

**FILED**  
KING COUNTY WASHINGTON

JUL 24 2015

SUPERIOR COURT CLERK  
BY Rianne Rubright  
DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND 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,  
CURT BEARDSLEY, an individual and  
DOES 1-20,

Defendants.

No. 14-2-07669-0 SEA

ORDER ADOPTING JULY 17, 2015 REPORT  
AND RECOMMENDATIONS OF SPECIAL  
MASTER RE: DEFENDANT ZILLOW, INC'S  
MOTION TO COMPEL DOCUMENTS  
RELATING TO REAL ESTATE PLATFORMS,  
PROJECT UPSTREAM AND AMP

Special Master Hilyer filed his "Special Master Discovery Report" dated July 17th, 2015 regarding defendant Zillow, Inc.'s Motion to Compel.

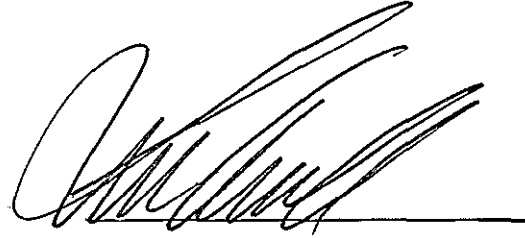
The matter is now before me. See CR 53.3 and this Court's June 15, 2015 Order Re: Amendment to Order Appointing Special Master.

ORDER ADOPTING

1 Having reviewed the Special Master's report and recommendations, the Court ADOPTS  
2 Special Master Hilyer's July 17, 2015 Report and Recommendations regarding defendant  
3 Zillow, Inc.'s Motion to Compel.

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5 IT IS SO ORDERED.

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7 DATED this 23<sup>rd</sup> day of July, 2015



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9 JUDGE SEAN P. O'DONNELL

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28 ORDER ADOPTING

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HILYER DISPUTE RESOLUTION

July 17, 2015

Judge Sean O'Donnell  
KCSC, Judge's Mailroom #C-203  
516 Third Avenue  
Seattle, WA 98104  
E: [parkin.eric@kingcounty.gov](mailto:parkin.eric@kingcounty.gov)

Re: *Move et al. v. Zillow et al.*, KCSC No. 14-2-07669-0 SE; Special Discovery Master Report and Recommendation on Defendant Zillow, Inc.'s Motion to Compel Documents Relating to Real Estate Platforms, Project Upstream and AMP

Dear Judge O'Donnell:

Pursuant to your Order in this case dated June 15, 2015, regarding the procedures surrounding discovery motions, contained herein please find one of several of my Reports and Recommendations to you. These matters having been referred by the court and having come before the Discovery Master ("DM") regarding Defendant Zillow, Inc.'s Motion to Compel Documents Relating to Real Estate Platforms, Project Upstream and AMP, the DM has considered all briefing, including: Defendant Zillow, Inc.'s Motion to Compel Documents Relating to Real Estate Platforms, Project Upstream and AMP; Declaration of Katherine Galipeau In Support of Defendant Zillow, Inc.'s Motion to Compel Documents Relating to Real Estate Platforms, Project Upstream and AMP (with Exhibits); [Proposed] Order Granting Motion to Compel; Plaintiffs' Opposition to Defendant Zillow, Inc.'s Motion to Compel Documents Relating to Real Estate Platforms, Project Upstream and AMP; Declaration of Jennifer Njathi In Support of Plaintiffs' Opposition to Defendant Zillow, Inc.'s Motion to Compel Documents Relating to Real Estate Platforms, Project Upstream and AMP; [Proposed] Report and Recommendation Denying Motion to Compel; Reply In Support of Defendant Zillow, Inc.'s Motion to Compel Documents Relating to Real Estate Platforms, Project Upstream and AMP; Supplemental Declaration of Katherine Galipeau In Support of Defendant Zillow, Inc.'s Motion to Compel Documents Relating to Real Estate Platforms, Project Upstream and AMP (with Exhibits). 6/29/15 email response from Perkins Coie and 6/28/15 email response from Cable Langenbach, both commenting on DM's initial proposed report and recommendations which has now been revised.

Oral argument was held on June 26, 2015, at the offices of Hilyer Dispute Resolution, 1000 - Second Avenue, Suite 3000, Seattle, WA 98104. The DM reports and recommends as follows:

**RELIEF REQUESTED:**

Zillow is requesting to obtain from the DM an order compelling Plaintiffs' to produce key documents that Zillow alleges Plaintiff is withholding, namely those documents requested in: (1) Zillow's 4<sup>th</sup> RFPs Nos., 1, 3-8 (asking for all documents relating to trade secrets identified in Plaintiffs' response to Zillow's Interrogatory No. 1); (2) Zillow's 5<sup>th</sup> RFPs No. 18 (asking for "all documents encompassing the alleged trade secret relating to the creation of a real estate software platform"); (3) Zillow's 6<sup>th</sup> RFPs Nos., 5, 6, 23, 26 (asking for documents relating to the trade secrets in Plaintiffs' response to Interrogatory No. 1 and to the "acquisition or creation of a real estate platform"); and (4) Zillow's 7<sup>th</sup> RFPs No. 6 (asking for all documents relating to "any aspect of [Move's] 'Industry Platform Strategy'").

**GRANTED IN PART, DENIED IN PART.**

Zillow contends that this discovery request does not come too late in the process after the written discovery cutoff in light of recent events and information uncovered in discovery which establish "good cause." The only recent events the DM finds are pertinent are the information that Move did not succeed in its bid to provide a platform (using ListHub) to Project Upstream and that Steve Berkowitz, Move's CR30(b)6 designee, testified that Move's failure to obtain the Project Upstream bid is actionable against the Defendants. This new information pertains to Project Upstream, but does not warrant additional discovery on ListHub, which has been an ongoing issue from the beginning of this case.

Therefore, I recommend narrowing this discovery request to focus on Project Upstream and approve adding two new Move custodians, Ryan O'Hara and Joe Hanauer, but denying the request with regard to "platforms" or "ListHub" (with the following search terms):

- Upstream!
- AMP or (Advance! w/4 Platform)
- RFP w/15 (RPR or "Realtors Property Resource") [for Move searches]

- (“RPR or “Realtors Property Resource”) and Zillow or Z or Retsly or Move or Newscorp or “newscorp” [for NAR searches]

I also recommend specifically granting the Motion to Compel as outlined above against Plaintiff NAR as it was uncontested at the hearing that it has not responded to this discovery request.

IT IS SO REPORTED AND RECOMMENDED THIS 17 day of July, 2015.

  
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Judge Bruce W. Hilyer (Ret.)  
Discovery Master