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CASE NUMBER: 14-2-07669-0 SEA

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THE HONORABLE SEAN P. O'DONNELL  
Noted For Consideration: March 30, 2016  
TELEPHONIC ORAL ARGUMENT REQUESTED

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

MOVE, INC., et al.,

Plaintiffs,

v.

ZILLOW, INC., et al.,

Defendants.

No. 14-2-07669-0 SEA

DEFENDANTS' OPPOSITION TO  
PLAINTIFFS' MOTION FOR  
SCHEDULING ORDER OR IN THE  
ALTERNATIVE CR 16 CONFERENCE RE:  
DEFENDANTS 14 SUMMARY  
JUDGMENT MOTIONS

DEFENDANTS' OPPOSITION TO  
PLAINTIFFS' MOTION FOR SCHEDULING  
ORDER OR IN THE ALTERNATIVE CR 16  
CONFERENCE RE: DEFENDANTS 14  
SUMMARY JUDGMENT MOTIONS – 1

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## I. INTRODUCTION

Defendants' summary judgment motions are the direct and necessary product of Plaintiffs' approach to their trade secret disclosures. Plaintiffs' *ninth* and most recent iteration of their trade secret list continues to use broad narratives, claims trade secret status for publicly disclosed information, and adds new trade secret allegations in violation of a Court order. Plaintiffs' disclosure, which takes up 64 pages, reflects the case they want to present to the jury: a confusing array of alleged trade secrets, with the hope that something might stick to the wall to support their \$2 billion damages claim. Defendants have every right to challenge *each* trade secret claim (and the non-trade secret causes of action), including by motion for summary judgment if the law or the absence of evidence mandates dismissal. Indeed, this exercise is necessary if the Court is to preside over a trial that is comprehensible to the jury and can be completed in a reasonable time.

In short, that there are multiple motions is the direct result of the case Plaintiffs have decided to make. Plaintiffs have asserted a huge case. They claim \$2 billion in damages, assert 46 separate trade secrets (not including the 1000-plus documents claimed as trade secrets in their entirety) and have assigned at least 29 lawyers to prosecute their claims. Plaintiffs have been asked to clarify their allegations, but they have insisted on pursuing a laundry list of broad, publicly known concepts, and an array of claims touching on multiple and disparate aspects of their business. Defendants most recently asked Plaintiffs in a letter to remove any additional "vestiges"<sup>1</sup> of public information from their trade secret list to expedite and streamline dispositive motion practice. Plaintiffs ignored this request; as a result, many of their claims are fatally defective and subject to summary judgment. Now

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<sup>1</sup> Exs. A at 97:11-16; B. Unless otherwise noted, all exhibits are to the Declaration of Susan Foster filed in support.



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**II. STATEMENT OF FACTS**

**A. Parties stipulate to new trial date and accompanying pretrial schedule**

In July 2015, with trial set for October 26 and discovery substantially incomplete, the parties stipulated to a trial date extension, which the Court entered on July 23. Dkt. 768A. The Court continued the trial date to June 6, 2016 and entered a stipulated pretrial schedule, and the parties have been completing discovery in reliance on this schedule ever since. Dkt. 790. Under the schedule, the discovery cutoff is April 1 and the deadline to hear dispositive motions is April 22. *Id.* And the trial date (which had already been continued twice) is now June 6.

**B. Defendants file three MPSJs and make clear that more are coming**

Working off of this pretrial schedule, Defendants reserved four days of hearings for their anticipated dispositive motions (Feb. 5, Feb. 26, March 18 and April 22). Plaintiffs reserved time on February 5 for their spoliation motion and time on April 15 to hear their summary judgment motion on Zillow’s counterclaims.<sup>3</sup> The juxtaposition of the summary judgment filings and the spoliation hearing was not scripted by Defendants; it was the result of the Plaintiffs’ request and the Court’s schedule.

Defendants filed their first round of summary judgment motions on the purely legal preemption issue on January 8, which were heard on February 5. Samuelson and Beardsley then filed contract validity summary judgment motions, which were heard on February 26. The next round addressed three issues: Retsly, Trulia and AppHub. The Court heard oral argument on these motions on March 18.<sup>4</sup> Both during the hearing and in briefing,

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<sup>3</sup> Plaintiffs originally reserved February 26 for their counterclaims motion, but did not timely file a motion for hearing on that date.

<sup>4</sup> During the hearing, the Court made clear it appreciated the thoroughness and clarity of both sides’ briefing. Ex. A at 30:8-10, 105:21-106:1.

1 Defendants indicated they would be filing additional motions for partial summary judgment  
2 on Plaintiffs' remaining claims.<sup>5</sup> And, Plaintiffs complained both in their briefing and at  
3 oral argument that Defendants' fact-based motions were premature. Ex. A at 25:5-12; Pls.'  
4 Opp'n to Mtn. to Strike at 1-4.  
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8 Moreover, during the argument on the AppHub brief, Plaintiffs suddenly conceded  
9 that trade secrets O128-O130—three of the main AppHub trade secrets Plaintiffs had been  
10 alleging for months—were not trade secrets any longer but rather were mere “vestige[s]” of  
11 Plaintiffs' prior trade secret lists. Ex. A at 97:14-98:23. Following the hearing, Zillow  
12 accordingly sent a letter to Plaintiffs, asking that Plaintiffs review their February 19 trade  
13 secret disclosure and let Defendants know whether there are any other allegations that  
14 should be eliminated. Ex. B. Zillow cautioned that “Defendants are filing additional  
15 summary judgment motions, and the appropriate time to disclose such concessions is prior  
16 to those motions being filed—not at oral argument.” *Id.*  
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27 **C. Defendants filed motions for partial summary judgment on distinct claims at**  
28 **issue in the litigation**  
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30 Plaintiffs did not respond to Zillow's letter, and did not identify any other claims to  
31 be eliminated from their trade secret list. Accordingly, on March 25, Defendants filed  
32 motions for partial summary judgment to combat Plaintiffs' remaining allegations. The  
33 three defendants filed, in total, 14 separate motions for partial summary judgment, each  
34 attacking distinct claims raised by Plaintiffs in their complaint and their final trade secret  
35 list. The motions filed are explained below:  
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45 <sup>5</sup> Ex. A at 91:8-17; *see also id.* at 13:15-14:2. Knowing of the March 25 deadline, it is not a  
46 coincidence that at one point seven depositions were scheduled for March 24 and 25 with Plaintiffs  
47 attempting to insist on even more.

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Motion	Claim(s) Addressed
Defendants’ Motion for Partial Summary Judgment on ListHub Claims (“ <b>ListHub Motion</b> ”)	<p><b>Plaintiff’s ListHub/Zillow agreement claims:</b> individual trade secrets <b>L100, L101, L102, L104, L106</b></p> <p><b>Cross-references paragraphs of D52 that rely on the same “L” trade secret claims</b> and necessarily would be struck should the Court grant the ListHub motion, including D52 ¶¶ 3, 10-12, 16-17, 19, 23, 34, 45-46, 48-49, &amp; 55</p>
Defendants’ Motion for Partial Summary Judgment on Platform Claims (“ <b>Platform Motion</b> ”)	<p>The trade secret status of the bulk of Plaintiffs’ Platform claims including the combination claims, LeadHub and Plaintiffs’ newly asserted progress, strategic evaluation and timing trade secrets: <b>A24, D52, D52a, D52c, D52e, D52f, D52g, D52h, E58, O124, O125, O127, &amp; O133b</b></p> <p><b>Covers misappropriation only to the extent not covered by ListHub Motion</b></p>
Defendants’ Motion for Partial Summary Judgment on Seller Portal Claims (“ <b>Seller Portal Motion</b> ”)	<p>Addresses Plaintiffs’ individual Seller Portal trade secrets: <b>D52b, E56, &amp; E57</b></p>
Defendants’ Motion for Partial Summary Judgment on Miscellaneous Trade Secret Claims (“ <b>Misc. Claims Motion</b> ”)	<p>Addresses other trade secrets that were publicly disclosed but are not readily grouped within another subject matter: <b>E60, E62, E66, J181, M109, M116, M117, N120, N121, O123, O126, O133a, &amp; O134</b></p>
Motion for Partial Summary Judgment on Plaintiffs’ Deficient Trade Secret Disclosures (“ <b>Deficient Disclosures</b> ”)	<p>Seeks relief for <b>Plaintiffs’ failure to sufficiently identify their trade secrets</b> as otherwise required by law and mandated by</p>



1	<b>Motion”)</b>	court order
2	Zillow’s Motion to Exclude Testimony of	Summary Judgment and <i>Frye</i> motion
3	Damages Expert Bradford Cornell Relating	relating to the <b>testimony of Plaintiffs’</b>
4	to the Trulia Merger and Motion for Partial	<b>expert, Professor Cornell re Trulia</b>
5	Summary Judgment (“ <b>Motion to Exclude</b>	
6	<b>Cornell”)</b>	
7		
8	Defendants’ Motion for Partial Summary	Non-trade secret causes of action relating to
9	Judgment on Trulia Non-UTSA Claims	Trulia and not resolved by the Court’s
10	(“ <b>Trulia Non-UTSA Motion”)</b>	preemption orders
11		
12	Samuelson’s Motion for Partial Summary	Plaintiffs’ claims for Cause of Action 9
13	Judgment Dismissing Remaining Trespass-	(Trespass to Chattels) and Cause of Action
14	to-Chattels and Conversion Claims	10 (Conversion) against Samuelson
15	(“ <b>Samuelson Trespass/Conversion</b>	
16	<b>Motion”)</b>	
17		
18	Samuelson’s Motion for Partial Summary	Cause of Action 3 (Breach of Contract) and
19	Judgment Dismissing Breach of Fiduciary	Cause of Action 4 (Breach of Fiduciary
20	Duty and Contract Claims (“ <b>Samuelson</b>	Duty) against Samuelson
21	<b>Fiduciary Duty/Contract Motion”)</b>	
22		
23	Samuelson’s Motion for Partial Summary	Trade Secret ¶ 189. Plaintiffs’ claims
24	Judgment Dismissing All Claims Re: “Hub”	relating to specific documents alleged to
25	Documents and Dropbox (“ <b>Samuelson</b>	have been misappropriated, as cross-
26	<b>Hub/Dropbox Motion”)</b>	referenced by Plaintiffs in several other trade
27		secrets
28		
29	Samuelson’s Motion for Partial Summary	Trade Secret ¶ 187. Plaintiffs’ claims
30	Judgment Dismissing Trade Secret and	relating to certain contact lists allegedly
31	Contract Claims Pertaining to Outlook	misappropriated by Samuelson, as related to
32	Contacts (“ <b>Samuelson Contacts Motion”)</b>	causes of action 1 and 3
33		
34	Beardsley’s Motion for Partial Summary	Cause of Action 4 (Breach of Fiduciary
35	Judgment on Duty of Loyalty Claims	Duty) against Beardsley
36	(“ <b>Beardsley Loyalty Motion”)</b>	
37		
38	Beardsley’s Motion for Partial Summary	Trade Secrets ¶¶ 184 & 186. Plaintiffs’
39	Judgment on Plaintiffs’ UTSA Trade Secret	claims relating to two specific documents,
40	Claims re: (1) SaaS Document, and (2) AOL	which themselves are designated as trade
41	Document (“ <b>Beardsley SaaS/AOL</b>	secrets
42	<b>Motion”)</b>	
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44	Beardsley’s Motion for Partial Summary	Trade Secret ¶ 188. Plaintiffs’ claims
45	Judgment Dismissing Trade Secret and	relating to certain contacts allegedly
46	Contract Claims Based on Contact	misappropriated by Beardsley, which are
47	Information (“ <b>Beardsley Contacts</b>	themselves designated as trade secrets
	<b>Motion”)</b>	

DEFENDANTS’ OPPOSITION TO  
PLAINTIFFS’ MOTION FOR SCHEDULING  
ORDER OR IN THE ALTERNATIVE CR 16  
CONFERENCE RE: DEFENDANTS 14  
SUMMARY JUDGMENT MOTIONS – 6

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### III. ARGUMENT

**A. Washington law expressly permits multiple summary judgment motions**

Washington courts regularly rule on multiple separate motions for summary judgment. *See, e.g., Stiefel v. City of Kent*, 132 Wn. App. 523, 527-28, 533 (2006) (affirming lower court’s grant of four separate motions for summary judgment in favor of defendants). Citations from other jurisdictions that have local rules prohibiting the practice are completely irrelevant.<sup>6</sup>

**B. Defendants’ summary judgment motions are not duplicative—rather, each motion covers a different claim that Plaintiffs have injected into this litigation**

Defendants agree the voluminous record of this case places a heavy burden on the Court first and foremost, and the parties second. But Plaintiffs chose to initiate this action and allege literally thousands of trade secrets (either via description or by claiming documents wholesale) to hold each of the defendants liable for \$1.77 billion. The scope of this case—and damages claim—is staggering. And granting Plaintiffs’ requested relief would tilt the scales of justice unfairly. Just as they have the right to allege the existence and theft of as many trade secrets as Rule 11 allows, Defendants have the right for summary adjudication on each claim that cannot raise a triable issue of fact. CR 56; *see Celotex Corp. v. Catrett*, 477 U.S. 317, 327, 106 S. Ct. 2548, 2555, 91 L. Ed. 2d 265 (1986).

Moreover, Plaintiffs are incorrect in their assertion that Defendants’ motions are duplicative. As detailed in the chart above, Defendants filed multiple motions for partial summary judgment to respond to the numerous trade secret claims *Plaintiffs* have alleged—

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<sup>6</sup> The one Washington case Plaintiffs cite is no more persuasive. Plaintiffs cite *Holland v. City of Tacoma* for the proposition that a party cannot incorporate other briefing to circumvent established page limits. Pls.’ Br. at 3. But *Holland* involved an appellant who did not include any argument in its appellate brief, but instead incorporated its entire trial court brief by reference. *Holland v. City of Tacoma*, 90 Wn. App. 533, 537-38 (1998).



1 not to present duplicative information or skirt page limits. The motions themselves make  
2 plain that each one targets different trade secrets or causes of action. There is one motion  
3 targeting all of the trade secrets for being insufficient and in violation of the Court’s prior  
4 orders on specificity; this motion arises from case law and evidence different than the others.  
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8 Plaintiffs specifically call out the motions related to their platform claims, common-  
9 law breach of fiduciary duty claims against Samuelson and Beardsley, and on the remaining  
10 non-trade secret claims related to Trulia as examples of “duplication,” but these motions  
11 illustrate exactly how distinct each partial summary judgment motion is.  
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15 First, Defendants’ Platform Motion addresses individual trade secrets A24, D52,  
16 D52a, D52c, D52e, D52f, D52g, D52h, E58, O124, O125, O127, & O133b, as well as  
17 Plaintiffs’ four alleged combination trade secrets. Plaintiffs complain about a single  
18 footnote in this brief that cross-references the ListHub motion. But the ListHub Motion  
19 addresses trade secrets L100, L101, L102, L104, and L106.<sup>7</sup> In trade secret L104, however,  
20 Plaintiffs themselves cross-reference several paragraphs of D52 (addressed in the Platform  
21 Motion). For this reason, and in the interest of judicial economy, Defendants similarly  
22 cross-reference the paragraphs of D52 that are related to the “L” trade secrets and would  
23 necessarily fail should the Court grant the ListHub motion. That is the only “overlap” of the  
24 Platform and ListHub brief, which is not an overlap at all. Plaintiffs also claim Beardsley’s  
25 SaaS/AOL Motion and Samuelson’s Hub/Dropbox Motion overlap with other platform-  
26 related briefing, yet these motions combat document-related trade secret claims that  
27 Plaintiffs raise in paragraphs 184, 186, and 189 of their final trade secret list—entirely  
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45 <sup>7</sup> Specifically, it deals with Plaintiffs’ allegations surrounding the ListHub-Zillow  
46 nonrenewal allegations—allegations which are not addressed in Defendants’ Platform, AppHub,  
47 Seller Portal or any other summary judgment brief.

1 separate from the trade secrets at issue in the Platform or ListHub briefs except to the extent  
2 cross referenced by Plaintiffs.  
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5 Second, Plaintiffs' claims that Beardsley's Loyalty Motion and Samuelson's  
6 Fiduciary Duty/Contract Motion are redundant of the prior briefing on Beardsley's and  
7 Samuelson's motions for partial summary judgment on preemption grounds ("Preemption  
8 Motions") are nonsensical. Beardsley's and Samuelson's Preemption Motions argued that  
9 as a matter of law, each of Plaintiffs' common law causes of action were preempted by the  
10 Uniform Trade Secrets Act. The court denied the Preemption Motion with respect to  
11 Plaintiffs' breach of fiduciary duty claims against Samuelson and Beardsley. Samuelson  
12 and Beardsley have now brought motions for summary judgment seeking to dismiss those  
13 claims on grounds that apply particularly to such claims—an argument entirely distinct from  
14 preemption.  
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17 Likewise, Defendants filed their 10-page Trulia Non-UTSA Motion to address those  
18 Trulia claims left after the Court's preemption order. By doing so, Defendants avoided  
19 addressing claims which ultimately did not need to be addressed. Indeed, had they briefed  
20 them earlier, Plaintiffs surely would have claimed such briefing was premature in light of  
21 the pending preemption motions.  
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35 **C. The pending spoliation claims and hearing schedule is unrelated to these**  
36 **motions for partial summary judgment**

37 Plaintiffs assert that the Court's pending decision on Plaintiffs' spoliation claims  
38 "will likely impact (if not moot) all 14 new MSJs." Pls.' Br. at 1. Such an allegation is  
39 contrary to both the facts and the law. First, spoliation "cannot be invoked as substantive  
40 proof of any fact essential" to the case; it merely helps the jury weigh the evidence. *Walker*  
41 *v. Herke*, 20 Wn.2d 239, 249 (1944). Even in "borderline" cases, the party defending  
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1 summary judgment must have, at minimum, “some (*not insubstantial*) evidence” of each  
2 element of its claims. *Deanda v. Hicks*, 2015 WL 5730345, at \*10 (S.D.N.Y. Sept. 30,  
3 2015). In other words, a spoliation sanction might direct the jury on how to weigh the  
4 evidence, but it cannot create evidence to survive summary judgment.  
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9 Even if spoliation could affect summary judgment, Plaintiffs would have to show  
10 that the spoliation sanction could affect the issues on which summary judgment is sought.  
11 But here, most of the motions at issue focus on questions such as the existence of a claimed  
12 trade secret, which is something Plaintiffs can (and must) prove independently of any  
13 alleged spoliation.<sup>8</sup> Further, Plaintiffs have not shown how any supposedly lost evidence  
14 would help them prove any particular issue in the case, much less the narrow issues raised  
15 on summary judgment. *See In re Nat’l Century Fin. Enters., Inc.*, 2009 WL 2169174, at \*12  
16 (S.D. Ohio July 16, 2009) (sanction must have a “nexus between the missing information  
17 and *the issue* on which the [adverse] instruction is requested”) (emphasis added). The  
18 spoliation allegations accordingly do not prevent the Court from entering summary  
19 judgment on the bases requested in the motions.  
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31 If Plaintiffs have no evidence to support their claims other than their spoliation  
32 contentions, they should say so. If they think they do have such evidence irrespective of  
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36 <sup>8</sup> For example, Beardsley’s SaaS/AOL Motion (which Plaintiffs allege is mooted by the  
37 spoliation proceedings) concern two documents that Plaintiffs allege are individual trade secrets. In  
38 his motion, Beardsley argues that the SaaS and AOL documents are not trade secrets. Plaintiffs’  
39 spoliation allegations are completely irrelevant to determining whether the content of these  
40 documents—both of which were produced and thus were not “spoliated”—have the requisite  
41 independent economic value and are not generally known or readily ascertainable. Similarly,  
42 Plaintiffs point to Samuelson’s Fiduciary Duty/Contracts Motion as one that would be mooted by  
43 spoliation proceedings. Pls.’ Br. at 1. Samuelson’s motion seeks dismissal of all fiduciary duty and  
44 contract claims on the ground that Samuelson did not breach any duty by negotiating employment  
45 with Zillow. Plaintiffs highlight Samuelson’s narrative about his efforts to protect his personal  
46 information and his use of his wife’s phone, claiming this “directly address[es] spoliation.” But the  
47 question whether this conduct breached a fiduciary or contractual duty to Move is a different  
question than whether the conduct was evidence spoliation.

1 their spoliation argument, they should say so. The pendency of a spoliation hearing should  
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3 in no way prevent them from responding to the summary judgment motions.  
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5 **D. Plaintiffs’ Requested Relief Would Prejudice Defendants**

6 There is an existing case schedule, deviation from which would severely prejudice  
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8 Defendants. Trial is set for June 6 and the Court must decide all dispositive motions in  
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10 advance of that date. The fact is that Defendants have tried over and over to get Plaintiffs to  
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12 narrow and specify the precise trade secrets at issue in this litigation, including a recent  
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14 request that Plaintiffs remove any other “vestiges” from their trade secret list before  
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16 Defendants filed this latest group of motions for partial summary judgment in order to  
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18 prevent both parties— and most importantly the Court—from wasting time and resources on  
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20 irrelevant claims. Plaintiffs refused to do so, forcing Defendants to parse the existing claims  
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22 in a way that enables the Court to make logical decisions on each of Plaintiffs’ claims.<sup>9</sup> Had  
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24 Defendants brought these motions earlier, Plaintiffs surely would have argued they were the  
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26 subject of ongoing discovery and therefore premature.  
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29 The relief Plaintiffs request—requiring Defendants to re-brief their motions for  
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31 summary judgment in a consolidated format and effectively dictate what issues/claims  
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33 Defendants can move for relief on—is patently prejudicial.<sup>10</sup> Plaintiffs claim almost \$2  
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35 *billion* in damages based on a largely incomprehensible trade secret list. To suggest that  
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37 Defendants should be deprived of their ability to fully litigate their defenses to these  
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39 sweeping claims is reprehensible. Plaintiffs would like to go to trial and throw as many  
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43 <sup>9</sup> For their part, Plaintiffs have the capacity to oppose Defendants’ motions. Twenty-nine  
44 attorneys from three different law firms have appeared on Plaintiffs’ behalf in this dispute, and five  
45 of those attorneys have been added in the past month.

46 <sup>10</sup> Moreover, Plaintiffs’ proposed page limits are grossly disproportionate and Defendants  
47 cannot understand why under any circumstances Defendants should be forced to consolidate their  
dispositive arguments into three briefs of 40 pages, while Plaintiffs receive 50 pages to respond.

1 claims as possible against the wall so as to increase the probability of jury confusion so one  
2 or two might win. However, the sheer volume and breadth of trade secrets asserted, and the  
3 absence of evidence to support them, demonstrates the need for the multiple motions and the  
4 Court's need to weigh them carefully against the applicable legal standards for each trade  
5 secret alleged, so that only those with any conceivable merit go to the jury. Without such a  
6 rigorous analysis, the trial, like Plaintiffs' trade secret list, will be chaos.  
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12 Defendants complied with the deadline for filing summary judgment motions (and  
13 with all applicable rules), and should not be subjected to the senseless burden of completely  
14 rewriting completed motions in a truncated manner favored by Plaintiffs (a massive  
15 undertaking that would require complete reorganization of a large record and prevent  
16 Defendants from addressing each of Plaintiffs' claims). And in view of the existing pretrial  
17 schedule, the deadline for oppositions should not be extended.<sup>11</sup> There is no perfect time to  
18 complete summary judgment briefing, but the only feasible time is now. The schedule  
19 provides for summary judgment motions to be heard on April 22; motions in limine to be  
20 filed by April 21; and *Frye* motions to be filed by April 12. Exhibit lists and witness lists  
21 are due May 6 and the parties need resolution as to the scope of trial. On the current  
22 schedule, Defendants will be preparing summary judgment reply briefs while  
23 simultaneously defending against Plaintiffs' spoliation claims—it will be burdensome, but  
24 Defendants will find a way to manage, as Plaintiffs should now.<sup>12</sup>  
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43 <sup>11</sup> Defendants would not object if the Court wishes to extend the due dates for the briefing on  
44 Defendants' Motion to Exclude Cornell and to align the hearing of this motion with *Frye* motions.

45 <sup>12</sup> Defendants were recently burdened by having to prepare summary judgment motions in  
46 the wake of Plaintiffs' February 19 amended trade secret filing, while simultaneously defending and  
47 taking depositions, preparing expert reports, and responding to discovery motions.



1 DATED this 30th day of March, 2016.

2  
3 s/ Susan E. Foster

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DEFENDANTS' OPPOSITION TO  
PLAINTIFFS' MOTION FOR SCHEDULING  
ORDER OR IN THE ALTERNATIVE CR 16  
CONFERENCE RE: DEFENDANTS 14  
SUMMARY JUDGMENT MOTIONS – 13

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**CERTIFICATE OF SERVICE**

On March 30, 2016, 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: DEFENDANTS’ OPPOSITION TO PLAINTIFFS’ MOTION FOR SCHEDULING ORDER OR IN THE ALTERNATIVE CR 16 CONFERENCE RE: DEFENDANTS 14 SUMMARY JUDGMENT MOTIONS.

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1 THIS MATTER came before the Court on Plaintiffs' Motion for Scheduling Order  
2  
3 or in the Alternative CR 16 Conference Regarding Defendants 14 Summary Judgment  
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5 Motions. The Court has considered all papers submitted in support of and in opposition to  
6  
7 the motion, and is fully advised in the premises.

8  
9 IT IS HEREBY ORDERED that Plaintiffs' Motion for Scheduling Order or in the  
10  
11 Alternative CR 16 Conference Regarding Defendants' 14 Summary Judgment Motions is  
12  
13 DENIED.

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15 DATED this \_\_\_\_ day of \_\_\_\_\_, 2016.  
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22 HONORABLE SEAN P. O'DONNELL  
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1 Presented by:  
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5 *s/ Susan E. Foster*

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On March 30, 2016, 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] DENYING PLAINTIFFS' MOTION FOR SCHEDULING ORDER OR IN THE ALTERNATIVE CR 16 CONFERENCE RE: DEFENDANTS' 14 SUMMARY JUDGMENT MOTIONS.

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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 30th day of March, 2016.

s/Sherri Wyatt  
Sherri Wyatt, Legal Secretary