Simpson Rogers, Reed McClure, Seattle, WA, for Amicus Curiae on behalf of Washington Association of Mutual.

Opinion

CHAMBERS, J. *

***690** ¶ 1 Bruce Cedell's home was destroyed by fire. After being unresponsive for seven months, his insurer threatened to deny coverage and made a take it or leave it one time offer for only a quarter of what the court eventually found the claims to be worth. Cedell brought suit alleging bad faith. The company resisted disclosing its claims file, among other things, and Cedell moved to compel production. After a hearing and a review of the claims file in camera, the trial court granted Cedell's motion. On interlocutory review, the Court of Appeals held that the attorney-client privilege applies to a bad ****242** faith claim by a first party insured, that the fraud exception to the attorney-client privilege requires a showing of actual fraud, and that the trial court erred in reviewing Cedell's claims file in camera because Cedell had not made a sufficient prima facie showing of fraud. *Cedell v. Farmers Ins. Co. of Wash.*, 157 Wash.App. 267, 269–70, 237 P.3d 309 (2010). The Court of Appeals vacated the trial court's sanctions and discovery orders. This case turns on the application and scope of the attorney-client privilege in a claim for insurance bad faith. We affirm in part, reverse in part, and remand to the trial for further proceedings consistent with this opinion.

FACTS AND PROCEDURAL HISTORY

¶ 2 Cedell insured his home in Elma with Farmers Insurance Company of Washington (Farmers) for over 20 years. ***691** In November 2006, when Cedell was not at home, a fire broke out in his bedroom. His girl friend, Ms. Ackley, called the fire department and carried their two month old child outside. The fire completely destroyed the second story of the home. Ackley claimed that a candle had started the fire.

¶ 3 The Elma Fire Department concluded that the fire was "likely" accidental. Clerk's Papers (CP) at 477. Farmers

SM 488

fire investigator found "no physical evidence supporting an incendiary origin" and agreed with the fire department that a candle was "a possible, or even probable, source of ignition ... consistent with the remaining physical evidence." *Id.* at 482. He stated that Ackley's "admission that she lit a 'flower candle' on the headboard" was "consistent with the acute burn patterns seen to the headboard and mattress," explaining that "[c]andles with foreign objects imbedded are frequent causes of accidental fires when the objects, such as dried flowers, substantially alter the candle's burning characteristics." *Id.* Farmers, nevertheless, delayed its coverage determination, noting that Ackley (who was not an insured) had given inconsistent statements.[1] Cedell alleges that Farmers ignored repeated phone calls and that he was forced to file a claim with the office of the insurance commissioner and ultimately, eight months after the fire, hire an attorney to elicit action from his insurer.

¶ 4 In January 2007, a Farmers adjuster estimated that Farmers' exposure would be about $70,000 for the house and $35,000 for its contents. A few months later, a Farmer's estimator, Joe Mendoza, concluded that the fire-related damage to the residence alone was about $56,498. Farmers hired an attorney, Ryan Hall, to assist in making a coverage determination. Hall examined Cedell and Ackley under oath. In July 2007, Hall sent Cedell a letter stating that the origin of the fire was unknown and that Farmers might deny coverage based on a delay in reporting and Ackley's ***692** and Cedell's inconsistent statements about the fire.[2] The letter extended to Cedell a one-time offer of $30,000, good for 10 days. Cedell tried unsuccessfully to contact Farmers about the offer during the 10 days, but no one from Farmers returned his call.

¶ 5 In November 2007, Cedell sued Farmers, alleging, among other things, that it acted in bad faith in handling his claim. In response to his discovery requests, Farmers produced a heavily redacted claims file, asserting that the redacted information was not relevant or was privileged. Farmers also declined to answer some of Cedell's interrogatories on the ground of attorney-client privilege, including Cedell's question of why it "gave Bruce Cedell 10 days to either accept or reject the above offer." CP at 5.

¶ 6 Cedell filed a motion to compel. Relying on *Soter v. Cowles Publ'g Co.*, 131 Wash.App. 882, 895, 130 P.3d 840 (2006), *aff'd*, 162 Wash.2d 716, 174 P.3d 60 (2007), Cedell contended that "the claim of privilege and work product in bad faith litigation is severely limited and does not apply" to the insurer's ****243** benefit in a bad faith action by a first party insured. CP at 2–3. Cedell moved for disclosure or, in the alternative, for an in camera review of the files. Farmers opposed the motion, argued that Cedell had to make an initial showing of civil fraud to obtain the full claims file, and sought an order "protecting from discovery all privileged communication with its counsel Ryan Hall." CP at 363; Verbatim Report of Proceedings (VRP) (Feb. 23, 2009) at 14.

¶ 7 Judge David Edwards held a hearing to consider the competing motions. He concluded that the insured was not required to make a showing of civil fraud before the claims file could be released, but instead merely "some foundation [in] fact to support a good faith belief by a reasonable person that [ ] there may have been wrongful conduct ***693** which could invoke the fraud exception." VRP (Feb. 23, 2009) at 20–21 (citing *Escalante v. Sentry Ins. Co.*, 49 Wash.App. 375, 743 P.2d 832 (1987), *overruled on other grounds by Ellwein v. Hartford Accident & Indem. Co.*, 142 Wash.2d 766, 15 P.3d 640 (2001), *overruled by Smith v. Safeco Ins. Co.*, 150 Wash.2d 478, 78 P.3d 1274 (2003)). Judge Edwards found that (1) Cedell was not home at the time of the fire, (2) the fire department and Farmers' fire investigator had concluded the fire was accidental, (3) Farmers knew the fire had left Cedell homeless, (4) a Farmers adjuster appraised the damage to the house at $56,498.84, (5) another adjustor estimated the damage at $70,000 for the house and $35,000 for its contents, (6) Farmers made a one-time offer of $30,000 with an acceptance period that fell when Hall was out of town, (7) Farmers threatened to deny Cedell coverage and claimed he misrepresented material information without explanation, and (8) the damage to the house was eventually valued at over $115,000 and more than $16,000 in code updates. The judge found these facts "adequate to support a good faith belief by a reasonable person that wrongful conduct sufficient to invoke the fraud exception set forth in *Escalante* to the attorney-client privilege had occurred" and ordered the claim files produced for an in camera review. CP at 494–95; VRP at 21. He also awarded Cedell his attorney fees for the motion, capped at $2,500, and assessed punitive sanctions against Farmers of $5,000, payable to the court.

¶ 8 After reviewing the documents in camera, Judge Edwards, relying on *Barry v. USAA*, 98 Wash.App. 199, 205, 989 P.2d 1172 (1999), revised his view of what was required to release an unredacted claim file in a first party bad faith action:

> In the context of a claim arising from a residential fire, the insurer owes the insured a heightened duty—a fiduciary duty, which by its nature is not, and

SM 489

> should not be, adversarial. Under such circumstances, the insured is entitled to discover the entire claims file kept by the insured without exceptions for any claims of attorney-client privilege.

***694** CP at 487. He ordered Farmers to provide Cedell with all documents that it had withheld or redacted based on the attorney-client privilege, increased the sanctions payable to Cedell to $15,000, and increased the sanctions payable to the court to $25,000.

¶ 9 The Court of Appeals granted discretionary interlocutory review and reversed. The Court of Appeals found that "a factual showing of bad faith" was insufficient to trigger an in camera review of the claims file. *Cedell,* 157 Wash.App. at 278, 237 P.3d 309. The court below impliedly found that a showing that the insurer used the attorney to further a bad faith denial of the claim was not sufficient grounds to pierce the attorney-client privilege. *Id.* at 276–78, 237 P.3d 309.

¶ 10 We granted review. The Washington State Association for Justice Foundation, the Washington Defense Trial Lawyers, and the National Association of Mutual Insurance Companies submitted briefs as amici curiae.

ANALYSIS

A. STANDARD OF REVIEW

[1] [2] [3] ¶ 11 We review a trial court's discovery orders for abuse of discretion. *T.S. v. Boy Scouts of Am.,* 157 Wash.2d 416, 423, 138 P.3d 1053 (2006) (citing *John Doe v. Puget Sound Blood Ctr.,* 117 Wash.2d 772, 778, 819 P.2d 370 (1991)). We will reverse a trial court's discovery rulings "only 'on a clear showing' that the court's exercise of ****244** discretion was 'manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons.' " *Id.* (quoting *State ex rel. Carroll v. Junker,* 79 Wash.2d 12, 26, 482 P.2d 775 (1971)). If the trial court rested its decision on an improper understanding of the law, we may remand for application of the correct one. *Dreiling v. Jain,* 151 Wash.2d 900, 907, 93 P.3d 861 (2004) (citing *King v. Olympic Pipe Line Co.,* 104 Wash.App. 338, 369, 16 P.3d 45 (2000)).

*695 B. SCOPE OF DISCOVERY GENERALLY

[4] [5] [6] [7] [8] ¶ 12 The scope of discovery is very broad. *Coburn v. Seda,* 101 Wash.2d 270, 276, 677 P.2d 173 (1984) (citing *Bushman v. New Holland Div. of Sperry Rand Corp.,* 83 Wash.2d 429, 434, 518 P.2d 1078 (1974)). The right to discovery is an integral part of the right to access the courts embedded in our constitution. *Lowy v. PeaceHealth,* 174 Wash.2d 769, 776–77, 280 P.3d 1078 (2012) (citing *Doe,* 117 Wash.2d at 780–81, 819 P.2d 370). As we noted recently:

> Besides its constitutional cornerstone, there are practical reasons for discovery. Earlier experiences with a "blindman's bluff" approach to litigation, where each side was required "literally to guess at what their opponent would offer as evidence," were unsatisfactory. Michael E. Wolfson, *Addressing the Adversarial Dilemma of Civil Discovery,* 36 Clev. St. L.Rev. 17, 22 (1988). As modern day pretrial discovery has evolved, it has contributed enormously to "a more fair, just, and efficient process." *Id.* at 20. Effective pretrial disclosure, so that each side knows what the other side knows, has narrowed and clarified the disputed issues and made early resolution possible. As importantly, early open discovery exposed meritless and unsupported claims so they could be dismissed. It is uncontroverted that early and broad disclosure promotes the efficient and prompt resolution of meritorious claims and the efficient elimination of meritless claims.

Lowy, 174 Wash.2d at 777, 280 P.3d 1078. Because discovery is, by design, intended to be broad, a party wishing to assert a privilege may not simply keep quiet about the information it believes is protected from discovery; it must either, reveal the information, disclose that it has it and assert that it is privileged, or seek a protective order. *Magana v. Hyundai Motor Am.,* 167 Wash.2d 570, 584, 220 P.3d 191 (2009) (citing CR 37(d)); *Wash. State Physicians Ins. Exch. & Ass'n v. Fisons Corp.,* 122 Wash.2d 299, 354, 858 P.2d 1054 (1993). A health care provider seeking to assert a privilege must seek a protective order. *Lowy,* 174 Wash.2d at 789, 280 P.3d 1078. The best practice is for the trial court to require a document log ***696** requiring grounds stated with specificity as to each document. *See Dreiling,* 151 Wash.2d at 916–17, 93 P.3d 861; *see also Rental Hous. Ass'n of Puget Sound v. City of Des Moines,* 165 Wash.2d 525, 538–39, 199 P.3d 393 (2009) (emphasizing value of privilege log). The burden of persuasion is upon the party seeking the protective order. *See* CR 26(c); *see also Blankenship v. Hearst Corp.,* 519 F.2d 418, 429 (9th Cir.1975) (opponent of disclosure bore "heavy burden of showing why discovery [should be] denied").

C. ATTORNEY–CLIENT PRIVILEGE IN INSURANCE BAD FAITH CLAIMS

SM 490

[9] [10] ¶ 13 When an insured asserts bad faith against his insurer in the way the insurer has handled the insured's claim, unique considerations arise. There are numerous recognized actions for bad faith against medical, homeowner, automobile, and other insurers in which the insured must have access to the claims file in order to prove the claim. For example, there are bad faith investigations, *Safeco Ins. Co. of Am. v. Butler,* 118 Wash.2d 383, 389, 823 P.2d 499 (1992); untimely investigations, *Van Noy v. State Farm Mut. Auto. Ins. Co.,* 142 Wash.2d 784, 793, 16 P.3d 574 (2001); failure to inform the insured of available benefits, *Anderson v. State Farm Mut. Ins. Co.,* 101 Wash.App. 323, 2 P.3d 1029 (2000); and making unreasonably low offers, *Keller v. Allstate Ins. Co.,* 81 Wash.App. 624, 915 P.2d 1140 (1996). A first party bad faith claim arises from the fact that the insurer has a quasi-fiduciary duty to act in good faith toward its insured. *St. Paul Fire & Marine Ins. Co. v. Onvia, Inc.,* 165 Wash.2d 122, 128, 196 P.3d 664 (2008); *Van Noy,* 142 Wash.2d at 793, 16 P.3d 574. The **245 insured needs access to the insurer's file maintained for the insured in order to discover facts to support a claim of bad faith. Implicit in an insurance company's handing of claim is litigation or the threat of litigation that involves the advice of counsel. To permit a blanket privilege in insurance bad faith claims because of the participation of lawyers hired or employed by insurers *697 would unreasonably obstruct discovery of meritorious claims and conceal unwarranted practices.

[11] [12] ¶ 14 To accommodate the special considerations of first party insurance bad faith claims, except for under insured motorist (UIM) claims, the insured is entitled to access to the claims file. As our Court of Appeals has observed, "it is a well-established principle in bad faith actions brought by an insured against an insurer under the terms of an insurance contract that communications between the insurer and the attorney are not privileged with respect to the insured." *Barry,* 98 Wash.App. at 204, 989 P.2d 1172 (citing *Baker v. CNA Ins. Co.,* 123 F.R.D. 322, 326 (D.Mont.1988)); *accord Escalante,* 49 Wash.App. at 394, 743 P.2d 832; *Silva v. Fire Ins. Exch.,* 112 F.R.D. 699 (D.Mont.1986). In *Silva,* the Montana court noted, "The time-worn claims of work product and attorney-client privilege cannot be invoked to the insurance company's benefit where the only issue in the case is whether the company breached its duty of good faith in processing the insured's claim." *Silva,* 112 F.R.D. at 699–700.

[13] [14] ¶ 15 *Barry* was a UIM case, and of course, we recognize a difference between UIM bad faith claims and other first party bad faith claims. The UIM insurer steps into the shoes of the tortfeasor and may defend as the tortfeasor would defend. Thus, in the UIM context, the insurance company is entitled to counsel's advice in strategizing the same defenses that the tortfeasor could have asserted. However, even in a claim alleging bad faith in handling of a UIM claim, there are limits to the insurer's attorney-client privilege.[3] Where there is a valid attorney-client privilege, the fraud exception is one of the exceptions that will pierce the privilege.[4] In a UIM context, the Escalante court set forth a two-step process to limit attorney-client privilege:

> *698 First, the court determines whether there is a factual showing adequate to support a good faith belief by a reasonable person that wrongful conduct sufficient to evoke the fraud exception has occurred. Second, if so, the court subjects the documents to an in camera inspection to determine whether there is a foundation in fact for the charge of civil fraud. The in camera inspection is a matter of trial court discretion.
>
> *Barry,* 98 Wash.App. at 206, 989 P.2d 1172 (citations omitted) (citing *Escalante,* 49 Wash.App. at 394, 743 P.2d 832; *Seattle Nw. Sec. Corp. v. SDG Holding Co.,* 61 Wash.App. 725, 740, 812 P.2d 488 (1991)).

D. BALANCING INSURERS NEED FOR ATTORNEY–CLIENT PRIVILEGE AND THE INSURED'S NEED TO ACCESS THE CLAIMS FILE

[15] [16] [17] ¶ 16 We recognize that two principles we hold dear are in tension in insurance bad faith claims. The purpose of discovery is to allow production of all relevant facts and thereby narrow the issues, and promote efficient and early resolution of claims. The purpose of attorney-client privilege is to allow clients to fully inform their attorneys of all relevant facts without fear of consequent disclosure. *Escalante,* 49 Wash.App. at 393, 743 P.2d 832 (citing **246 *Coburn,* 101 Wash.2d at 274, 677 P.2d 173). First party bad faith claims by insureds against their own insurer are unique and founded upon two important public policy pillars: that an insurance company has a quasi-fiduciary duty to its insured and that insurance contracts, practices, and procedures are highly regulated and of substantial public interest. *Van Noy,* 142 Wash.2d at 793, 16 P.3d 574; *St. Paul Fire,* 165 Wash.2d at 128–29, 196 P.3d 664.

[18] [19] [20] [21] ¶ 17 To protect these principles, we adopt the same basic approach as the Court of Appeals

SM 491

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did in *Barry.* We start from the presumption that there is no attorney-client ***699** privilege relevant between the insured and the insurer in the claims adjusting process, and that the attorney-client and work product privileges are generally not relevant. *Barry,* 98 Wash.App. at 204, 989 P.2d 1172. However, the insurer may overcome the presumption of discoverability by showing its attorney was not engaged in the quasi-fiduciary tasks of investigating and evaluating or processing the claim, but instead in providing the insurer with counsel as to its own potential liability; for example, whether or not coverage exists under the law. [5] Upon such a showing, the insurance company is entitled to an in camera review of the claims file, and to the redaction of communications from counsel that reflected the mental impressions of the attorney to the insurance company, unless those mental impressions are directly at issue in its quasi-fiduciary responsibilities to its insured. *See Escalante,* 49 Wash.App. 375, 743 P.2d 832. If the trial judge finds the attorney-client privilege applies, then the court should next address any claims the insured may have to pierce the attorney-client privilege. [6]

[22] ¶ 18 The fraud exception to the attorney-client privilege is deeply rooted in our jurisprudence. *See* ROBERT H. ARONSON, THE LAW OF EVIDENCE IN WASHINGTON § 501.03[2][h][ii], at 501–24 (4th ed.2012) (citing *Craig v. A.H. Robins Co.,* 790 F.2d 1, 5 (1st Cir.1986)). Our courts have followed a two-step ***700** approach. The first step is to invoke an in camera review and requires a showing that a reasonable person would have a reasonable belief that an act of bad faith tantamount to civil fraud has occurred. *Barry,* 98 Wash.App. at 208, 989 P.2d 1172; *Escalante,* 49 Wash.App. at 394, 743 P.2d 832; *see also Seattle Nw. Sec. Corp.,* 61 Wash.App. at 740, 812 P.2d 488. The purpose of the in camera review is to determine "whether the attorney client-privilege applies to particular discovery requests, and whether appellants have overcome that privilege by showing a foundation in fact for the charge of civil fraud." *Escalante,* 49 Wash.App. at 394, 743 P.2d 832. *Escalante* suggests if an insurer engages in bad faith in an attempt to defeat a meritorious claim, bad faith was tantamount to civil fraud. *See id.* (citing *United Servs. Auto. Ass'n v. Werley,* 526 P.2d 28 (Alaska 1974)). We agree.

[23] **[24]** ¶ 19 To summarize, in first party insurance claims by insured's claiming bad faith in the handling and processing of claims, other than UIM claims, there is a presumption of no attorney-client privilege. However, the insurer may assert an attorney-client privilege upon a showing in camera that the attorney was providing counsel to the insurer and not engaged in a quasi-fiduciary function. Upon such a showing, the insured may be entitled to pierce the attorney-client ****247** privilege. If the civil fraud exception is asserted, the court must engage in a two-step process. First, upon a showing that a reasonable person would have a reasonable belief that an act of bad faith has occurred, the trial court will perform an in camera review of the claimed privileged materials. Second, after in camera review and upon a finding there is a foundation to permit a claim of bad faith to proceed, the attorney-client privilege shall be deemed to be waived. However, in first party UIM claims, there is no presumption of waiver by the insurer of the attorney-client privilege but, consistent with *Escalante,* 49 Wash.App. at 394, 743 P.2d 832, and *Barry,* 98 Wash.App. at 206, 989 P.2d 1172, that privilege may be pierced, among other ways, by the two step procedure described above for showing the bad faith civil fraud exception is applicable.

*701 E. ADDRESSING THE FACTS OF THIS CASE

[25] ¶ 20 Farmers hired an attorney, Hall, to advise it on legal issue of coverage. To the extent Hall issued legal opinions as to Cedell's coverage under the policy, Farmers would be able to seek to overcome the presumption favoring disclosure by showing Hall was not acting in one of the ways the insurer must act in a quasi-fiduciary way toward its insured. However, Farmers hired Hall to do more than give legal opinions. The record suggests that Hall assisted in the investigation. Hall took sworn statements from Cedell and a witness and corresponded with Cedell. Hall assisted in adjusting the claim by negotiating with Cedell. Seven months after the fire, Hall wrote to Cedell offering a "one time offer" of $30,000, which was open for only 10 days, and threatened denial of coverage if the offer was not accepted. It was Hall who was negotiating with Cedell on behalf of Farmers and it was Hall who did not return his calls when Cedell was attempting to respond to the offer. While Hall may have advised Farmers as to the law and strategy, he also performed the functions of investigating, evaluating, negotiating, and processing the claim. These functions and prompt and responsive communications with the insured are among the activities to which an insurer owes a quasi-fiduciary duty to Cedell.

¶ 21 Assuming Farmers was able to overcome the presumption of disclosure based upon a showing that Hall was not engaged in quasi-fiduciary activities, it was entitled to an in camera review and the redaction of his advice and mental impressions he provided to his client. Here, the trial court did examine in camera the documents to which Farmers asserted

SM 492

an attorney-client privilege. However, it is not clear the court followed the test we set forth today. We remand to the trial court for further proceedings consistent with this opinion.

*702 CONCLUSION

¶ 22 Cedell is entitled to broad discovery, including, presumptively the entire claims file. The insurer may overcome this presumption by showing in camera its attorney was not engaged in the quasi-fiduciary tasks of investigating and evaluating the claim. Upon such a showing, the insurance company is entitled to the redaction of communications from counsel that reflected the mental impressions of the attorney to the insurance company, unless those mental impressions are directly at issue in their quasi-fiduciary responsibilities to their insured. The insured is then entitled to attempt to pierce the attorney-client privilege. If the insured asserts the civil fraud exception, the court must engage in a two step process to determine if the claimed privileged documents are discoverable. We reverse the Court of Appeals in part, affirm in part, and remand to the trial court for further proceedings consistent with this opinion.

WE CONCUR: CHARLES W. JOHNSON, MARY E. FAIRHURST, DEBRA L. STEPHENS, and CHARLES K. WIGGINS, Justices.

ALEXANDER, J.[*] (dissenting).

¶ 23 Although I agree with the majority that we should remand to the trial court **248 for "further proceedings," I disagree with its determination that these proceedings should be conducted consistent with the majority opinion. Majority at 2. I reach that conclusion because the majority incorrectly determines that an insurer, like Farmers Insurance Company, is not entitled to the protections provided by the statutory attorney client privilege in a bad faith action by a first party insured. That, of course, is the position advanced by the petitioner here, Bruce Cedell. As support for his petition, Cedell cited a *703 statement by the Court of Appeals in *Barry v. USAA,* 98 Wash.App. 199, 204, 989 P.2d 1172 (1999), that "in bad faith actions brought by an insured against an insurer under the terms of an insurance contract [,] ... communications between the insurer and the attorney are not privileged" with respect to the insured.

¶ 24 Farmers correctly observes that this statement was dictum and it points out that the *Barry* court, relying on *Escalante v. Sentry Insurance Co.,* 49 Wash.App. 375, 743 P.2d 832 (1987), *overruled on other grounds by Ellwein v. Hartford Accident & Indem. Co.,* 142 Wash.2d 766, 15 P.3d 640 (2001), *overruled by Smith v. Safeco Ins. Co.,* 150 Wash.2d 478, 78 P.3d 1274 (2003), held that the attorney-client privilege did apply in the context of that case. Unlike the instant case, *Escalante* and *Barry* involved underinsured motorist (UIM) claims. But since this pair of UIM cases constitute the only Washington authority directly bearing on the question of the applicability of the attorney-client privilege in a first-party bad faith action, my analysis appropriately begins with a discussion of these cases.

¶ 25 In *Escalante,* the parents of a deceased automobile passenger brought a bad faith action against the UIM insurer of the automobile. In the course of litigating their claim, the parents sought materials relating to the insurer's evaluation of the claim, arguing that the attorney-client privilege did not protect information relevant to a bad faith claim. *Escalante,* 49 Wash.App. at 393, 743 P.2d 832. The Court of Appeals rejected this argument, albeit implicitly, recognizing the attorney-privilege codified by RCW 5.60.060(2). The court indicated that the privilege could be overcome by "a showing of a foundation in fact for the charge of civil fraud." *Id.* at 394, 743 P.2d 832. It did not, however, hold that the privilege is inapplicable in a bad faith action.

¶ 26 In *Barry,* an insured sued her insurance company, USAA, for bad faith for its failure to pay a UIM claim. During discovery, the insured requested reports from the *704 claims adjuster and correspondence from the attorney who handled the claim. After initially ordering USAA to submit the documents for in camera review, the trial court granted USAA's motion for reconsideration and denied the insured's request to inspect the claims file, concluding that the insured had failed to establish sufficient wrongful conduct to invoke the fraud exception to the attorney-client privilege.

¶ 27 On appeal, the Court of Appeals examined whether any of the documents the insured was seeking were privileged. The court began by making the observation set forth above that "it is a well-established principle in bad faith actions brought by an insured against an insurer ... that communications between the insurer and the attorney are not privileged with respect to the insured." *Barry,* 98 Wash.App. at 204, 989 P.2d 1172 (citing *Baker v. CNA Ins. Co.,* 123 F.R.D. 322, 326 (D.Mont.1988); *Silva v. Fire Ins. Exch.,* 112 F.R.D. 699 (D.Mont.1986)). The *Barry* court endorsed the rule articulated in *Silva* that " '[t]he time-worn claims of work

SM 493

product and attorney-client privilege cannot be invoked to the insurance company's benefit where the only issue in the case is whether the company breached its duty of good faith in processing the insured's claim.' " *Id.* (quoting *Silva,* 112 F.R.D. at 699–700). The court went on to say, however, that there was "good reason" to treat first-party bad faith actions involving the processing of UIM claims differently than other first-party claims. *Id.* It observed that "UIM carriers stand in the shoes of the underinsured motorist/tortfeasor to the extent of the carrier's policy limits" and, consequently, are "entitled to pursue all the defenses against the UIM claimant that could have been asserted by the tortfeasor." ****249** *Id.* at 205, 989 P.2d 1172 (citing *Dayton v. Farmers Ins. Group,* 124 Wash.2d 277, 281, 876 P.2d 896 (1994)). "Because the provision of UIM coverage is by nature adversarial," the court explained, "an inevitable conflict exists between the UIM carrier and the UIM insured." *Id.* (citing *Fisher v. Allstate Ins. Co.,* 136 Wash.2d 240, 249, 961 P.2d 350 (1998)). ***705** The court concluded that the "friction between this adversarial relationship and the traditional fiduciary relationship of an insured and an insurer" entitled the UIM insurer to the protections of the attorney-client privilege. *Id.*

¶ 28 The case before us is obviously distinguishable from *Escalante* and *Barry* because it did not arise in a UIM context. It is essentially akin to *Silva,* which involved a claim against an insurer for the loss of a house in a fire. *See Silva,* 112 F.R.D. at 699 ("The instant discovery dispute arises out of plaintiff's request that defendant produce its complete claims file concerning her fire insurance claim."). In *Silva,* the court ruled that "a plaintiff in a first-party bad faith action is entitled to discover the entire claims file kept by the insurer." *Id.* (citing *In re Bergeson,* 112 F.R.D. 692, 697 (D.Mont.1986)). The court went on to hold that "the general rule in cases of this nature should be that the plaintiff is absolutely entitled to discovery of the claims file." *Id.* at 700. Under that general rule, Farmers would not be able invoke the attorney-client privilege to its benefit.

¶ 29 In our judgment, however, the distinction between UIM and non-UIM cases should not be dispositive. The rule endorsed by the Court of Appeals in *Barry* is based on the notion that an insurer in a non-UIM situation is a true fiduciary. *See Barry,* 98 Wash.App. at 205, 989 P.2d 1172. But this court has repeatedly held that the relationship between insurer and insured is not a true fiduciary relationship. *See, e.g., St. Paul Fire & Marine Ins. Co. v. Onvia, Inc.,* 165 Wash.2d 122, 130 n. 3, 196 P.3d 664 (2008); *Safeco Ins. Co. of Am. v. Butler,* 118 Wash.2d 383, 389, 823 P.2d 499 (1992). Instead, a non-UIM, firstparty insurer has merely a quasi-fiduciary relationship with an insured. *Van Noy v. State Farm Mut. Auto. Ins. Co.,* 142 Wash.2d 784, 793, 16 P.3d 574 (2001). As the Supreme Court of Montana said in *Palmer ex rel. Diacon v. Farmers Insurance Exchange,* 261 Mont. 91, 861 P.2d 895, 906 (1993), "The nature of the relationship, not the nature of the cause of action, controls whether communications ***706** between attorney and client can be discovered." Unlike a true fiduciary, an insurer is not required to put the interests of the insured ahead of its own. *Onvia,* 165 Wash.2d at 130 n. 3, 196 P.3d 664. Rather, it must give the interests of the insured *equal* consideration. *Id.* Indeed, an insurance company also has a duty to its shareholders and other policyholders " 'not to dissipate its reserves through the payment of meritless claims.' " *Bosetti v. U.S. Life Ins. Co. of City of N.Y.,* 175 Cal.App.4th 1208, 1237 n. 20, 96 Cal.Rptr.3d 744 (2009) (quoting *Jordan v. Allstate Ins. Co.,* 148 Cal.App.4th 1062, 1072, 56 Cal.Rptr.3d 312 (2007)). Thus, the "friction" that the court discussed in *Barry* is not limited to the UIM context. Given that an insurance company is entitled to give equal consideration to its own interests, it follows that it should be entitled to consult with counsel regarding its obligations under its policies. In our view, such communications should be protected by the attorney-client privilege in the absence of an applicable exception, such as the fraud exception discussed below.

¶ 30 As the Court of Appeals properly observed, "while an attorney's impressions may be relevant to a bad faith claim, an automatic removal of attorney-client privilege would frustrate the purpose of the attorney-client privilege without cause." *Cedell,* 157 Wash.App. at 275, 237 P.3d 309. Affording insurance companies the benefit of the attorney-client privilege will not, as has been suggested, enable the companies to conceal their entire claims files merely by employing attorneys as claims adjusters. In the present case, it is only the advice given by Hall to Farmers in his capacity as an attorney that is protected by the attorney-client privilege. *See* RCW 5.60.060(2)(a) ("communications made ... in the course of professional employment"). In sum, we should hold that an insurer is entitled to the attorney-client privilege in a bad faith action by a first-party ****250** insured in the absence of an applicable exception to the privilege.

¶ 31 Here, Cedell claims the fraud exception. The question, therefore, is this: does the fraud exception to the ***707** attorney-client privilege require a party seeking disclosure to show actual fraud or is a factual showing of bad faith

SM 494

sufficient? In *Escalante,* the court observed that the fraud exception "is usually invoked only upon a prima facie showing of bad faith tantamount to civil fraud." *Escalante,* 49 Wash.App. at 394, 743 P.2d 832 (citing *United Servs. Auto. Ass'n v. Werley,* 526 P.2d 28 (Alaska 1974)). However, because of the proof problems inherent in requiring a prima facie showing at the discovery stage, the court held that "the privilege may be overcome by a showing of a foundation in fact for the charge of civil fraud." *Id.* (citing *Caldwell v. District Court,* 644 P.2d 26, 33 (Colo.1982)). *Escalante* further held that this showing could be accomplished after an in camera inspection of the relevant documents. The *Escalante* court adopted the two-step process developed by the Supreme Court of Colorado in *Caldwell* according to which a trial court first determines whether the party requesting in camera review has made a factual showing adequate to support a good faith belief by a reasonable person that " 'wrongful conduct' " sufficient to invoke the fraud exception has occurred, and if so, after subjecting the documents to in camera review, determines whether there is a "foundation in fact for the charge of civil fraud." *Id.* (quoting *Caldwell,* 644 P.2d at 33).

¶ 32 Unfortunately, the court in *Escalante* did not define the precise contours of "wrongful conduct sufficient to invoke the fraud exception" or "bad faith tantamount to civil fraud." [1] In *Barry,* however, the Court of Appeals seemingly confined the fraud exception to actual fraud. After reviewing ***708** the plaintiff's factual allegations, the court said, "While these allegations may be sufficiently supported by the record to establish a prima facie case of bad faith insurance ..., they do not, in and of themselves, constitute a good faith belief that USAA committed fraud." *Barry,* 98 Wash.App. at 206 07, 989 P.2d 1172. Accordingly, it held that the trial court's refusal to inspect the privileged documents in camera was not an abuse of discretion. *But see Seattle Nw. Sec. Corp. v. SDG Holding Co.,* 61 Wash.App. 725, 741, 812 P.2d 488 (1991) (remanding "for a hearing to determine whether there is sufficient basis for good faith belief by a reasonable person that SDG may have acted in bad faith," and directing the trial court to "order an in camera inspection of the documents" if it "finds that such a preliminary showing has been made").

¶ 33 The Court of Appeals' decision below is consistent with *Barry.* After identifying the "distinct" elements of fraud and bad faith, the court stated that "[t]o qualify for the fraud exception to the attorney-client privilege, the plaintiff must show fraud, as opposed to just bad faith." *Cedell,* 157 Wash.App. at 278, 237 P.3d 309. It noted that in the present case,

> The trial court found that (1) Farmers made a one-time offer of $30,000 with an acceptance period that fell when Hall was out of town, (2) Farmers threatened to deny Cedell coverage without explanation, and (3) the damage to the house was eventually determined to be far more than Farmers' $30,000 offer.

Id. Because there was "no evidence, for example, that Farmers knowingly misrepresented a material fact or that Cedell justifiably relied on a misrepresented material fact to his detriment," the Court of Appeals held that the trial court had abused its discretion by ordering an in camera review. *Id.*

****251** ¶ 34 The Court of Appeals' holding is also consistent with the view of the majority of jurisdictions that limit the exception to fraud. *See* 2 EDWARD J. IMWINKELRIED, THE NEW ***709** WIGMORE: A TREATISE ON EVIDENCE: EVIDENTIARY PRIVILEGES § 6.13.2(d)(1), at 1171–75 (2d ed.2010). In *Freedom Trust v. Chubb Group of Insurance Companies,* 38 F.Supp.2d 1170, 1173 (C.D.Cal.1999), for example, the court observed that "bad faith denial of insurance coverage is not inherently similar to fraud" because it "need not implicate false or misleading statements by the insurer.... The gravamen of fraud, however, is falsity." Therefore, the court concluded that "there is no persuasive reason to include bad faith in the fraud exception to the lawyer-client privilege." *Id.* A substantial minority of jurisdictions, however, recognize a broader version of the exception encompassing communications intended to further any crime or tort. 2 Imwinkelried, *supra,* at 1174. The Ohio Supreme Court extended the exception to documents demonstrating an insurer's bad faith in denying insurance coverage, stating that " '[d]ocuments ... showing the lack of a good faith effort to settle ... are wholly unworthy of the protections afforded by any claimed privilege.' " *Boone v. Vanliner Ins. Co.,* 91 Ohio St.3d 209, 2001-Ohio-27, 744 N.E.2d 154, 157 (2001) (quoting *Moskovitz v. Mt. Sinai Med. Ctr.,* 69 Ohio St.3d 638, 1994-Ohio-324, 635 N.E.2d 331, 349 (1994)). Such documents, moreover, are discoverable without the sort of preliminary showing of wrongful conduct required by *Escalante.* Rather, "in an action alleging bad faith denial of insurance coverage, the insured is entitled to discover claims file materials containing attorney-client

SM 495

communications related to the issue of coverage that were created prior to the denial of coverage." [2] *Id.* at 158.

***710** ¶ 35 This court has said, "Because the [attorney-client] privilege sometimes results in the exclusion of evidence otherwise relevant and material, and may thus be contrary to the philosophy that justice can be achieved only with the fullest disclosure of the facts, the privilege is not absolute; rather, it is limited to the purpose for which it exists." *Dietz v. John Doe,* 131 Wash.2d 835, 843, 935 P.2d 611 (1997) (citing *Dike v. Dike,* 75 Wash.2d 1, 11, 448 P.2d 490 (1968)). The attorney-client privilege exists in order to allow the client to communicate freely with an attorney without fear of compulsory discovery. Although this purpose is served by protecting communications regarding prior wrongful conduct, the privilege should not encourage the perpetration of such conduct. Engaging an attorney in order to further the bad faith denial of insurance coverage represents an abuse of the attorney-client privilege. We should hold, therefore, that communications related to an attorney's aiding an ongoing or future commission of bad faith by an insurer are discoverable if an in camera inspection reveals a foundation in fact of such wrongful conduct, provided that the party seeking disclosure first makes a factual showing adequate to support a good faith belief by a reasonable person that such conduct has occurred. [3]

****252 *711** ¶ 36 In the present case, the trial court properly found that the facts alleged by Cedell supported a good faith belief that wrongful conduct sufficient to invoke the fraud exception has occurred; however, it did not meaningfully perform the second step of *Escalante* and subject Farmers' claims file to in camera review, basing its order compelling discovery of the entire file on the erroneous ground that an insurer is not entitled to the attorney-client privilege in a first-party bad faith action. I emphasize the points that in camera inspection is critical and the attorney-client privilege is not defeated merely by a claim of bad faith.

¶ 37 In sum, we should affirm the Court of Appeals' holding that an insurer may invoke the attorney-client privilege in a bad faith action by a first-party insured, but reverse its holding that the fraud exception to the attorney-client privilege is limited to "actual fraud." As I have indicated, the exception applies to communications related to an attorney's aiding an ongoing or future commission of bad faith by an insurer. We should also affirm the Court of Appeals' reversal of sanctions and remand this matter to the judge who presided over this case with instructions to conduct an in camera inspection of Farmers' claim file consistent with this dissent.

WE CONCUR: JAMES M. JOHNSON, SUSAN OWENS, Justices, and BARBARA A. MADSEN, Chief Justice.

Parallel Citations

295 P.3d 239

Footnotes

* Justice Tom Chambers is serving as a justice pro tempore of the Supreme Court pursuant to Washington Constitution article IV, section 2(a).

1 Apparently, Ackley had admitted that she and others at the house might have consumed methamphetamine on the day of the fire. Cedell himself swore under oath that he had not consumed methamphetamines and did not know Ackley had.

2 The redacted claims file suggests that Cedell called Farmers to tell them about the fire on November 27, 2006, two days after the fire.

3 The Court of Appeals misapprehended the application of the fraud exception. Both *Escalante* and *Barry* involved UIM claims in which the insurer was entitled to assert the attorney-client privilege.

4 Of course, there is no reason to limit the grounds for piercing the privilege in the UIM context to civil fraud; it was merely the particular grounds at issue in that case. Since conduct short of fraud constitutes bad faith, requiring a threshold showing of fraud to reach critical evidence requires too much. *Indus. Indem. Co. of the Nw., Inc. v. Kallevig,* 114 Wash.2d 907, 917, 792 P.2d 520 (1990) ("an insurer's denial of coverage, without reasonable justification, constitutes bad faith"). As a leading treatise notes, bad faith in this context "is not the equivalent of actual fraud." 14 LEE R. RUSS & THOMAS F. SEGALLA, COUCH ON INSURANCE 3D § 204:116, at 204–140 (2005). In the context of first party insurance, bad faith may often be tantamount to civil fraud.

5 Where an attorney is acting in more than one role, insurers may wish to set up and maintain separate files so as not to co-mingle different functions.

6 An asserted attorney-client privilege may also be subject to CR 26(b)(4). CR 26(b)(4) provides:

Trial Preparation: Materials. Subject to the provisions of subsection (b)(5) of this rule, a party may obtain discovery of documents and tangible things otherwise discoverable under subsection (b)(1) of this rule and prepared in anticipation of

SM 496

litigation or for trial by or for another party or by or for that other party's representative (including his attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of his case and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.

* Justice Gerry L. Alexander is serving as a justice pro tempore of the Supreme Court pursuant to Washington Constitution article IV, section 2(a).

1 Notably, the authorities the court cited in *Escalante,* namely *Werley* and *Caldwell,* acknowledged that there was a division of opinion in cases as to whether the fraud exception embraced bad faith falling short of actual fraud. *See Caldwell,* 644 P.2d at 32 n. 5 ("Because the present case involves a claim of fraud, we need not and do not reach the question of whether this exception to the attorney-client privilege extends to other forms of tortious conduct."); *Werley,* 526 P.2d at 32 n. 12 ("In the case at bar it is unnecessary for us to choose between ['civil fraud' and 'tort' because] we find the alleged conduct of the petitioner to be both 'fraudulent' and 'tortious'."); *see also* 2 EDWARD J. IMWINKELRIED, THE NEW WIGMORE: A Treatise on Evidence: Evidentiary Privileges § 6.13.2(d)(1), at 1170 (2d ed. 2010) ("There is a split of authority over the breadth of the exception.").

2 Amicus Washington State Association for Justice Foundation (WSAJF) urges this court to adopt such a bright-line rule. *See* WSAJF Amicus Curiae Br. at 19. As Farmers points out, however, *Boone* was superseded by statute. Resp't's Answer to WSAJF Amicus Curiae Br. at 17 n. 5. In 2006, the Ohio General Assembly amended Ohio Revised Code Annotated § 2317.02(A) to require a party seeking in camera review to make a prima facie showing of bad faith, fraud, or criminal misconduct, similar to the preliminary showing of "wrongful conduct" under step one of *Escalante. See* OHIO REV.CODE ANN . § 2317.02(A)(2). The General Assembly declared, "[T]he attorney-client privilege is a substantial right and ... it is the public policy of Ohio that all communications between an attorney and a client in that relation are worthy of the protection of privilege, and further that where it is alleged that the attorney aided or furthered an ongoing or future commission of insurance bad faith by the client, that the party seeking waiver of the privilege must make a prima facie showing that the privilege should be waived and the court should conduct an in camera inspection of disputed communications. The common law established in *Boone v. Vanliner Ins. Co.* (2001), 91 Ohio St.3d 209, 744 N.E.2d 154, *Moskovitz v. Mt. Sinai Med. Ctr.* (1994), 69 Ohio St.3d 638, 635 N.E.2d 331, and *Peyko v. Frederick* (1986), 25 Ohio St.3d 164, [495 N.E.2d 918,] is modified accordingly to provide for judicial review regarding the privilege." 2006 Ohio Laws 2292, § 6 (Am.Sub.S.B.117).

3 The holding I advance is similar to that which is dictated in Ohio due to a law passed by that state's general assembly in response to *Boone.* Ohio Revised Code Annotated § 2317.02 now provides that an attorney shall not testify concerning a communication made to the attorney by a client or the attorney's advice to a client "except that if the client is an insurance company, the attorney may be compelled to testify, *subject to an in camera inspection by a court,* about communications ... *related to the attorney's aiding or furthering* an *ongoing or future* commission of *bad faith* by the client, if the party seeking disclosure of the communications has made a *prima facie showing of bad faith,* fraud, or criminal misconduct by the client." OHIO REV.CODE ANN. § 2317.02(A)(2) (West 2011) (emphasis added). In my judgment, this approach strikes the proper balance between the principle that justice is best achieved through the full disclosure of the facts and the important policy goals embodied by the attorney-client privilege.

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SM 497

Exhibit 4

656 F.2d 1337
United States Court of Appeals,
Ninth Circuit.

Therese Ballet LYNN, and all others similarly situated, Plaintiffs-Appellants,
v.
The REGENTS OF THE UNIVERSITY OF CALIFORNIA, Defendant-Appellee.

No. 79-3384. | Argued and Submitted March 6, 1981. | Decided Sept. 21, 1981. | As Amended Dec. 18, 1981. | As Amended on Denial of Rehearing and Rehearing En Banc Dec. 28, 1981.

An assistant professor at state university, denied merit salary increases and tenure, filed suit under the equal employment opportunity provisions of the Civil Rights Act of 1964, alleging sex discrimination. The United States District Court for the Central District of California, David W. Williams, J., after trial entered judgment for the university. Plaintiff appealed. The Court of Appeals, Reinhardt, Circuit Judge, held that: (1) evidence including specific statistical data and general statistical data made prima facie case of discrimination against women, and (2) where at discovery stage plaintiff requested that university produce tenure review file and District Court issued protective order and reviewed file in camera but refused to disclose contents of file to plaintiff, and file was used by District Court as evidence rather than for purpose of determining whether contents of file were privileged, there was denial of due process to the plaintiff.

Reversed and remanded.

Alarcon, Circuit Judge, filed a concurring opinion.

Attorneys and Law Firms

***1339** John G. Sobieski, Los Angeles, Cal., for plaintiffs-appellants.

John F. Lundberg, Berkeley, Cal., for defendant-appellee.

Appeal from the United States District Court for the Central District of California.

Before ALARCON, FERGUSON and REINHARDT, Circuit Judges.

Opinion

REINHARDT, Circuit Judge.

Therese Ballet Lynn was an assistant professor at the University of California at Irvine. She was denied merit salary increases and tenure. Lynn filed suit under ***1340** Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e, et seq., alleging sex discrimination. Following trial, the district court entered judgment for the University. In her complaint Lynn also alleged discrimination on the basis of national origin; however, she has not pursued that claim.

Lynn was first employed by the University as a lecturer in 1969. She was promoted to assistant professor in 1971, and held that rank until leaving the University. She was denied a merit salary increase in 1971, after extramural evaluators judged her scholarship to be deficient. One evaluator was selected by the University, and one by Lynn. She was warned of deficient scholarship after internal reviews of extramural evaluations in both academic years 1972-1973 and 1973-1974. The latter evaluation was Lynn's mid-career review, pursuant to the University's policy that tenure be achieved within eight years or termination will result. She was given the opportunity to discuss her problems with members of her department, and during the 1974-1975 academic year was granted a sabbatical "for the explicit purpose of improving her scholarly research." Tenure review began in 1975 and culminated in the official denial of tenure by the University in June 1976. Lynn accepted the University's offer of a terminal one year appointment to June 1977.

The district court described the University's tenure review process as follows:

> The University has a tenure review system for promotion in which the excellence of a candidate's research, teaching, University and public service are judged. In order to receive candid evaluations from peers the reports of the various levels of review are confidential, as are the identities of an ad hoc review committee and the identities of extramural evaluators selected by the University. There are five levels of

SM 499

review in the tenure review process; each is independent of the other. The levels of review include that of the individual department of which the tenure candidate is a member, the dean of the school of which the department is a part, an ad hoc review committee, a review by the Budget Committee of the Academic Senate, review by the Office of Academic Affairs, and finally, review and decision by the Chancellor of the University of California, Irvine.

Lynn provided documentation and named extramural scholars for purposes of her tenure review; others were selected by her department chairman. The district court found, after in camera review of the tenure review files that "(h)er work was favorably commented upon by a majority of these scholars." Nevertheless, denial of tenure was recommended at each level of the review process. After the denial, reconsideration was denied by the Budget Committee. A claim by Lynn, alleging discriminatory treatment, was then rejected by a special committee, after an investigation.

[1] Lynn claims that she received disparate treatment from the University in its promotion and tenure decisions. The standards generally applicable to claims of disparate treatment under Title VII were laid down in McDonnell Douglas Corp. v. Green, 411 U.S. 792, 800, 93 S.Ct. 1817, 1823, 36 L.Ed.2d 668 (1973). See also Furnco Const. Corp. v. Waters, 438 U.S. 567, 572-73, 98 S.Ct. 2943, 2947, 57 L.Ed.2d 957 (1978). In McDonnell Douglas the Supreme Court set forth the four elements necessary to establish a prima facie case of race discrimination under Title VII; the plaintiff must show:

1. that he belongs to a racial minority;

2. that he applied and was qualified for a job for which the employer was seeking applicants;

3. that, despite his qualifications, he was rejected; and

4. that, after his rejection, the position remained open and the employer continued to seek applications from persons of complainant's qualifications.

411 U.S. at 802, 93 S.Ct. at 1824 (footnote omitted). The Court cautioned that these ***1341** four elements might not be necessarily applicable in every respect in all Title VII cases. Id. at 802 n.13, 93 S.Ct. at 1824.

The courts of appeals have consistently approved the application of the McDonnell Douglas test to charges of discrimination in the academic context. [1] The Fourth Circuit adopted the McDonnell Douglas elements and applied them to sex discrimination in the academic context. Smith v. University of North Carolina, 632 F.2d 316 (4th Cir. 1980). In Smith, the Fourth Circuit described the elements of a prima facie case of Title VII discrimination by an institution of higher learning; it said that the plaintiff must show:

1. that she is a member of a class protected by Title VII;

2. that she was qualified for the position or rank sought;

3. that she was denied promotion or reappointment;

4. that in cases of reappointment (or tenure) others (i. e., males) with similar qualifications achieved the rank or position.

632 F.2d at 340. We agree that these are the applicable elements in such cases. [2]

The test set forth above is not an exclusive one. Plaintiffs may under some circumstances establish a prima facie showing of unlawful discrimination in Title VII cases without satisfying the four specific elements of McDonnell Douglas or Smith. The Supreme Court has expressly rejected the argument that meeting the specific McDonnell Douglas requirements is the "only means" by which plaintiffs may make the requisite prima facie showing. Teamsters v. United States, 431 U.S. 324, 358, 97 S.Ct. 1843, 1866, 52 L.Ed.2d 396 (1977). The key, the Court said, is simply that the "plaintiff must carry the initial burden of offering evidence adequate to create an inference that an employment decision was based on a discriminatory criterion illegal under the Act." Id. The Court subsequently explained that the plaintiff's initial burden is met where the plaintiff has shown that "it is more likely than not" that the employer's actions were based on unlawful considerations. Furnco Construction Corp. v. Waters, 438 U.S. 567, 576, 98 S.Ct. 2943, 2949, 57 L.Ed.2d 957 (1978). Thus, in Title VII cases involving institutions of higher learning, plaintiffs may establish their prima facie case by a sufficient showing as to the four Smith elements or by offering other evidence which creates the inference that the complained of act was unlawful.

SM 500

In McDonnell Douglas, the Court also established certain procedures governing the trial of Title VII cases. The "order and allocation of proof" are as follows: (1) the plaintiff must come forward with evidence sufficient to constitute a prima facie case of discrimination; (2) the defendant must then "articulate" a legitimate non-discriminatory reason for the adverse employment decision; and (3) the plaintiff must then be given the opportunity to show that the "assigned reason" was "a pretext or discriminatory in its application." McDonnell Douglas, 411 U.S. at 807, 93 S.Ct. at 1827.

***1342** The district court held, without discussing the four elements that establish a prima facie case under McDonnell Douglas and Smith, that Lynn failed to make the required showing. In the alternative, the district court held that the University "articulated legitimate and non-discriminatory reasons for not granting Lynn tenure." We assume, for purposes of our analysis, that the district court implicitly found that Lynn failed to show that the University's articulated reasons were "a pretext or discriminatory in (their) application."

[2] [3] [4] The district court clearly erred in concluding that Lynn failed to establish a prima facie case of discrimination based on sex. "The burden of establishing a prima facie case is not onerous." Texas Dept. of Community Affairs v. Burdine, 450 U.S. 248, 253, 101 S.Ct. 1089, 1094, 67 L.Ed.2d 207 (1981). Lynn obviously satisfied elements (1) and (3) of the McDonnell Douglas test as applied by Smith in the academic context. She also adduced sufficient evidence as to elements (2) and (4) to satisfy her initial burden. In addition to testimony and documentary evidence, Lynn submitted two types of statistical data; the first, which we refer to as "specific statistical data," tended to show that she met the objective criteria for tenure, and the second, which we refer to as "general statistical data," tended to show a general pattern of discrimination by the University in favor of men.

Lynn's specific statistical data, relating to the objective criteria for tenure, provided evidence that she had the same education, experience and number of published works as others who had been granted tenure. For purposes of deciding whether Lynn has established a prima facie case we find the specific statistical data submitted to be highly persuasive. It supports Lynn's contentions that she "was qualified for the position or rank sought," i. e., element (2), and that "others (*i. e.,* males) with similar qualifications achieved the rank or position," i. e., element (4).

The general statistical data submitted by Lynn, as mentioned, provides evidence of a pattern of academic sex discrimination by the University. The district court described the University's past practices as follows:

> Over the years University administrators have shown a lack of concern for the need for minority and female faculty members, and such indifference persists. Even though the University of California at Irvine maintains an Affirmative Action Program, statistical summaries still display an under utilization of these groups.

Later in its memorandum, the district court noted "since its founding, Irvine has granted tenure to 26 men and only two women the last woman tenured was in 1972."

The Supreme Court has stated that general statistical data is helpful in individual employment discrimination cases. McDonnell Douglas, 411 U.S. at 805, 93 S.Ct. at 1825. It is particularly helpful in the academic context, where the tenure decision is highly subjective. Cf. Rowe v. General Motors, 457 F.2d 348 (5th Cir. 1972).[3] It is relevant despite the fact that the data may ***1343** not be directly probative of any of the four specific elements set forth by McDonnell Douglas and Smith. Proof of a general pattern of sex discrimination is, in any event, evidence which tends to establish that it is "more likely than not" that a University's decision to deny tenure was based on sex, "a discriminatory criterion illegal under the Act." See Furnco Construction Corp., 438 U.S. at 576, 98 S.Ct. at 2949 (quoting Teamsters, 431 U.S. at 358, 97 S.Ct. at 1866).

[5] In addition, testimony at trial revealed that the University's evaluation of Lynn's scholarship was due, in part, to its view that women's studies is not a substantial topic for scholarly work.[4] The district court stated:

> The criticism leveled at her work by scholars and administration officials appears to reflect their disdain of this (women's studies) as a topic of substance in a scholarly work. I find their lack of enthusiasm for her effort may stem from their belief that woman's [sic] studies was an unworthy topic to pursue.

SM 501

The district court concluded, however, that the University's lack of enthusiasm towards women's studies was not evidence of discrimination because the University would have had the same objection if a man concentrated his studies on women's issues. We do not agree. A disdain for women's issues, and a diminished opinion of those who concentrate on those issues, is evidence of a discriminatory attitude towards women.[5] The existence of a discriminatory attitude, like general statistical data, tends to establish that it is more likely than not that the University's decision was based on an impermissible criterion, and therefore tends to establish Lynn's prima facie case.

After consideration of both types of statistical proof, and the other evidence submitted at trial, we believe it is clear that ***1344** the district court's finding that Lynn failed to satisfy her initial burden of establishing a prima facie case was erroneous.

Next, we turn to whether the University "articulated" reasons for its denials of merit salary increases and of tenure. The University argues that its denials were based on deficiencies in Lynn's scholarship.

A prima facie case "raises an inference of discrimination." Furnco Construction Corp., 438 U.S. at 577, 98 S.Ct. at 2949. "To dispel the adverse inference from a prima facie showing under McDonnell Douglas, the employer need only 'articulate some legitimate, non-discriminatory reason for the employee's rejection.' " Id. at 578, 98 S.Ct. at 2950, quoting McDonnell Douglas, 411 U.S. at 802, 93 S.Ct. at 1824. The Court, in Board of Trustees of Keene St. Col. v. Sweeney, 439 U.S. 24, 25, 99 S.Ct. 295, 58 L.Ed.2d 216 (1978), made it clear that the burden of "articulating some legitimate, non-discriminatory reason" is significantly less than proving the absence of discriminatory motive.[6] Accordingly, the court held in Burdine that the defendant-employer need not prove by a preponderance of the evidence that the plaintiff was rejected for a legitimate, nondiscriminatory reason, and the court there stated that "(i)t is sufficient if the defendant's evidence raises a genuine issue of fact as to whether it discriminated against the plaintiff." 101 S.Ct. at 1094 (emphasis added) (footnote omitted).[7]

[6] The evidence offered by the University shows that throughout Lynn's career she was warned that her scholarship was suspect. As mentioned earlier, she was given the opportunity to discuss her problems with members of her department, and after her mid-career review, she was granted sabbatical leave for the explicit purpose of improving her research and writing skills. It was Lynn's deficient scholarship that the tenure review committee claims was the basis of its decision not to recommend merit increases or tenure. Without doubt, deficient scholarship is a legitimate, nondiscriminatory reason to deny salary increases or tenure. In view of the standard set forth in McDonnell Douglas, Sweeney and Burdine, and the relative ease with which the courts of appeals have found the employer's burden to be satisfied in the academic context, see, e. g., Smith v. University of North Carolina, 632 F.2d 316, we agree that the University successfully "articulated" reasons that justify its actions, i. e., it offered evidence supporting its reasons for denying Lynn tenure.

[7] Under some views of the McDonnell Douglas analytical process, the University's articulated reason and supporting evidence might be considered at step one of that process, i. e., in connection with plaintiff's prima facie showing that she possesses the requisite qualifications for tenure. See Leiberman v. Gant, 630 F.2d 60, 64 (2d Cir. 1980). We think it preferable, however, to consider the University's arguments at steps two and three. In our view, objective job qualifications are best treated at step one and subjective criteria, along with any supporting evidence, are best treated at the later stages of the process. To do otherwise would in many instances collapse the three step analysis into a single initial step at which all issues would be resolved. This would defeat the purpose underlying the McDonnell Douglas process. See Sweeney, 439 U.S. at 24 n.1, 99 S.Ct. at 295 n.1. In addition, addressing the University's arguments ***1345** at the first step of the analysis would increase the possibility that courts will be required to engage in evaluations of the performance of faculty members, a task to which others are better suited.[8]

[8] **[9]** From a practical standpoint, and despite our determination that evidence of the nature here involved should be considered in connection with steps two and three rather than step one, it should make little difference to the outcome which way the evidence is analyzed. If evidence relating to subjective criteria is treated as relevant to step one, the plaintiff would be entitled, in connection with that aspect of the case, to show that the alleged criteria are inherently discriminatory or discriminatorily applied, or to show that notwithstanding the University's contentions, she meets the criteria. If offered by the University to meet its step two burden, the plaintiff must attempt to show that the reason offered is not the real explanation for the University's decision, but is merely an excuse for a discriminatory act.

SM 502

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While it is true that the University need offer little evidence in support of its articulated reason in order to require plaintiff to proceed to step three, the more substantial the University's evidence the more persuasive plaintiff's step three evidence must be in order to establish that the articulated reason is pretextual or was discriminatorily applied. Regardless of the stage at which we consider evidence of the nature here involved, the plaintiff's ultimate burden remains the same, to show by a preponderance of the evidence that the University's action was based on unlawful discriminatory conduct. [9]

Since, as we concluded ante, the district court properly found that the University "articulated (a) legitimate, non-discriminatory reason," we would ordinarily next determine if the reason "articulated" by the University was "a pretext or discriminatory in its application." However, we do not decide that issue here.

[10] Throughout the proceedings below, Lynn was denied access to her tenure review file. The materials contained in the file were those upon which the tenure review committee claims that it based its denial of tenure, and, as such, are highly relevant to the issues in this case. At the discovery stage, when Lynn requested that the University produce the file, the district court issued a protective order. At trial, the University submitted the file to the court; the court reviewed it in camera but refused to disclose the contents of the file to Lynn. Lynn asserts that the file was submitted by the University, and used by the district court, as evidence, rather than for the purpose of determining whether the contents of the file were privileged. [10] Thus, Lynn contends that the refusal to ***1346** disclose the contents of the file violated due process. We agree. [11]

During direct examination of Lynn, her attorney offered the minority report of the tenure review committee as evidence. In response, the following statements were made:

> MS. HELWICK (attorney for the University): The problem, you Honor, is that obviously, if this is admitted into evidence then we have a problem by way of a response, and then we get into the whole scholarly debate of the quality of Dr. Lynn's scholarship ...
>
> THE COURT: I think I have to permit it to come in, even though it may place you in the position of having to counterbalance it. It is sort of like the position the government is put in when it wants to prosecute a person for some type of intrusion into government records, and in order to do it must bring forth those records ...
>
> MS. HELWICK: ... and I think that by submitting this document we will necessarily have to further violate the confidentiality of those same extramural scholars.
>
> THE COURT: Is it possible for you to meet this by showing content of the majority report but not authorship?
>
> MS. HELWICK: I think not, ...
>
> THE COURT: Why can't it be submitted, then for in camera inspection of the Court and not of the plaintiff.
>
> MS. HELWICK: I have no objection an in camera review by your Honor of the entire tenure review file, if you deem that appropriate.

The minority report was then admitted into evidence.

Later in the trial, the University presented the district court with the tenure review file for in camera inspection:

> MR. LUNDBERG (attorney for the University): ... And you have a portion of that which has been admitted as Exhibit 23 (the minority report). But there is material you do not have, and we feel for purposes of your making a complete review that you ought to be provided with the file that was before the ad hoc review committee. This is what we propose to provide you.
>
> THE COURT: All right. [12]

The record leaves little doubt that the University submitted the tenure review file to counterbalance the effect of the minority report and that the district court acceded to this use of the file.

The receipt and review by the district court of the tenure review file for the purpose of assisting it to make factual determinations or to evaluate other evidence violated principles of due process upon which our judicial system depends to resolve disputes fairly and accurately. The system functions properly and leads to fair and accurate resolutions, only when vigorous and informed argument is possible. Such argument is not possible, however, without disclosure to the parties of the evidence submitted to the court. Thus, the district court's receipt and review of the file, without disclosure of its contents to Lynn, requires reversal of the order of the district court.

SM 503

In view of our holding, we need not decide the question whether tenure review files, and more particularly peer evaluations, are privileged in academic Title VII cases generally. We do wish, however, to provide the district court with some guidance on the question since that court will be required, once again, to consider the issue of Lynn's right to obtain her tenure review file, upon remand. [13]

***1347 [11]** When determining whether tenure review files, including peer evaluations, are privileged, courts have balanced the university's interest in confidentiality, i. e., in maintaining the effectiveness of its tenure review process, and the need which Title VII plaintiffs have for obtaining peer evaluations in their efforts to prove discriminatory conduct. Jepsen v. Florida Bd. of Regents, 610 F.2d 1379, 1384-85 (5th Cir. 1980); Keyes v. Lenoir Rhyne College, 552 F.2d 579, 581 (4th Cir.), cert. denied 434 U.S. 904, 98 S.Ct. 300, 54 L.Ed.2d 190 (1977). In making that determination it is necessary to consider the importance of enabling plaintiffs to prove that discriminatory conduct has occurred, the difficulty of obtaining direct proof of discriminatory motivation and the strong national policy against discrimination in educational employment.

The Fourth Circuit has suggested, Keyes v. Lenoir Rhyne College, 552 F.2d 579, and the Fifth Circuit has held, Jepsen v. Florida Bd. of Regents, 610 F.2d 1379, that when evaluations serve as the alleged basis for the University's decision to deny tenure or promotion, the plaintiff's interest in proving his case outweighs the University's interest in protecting the confidentiality of a file and that in such cases the evaluations must be provided to the plaintiff. In Keyes, the Fourth Circuit denied plaintiff's request for all peer evaluations for the entire faculty of the College. The court noted, however, that "if the College had sought to justify any male-female disparity on the basis of these evaluations the plaintiff should have been granted the opportunity to use them" to prove her case. 552 F.2d at 581. [14] The Fifth Circuit, in Jepsen, found the reasoning in Keyes to be "persuasive," and held that where "the university defends a claim of discrimination on the ground that promotional decisions were based solely on unbiased faculty evaluations which involved criteria unrelated to sex," a plaintiff is entitled to obtain the evaluations. 610 F.2d at 1384. [15]

[12] The University claims that Lynn was denied tenure because of deficient scholarship. Since its view of Lynn's ability is based, in large part, on the content of the tenure review file, including peer evaluations, the University is defending, in essence, on the ground that its tenure decision with respect to Lynn was based on non-discriminatory peer evaluations. Under Jepsen and Keyes, disclosure of the evaluations would be required. We agree fully with the views expressed by the Fourth and Fifth Circuits in that respect. However, in Lynn's case it is not necessary to rely on the ***1348** right of academic plaintiffs generally to obtain evaluations when a university has used the documents in reaching its decision. The record before us reveals that the University has far less interest in the confidentiality of Lynn's tenure review file than in the ordinary case in which disputes over such files arise. [16]

Lynn received summaries of the comments of her evaluators, as do all University academic personnel when they so request. [17] Unlike the ordinary plaintiff, however, Lynn knew the names of her evaluators due to the fact that Dr. Nicole Marzac, apparently in violation of the University rule, provided her with a copy of the minority report. [18] Moreover, Marzac provided Lynn with copies of letters written by Marzac to Chancellor Aldrich and to Professor Stephen, as well as the minutes of the meeting of the tenure review committee. [19] The final pieces of information undermining the confidentiality of the file were provided, at trial, by Professor Slim, chairman of the tenure review committee. Professor Slim was cross-examined on the proceedings that were conducted by the tenure review committee, and on the majority report. His testimony provided Lynn with further knowledge as to the personal views of the committee members.

Although it cannot be determined with certainty which members of the committee, or evaluators, made which comments, the documentary evidence in Lynn's possession, in addition to Marzac's description of that evidence in her deposition filed with the district court and Slim's testimony at the trial make it possible to attribute specific views and attitudes to specific evaluators. Accordingly, the confidentiality of Lynn's file has been substantially diminished as a result of the information already in her possession.

The district court's determination as to whether and when Lynn may have access to her tenure review file for purposes related to a new trial should be reached in light of the strong interest which Lynn continues to have in determining whether the contents of the file will assist her in proving her case. SM 504

particularly in establishing that the University's articulated reason for denial of tenure was "a pretext or discriminatory in its application"), and the minimal interest that the University now has in preserving the vestiges of confidentiality in the file.[20]

The order of the district court is reversed and remanded for proceedings consistent with this opinion.

ALARCON, Circuit Judge, concurring.

I concur in the opinion of the court insofar as it appears to hold that the district court may have violated Lynn's right to due process by admitting the contents of the tenure review file into evidence "for the purpose of assisting it in making factual ***1349** determinations or to evaluate other evidence", *supra* at 1346, after denying Lynn's request to examine these records because they contain privileged and confidential matter.

The balance of the court's opinion is obiter dictum which is not only unnecessary to the disposition of this matter, but fails to give due consideration to the problems which will flow from a requirement that the confidentiality of peer review evaluation must be breached in every case in which a teacher's ability is based, in large part, on the content of the peer review file, without regard to protection of the privacy of the commentators.

I would exercise judicial restraint and leave to another day the consideration of these seductive issues, when the questions are squarely before this court on a record which is otherwise free of reversible error.

Parallel Citations

26 Fair Empl.Prac.Cas. (BNA) 1391, 28 Fair Empl.Prac.Cas. (BNA) 410, 27 Empl. Prac. Dec. P 32,149

Footnotes

1 See, e. g., Kunda v. Muhlenberg College, 621 F.2d 532, 541-43 (3d Cir. 1980); Whiting v. Jackson St. University, 616 F.2d 116, 120-21 (5th Cir. 1980); Jepsen v. Florida Bd. of Regents, 610 F.2d 1379, 1382-83 (5th Cir. 1980); Sweeney v. Board of Trustees of Keene St. College, 604 F.2d 106, 108 (1st Cir. 1979), cert. denied 444 U.S. 1045, 100 S.Ct. 733, 62 L.Ed.2d 731 (1980); Davis v. Weidner, 596 F.2d 726, 729-31 (7th Cir. 1979); Powell v. Syracuse Univ., 580 F.2d 1150, 1154-56 (2d Cir.), cert. denied 439 U.S. 984, 99 S.Ct. 576, 58 L.Ed.2d 656 (1978).

2 Although Smith like the case before us involves sex discrimination, and the four elements of plaintiff's prima facie case are here described in those terms, the same elements are applicable to claims of race discrimination in the academic context. Moreover, these elements are not applicable solely to claims relating to tenure, reappointment, or promotion, but with appropriate modifications, are also applicable to other Title VII claims involving faculty members, including initial hiring determinations.

3 Reliance on statistical proof at the prima facie case stage is not only practical, but also represents sound policy. The ultimate issue in a case like the one before us is whether the tenure decision was made on the basis of merit or on the basis of sex. Often, there is little direct evidence that plaintiffs can obtain when attempting to show that the decision was based on sex, i. e., that there was discrimination in an individual hiring decision. Despite such problems of proof, Congress entrusted to the courts the responsibility of providing a forum for the litigation of claims of discrimination in universities and other institutions of higher learning. Powell v. Syracuse University, 580 F.2d 1150, 1154 (2d Cir. 1978); The Equal Employment Opportunity Act of 1972, 86 Stat. 103, sec. 3 (1972). Although statistical data does not provide direct evidence of discrimination in the individual hiring decision, use of such data is an effective method of proof, and, accordingly, an effective method by which to discharge our responsibility under Title VII. Moreover, its use has another substantial benefit. Statistical evidence does not deal with the merits of the university's tenure decision, which necessarily involves academic judgments. Its use thus allows us "to steer a careful course between excessive intervention in the affairs of the university and the unwarranted tolerance of unlawful behavior" proscribed by Title VII. Powell, 580 F.2d at 1154.

We do not suggest that avoiding review of internal university processes is an overriding policy. To the contrary, by amending Title VII to cover educational institutions, Congress "evidenced particular concern for the problem of employment bias in an academic setting," Powell, 580 F.2d at 1154, and thereby made the decision that the broad societal interest in eliminating discrimination should be of overriding concern in Title VII cases in the academic context. We note only that the use of statistical data minimizes the possibility that courts will substitute their judgments for those of university personnel while providing courts with an effective tool with which to enforce Title VII.

4 Lynn's study of French literature concentrated heavily on women's issues, e. g., the influence of women on the development of French literature.

SM 505

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5 While we might not have made the statement in the text which accompanies this note a number of years ago, today its truth seems self-evident. The history of our nation reflects the evolution of our understanding of the nature of man (in the generic sense of the word) and the legitimate aspirations and rights of the individual. Attitudes which seemed benign at one time are now understood to be discriminatory. Compare Brown v. Board of Education of Topeka, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954) with Plessy v. Ferguson, 163 U.S. 537, 16 S.Ct. 1138, 41 L.Ed. 256 (1896). The beliefs that women should not have the right to vote, practice law, or serve on the United States Supreme Court, were once reflective of the majority view, and the law. We now understand, somewhat belatedly, that these concepts reflect a discriminatory attitude. Today any person is free to hold to such concepts, but such concepts may not serve as the basis for job-related decisions in employment covered by Title VII. Other concepts reflect a discriminatory attitude more subtly; the subtlety does not, however, make the impact less significant or less unlawful. It serves only to make the courts' task of scrutinizing attitudes and motivation, in order to determine the true reason for employment decisions, more exacting. We are sensitive to the problems related to judicial examination of issues like the importance of women's studies, and to the need for courts to refrain from substituting their judgment for that of educators in areas affecting the content of curricula. Accordingly, the view we express is a narrow one. We are saying only what Title VII commands: when plaintiffs establish that decisions regarding academic employment are motivated by discriminatory attitudes relating to race or sex, or are rooted in concepts which reflect such discriminatory attitudes, however subtly, courts are obligated to afford the relief provided by Title VII.

6 The Court reasoned that if employers were required to prove the absence of discriminatory motive, the third stage of the McDonnell Douglas analysis would be superfluous, "since it would place on the employer at the second stage the burden of showing that the reason for rejection was not a pretext, rather than requiring contrary proof from the employee as a part of the third step." Board of Trustees of Keene St. Col. v. Sweeney, 439 U.S. at 24 n.1, 99 S.Ct. at 295 n.1.

7 Although prior decisions had spoken only of "articulating" a reason, Burdine makes it clear that the defendant must produce some evidence to rebut the plaintiff's case. 101 S.Ct. at 1094.

8 The qualifications that are most appropriately considered at step one are those to which objective criteria can be applied, such as level of education, years of teaching experience, in general and at the particular institution, and the publication of scholarly materials. Where the basic objective criteria are not met, plaintiff has failed to establish a prima facie case. However, in some instances a showing of specific or general discriminatory conduct by a university through statistical or other evidence will be sufficient to raise doubts as to whether objective criteria are applied in a non-discriminatory manner. In those instances dismissal would not be proper, even though plaintiff has failed to show he has met the "objective criteria."

9 We should note that when evidence that supports the University's articulated reason is introduced during the plaintiff's presentation of his case, the plaintiff is required to counter such evidence and offer his proof as to pretext before resting. See Correa v. Nampa School Dist. No. 131, 645 F.2d 814 (9th Cir. 1981).

10 Lynn's principal contention before this court, that she was entitled to access to the file and that the denial of access prevented her from having an adequate opportunity to prove discrimination within the meaning of Title VII, is discussed, post. See text accompanying note 12, et seq.

11 The University does not contend that it would be proper for the district court to have accepted and used the file as evidence without disclosure to Lynn. Rather, the University argues that the file was neither submitted, accepted nor used as evidence.

12 Counsel for plaintiff repeatedly requested the right to see the file. When counsel for the University offered the file (three folders) to the court, saying "I would now submit them to the court, your Honor," plaintiff's counsel objected. In fact, she objected to even an inspection of the file by the court for the reason that plaintiff had not been allowed to see it.

13 While the remainder of our discussion is confined to future use of the tenure review file, we also note for the district court's benefit upon remand, that some of the evidence previously discussed in connection with plaintiff's prima facie case is also relevant with respect to her efforts to establish that the University's articulated reason was "a pretext or discriminatory in its application." Evidence is not necessarily submitted solely to establish a prima facie case or to show pretext or discriminatory application; it may be used, when relevant, to establish either of plaintiff's steps in the McDonnell Douglas process or both. For example, general statistical data is relevant to a showing of discriminatory application, and thus may be used at the third step in the McDonnell Douglas process, McDonnell Douglas, 411 U.S. at 805, 93 S.Ct. at 1825, as well as at the prima facie step.

14 Keyes was a class action suit brought by a class plaintiff on behalf of the female faculty of Lenoir Rhyne College. The class plaintiff alleged sex discrimination in salaries and promotions. To show that the College's explanations for variances in salaries and promotions were pretextual, she requested, inter alia, peer evaluations for all members of the College faculty. It was in this context that the Fourth Circuit held that the evaluations need not be disclosed.

Keyes, the class plaintiff, also had an individual complaint against the College. She alleged that the College's decision to deny her request for an extension of tenure was made on the basis of sex. The College claimed that its denial was based solely on the fact that she was too old. The Fourth Circuit did not address the question of whether Keyes was entitled to her own evaluations. Nor did the Fourth Circuit reveal whether she in fact received those evaluations.

SM 506

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15 We believe the word "solely" was used for the purpose of reflecting accurately the use that the University actually made of the files in the case before the court. We do not believe the Fifth Circuit intended to limit its ruling to cases in which the university considered only faculty evaluations and to exclude from the operation of its rule cases in which the university considered other materials as well as faculty evaluations. We understand the rule which the court set forth to mean that the plaintiff must be permitted to obtain evaluations whenever the university's decision is based on them, in whole or in part.

16 Whether or not a university may adopt procedures which provide for full disclosure of the contents of the evaluations but protect the identities of individual evaluators is a question which we need not determine here. *But, compare In re Dinnan,* 661 F.2d 426 (5th Cir. * 11/16/81) *with Gray v. Board of Higher Education,* 50 U.S.L.W. 2307 (S.D.N.Y., Nov. 9, 1981).

17 University of California Rule 195-20, entitled "Access to Academic Personnel Records," protects individuals' rights to privacy and sets forth when, and to whom, academic records may be disclosed. The rule provides that an individual may inspect all documents except "confidential documents." Those deemed confidential are: (a) letters of evaluation submitted in confidence, (b) letters from the chairperson setting forth a departmental recommendation regarding appointment, promotion, merit increases, appraisal, reappointment, nonreappointment, or terminal appointment, or (c) reports, recommendations from ad hoc and standing committees. Rule 195-20b.(1). The rule also provides that an individual has the right to oral or written summaries of "confidential documents." Rule 195-20b.(2).

18 Dr. Marzac authored the minority report. The minority report represents the views of those who disagreed with the committee's recommendation that tenure be denied.

19 The letters and the minutes were subject to the confidentiality rule of the University and were not to be disclosed.

20 Without suggesting that an in camera review would ever be appropriate in determining a plaintiff's entitlement to a tenure review file, we note that, upon remand, the district court should determine any questions relating to Lynn's right to obtain her tenure review file without considering the nature of its contents or making any in camera review thereof.

End of Document

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SM 507

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SPECIAL MASTER
THE HONORABLE BRUCE HILYER (RET.)
Noted for Hearing: March 11, 2015 9:00 A.M.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

FOR THE COUNTY OF KING

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation, TOP PRODUCER SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation,

Plaintiffs,

vs.

ZILLOW, INC., a Washington corporation, and ERROL SAMUELSON, an individual,

Defendants.

Case No. 14-2-07669-0 SEA

APPLICATION ON SHORTENED TIME FOR SUPPLEMENTAL SUBMISSION IN SUPPORT OF PLAINTIFFS' MOTION FOR RECONSIDERATION OF THE SPECIAL MASTER'S JANUARY 26, 2015 SUPPLEMENTAL ORDER (TRULIA SUBPOENA)

Hearing Date: March 11, 2014
Time: 9:00 a.m.

SM 516

CABLE, LANGENBACH, KINERK & BAUER, LLP
1000 SECOND AVENUE, SUITE 3500
SEATTLE, WASHINGTON 98104-1048
(206) 292-8800

1 The Plaintiffs seek permission for a supplemental submission to the Special Master in
2 support of their Motion for Reconsideration of the January 26, 2015 Supplemental Order
3 quashing aspects of the Plaintiffs' subpoena to Trulia. That decision was based on *in camera*
4 documents submitted by Zillow to show that Zillow was already considering a Trulia acquisition
5 before March 5, 2014—Mr. Samuelson's start date at Zillow. Zillow produced those *in camera*
6 documents to Plaintiffs' counsel this past Thursday, March 5, 2015—after completion of the
7 parties' briefing on this Motion. Ex. 1, K. O'Sullivan Mar. 5, 2015 Letter enclosing Z107962-
8 108048. These documents are particularly relevant to the issue before the Special Master, and
9 warrant this supplemental submission. Plaintiffs make this application on shortened time because
10 this is their first chance to comment on Zillow's *in camera* documents and because the Special
11 Master's consideration of Plaintiffs' Motion for Reconsideration is imminent.
12
DATED March 9, 2015, at Seattle, Washington.
13
s/Jack M. Lovejoy
14 Jack M. Lovejoy, WSBA No. 36962
15 Lawrence R. Cock, WSBA No. 20326
Attorneys for Plaintiffs
16 CABLE, LANGENBACH, KINERK & BAUER, LLP
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SM 517

CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2015, I served the foregoing by email transmission at the email addresses provided to the following:

Honorable Bruce Hilyer
bwh@hilyeradr.com
Also by hand delivery

Clemens H. Barnes
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Counsel for Errol Samuelson

David J. Burman
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jjennison@perkinscoie.com
kgalipeau@perkinscoie.com
Counsel for Zillow, Inc.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED at Seattle, Washington on March 9, 2015.

/s/ Janet Petersen
Janet Petersen, Legal Assistant
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SM 518

SPECIAL MASTER
THE HONORABLE BRUCE HILYER (RET.)
Noted for Hearing: March 11, 2015 9:00 A.M.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

FOR THE COUNTY OF KING

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation, TOP PRODUCER SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation,

Plaintiffs,

vs.

ZILLOW, INC., a Washington corporation, and ERROL SAMUELSON, an individual,

Defendants.

Case No. 14-2-07669-0 SEA

DECLARATION OF JACK LOVEJOY RE SUPPLEMENTAL SUBMISSION IN SUPPORT OF PLAINTIFFS' MOTION FOR RECONSIDERATION OF THE SPECIAL MASTER'S JANUARY 26, 2015 SUPPLEMENTAL ORDER (TRULIA SUBPOENA)

Hearing Date: March 11, 2014
Time: 9:00 a.m.

EXHIBITS CONTAIN INFORMATION

PROTECTED BY PROTECTIVE ORDER

Exs. 2 and 4: AEO M&A (Don't show Plaintiffs)

Ex. 3: CONFIDENTIAL

SM 524

CABLE, LANGENBACH, KINERK & BAUER, LLP
1000 SECOND AVENUE, SUITE 3500
SEATTLE, WASHINGTON 98104-1048
(206) 292-8800

1 Jack M. Lovejoy declares:

2 1. I am over the age of eighteen and competent to testify to the facts stated herein on
3 personal knowledge.

4 2. I am one of the attorneys for plaintiffs in this lawsuit.

5 3. Attached as Exhibit 1 is a March 5, 2015, letter from K. Galipeau enclosing the
6 documents submitted *in camera* to the Special Master.

7 4. Attached as Exhibit 2 are documents bearing bates numbers Zillow107962-
8 Zillow108048, which are the documents enclosed in Exhibit 1.

9 5. Attached as Exhibit 3 is a document bearing bates number EGS004600-02, which
10 is an email chain between Spencer Rascoff and Errol Samuelson dated February 19, 2014
11 through February 21, 2014.

12 6. Attached as Exhibit 4 is a document bearing bates number Zillow0060639, which
13 is an email chain with the subject line "Re: Tiger Anti-takeover provisions" dated March 1, 2014
14 through March 2, 2014.

15

16 I declare under penalty of perjury under the laws of the State of Washington that the
17 foregoing is true.

18 DATED March 9, 2015, at Seattle, Washington.

19 /s/ Jack M. Lovejoy
Jack M. Lovejoy

20

21

22

23 SM 525

CABLE, LANGENBACH,
KINERK & BAUER, LLP
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SEATTLE, WASHINGTON 98104-1048
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CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2015, I served the foregoing by email transmission at the email addresses provided to the following:

Honorable Bruce Hilyer
bwh@hilyeradr.com
**Also by hand delivery*

Clemens H. Barnes
Estera Gordon
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Counsel for Zillow, Inc.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED at Seattle, Washington on March 9, 2015.

/s/ Janet Petersen
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March 5, 2015

Katherine G. Galipeau
KGalipeau@perkinscoie.com
D. (206) 359-8075
F. (206) 359-9075

VIA MESSENGER

Jack M. Lovejoy
Lawrence R. Cock
Cable, Langenbach, Kinerk & Bauer
1000 Second Avenue, Suite 3500
Seattle, WA 98104

Re: Move, Inc., et al. v. Zillow and Samuelson

Dear Jack and Lawrence:

Enclosed is a disk containing a production of documents from Zillow that includes documents Bates numbered Zillow0107962-Zillow0108048. The production includes the documents responsive to plaintiffs' untimely RFP No. 142. One of the documents had been produced previously, but we have reduced the redactions and did so for other versions of the same document as well. The disk contains an overlay for those documents. The disk includes material designated OUTSIDE COUNSEL EYES ONLY (Don't show plaintiffs).

As for prior productions, the password for the encrypted production disks will be sent under a separate cover letter.

Very truly yours,

Katherine G. Galipeau

Encl.

cc: Clem Barnes (w/encl.)

SM 527

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March 5, 2015

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VIA MESSENGER

Jack M. Lovejoy
Lawrence R. Cock
Cable, Langenbach, Kinerk & Bauer
1000 Second Avenue, Suite 3500
Seattle, WA 98104

Re: Move, Inc., et al. v. Zillow and Samuelson

Dear Jack and Lawrence:

The enclosed disk is encrypted. The password is: O^mJ5AdgTw^D.

Very truly yours,

Katherine G. Galipeau

Encl.

cc: Clem Barnes

SM 528

56920-0025/LEGAL125234844.1
Perkins Coie LLP

SPECIAL MASTER
THE HONORABLE BRUCE HILYER (RET.)
Noted for Consideration: February 10, 2015

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

FOR THE COUNTY OF KING

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation, TOP PRODUCER SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation, Plaintiffs, vs. ZILLOW, INC., a Washington corporation, ERROL SAMUELSON, an individual, CURTIS BEARDSLEY, an individual, and DOES 1-20, Defendants.	Case No. 14-2-07669-0 SEA **ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFFS' MOTION FOR RECONSIDERATION OF THE SPECIAL MASTER'S JANUARY 26, 2015 SUPPLEMENTAL ORDER (TRULIA SUBPOENA)**

This matter came before the Special Master on Plaintiffs' Motion for Reconsideration of the Special Master's January 26, 2015 Order. The Special Master has reviewed:

1. Plaintiffs' Motion;
2. The Declaration of Jack M. Lovejoy with attached exhibits;

SM 732

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3. Other pleadings referenced in support of this matter;
4. Zillow, Inc.'s Opposition;
5. Plaintiffs' reply; and
6. Plaintiffs' supplemental materials.

The Special Master heard oral argument on March 11, 2015 and is fully advised. Now therefore, it is ORDERED:

1. Plaintiffs' Motion for Reconsideration is GRANTED in part, and the Special Master Order dated January 26, 2015 is REVERSED consistent with the remainder of this Order.
2. Zillow's motion for a protective order regarding Item No. 4 of the subpoena duces tecum directed at Trulia is DENIED, provided that Item No. 4 shall read: "Documents, including communications between Zillow and Trulia, sufficient to show the date on which Zillow and Trulia began discussing their pending merger and all documents relating in any way to the premise that Zillow should acquire Trulia as a defensive measure against a potential transaction involving Move and Trulia."
3. In all other respects, the Motion for Reconsideration is DENIED.

Dated this 30 day of March, 2015.

Hon. Bruce Hilyer (Ret.), Special Master

SM 733

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1 Presented by:

2

CABLE, LANGENBACH, KINERK & BAUER, LLP

3 /s/Jack M. Lovejoy

Jack M. Lovejoy, WSBA No. 36962

4 Lawrence R. Cock, WSBA 20326

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SM 734

SPECIAL MASTER
THE HONORABLE BRUCE HILYER (RET.)
Noted for Consideration: February 10, 2015

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

FOR THE COUNTY OF KING

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation, TOP PRODUCER SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation,

Plaintiffs,

vs.

ZILLOW, INC., a Washington corporation, ERROL SAMUELSON, an individual, and DOES 1-20,

Defendants.

Case No. 14-2-07669-0 SEA

ORDER RE: PLAINTIFFS' MOTION FOR RECONSIDERATION OF THE SPECIAL MASTER'S JANUARY 26, 2015 SUPPLEMENTAL ORDER (TRULIA SUBPOENA)

[PROPOSED]

This matter came before the Special Master on Plaintiffs' Motion for Reconsideration of the Special Master's January 26, 2015 Order. The Special Master has reviewed:

1. Plaintiffs' Motion;
2. The Declaration of Jack M. Lovejoy with attached exhibits;
3. Other pleadings referenced in support of this matter;

SM 338

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4. Zillow, Inc.'s Opposition;

5. Plaintiffs' reply;

6. ____

7. ____.

The Special Master is fully advised. Now therefore, it is ORDERED:

1. Plaintiffs' Motion for reconsideration is GRANTED.
2. The Special Master Order dated January 26, 2015 is REVERSED.
3. Zillow's motion for a protective order regarding Item No. 4 of the subpoena duces tecum directed at Trulia is DENIED.
4. Plaintiffs can serve on Trulia a subpoena containing Item 4 of their original subpoena duces tecum to Trulia.

Dated this ___ day of February, 2015.

____

Hon. Bruce Hilyer (Ret.), Special Master

Presented by:

CABLE, LANGENBACH, KINERK & BAUER, LLP
/s/Jack M. Lovejoy
Jack M. Lovejoy, WSBA No. 36962
Lawrence R. Cock, WSBA 20326
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SPECIAL MASTER
THE HONORABLE BRUCE HILYER (RET.)

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation, TOP PRODUCERS SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation,

Plaintiffs,

v.

ZILLOW, INC., a Washington corporation, ERROL SAMUELSON, an individual, and DOES 1-20,

Defendants.

No. 14-2-07669-0 SEA

DECLARATION OF KATHLEEN M. O'SULLIVAN IN SUPPORT OF DEFENDANT ZILLOW, INC.'S OPPOSITION TO PLAINTIFFS' MOTION FOR RECONSIDERATION OF THE SPECIAL MASTER'S JANUARY 26, 2015 SUPPLEMENTAL ORDER (TRULIA SUBPOENA)

CONTAINS INFORMATION PROTECTED BY PROTECTIVE ORDER

Exhibit H: Confidential

1. I have personal knowledge of the facts stated below and am competent to testify regarding the same. I am one of the attorneys representing defendant Zillow, Inc. ("Zillow") in this matter.

2. At the Court's suggestion, the parties will engage in mediation on March 17.

3. Attached as **Exhibit A** is a true and correct copy of the first Subpoena Duces Tecum Directed To Records Custodian For Trulia, Inc., served on the parties on November 25, 2014.

4. Attached as **Exhibit B** is a true and correct copy of the court's Order Re: Trial Date and Preliminary Injunction dated February 4, 2015.

5. Attached as **Exhibit C** is a true and correct copy of a press release issued by Zillow on February 17, 2015.

6. Attached as **Exhibit D** is a true and correct copy of an article located at the following URL: http://www.housingwire.com/articles/33001-exclusive-move-owned-listhub-terminates-trulia-relationship.

7. Attached as **Exhibit E** is a true and correct copy of an Ex Parte Order Re Order To Show Cause; And Temporary Restraining Order entered on February 23, 2015, in *Trulia, Inc. v. Move Sales, Inc.*, No. CGC-15-544255, in the Superior Court of San Francisco.

8. Attached as **Exhibit F** is a true and correct copy of the Special Master's Order Regarding Initial Discovery Conference and Discovery Plan, dated November 11, 2014.

9. On February 24, 2015, my colleague Katie Galipeau and I met and conferred with Nick Saros and Jack Lovejoy regarding Zillow's response to Plaintiffs' sixth discovery requests. Attached as **Exhibit G** is a true and correct copy of Plaintiffs' Sixth Discovery

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Requests to Defendant Zillow, Inc., issued to Zillow on February 3, 2015. During this meet and confer, I advised counsel that although these requests are untimely, Zillow will voluntarily produce those non-privileged documents submitted to the Special Master *in camera*. I also advised Plaintiffs' counsel that Zillow has searched the documents collected from Mr. Beardsley and has found no communications from Mr. Beardsley regarding the acquisition or potential acquisition of Trulia. As to Plaintiffs' requests in the Sixth Discovery Requests to Zillow, I advised counsel that Zillow has already produced Mr. Samuelson's entire email box. Zillow is not aware of any document from either Mr. Samuelson or Mr. Beardsley indicating that either one had any input or involvement in the potential acquisition of Trulia.

10. Attached as **Exhibit H** is a true and correct copy of EGS004253, an email from Mr. Samuelson dated January 6, 2014 and designated "Confidential." This document was produced in Mr. Samuelson's first document production on June 30, 2014.

11. Attached as **Exhibit I** is a true and correct copy of an article located at the following URL: http://therealdeal.com/blog/2014/02/17/trulia-head-stands-by-strategy-despite-investor-qualms-video/ .

12. Attached as **Exhibit J** is a true and correct copy of an article published in Fortune Magazine on April 28, 2014.

13. Attached as **Exhibit K** is a true and correct copy of a report published by CRT Capital on November 6, 2013.

14. Attached as **Exhibit L** is a true and correct copy of a report published by Deutsche Bank on February 14, 2014.

15. Attached as **Exhibit M** is a true and correct excerpt of an SEC filing submitted by Zillow on November 17, 2014, and available at

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http://www.sec.gov/Archives/edgar/data/1334814/000119312514415556/d778624ddefm14a .htm).

16. Attached as **Exhibit N** is a true and correct copy of a press release issued by News Corp on September 30, 2014, which was also filed with the SEC and is available at http://www.sec.gov/Archives/edgar/data/1085770/000119312514358968/d797176dex994.htm.

I declare under penalty of perjury of the State of Washington that the foregoing is true and correct.

Signed at Seattle, Washington, this 25th day of February, 2015.

Kathleen M. O'Sullivan

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

CERTIFICATE OF SERVICE

On February 25, 2015, I caused to be served upon counsel of record, at the address stated below, via the method of service indicated, a true and correct copy of the following document: DECLARATION OF KATHLEEN M. O'SULLIVAN IN SUPPORT OF OPPOSITION TO PLAINTIFF'S MOTION FOR RECONSIDERATION OF THE SPECIAL MASTER'S JANUARY 26, 2015 SUPPLEMENTAL ORDER (TRULIA SUBPOENA)

Jack M. Lovejoy, WSBA No. 36962 Lawrence R. Cock, WSBA No. 20326 Cable, Langenbach, Kinerk & Bauer, LLP Suite 3500, 1000 Second Avenue Building Seattle, WA 98104-1048 Telephone: (206) 292-8800 Facsimile: (206) 292-0494 jlovejoy@cablelang.com LRC@cablelang.com kalbritton@cablelang.com jpetersen@cablelang.com	☐ Via Hand Delivery ☐ Via U.S. Mail, 1st Class, Postage Prepaid ☐ Via Overnight Delivery ☐ Via Facsimile ☐ Via E-filing ☒ Via E-mail
Clemens H. Barnes, Esq., WSBA No. 4905 Estera Gordon, WSBA No. 12655 Daniel Oates, WSBA No. 39334 Miller Nash Graham & Dunn LLP Pier 70 2801 Alaskan Way, Suite 300 Seattle, WA 98121-1128 Telephone: (206) 624-8300 Facsimile: (206) 340-9599 clemens.barnes@millernash.com connie.hays@millernash.com estera.gordon@millernash.com dan.oates@millernash.com robert.mittenthal@millernash.com	☐ Via Hand Delivery ☐ Via U.S. Mail, 1st Class, Postage Prepaid ☐ Via Overnight Delivery ☐ Via Facsimile ☐ Via E-filing ☒ Via E-mail

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I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 25th day of February, 2015.

/s Maryellen Walsh
Maryellen Walsh, Legal Secretary

EXHIBIT A

SUPERIOR COURT FOR THE STATE OF WASHINGTON
KING COUNTY

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation, TOP PRODUCER SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation, Plaintiffs, vs. ZILLOW, INC., a Washington corporation, and ERROL SAMUELSON, an individual, Defendants.	Case No. 14-2-07669-0 SEA **SUBPOENA DUCES TECUM DIRECTED TO RECORDS CUSTODIAN FOR TRULIA, INC.**

TO: TRULIA, INC.
535 Mission Street, Suite 700
San Francisco, CA 94105

☑ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. CR 30(b)(6).

PLACE OF DEPOSITION	DATE AND TIME
Location TBD in Thurston County	December 23, 2014 @ 10:00 a.m.

In the alternative:

☑ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or tangible things, along with a records custodian declaration in the form of Exhibit B, at the place, date, and time specified below (list documents or objects):

SM 364

See attached Exhibit A

PLACE	DATE AND TIME

Cable, Langenbach, Kinerk & Bauer, LLP 1000 Second Avenue, Suite 3500 Seattle, WA 98104	December 22, 2014 @ 10:00 a.m
ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT [signature], Attorney for Plaintiffs	DATE December 5, 2014

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER
Jack M. Lovejoy, 1000 Second Avenue, Suite 3500, Seattle, WA 98104, (206) 292-8800

PROOF OF SERVICE

	DATE	PLACE
SERVED		

SERVED ON (PRINT NAME) MANNER OF SERVICE

SERVED BY (PRINT NAME) TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the State of Washington that the foregoing information contained in the Proof of Service is true and correct.

Executed on ______________________
DATE/PLACE

____
SIGNATURE OF SERVER

____
ADDRESS OF SERVER

____

(c) **Protection of Persons Subject to Subpoenas.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of
production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce and all other parties, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance;

(ii) fails to comply with RCW 5.56.010 or subsection (e)(2) of this rule;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden, provided that, the court may condition denial of the motion upon a requirement that the subpoenaing party advance the reasonable cost of producing the books, papers, documents, or tangible things.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) **Duties in Responding to Subpoena.**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) (A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information in camera to the court for a determination of the claim. The person responding to the subpoena must preserve the information until the claim is resolved.

EXHIBIT A
TO SUBPOENA DUCES TECUM DIRECTED TO TRULIA, INC.

Documents to be Produced

1. Documents sufficient to describe the 2013 and 2014 compensation package for Alon Schaver.

2. Documents sufficient to describe the 2013 and 2014 compensation package for Trulia's head of business to business product lines, if that is someone other than Mr. Schaver.

3. For the time period November 1, 2013 through present, communications between Zillow and Trulia regarding ListHub.

4. Documents, including communications between Zillow and Trulia, sufficient to show the date on which Zillow and Trulia began discussing their pending merger and Zillow's stated reasons for the proposed merger.

5. Communications between Trulia and Errol Samuelson regarding Trulia's acquisition by Zillow.

6. Communications between Trulia and Curtis Beardsley regarding Trulia's acquisition by Zillow.

7. Communications between Trulia and Errol Samuelson regarding Move, Realtor.com, or ListHub on March 5, 2014 or after.

8. Communications between Trulia and Curtis Beardsley regarding Move, Realtor.com, or ListHub on March 17, 2014 or after.

EXHIBIT B

The Honorable John H. Chun

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

MOVE, INC. *et al.*, Plaintiffs, v. ZILLOW, INC., *et al.*, Defendants.	NO. 14-2-07669-0 SEA ORDER RE: TRIAL DATE AND PRELIMINARY INJUNCTION **CLERK'S ACTION REQUIRED**

THIS MATTER comes before the court on the Parties' Stipulation and Order re Extension of Trial Date and Preliminary Injunction. The court has reviewed the stipulation and other materials on file. The court hereby ORDERS as follows:

1. The trial date in this action is continued to October 26, 2015, in light of the complexities of the case.

2. The Clerk is directed to enter a new case schedule. Deadlines in the case schedule, beginning with the deadline for possible primary witness disclosures, are to be reset based on the new trial date.

3. In light of the foregoing, Plaintiffs' motion to modify case schedule of January 23, 2015—as well as the parties' motions to seal in connection with the motion to modify case schedule—are hereby stricken.

Hon. John H. Chun
King County Superior Court
516 3rd Ave, Seattle, WA 98104
(206) 477-1423

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

4. The Parties shall file a joint stipulated Voluntary Withdrawal of Review pursuant to Rule 18.2 of the Rules of Appellate Procedure within three (3) business days of entry of this Order. The stipulated Voluntary Withdrawal of Review will provide that each side will bear its own costs and attorneys' fees in connection with the Appeal.

5. The Preliminary Injunction entered by the Court on June 30, 2014 (Dkt. No. 201) is hereby amended so that Paragraphs 1, 2, 3, 6, and 9 expire when this matter is adjudicated or on March 22, 2015, whichever is earlier.

6. The bond filed by Plaintiffs, in part on July 1, 2014, and in part on January 30, 2015, is hereby exonerated. The Clerk is directed to return the bond in full to the plaintiffs or their attorneys without delay. No further bond or security of any type will be required in connection with the Preliminary Injunction.

IT IS SO ORDERED.

DATED this 4th day of February, 2015

John H. Chun
Judge John H. Chun

SM 370

Hon. John H. Chun
King County Superior Court
516 3rd Ave, Seattle, WA 98104
(206) 477-1423

EXHIBIT C

CONTACT US

The fastest way to reach our Media Relations team is to email press@zillow.com.

Press Releases

Zillow Completes Acquisition of Trulia for $2.5 Billion in Stock; Forms "Zillow Group" Family of Brands

New parent company houses collection of largest home-related brands on mobile and Web

Feb 17, 2015

SEATTLE and SAN FRANCISCO, Feb. 17, 2015 /PRNewswire/ -- Zillow, Inc. today announced it has completed its previously announced acquisition of Trulia, Inc. for $2.5 billion in a stock-for-stock transaction, and formed Zillow Group, Inc. (NASDAQ:Z), which houses a portfolio of the largest and most vibrant U.S. real estate and home-related brands on mobile and the Web. In addition to Zillow and Trulia, Zillow Group's consumer brand portfolio includes StreetEasy, New York City's leading real estate marketplace, and rental search brand HotPads.

"This is a pivotal day in online real estate and we couldn't be more excited to welcome Trulia to Zillow Group," said Spencer Rascoff, CEO of Zillow Group. "Each of our brands share a consumer-first philosophy, and our powerful combination of insights and expertise will drive even greater innovation for consumers, empowering them with essential information they need to make critical financial decisions. Our combination will also enable real estate professionals to more efficiently and easily reach the nation's largest audience of engaged buyers, sellers and homeowners, and extract even more value from their advertising."

Paul Levine, previously Trulia's chief operating officer, has been named president of Trulia, reporting to Rascoff. Pete Flint, co-founder and former CEO of Trulia, has joined the Zillow Group board of directors, as has former Trulia board member Greg Waldorf. Zillow Group is expected to begin trading on Nasdaq on Feb. 18, 2015, under the ticker symbol "Z" and will inherit the trading history of Zillow Inc., which also traded under the ticker symbol "Z".

Later this year, Zillow Group expects to begin to offer shared services and marketing platforms for advertisers and industry partners that will enhance efficiency and deliver greater return on investment. Information about any changes will be communicated promptly to advertisers and partners.

In connection with the close of the acquisition, the companies eliminated approximately 280 positions, primarily in San Francisco and Bellevue, Wash., due primarily to redundancy in the combined company's sales and administrative organizations. Another 70 positions will be eliminated as of the end of the second quarter, at which time Zillow Group will have approximately 2,000 employees. The approximately 350 affected employees have already been notified.

Zillow Group intends to provide pro forma financial results for the year ended Dec. 31, 2014 prior to its first quarter earnings report, tentatively planned for May 2015. Information about Zillow Group, including media and investor information, can be found at www.zillowgroup.com. Zillow Group news can also be found at the Twitter handle @ZillowGroup.

Transaction Details

Zillow Group acquired Trulia in a stock-for-stock transaction valued at $2.5 billion, based on the closing price of Zillow stock on Feb. 17, 2015. As part of the agreement, Trulia stockholders received 0.444 shares of Class A Common Stock of Zillow Group, Inc. for each share of Trulia Common Stock, and own approximately 33% of the combined company as of closing. Current Zillow holders of Class A Common Stock and Class B Common Stock received one share of comparable Zillow Group Common Stock, representing approximately 67% of the newly combined company. Zillow Group now has approximately 70.5 million fully diluted shares outstanding. Trulia's convertible notes have been assumed by Zillow Group. The acquisition of Trulia was announced on July 28, 2014, received shareholder and stockholder approval for each company on Dec. 18, 2014, and Zillow was notified by the Federal Trade Commission of its assent of the transaction on Feb. 13, 2015.

Conference Call

Zillow Group management will host a conference call to discuss the close of the Trulia acquisition on Feb. 18, 2015. The call will begin at 6 a.m. Pacific Time (9 a.m. Eastern Time), and it will also be webcast live. The live webcast of the conference call will be available on the investor relations section of Zillow Group's website at http://investors.zillowgroup.com/. For those without access to the Internet, the call may be accessed toll-free via phone at 877-643-7152 with conference ID# 61427387. Callers outside the United States may dial 443-863-7921 with conference ID# 61427387. Following completion of the call, a recorded replay of the webcast will be available on the investor relations section of Zillow Group's website at http://investors.zillowgroup.com.

Forward-Looking Statements

This press release contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934 that involve risks and uncertainties, including, without limitation, statements regarding Zillow's acquisition of Trulia and the expected benefits of the transaction; operational and organizational details of the combined company; the way in which the transaction will impact consumers, real estate professionals, and industry partners; the ability of the combined company to innovate; our ability to realize opportunities of scale; our ability to deliver greater return on investment to our advertisers; and the expected timing of trading on Nasdaq. Statements containing words such as "may," "believe," "anticipate," "expect," "intend," "plan," "project," "will," "projections," "estimate," or similar expressions constitute forward-looking statements. Such forward-looking statements are subject to significant risks and uncertainties and actual results may differ materially from the results anticipated in the forward-looking statements. Factors that may contribute to such differences include, but are not limited to, the risk that expected cost savings or other synergies from the transaction may not be fully realized or may take longer to realize than expected, the risk that the businesses may not be combined successfully or in a timely and cost-efficient manner; and the risk that business disruption relating to the merger may be greater than expected. The foregoing list of risks and uncertainties is illustrative, but is not exhaustive. Additional factors that could cause results to differ materially from those anticipated in forward-looking statements can be found under the caption "Risk Factors" in Zillow's Annual Report on Form 10-K for the year ended December 31, 2014, Trulia's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2014, and in Zillow's and Trulia's other filings with the Securities and Exchange Commission. Except as may be required by law, neither Zillow nor Trulia intend, nor undertake any duty, to update this information to reflect future events or circumstances.

About Zillow Group

Zillow Group (NASDAQ:Z) houses a portfolio of the largest real estate and home-related brands on the Web and mobile. The company's brands focus on all stages of the home lifecycle: renting, buying, selling, financing and home improvement. Zillow Group is committed to empowering consumers with unparalleled data, inspiration and knowledge around homes, and connecting them with the right local professionals to help. The Zillow Group portfolio of consumer brands includes real estate and rental marketplaces Zillow®, Trulia®, StreetEasy® and HotPads®. In addition, Zillow Group works with tens of thousands of real estate agents, lenders and rental professionals, helping them maximize business opportunities and connect to millions of consumers. The company operates a number of brands for real estate, rental and mortgage professionals, including Postlets®, Mortech®, Diverse Solutions®, Market Leader®, ActiveRain® and Retsly™. The company is headquartered in Seattle.

Zillow, Postlets, Mortech, Diverse Solutions, StreetEasy, and HotPads are registered trademarks of Zillow, Inc. Retsly is a trademark of Zillow, Inc. Trulia is a registered trademark of Trulia, Inc. Market Leader is a registered trademark of Market Leader, Inc.

(ZFIN)

To view the original version on PR Newswire, visit:http://www.prnewswire.com/news-releases/zillow-completes-acquisition-of-trulia-for-25-billion-in-stock-forms-zillow-group-family-of-brands-300037280.html

SOURCE Zillow, Inc.

For further information: Katie Curnutte, Media relations, 206-757-2785, press@zillow.com, Raymond Jones, Investor relations, 206-470-7137, ir@zillow.com

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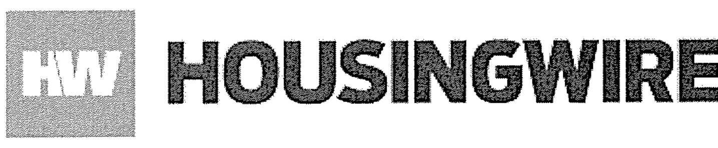
EXHIBIT D



Home

EXCLUSIVE: Move-owned ListHub terminates Trulia relationship

Listing agreement ends in five business days

Ben Lane
February 19, 2015

[Update 1: Updated with a statement from Zillow in response to ListHub's decision to cancel Trulia listing agreement]

The frosty relationship between **Move Inc.**, which is owned by **News Corp** (NWS) and operates **Realtor.com** for the **National Association of Realtors**, and the newly formed **Zillow Group** (Z),which includes Zillow and Trulia, is about to get even colder.

ListHub, which is owned by Move, announced Thursday that it is immediately terminating its listing agreement with Trulia, effective in five business days, meaning that any ListHub-provided listing on Trulia.com will disappear on Feb. 26.

ListHub notified Trulia of the cancellation moments ago and began distributing letters to ListHub's customers alerting them to the change as well.

The two companies are already positioned as the principal combatants in the ongoing battle for online real estate dominance, but the gloves have just come off.

In a statement to HousingWire, ListHub's general manager, Celeste Starchild, said that the cancellation is a direct result of Zillow's $2.5 billion acquisition of Truila.

"Today, ListHub notified its customers about the end of its direct syndication relationship with Trulia effective February 26. This action is a result of the completion of Zillow's acquisition of Trulia this week, and the upcoming dissolution of ListHub's syndication relationship with Zillow this April," Starchild said.

"Going forward, ListHub will continue to operate as the industry's most trusted and reliable listing data exchange platform, ensuring that industry-defined data quality standards and protections are upheld with the utmost rigor and that broker choice and control remain at the center of the exchange of listing information."

It is unknown how many listings will disappear from Trulia on Feb. 26, but Starchild's letter to customers suggests one way the Zillow Group may move forward.

SM 375

"Zillow has not specifically announced its plans to power listings on the Trulia website going forward; however, we would assume that Zillow will add Trulia to its network in the same way that it acquired HotPads.com and made it part of the Zillow network," Starchild said in her letter.

In response to ListHub's decision, Zillow Group Spokesperon Katie Curnutte told HousingWire that Realtors, agents and brokers need to cut out the middleman and send their listings to Zillow and Trulia directly.

"News Corp's decision to terminate their contract with Trulia underscores what we've been saying all along – it's critical for Multiple Listings Services and Realtor Association Boards to work directly with the largest real estate websites, like Zillow and Trulia, to ensure their seller's listings can be seen by the largest audience of home buyers," Curnutte said in a statement. "MLSs should not outsource something as important as the online marketing of their members' listings (and the millions of sellers they represent) to third-party intermediaries like News Corp."

ListHub's listing agreement with Zillow is also set to expire on April 7, although canceling that agreement was Zillow's decision.

"There is no dispute between the parties with respect to the agreement, and Zillow will not incur any early termination penalties as a result of the agreement's expiration," Zillow said in January.

But in a statement provided to HousingWire at the time, Move said that it hoped to continue its listing agreement with Zillow.

"ListHub has been negotiating in good faith a new listing distribution and reporting agreement with Zillow on terms that reflect the best interests of the brokerage industry," Move said in a statement. "As communicated in public announcements, Zillow decided to end those negotiations and announced the launch of their own platform. Zillow chose their own route for their business model and interests."

The Zillow-ListHub agreement will be over soon, and Zillow Group CEO Spencer Rascoff intimated this week that he's glad the ListHub relationship is ending.

"When we announced we were parting ways with News Corp, we were constrained on being reliant on a competitor for listings," Rascoff said Wednesday morning. He said ListHub sent inferior listings to emphasize that Move's Realtor.com had "higher quality listings."

To make up for the "few hundred thousand" listings that Zillow expects to lose when the ListHub agreement ends, it recently launched its own listing management system, designed to allow agents and brokers to send listing data directly to Zillow.

When Zillow announced it was canceling the ListHub agreement, the company said that it was reaching out to the affected MLSs to securing listing agreements to prevent listings from disappearing from Zillow.

Rascoff said Wednesday that Zillow has already made progress in that regard. "Two of the three largest MLS have decided to send Zillow listings feeds," Rascoff said. "Several other deals are in the pipeline."

The accuracy of listing data has long been a sticking point between Realtor.com, Zillow, Trulia and the agents who send their listings to the respective sites.

SM 376

Move CEO Ryan O'Hara touted Realtor.com's accuracy in a recent email to his employees explaining Move's plans for the future.

"How will we compete?" O'Hara asked in the email, which was obtained by HousingWire. "By continuing to build the best web and mobile experiences for consumers and the best and most valuable tools for brokers and agents, and by providing the market with the most comprehensive, most accurate and most up-to-date listings in the U.S."

O'Hara said that he believes that Realtor.com's accuracy is one of the main reasons the site has grown recently.

"Realtor.com is extremely well positioned to compete and thrive in this environment of industry consolidation and data-driven customers," O'Hara added.

Starchild said that Listhub will continue to provide broker listing data to "158 industry-friendly publisher sites," including consumer-facing websites for MLSs and franchisors as well as data synchronization for dozens of marketing and back-office products.

"As the nation's leading syndication provider serving more than 560 MLSs and 80,000 brokers across the country, ListHub also will be focused on driving the interoperability of leading technology solutions, and on providing the industry's most complete and actionable metrics about listing performance," Starchild said.

Click here or see below for a copy of the letter Listhub is sending to all of its customers.

> *Dear (MLS),*
>
> *As you may know, Zillow finalized its acquisition of Trulia this week. In accordance with the terms of the agreement between ListHub and Trulia, the acquisition means an end to the ListHub agreement with Trulia, and consequently, listings no longer will be provided to Trulia directly through the ListHub platform.*
>
> *Zillow has not specifically announced its plans to power listings on the Trulia website going forward; however, we would assume that Zillow will add Trulia to its network in the same way that it acquired HotPads.com and made it part of the Zillow network.*
>
> *ListHub will allow for a transitionary period of five business days to ensure a smooth transition for our MLS and brokerage customers, at which time Trulia will be removed from the publisher choices dashboard.*
>
> *As we have previously announced, if you do not wish to continue providing your listings to Zillow, no further action is required. If you do wish to continue providing your listings to the Zillow network (now including Trulia) after April 7, you will be required to make arrangements to send your listings to Zillow directly.*
>
> *ListHub will continue to accept analytics in order to provide reporting for the Zillow network in the ListHub consolidated dashboard with all other publisher sites. ListHub also will continue to support our extended network of publisher websites, including franchise websites, global advertising, connector products for brokers' back office systems and the dozens of publisher websites that we support today.*

SM 377

As always, please don't hesitate to contact us if you have questions.

Sincerely,

Ben Lane is a reporter for HousingWire. Previously, he worked for TownSquareBuzz, a hyper-local news service. He is a graduate of University of North Texas.

EXHIBIT E

Charles H. Samel, Bar No. 182019
CSamel@perkinscoie.com
PERKINS COIE LLP
1888 Century Park E., Suite 1700
Los Angeles, CA 90067-1721
Telephone: 310.788.9900
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Susan E. Foster (Pro Hac Vice Application Pending)
WSBA Bar No. 18030
SFoster@perkinscoie.com
PERKINS COIE LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98199
Telephone: 206.359.8846
Facsimile: 206.359.9846

Attorneys for Plaintiff
Trulia, Inc.

ENDORSED
FILED
San Francisco County Superior Court

FEB 23 2015

CLERK OF THE COURT
BY: FELICIA M. GREEN
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

TRULIA, INC., Plaintiff, v. MOVE SALES, INC., Defendant.	No. CGC-15-544255 ~~[PROPOSED]~~ EX PARTE ORDER RE ORDER TO SHOW CAUSE; AND TEMPORARY RESTRAINING ORDER Date: February 23, 2015 Time: 11:00 a.m. Dept.: 302 Hon. Ernest H. Goldsmith Complaint filed: February 20, 2015 Trial Date: None

The *Ex Parte* Application of Plaintiff Trulia, Inc. ("Trulia") for a temporary restraining order ("TRO") to require that defendant Move Sales, Inc. ("Move Sales") refrain from terminating Trulia's feeds of MLS-sourced for-sale residential property listing data ("Listings Data") and all other licensed content, and that Move Sales abide by the terms and conditions of the Platform Services Agreement between Trulia and Move Sales, dated June 19, 2012 ("Agreement"), came on for hearing on February 23, 2015, at 11:00 a.m. in Department 302 of

the above-entitled Court. Trulia appeared through Charles H. Samel of Perkins Coie LLP. Other appearances were as noted in the Court's record.

The Court having read and considered the moving papers, pleadings and evidence in this matter, having heard argument of counsel, and good cause appearing therefore,

IT IS HEREBY ORDERED:

ORDER TO SHOW CAUSE

1. The Court orders defendant Move Sales to appear in this Court on March 12, 2015 at 9:30 a.m./~~p.m.~~ in Department 302, to give any legal reason:

a. Why it should not be preliminarily enjoined from terminating Trulia's feeds of MLS-sourced Listings Data and all other licensed content; and

b. Why it should not be preliminarily enjoined and ordered to abide by the terms and conditions of the Agreement.

TEMPORARY RESTRAINING ORDER

2. Pending a hearing on the Order to Show Cause, the Court hereby orders Move Sales and its employees and agents, or any other persons acting with or in Move Sale's behalf, including but not limited to all employees and agents of ListHub, to:

a. refrain from terminating Trulia's feeds of Listings Data and all other licensed content; and

b. abide by the terms and conditions of the Agreement.

3 This Temporary Restraining Order shall expire at the date and time of the OSC Hearing set forth in paragraph 1, above unless extended by the Court.

4. Plaintiff shall immediately post a bond in the amount of $ 250,000 pursuant to Code of Civil Procedure Section 529.

SERVICE AND BRIEFING SCHEDULE

5. By (date): March 2, 2015, MOVE SALES IS ORDERED to serve on Trulia's counsel and any other appearing parties, and to file proof of service of, any opposition to these orders.

6. By (date): March 9 at 12:00pm, 2015, TRULIA IS ORDERED to serve on Move Sale's counsel, and to file proof of service of, any reply to Move Sales' opposition to these orders.

Courtesy copies of all papers filed shall be delivered to Dept. 302 on the date of filing.

IT IS SO ORDERED.

Dated: FEB 23 2015.

ERNEST H. GOLDSMITH

Ernest H. Goldsmith
Judge of the Superior Court

EXHIBIT F

SPECIAL MASTER
THE HONORABLE BRUCE HILYER (RET.)

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

MOVE, INC., a Delaware corporation, REALSELECT, INC., a Delaware corporation TOP PRODUCERS SYSTEMS COMPANY, a British Columbia unlimited liability company, NATIONAL ASSOCIATION OF REALTORS®, an Illinois non-profit corporation, and REALTORS® INFORMATION NETWORK, INC., an Illinois corporation, Plaintiffs, v. ZILLOW, INC., a Washington corporation, ERROL SAMUELSON, an individual, and DOES 1-20, Defendants.	No. 14-2-07669-0 SEA ~~[PROPOSED]~~ ORDER REGARDING INITIAL DISCOVERY CONFERENCE AND DISCOVERY PLAN

THIS MATTER came before the Special Master, the Honorable Bruce Hilyer (Ret.), pursuant to the Court's Order Appointing a Special Master for Discovery dated September

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11, 2014, appointing a Special Master to handle discovery issues. The Special Master held an initial discovery conference with the parties on October 22, 2014.

Discovery Plan

In light of the May 11, 2015 trial date currently scheduled, the Special Master sets the following discovery plan:

October 31, 2014	Last day to issue interrogatories and requests for production, other than for liberal good cause shown[1] (liberal good cause includes new subjects and/or follow-up relating to information received in discovery)
December 1, 2014	Last day to substantially complete document production and written discovery (other than requests for admission)
December 1, 2014	First day to notice deposition of fact witnesses[2]
December 8, 2014	Disclosure of possible primary witnesses (as set forth in the Court's Order Setting Civil Case Schedule dated March 17, 2014)
January 20, 2015	Disclosure of possible additional witnesses (as set forth in the Court's Order Setting Civil Case Schedule dated March 17, 2014)
March 2, 2015	First day to notice deposition of expert witnesses
March 23, 2015	Discovery cutoff (as set forth in the Court's Order Setting Civil Case Schedule dated March 17, 2014)

The parties and the Special Master recognize that the parties' ability to meet these dates, particularly the December 1, 2014 date for substantial completion of written discovery, may be impacted by discovery and/or evidence not yet submitted. Every effort will be taken to meet this schedule and so preserve the May trial date.

At this preliminary stage, Plaintiffs and Defendants anticipate taking approximately 15-20 fact witness depositions each, for a total of 30-40.

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[1] Requests for admission are not subject to the October 31, 2014 deadline and instead are subject to the March 23, 2015 discovery cutoff set forth in the Court's Order Setting Civil Case Schedule dated March 17, 2014.

[2] This excludes the 30(b)(6) notice issued by Plaintiffs to Zillow on October 13, 2014, which deposition(s) may be conducted prior to December 1, 2014.

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Custodians and Search Terms

The parties must work together in good faith to reach agreement on proposed search terms and custodians for their document productions, starting with a conference the week of October 27, 2014 on these issues, and bring any related disputes before the Special Master.

Logistics

The Special Master anticipates holding oral argument on discovery motions, which the parties should schedule with his assistant, Janelle Hall. The parties have the option of arranging for a court reporter to be present at oral arguments before the Special Master.

If a filing exceeds a total of 20 pages, the parties are requested to submit a hard copy of the filing to the Special Master.

The parties shall submit hard copies of all cases substantially relied upon to the Special Master at the time of filing.

This Order

Plaintiffs are directed to file a copy of this Order with the Court within 5 court days of its entry by the Special Master.

ENTERED this 10 day of November, 2014.

THE HONORABLE BRUCE HILYER
SPECIAL MASTER

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