

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

REX – REAL ESTATE EXCHANGE, INC.,

Case No. 2:21-cv-00312-TSZ

Plaintiff,

**DECLARATION OF URSULA
UNGARO IN SUPPORT OF REX’S
MOTION TO COMPEL
DOCUMENTS**

v.

ZILLOW, INC., et al.

Defendants.

I, Ursula Ungaro, declare as follows:

1. I am a partner with the law firm Boies Schiller Flexner LLP, counsel for Plaintiff in this matter. I am an attorney at law duly licensed to practice before all courts of the State of Florida, and admitted *pro hac vice* in this case. Dkt No. 130. I have personal knowledge of the matters set forth herein and am competent to testify.

2. Attached hereto as **Exhibit A** is a true and correct copy of Zillow Defendants’ Responses and Objections to REX’s First Set of Requests for Production.

3. Attached hereto as **Exhibit B** is a true and correct copy of Zillow Defendants’ June 29, 2022 Letter to REX’s counsel.

4. Attached hereto as **Exhibit C** is a true and correct copy of Zillow Defendants’ September 14, 2022 Letter to REX’s counsel.

5. Attached hereto as **Exhibit D** is a true and correct copy of Zillow Defendants’ September 20, 2022 Letter to REX’s counsel.

6. Attached hereto as **Exhibit E** is a screenshot taken on September 21, 2022 of a YouTube video posted by NBC News on September 21, 2021 titled “Zillow Accused Of Undermining Sellers Who Self-List Properties.” The video is accessible at: <https://www.youtube.com/watch?v=KABG-SIjD-U>.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 22, 2022, at Miami, Florida.

DATED: September 22, 2022

Respectfully submitted,

/s/ Ursula Ungaro
Ursula Ungaro (admitted *pro hac vice*)

Exhibit A

THE HONORABLE THOMAS S. ZILLY

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

REX - REAL ESTATE EXCHANGE, INC.,
a Delaware corporation,

Plaintiff,

v.

ZILLOW, INC., et al.,

Defendants.

Case No. 2:21-CV-00312-TSZ

**ZILLOW DEFENDANTS’
OBJECTIONS AND RESPONSES TO
PLAINTIFF’S FIRST REQUESTS
FOR PRODUCTION OF
DOCUMENTS**

1 PROPOUNDING PARTY: PLAINTIFF REX - REAL ESTATE EXCHANGE, INC.
2 RESPONDING PARTY: ZILLOW, INC., ZILLOW GROUP, INC., ZILLOW HOMES,
3 INC., ZILLOW LISTING SERVICES, INC., AND TRULIA,
4 LLC
5 SET NUMBER: ONE (1)

6 Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Defendants Zillow, Inc.,
7 Zillow Group, Inc., Zillow Homes, Inc., Zillow Listing Services, Inc., and Trulia, LLC
8 (collectively “Defendants,” “Zillow Defendants,” or “Zillow”) submit the following objections
9 and responses to Plaintiff, REX - Real Estate Exchange, Inc.’s (“Plaintiff” or “REX”) First
10 Request for Production of Documents (the “Requests”):

11 **PRELIMINARY STATEMENT**

12 Zillow has not completed its investigation of the facts related to this case and its
13 responses are, therefore, of a preliminary nature. Further discovery, investigation and research
14 may produce additional relevant facts which may lead to changes in the responses set forth
15 below. Although these responses are complete to the best of Zillow’s knowledge, these
16 responses are given without prejudice to Zillow’s right to amend its objections and responses
17 upon completion of its search for responsive documents or to produce additional relevant
18 evidence that may come to light regarding the issues raised in this lawsuit. Furthermore, these
19 responses are made without prejudice to Zillow’s right to use or rely at trial on subsequently
20 discovered information or on information omitted from these responses as a result of good
21 faith oversight, error, or mistake.

22 No incidental or implied admissions are intended by these responses. The fact that
23 Zillow has responded or objected to any Request or part thereof shall not be deemed an
24 admission that Zillow accepts or admits to the existence of any facts set forth or assumed by
25 such Request, or that the response or objection constitutes admissible evidence. The fact that
26 Zillow has answered part or all of any Request is not intended to be, and shall not be construed
27 as, a waiver by Zillow of any part of any objection to any Request.

1 Zillow will produce copies of documents requested for inspection and/or copying at a
2 mutually agreed upon date and/or location as set forth more specifically in its responses and
3 objections.

4 **GENERAL OBJECTIONS**

5 The following general objections apply to each response to this request for production:

6 1. Zillow objects to Plaintiff's Requests to the extent that they seek information
7 protected from disclosure by the attorney-client privilege, the work-product doctrine, the joint
8 defense privilege, the common interest privilege, the common interest doctrine, and/or any
9 other applicable privileges, doctrines, and immunities. To the extent that supplying the
10 documents requested would result in waiving any applicable privilege or objection based on
11 any such privilege, Zillow objects to providing such documents and will not do so. To the
12 extent Zillow inadvertently produces any documents falling within any applicable privilege,
13 Zillow does not waive the applicable privilege/objection. To the extent Zillow produces any
14 documents falling within any applicable privilege or that would be subject to objection and it
15 is later held that Zillow waived the applicable privilege/objection, Zillow waives the
16 applicable privilege/objection only to the extent of the documents produced.

17 2. Zillow objects to each Request to the extent that they seek disclosure of
18 documents that constitute or evidence Zillow's confidential, trade secret, and/or proprietary
19 information. To the extent a Request seeks such information, Zillow will provide only those
20 documents, where appropriate, that are discoverable and essential to Plaintiff's case. Further,
21 any documents that Zillow provides in response to Plaintiff's Requests will be designated and
22 protected in accordance with the terms of the Stipulated Protective Order governing this case
23 (Dkt. #42).

24 3. Zillow objects to each Request for any documents created after or in connection
25 with the filing of this lawsuit to the extent that they are irrelevant.

26 4. Zillow objects to each Request to the extent that they are vague, ambiguous,
27 overbroad in scope, uncertain as to time, unduly burdensome, oppressive, or seek information

1 that is not relevant to the subject matter of this litigation.

2 5. Any documents produced pursuant to these Requests are being produced solely
3 for the purpose of this matter. For every document produced, Zillow reserves its right to
4 interpose at trial all objections to competence, authenticity, relevance, materiality, propriety,
5 admissibility, and any and all other objections that would exclude the information from
6 evidence.

7 6. Zillow objects to each request to the extent that it contains subparts and/or a
8 compound, conjunctive, or disjunctive question.

9 7. Zillow objects to each Request to the extent that they seek information for the
10 purpose of conducting improper *ex parte* communications with any of Zillow's current
11 employees.

12 8. Zillow objects to the General Instructions, and in particular Instruction No. 2,
13 insofar as they purport to impose obligations beyond those imposed by the Federal Rules of
14 Civil Procedure, the Local Rules of this Court, or the parties' negotiated ESI Protocol. Zillow
15 will make productions as stated herein and supplement those productions and responses only
16 as necessary.

17 9. Zillow objects to the General Instructions, and in particular Instruction No. 3,
18 insofar as they purport to impose obligations beyond those imposed by the Federal Rules of
19 Civil Procedure, the Local Rules of this Court, or the parties' negotiated ESI Protocol. To the
20 extent privileged documents are implicated in Zillow's review and production, Zillow will
21 provide a privilege log sufficient to establish the privilege as required by Federal Rule of Civil
22 Procedure 26.

23 10. Zillow objects to the General Instructions, and in particular Instruction No. 4,
24 insofar as they purport to impose obligations beyond those imposed by the Federal Rules of
25 Civil Procedure, the Local Rules of this Court, or the parties' negotiated ESI Protocol. Zillow
26 will provide responses based only on information within its possession, custody, or control, as
27 set forth more fully in its responses herein.

1 11. Zillow objects to the General Instructions, and in particular Instruction No. 6,
2 insofar as they purport to impose obligations beyond those imposed by the Federal Rules of
3 Civil Procedure, the Local Rules of this Court, or the parties’ negotiated ESI Protocol. Zillow
4 will produce electronically stored information as set forth in the parties’ negotiated ESI
5 Protocol, as referenced and contemplated in the parties’ Joint Status Report and Discovery
6 Plan (Dkt. #79).

7 12. Zillow objects to the definition of “CORRESPONDENCE” insofar as the
8 definition imposes obligations on Zillow beyond those required by the Federal Rules of Civil
9 Procedure or Local Rules applicable to this case.

10 13. Zillow objects to the definition of “DATE” in that it purports to require Zillow
11 to provide “exact” dates of events or – if not ascertainable – “ANY known relationship to other
12 events.” To the extent Zillow is required in any of Plaintiff’s requests to provide a “DATE,”
13 Zillow will provide the exact date only if known but otherwise will approximate a month/year.
14 Zillow will not provide “ANY known relationship to other events” if an exact date is not
15 ascertainable.

16 14. Zillow objects to the definition of “YOU,” “YOUR,” and “ZILLOW” insofar
17 as it purports to include Zillow affiliates, employees, entities, or subsidiaries that have no
18 relevance to the issues in this litigation. Zillow will interpret Plaintiff’s definition of “YOU,”
19 “YOUR,” and “ZILLOW” to include the named Zillow entities that are included as defendants
20 in this litigation, as well as their agents and employees. For clarity, Zillow states that Trulia
21 LLC is a Zillow-owned entity and a named defendant in this litigation. Zillow will thus
22 interpret the definition of “YOU,” “YOUR,” and “ZILLOW” to include Trulia.

23 15. Zillow objects to Plaintiff’s definition of “DOCUMENT ” on the grounds that it
24 is overbroad, unduly burdensome and harassing, and seeks information outside the scope of
25 this lawsuit. Zillow further objects to this definition on the ground that it includes information
26 that is protected by the work product doctrine, the attorney-client privilege, the joint defense
27 privilege, the common interest privilege, and the common interest doctrine. Zillow further
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1 objects to this definition to the extent that it includes information that is neither relevant to this
2 litigation, the procurement of which would also be unduly burdensome, harassing, and
3 oppressive. Zillow further objects to this definition to the extent that it includes confidential
4 information of Zillow and/or Zillow's clients or employees who are not a party to this action;
5 ethical rules, contractual obligations, and/or other rules prohibiting Zillow from disclosing
6 such information. Zillow further objects to this definition to the extent that it includes
7 information protected by the privacy rights guaranteed under the United States and/or
8 Washington Constitutions. Zillow further objects to this definition to the extent that it seeks
9 information protected by the privacy rights of individuals not a party to this action. Zillow
10 also objects to the definition of "DOCUMENT" to the extent that it goes beyond the definition
11 set forth in Federal Rule of Civil Procedure Rule 34. Zillow further objects to the definition as
12 cumulative in that it purports to include "CORRESPONDENCE" and "ELECTRONICALLY
13 STORED INFORMATION"; for that reason, Zillow incorporates its objections to definitions
14 of those terms here. Zillow will interpret "DOCUMENT" to have the same definition as that
15 set forth in Rule 34 of the Federal Rules of Civil Procedure.

16 16. Zillow objects to the definition of "ELECTRONICALLY STORED
17 INFORMATION" ("ESI") to the extent that it imposes obligations on Zillow beyond those
18 required by the Federal Rules of Civil Procedure or Local Rules of this Court. Zillow also
19 objects to the extent that the definition of "ELECTRONICALLY STORED INFORMATION"
20 ("ESI") encompasses more ESI than contemplated by the parties' negotiated ESI Protocol.

21 17. Zillow objects to the definition of "IDENTIFY" when referring to a
22 DOCUMENT or WRITTEN COMMUNICATION to the extent that it imposes obligations on
23 Zillow beyond those required by the Federal Rules of Civil Procedure or Local Rules of this
24 Court. To the extent Plaintiff's Requests require Zillow to IDENTIFY a document or written
25 communication, Zillow will provide a reasonable amount of information to identify such
26 document or written communication. To the extent Plaintiff believes information beyond what
27 Zillow provides is needed, Zillow will be willing to meet and confer, following the finalization
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1 of a negotiated ESI Protocol between the parties, with Plaintiff to determine what additional
2 information to provide, if appropriate.

3 18. Zillow objects to the definition of “IDENTIFY” when referring to a meeting to
4 the extent that it imposes obligations on Zillow beyond those required by the Federal Rules of
5 Civil Procedure or Local Rules of this Court. To the extent Plaintiff’s Requests require Zillow
6 to IDENTIFY a meeting, Zillow will provide a reasonable amount of information to identify
7 such meeting. To the extent Plaintiff believes information beyond what Zillow provides is
8 needed, Zillow will be willing to meet and confer, following the finalization of a negotiated
9 ESI Protocol between the parties, with Plaintiff to determine what additional information to
10 provide, if appropriate.

11 19. Zillow objects to the definition of “IDENTIFY” when referring to oral
12 communications to the extent that it imposes obligations on Zillow beyond those required by
13 the Federal Rules of Civil Procedure or Local Rules of this Court. To the extent Plaintiff’s
14 Requests require Zillow to IDENTIFY oral communications, Zillow will provide a reasonable
15 amount of information to identify such meeting. To the extent Plaintiff believes information
16 beyond what Zillow provides is needed, Zillow will be willing to meet and confer, following
17 the finalization of a negotiated ESI Protocol between the parties, with Plaintiff to determine
18 what additional information to provide, if appropriate.

19 20. Zillow objects to the definition of “IDENTIFY” when referring to a person to
20 the extent that it imposes obligations on Zillow beyond those required by the Federal Rules of
21 Civil Procedure or Local Rules of this Court. Zillow further objects to the extent that
22 information purportedly requested by the definition of “IDENTIFY” when referring to a
23 person is not in Zillow’s custody, possession, or control, such as information regarding a
24 person’s present address or telephone information. To the extent Plaintiff’s Requests require
25 Zillow to IDENTIFY persons, Zillow will provide a reasonable amount of information to
26 identify such person. To the extent Plaintiff believes information beyond what Zillow
27 provides is needed, Zillow will be willing to meet and confer, following the finalization of a
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1 negotiated ESI Protocol between the parties, with Plaintiff to determine what additional
2 information to provide, if appropriate.

3 21. Zillow objects to the definition of “POLICY” or “POLICIES” on the grounds
4 that it is overbroad, vague and ambiguous, unduly burdensome, and seeks information outside
5 the scope of this lawsuit and Plaintiff’s Complaint.

6 22. Zillow objects to the definition of “REFERRING TO” or “RELATING TO” on
7 the grounds that it is overbroad, vague and ambiguous, unduly burdensome, and seeks
8 information outside the scope of this lawsuit and Plaintiff’s Complaint.

9 23. Zillow objects to the definition of “TRULIA” insofar as it suggests that
10 TRULIA is an entity entirely independent of Zillow. Zillow states that it acquired TRULIA in
11 February 2015 and thus TRULIA is a subsidiary of Zillow. For that reason, Zillow will
12 interpret the definition of “YOU,” “YOUR,” and “ZILLOW” to include “TRULIA.”

13 24. Zillow objects to the definition of “NAR” to the extent it purports to include
14 “agents” of NAR as set forth in Plaintiff’s Opposition to NAR’s Motion to Dismiss the
15 Amended Complaint (Dkt. #102). Zillow will not interpret the definition of “NAR” to include
16 local Multiple Listing Services (whether NAR-affiliated or not), nor will Zillow interpret the
17 definition of “NAR” to include Zillow.

18 25. Zillow objects to the definition of “SEGREGATION RULE” insofar as it
19 includes Rule 18.2.10. Zillow will interpret “SEGREGATION RULE” as used in these
20 Requests to refer only to Model Rule 18.3.11 from the NAR MLS Handbook, or any version
21 of that rule adopted by a Multiple Listing Service (whether NAR-affiliated or not).

22 26. Zillow objects to the definition of “MULTIPLE LISTING SERVICE” or
23 “MLS” in that an MLS actually refers to the database of data about real estate properties for
24 sale, and operation of that database is separate from the MLS itself. Nonetheless, Zillow will
25 interpret “MULTIPLE LISTING SERVICE” or “MLS” to encompass both the MLS database
26 as well as those cooperating real estate brokers who operate the database service.

1 27. Zillow objects to the stated relevant time period of January 2017 to the present
2 as vague and ambiguous in that it does not purport to state on which date in January it begins.
3 Zillow will interpret the relevant time period to begin on January 1, 2017 and carry to the
4 present. Zillow further objects to the relevant time period beginning on January 1, 2017, as
5 overly broad and not proportionate to the needs of this case in that it purports to require Zillow
6 to produce more information than will be necessary for either Plaintiff to prove its case or
7 Zillow to substantiate its own defenses.

8 **DOCUMENT REQUESTS AND RESPONSES**

9 Subject to and without waiving any of the foregoing General Objections, and
10 incorporating each of them by reference into each response below, Defendants respond more
11 specifically to Plaintiff’s individual requests for production as follows:

12 **RESPONSES TO REQUESTS FOR PRODUCTION**

13 **REQUEST FOR PRODUCTION NO. 1:**

14 Produce all Documents referring or related to NAR or its members or affiliates.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

16 Zillow incorporates its General Objections set forth above as if fully stated herein.
17 Zillow objects to Request No. 1 as overly broad – a request for “all Documents” that refer or
18 relate to NAR, its members, or its affiliates, since January 1, 2017 is extremely broad given the
19 nature of Zillow’s business in the real estate industry and would be unduly burdensome.
20 Zillow further objects to this Request on the basis that it seeks to compel the production of
21 voluminous documents, requires Defendants to conduct burdensome searches for documents,
22 and to the extent it is duplicative of other discovery requests. Zillow further objects insofar as
23 this Request is not proportionate to the needs of the case and to the extent that this Request
24 implicates privileged documents.

25 Subject to and without waiving Zillow’s General Objections and objections stated
26 immediately above, Zillow will not produce any documents responsive to Request No. 1 at this
27 time but, following the finalization of a negotiated ESI Protocol between the parties, will meet
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1 and confer with Plaintiff to determine what may constitute a reasonable search for and
2 production of responsive documents.

3 **REQUEST FOR PRODUCTION NO. 2:**

4 Produce all Agreements with any MLS.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

6 Zillow incorporates its General Objections set forth above as if fully stated herein.
7 Zillow objects to Request No. 2 as overly broad – a request for “all Agreements with any
8 MLS,” since January 1, 2017 is extremely broad given the nature of Zillow’s business in the
9 real estate industry, the fact that it has displayed listings (including MLS listings) for years,
10 and would be unduly burdensome. Zillow further objects to this Request on the basis that it
11 seeks to compel the production of voluminous documents, requires Defendants to conduct
12 burdensome searches for documents, and to the extent it is duplicative of other discovery
13 requests. Zillow further objects insofar as this Request is not proportionate to the needs of the
14 case and to the extent that this Request implicates privileged documents.

15 Subject to and without waiving Zillow’s General Objections and objections stated
16 immediately above, and following the finalization of a negotiated ESI Protocol between the
17 parties, Zillow will produce all current IDX Agreements and Syndication Agreements¹
18 between it and any MLS.

19 **REQUEST FOR PRODUCTION NO. 3:**

20 Produce all Documents referring to any MLS.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

22 Zillow incorporates its General Objections set forth above as if fully stated herein.
23 Zillow objects to Request No. 3 as overly broad – a request for “all Documents” that refer to
24 “any MLS,” since January 1, 2017 is extremely broad given the nature of Zillow’s business in
25 the real estate industry and would be unduly burdensome. Zillow further objects to this
26

27 ¹ To the extent not objected to above, all capitalized terms used herein shall have the same meaning and effect as
28 they do in the Amended Complaint and/or Zillow’s Answer filed in response thereto.

1 Request on the basis that it seeks to compel the production of voluminous documents, requires
2 Defendants to conduct burdensome searches for documents, and to the extent it is duplicative
3 of other discovery requests. Zillow further objects insofar as this Request is not proportionate
4 to the needs of the case and to the extent that this Request implicates privileged documents.

5 Subject to and without waiving Zillow’s General Objections and objections stated
6 immediately above, Zillow will not produce any documents responsive to Request No. 3 at this
7 time but, following the finalization of a negotiated ESI Protocol between the parties, will meet
8 and confer with Plaintiff to determine what may constitute a reasonable search for and
9 production of responsive documents.

10 **REQUEST FOR PRODUCTION NO. 4:**

11 Produce all Documents relating to Zillow’s decision to join any MLS.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

13 Zillow incorporates its General Objections set forth above as if fully stated herein.
14 Zillow objects to Request No. 4 as overly broad – a request for “*all* Documents” that relate to
15 Zillow’s decision to join “*any* MLS” since January 1, 2017 is extremely broad given the nature
16 of Zillow’s business in the real estate industry and would be unduly burdensome. Zillow
17 further objects to this Request on the basis that it seeks to compel the production of
18 voluminous documents, requires Defendants to conduct burdensome searches for documents,
19 and to the extent it is duplicative of other discovery requests. Zillow further objects insofar as
20 this Request is not proportionate to the needs of the case and to the extent that this Request
21 implicates privileged documents.

22 Subject to and without waiving Zillow’s General Objections and objections stated
23 immediately above, and following the finalization of a negotiated ESI Protocol between the
24 parties, Zillow will produce all relevant, non-privileged documents responsive to Request No.
25 4 in its possession, custody, or control, if any, subject to negotiated custodians and search
26 terms as set forth in the parties’ ESI Protocol.

1 **REQUEST FOR PRODUCTION NO. 5:**

2 Produce all Documents evidencing MLSs that agreed to provide listings to Zillow prior
3 to 2021 with information on the terms of the agreement and potential listing opt-outs.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

5 Zillow incorporates its General Objections set forth above as if fully stated herein.
6 Zillow objects to Request No. 5 as overly broad – a request for “all Documents” that
7 “evidenc[e] MLSs that agreed to provide listings to Zillow” since January 1, 2017 is extremely
8 broad given the nature of Zillow’s business in the real estate industry and would be unduly
9 burdensome. Zillow further objects to this Request on the basis that it seeks to compel the
10 production of voluminous documents, requires Defendants to conduct burdensome searches
11 for documents, and to the extent it is duplicative of other discovery requests. Zillow further
12 objects insofar as this Request is not proportionate to the needs of the case. Zillow also
13 objects to this Request as vague because it is not clear to Zillow from the Request as-phrased
14 what documents it should search for or what would be considered a responsive document.
15 Zillow further objects to the extent that this Request implicates documents that are not readily
16 available to it or in its possession, custody, or control. Additionally, Zillow objects to the
17 extent that this Request implicates privileged documents.

18 Subject to and without waiving Zillow’s General Objections and objections stated
19 immediately above, Zillow will not produce any documents responsive to Request No. 5 at this
20 time but, following the finalization of a negotiated ESI Protocol between the parties, will meet
21 and confer with Plaintiff to determine what may constitute a reasonable search for and
22 production of responsive documents.

23 **REQUEST FOR PRODUCTION NO. 6:**

24 Produce all lists or other documents of brokers (or agents) that opted-out from
25 providing listings to Zillow prior to 2021 with date of opt-out, MLS affiliation, number of
26 listings opted out.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

2 Zillow incorporates its General Objections set forth above as if fully stated herein.
3 Zillow objects to Request No. 6 as overly broad – a request for “*all* lists or other documents”
4 concerning opt-outs to providing listings to Zillow since January 1, 2017 is extremely broad
5 given the nature of Zillow’s business in the real estate industry and would be unduly
6 burdensome. Zillow further objects to this Request on the basis that it seeks to compel the
7 production of voluminous documents, requires Defendants to conduct burdensome searches
8 for documents, and to the extent it is duplicative of other discovery requests. Zillow further
9 objects insofar as this Request is not proportionate to the needs of the case. Zillow further
10 objects to the extent that this Request implicates documents that are not readily available to it
11 or in its possession, custody, or control. Additionally, Zillow objects to the extent that this
12 Request implicates privileged documents.

13 Subject to and without waiving Zillow’s General Objections and objections stated
14 immediately above, and following the finalization of a negotiated ESI Protocol between the
15 parties, Zillow will produce reports or data in its possession, custody, or control, if any,
16 regarding brokers or agents that opted-out from providing listings to Zillow prior to 2021 as
17 responsive to Request No. 6.

18 **REQUEST FOR PRODUCTION NO. 7:**

19 For each MLS coverage area, produce all Documents sufficient to show the number of
20 listings received by Zillow from the MLS for one year before and for the period one year after
21 Zillow began receiving IDX feeds from the MLS.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

23 Zillow incorporates its General Objections set forth above as if fully stated herein.
24 Zillow objects to Request No. 7 as overly broad – a request for “*all* Documents” concerning
25 listings received by Zillow from MLSs for the stated time period is extremely broad given the
26 nature of Zillow’s business in the real estate industry and would be unduly burdensome.
27 Zillow further objects to this Request on the basis that it seeks to compel the production of

1 voluminous documents, requires Defendants to conduct burdensome searches for documents,
2 and to the extent it is duplicative of other discovery requests. Zillow further objects insofar as
3 this Request is not proportionate to the needs of the case for the same reasons. Additionally,
4 Zillow objects to the extent that this Request implicates privileged documents.

5 Subject to and without waiving Zillow’s General Objections and objections stated
6 immediately above, and following the finalization of a negotiated ESI Protocol between the
7 parties, Zillow will produce Documents in its possession, custody, or control, if any,
8 responsive to Request No. 7.

9 **REQUEST FOR PRODUCTION NO. 8:**

10 Produce all Documents related to Zillow’s change from syndication to IDX feeds for
11 its listings data, including any studies, surveys, or analyses.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

13 Zillow incorporates its General Objections set forth above as if fully stated herein.
14 Zillow objects to Request No. 4 as overly broad – a request for “*all* Documents” that relate to
15 Zillow’s decision change from syndication to IDX feeds for listings data is extremely broad
16 given the nature of Zillow’s business in the real estate industry and would be unduly
17 burdensome. Zillow further objects to this Request on the basis that it seeks to compel the
18 production of voluminous documents, requires Defendants to conduct burdensome searches
19 for documents, and to the extent it is duplicative of other discovery requests. Zillow further
20 objects insofar as this Request is not proportionate to the needs of the case for the same
21 reasons. Additionally, Zillow objects to the extent that this Request implicates privileged
22 documents.

23 Subject to and without waiving Zillow’s General Objections and objections stated
24 immediately above, and following the finalization of a negotiated ESI Protocol between the
25 parties, Zillow will produce all relevant, non-privileged documents responsive to Request No.
26 8 in its possession, custody, or control, if any, subject to negotiated custodians and search
27 terms as set forth in the parties’ ESI Protocol.

1 **REQUEST FOR PRODUCTION NO. 9:**

2 Produce all Documents relating to Zillow modifying its real estate search products to
3 comply or conform with MLS rules.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

5 Zillow incorporates its General Objections set forth above as if fully stated herein.
6 Zillow objects to Request No. 9 as overly broad – a request for “*all* Documents” that “relat[e]
7 to Zillow modifying its real estate search products to comply or conform with MLS rules”
8 since January 1, 2017 is extremely broad given the nature of Zillow’s business in the real
9 estate industry and would be unduly burdensome. Zillow further objects to this Request on the
10 basis that it seeks to compel the production of voluminous documents, requires Defendants to
11 conduct burdensome searches for documents, and to the extent it is duplicative of other
12 discovery requests. Zillow further objects insofar as this Request is not proportionate to the
13 needs of the case particularly as the Request as-phrased implicates MLS rules that do not relate
14 to those at issue in this case and are thus irrelevant. Additionally, Zillow objects to the extent
15 that this Request implicates privileged documents.

16 Subject to and without waiving Zillow’s General Objections and objections stated
17 immediately above, Zillow will not produce any documents responsive to Request No. 9 at this
18 time but, following the finalization of a negotiated ESI Protocol between the parties, will meet
19 and confer with Plaintiff to determine what may constitute a reasonable search for and
20 production of responsive documents.

21 **REQUEST FOR PRODUCTION NO. 10:**

22 Produce all data on consumer and real estate broker usage of Zillow sites.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

24 Zillow incorporates its General Objections set forth above as if fully stated herein.
25 Zillow objects to Request No. 10 as overly broad – a request for “*all* data on consumer and
26 real estate broker usage of Zillow sites” since January 1, 2017 is extremely broad given the
27 nature of Zillow’s business in the real estate industry and would be unduly burdensome.

1 Zillow further objects to this Request on the basis that it seeks to compel the production of
 2 voluminous documents, requires Defendants to conduct burdensome searches for documents,
 3 and is duplicative of other discovery requests. Zillow further objects insofar as this Request is
 4 not proportionate to the needs of the case. Zillow also objects to the extent that such a broad
 5 request for data on consumer and real estate brokerage usage of Zillow's sites is irrelevant to
 6 the issues in this case because consumers and brokers may use Zillow for reasons beyond
 7 shopping for or marketing homes. Additionally, Zillow objects to the extent that this Request
 8 implicates privileged documents.

9 Subject to and without waiving Zillow's General Objections and objections stated
 10 immediately above, Zillow will not produce any data responsive to Request No. 10 at this time
 11 but, following the finalization of a negotiated ESI Protocol between the parties, will meet and
 12 confer with Plaintiff to determine what may constitute a reasonable search for and production
 13 of responsive documents.

14 **REQUEST FOR PRODUCTION NO. 11:**

15 Produce all Documents that refer or relate to REX.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

17 Zillow incorporates its General Objections set forth above as if fully stated herein.
 18 Zillow objects to Request No. 11 as overly broad – a request for “*all* Documents that refer or
 19 relate to REX” since January 1, 2017 is extremely broad given the nature of Zillow's business
 20 in the real estate industry and would be unduly burdensome. Zillow further objects to this
 21 Request on the basis that it seeks to compel the production of voluminous documents, requires
 22 Defendants to conduct burdensome searches for documents, and to the extent it is duplicative
 23 of other discovery requests. Zillow further objects insofar as this Request is not proportionate
 24 to the needs of the case particularly as the Request as-phrased can implicate documents
 25 regarding REX that do not relate issues in this case and are thus irrelevant. Zillow also objects
 26 to this Request as vague because it does not specify what types of documents regarding REX it
 27
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1 seeks. Additionally, Zillow objects to the extent that this Request implicates privileged
2 documents.

3 Subject to and without waiving Zillow’s General Objections and objections stated
4 immediately above, Zillow will not produce any documents responsive to Request No. 11 at
5 this time but, following the finalization of a negotiated ESI Protocol between the parties, will
6 meet and confer with Plaintiff to determine what may constitute a reasonable search for and
7 production of responsive documents.

8 **REQUEST FOR PRODUCTION NO. 12:**

9 Produce Documents sufficient to show how many daily Zillow searches are performed
10 in REX markets.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

12 Zillow incorporates its General Objections set forth above as if fully stated herein.
13 Zillow objects to Request No. 12 as overly broad – a request for Documents sufficient to show
14 “how many daily Zillow searches are performed in REX markets” since January 1, 2017 is
15 extremely broad given the nature of Zillow’s business in the real estate industry and would be
16 unduly burdensome. Zillow further objects to this Request on the basis that it seeks to compel
17 the production of voluminous documents, requires Defendants to conduct burdensome
18 searches for documents, and to the extent it is duplicative of other discovery requests. Zillow
19 further objects insofar as this Request is not proportionate to the needs of the case particularly
20 as the Request as-phrased purports to ask for more data than is necessary for Plaintiff to make
21 its case and is irrelevant to the issues in the case. Zillow also objects to this Request as vague
22 because it does not specify what types of documents it seeks. Additionally, Zillow objects to
23 the extent that this Request implicates privileged documents.

24 Subject to and without waiving Zillow’s General Objections and objections stated
25 immediately above, Zillow will not produce any Documents responsive to Request No. 12 at
26 this time but, following the finalization of a negotiated ESI Protocol between the parties, will
27 meet and confer with Plaintiff to determine what may constitute a reasonable search for and
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1 production of responsive Documents.

2 **REQUEST FOR PRODUCTION NO. 13:**

3 Produce all Documents sufficient to show daily views and showing requests through
4 Zillow for each listing (REX and all other listings as well) in REX markets from December
5 2015 through the present, indicating whether the listing was displayed in the “Agent listings”
6 tab or “Other listings” tab.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

8 Zillow incorporates its General Objections set forth above as if fully stated herein.
9 Zillow objects to Request No. 13 as overly broad – a request for “all Documents sufficient to
10 show daily views and showing requests through Zillow for each listing (REX and all other
11 listings as well) in REX markets from December 2015 through the present” is extremely broad
12 given the nature of Zillow’s business in the real estate industry and would be unduly
13 burdensome. Zillow further objects to this Request on the basis that it seeks to compel the
14 production of voluminous documents, requires Defendants to conduct burdensome searches
15 for documents, and to the extent it is duplicative of other discovery requests. Zillow further
16 objects insofar as this Request is not proportionate to the needs of the case particularly as the
17 Request as-phrased purports to ask for more data than is necessary for Plaintiff to make its
18 case and is irrelevant to the issues in the case. Zillow also objects to this Request as non-
19 sensical because it asks Zillow to indicate whether listings appeared on the “Agent listings” or
20 “Other listings” tab without regard to whether the tabs were in use at the time that listings were
21 posted. Additionally, Zillow objects to the extent that this Request implicates privileged
22 documents.

23 Subject to and without waiving Zillow’s General Objections and objections stated
24 immediately above, Zillow will not produce any Documents responsive to Request No. 13 at
25 this time but, following the finalization of a negotiated ESI Protocol between the parties, will
26 meet and confer with Plaintiff to determine what may constitute a reasonable search for and
27 production of responsive Documents.

1 **REQUEST FOR PRODUCTION NO. 14:**

2 Produce all Documents related to Zillow’s efforts to modify or eliminate the
3 Segregation Rule as adopted by NAR or any MLS.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

5 Zillow incorporates its General Objections set forth above as if fully stated herein.
6 Zillow objects to Request No. 14 as overly broad – a request for “*all* Documents” that relate to
7 Zillow’s efforts to modify or eliminate the “Segregation Rule” as adopted by NAR or any
8 MLS since January 1, 2017 is extremely broad given the nature of Zillow’s business in the real
9 estate industry and would be unduly burdensome. Zillow further objects to this Request on the
10 basis that it seeks to compel the production of voluminous documents, requires Defendants to
11 conduct burdensome searches for documents, and to the extent it is duplicative of other
12 discovery requests. Zillow further objects insofar as this Request is not proportionate to the
13 needs of the case. Additionally, Zillow objects to the extent that this Request implicates
14 privileged documents.

15 Subject to and without waiving Zillow’s General Objections and objections stated
16 immediately above, and following the finalization of a negotiated ESI Protocol between the
17 parties, Zillow will produce all relevant, non-privileged documents provided to NAR in
18 connection with any efforts to modify or eliminate the “Segregation Rule.”

19 **REQUEST FOR PRODUCTION NO. 15:**

20 Produce all Documents related to Zillow’s compliance with the Mandatory Offer of
21 Compensation Rule.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

23 Zillow incorporates its General Objections set forth above as if fully stated herein.
24 Zillow objects to Request No. 15 as overly broad – a request for “*all* Documents” that relate to
25 Zillow’s compliance with the Mandatory Offer of Compensation Rule since January 1, 2017 is
26 extremely broad given the nature of Zillow’s business in the real estate industry and would be
27 unduly burdensome. Zillow further objects to this Request on the basis that it seeks to compel
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1 the production of voluminous documents, requires Defendants to conduct burdensome
2 searches for documents, and to the extent it is duplicative of other discovery requests. Zillow
3 further objects insofar as this Request is not proportionate to the needs of the case.

4 Additionally, Zillow objects to the extent that this Request implicates privileged documents.

5 Subject to and without waiving Zillow’s General Objections and objections stated
6 immediately above, and following the finalization of a negotiated ESI Protocol between the
7 parties, Zillow will produce any current internal rules or policies, if any, relating to Zillow’s
8 compliance with the Mandatory Offer of Compensation Rule.

9 **REQUEST FOR PRODUCTION NO. 16:**

10 Produce all Documents that relate to how Zillow sets the commission it offers to a
11 buyer’s agent.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

13 Zillow incorporates its General Objections set forth above as if fully stated herein.
14 Zillow objects to Request No. 16 as overly broad – a request for “*all* Documents” that relate to
15 how Zillow sets the commission it offers to a buyer’s agent since January 1, 2017 is extremely
16 broad given the nature of Zillow’s business in the real estate industry and would be unduly
17 burdensome. Zillow further objects to this Request on the basis that it seeks to compel the
18 production of voluminous documents, requires Defendants to conduct burdensome searches
19 for documents, and to the extent it is duplicative of other discovery requests. Zillow further
20 objects insofar as this Request is not proportionate to the needs of the case. Additionally,
21 Zillow objects to the extent that this Request implicates privileged documents. Zillow also
22 objects to the extent that this Request implicates or seeks documents related to Zillow Offers;
23 Zillow is in the process of winding down the line of business offered by Zillow Offers.

24 Subject to and without waiving Zillow’s General Objections and objections stated
25 immediately above, and following the finalization of a negotiated ESI Protocol between the
26 parties, Zillow will produce any current internal policies, if any, relating to how Zillow sets the
27 commission it offers to a buyer’s agent.

1 **REQUEST FOR PRODUCTION NO. 17:**

2 Produce all Documents that relate to how Zillow sets the fees it charges for buying a
3 home.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

5 Zillow incorporates its General Objections set forth above as if fully stated herein.
6 Zillow objects to Request No. 17 as overly broad – a request for “*all* Documents” that relate to
7 how Zillow sets the fees it charges for buying a home since January 1, 2017 is extremely broad
8 given the nature of Zillow’s business in the real estate industry and would be unduly
9 burdensome. Zillow further objects to this Request on the basis that it seeks to compel the
10 production of voluminous documents, requires Defendants to conduct burdensome searches
11 for documents, and to the extent it is duplicative of other discovery requests. Zillow further
12 objects insofar as this Request is not proportionate to the needs of the case. Additionally,
13 Zillow objects to the extent that this Request implicates privileged documents. Zillow also
14 objects to the extent that this Request implicates or seeks documents related to Zillow Offers;
15 Zillow is in the process of winding down the line of business offered by Zillow Offers.

16 Subject to and without waiving Zillow’s General Objections and objections stated
17 immediately above, and following the finalization of a negotiated ESI Protocol between the
18 parties, Zillow will produce any current internal policies, if any, relating to how Zillow sets the
19 fees it charges for buying a home.

20 **REQUEST FOR PRODUCTION NO. 18:**

21 Produce all market evaluations or analyses of the following Zillow products or
22 services: Zillow Offers, Zillow I-Buying, Zillow Premier Agent, Zillow residential real estate
23 mobile search apps and tools, and Zillow residential real estate search tools.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

25 Zillow incorporates its General Objections set forth above as if fully stated herein.
26 Zillow objects to Request No. 18 as overly broad – a request for “*all* market evaluations or
27 analyses” of Zillow Offers, Zillow I-Buying, Zillow Premier Agent, Zillow’s residential real
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1 estate mobile search apps and tools, and Zillow’s residential real estate search tools since
 2 January 1, 2017 is extremely broad given the nature of Zillow’s business in the real estate
 3 industry and would be unduly burdensome. Zillow further objects to this Request on the basis
 4 that it seeks to compel the production of voluminous documents, requires Defendants to
 5 conduct burdensome searches for documents, and to the extent it is duplicative of other
 6 discovery requests. Zillow further objects insofar as this Request is not proportionate to the
 7 needs of the case, particularly as the Request as-phrased purports to ask for more data than is
 8 necessary for Plaintiff to make its case and is irrelevant to the issues in the case. Additionally,
 9 Zillow objects to the extent that this Request implicates privileged documents – Zillow will
 10 not produce documents subject to any privilege. Zillow also objects to the extent that this
 11 Request implicates or seeks documents related to Zillow Offers; Zillow is in the process of
 12 winding down the line of business offered by Zillow Offers.

13 Subject to and without waiving Zillow’s General Objections and objections stated
 14 immediately above, Zillow will not produce any Documents responsive to Request No. 18 at
 15 this time but, following the finalization of a negotiated ESI Protocol between the parties, will
 16 meet and confer with Plaintiff to determine what may constitute a reasonable search for and
 17 production of responsive Documents.

18 **REQUEST FOR PRODUCTION NO. 19:**

19 Produce all Documents relating to performance (including but not limited to number of
 20 views, days on market, selling price, commissions paid, and any other metrics Zillow uses to
 21 gauge listing performance) of listings displayed under the “Other listings” tab.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

23 Zillow incorporates its General Objections set forth above as if fully stated herein.
 24 Zillow objects to Request No. 19 as overly broad – a request for “*all* Documents” relating to
 25 performance of listings displayed under the “Other listings” tab is extremely broad given the
 26 nature of Zillow’s business in the real estate industry and would be unduly burdensome.
 27 Zillow further objects to this Request on the basis that it seeks to compel the production of

1 voluminous documents, requires Defendants to conduct burdensome searches for documents,
2 and to the extent it is duplicative of other discovery requests. Zillow further objects insofar as
3 this Request is not proportionate to the needs of the case. Zillow also objects to this Request
4 as vague because it does not specify what types of documents it seeks. Additionally, Zillow
5 objects to the extent that this Request implicates privileged documents.

6 Subject to and without waiving Zillow's General Objections and objections stated
7 immediately above, Zillow will not produce any Documents responsive to Request No. 19 at
8 this time but, following the finalization of a negotiated ESI Protocol between the parties, will
9 meet and confer with Plaintiff to determine what may constitute a reasonable search for and
10 production of responsive Documents.

11 **REQUEST FOR PRODUCTION NO. 20:**

12 Produce all Documents relating to the determination to use two tabs on Zillow's
13 display labeled "Agent listings" and "Other listings."

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

15 Zillow incorporates its General Objections set forth above as if fully stated herein.
16 Zillow objects to Request No. 20 as overly broad – a request for "*all* Documents" that relate to
17 the determination to use two tabs on Zillow's display labeled "Agent listings" and "Other
18 listings" is extremely broad given the nature of Zillow's business in the real estate industry and
19 would be unduly burdensome. Zillow further objects to this Request on the basis that it seeks
20 to compel the production of voluminous documents, requires Defendants to conduct
21 burdensome searches for documents, and to the extent it is duplicative of other discovery
22 requests. Zillow further objects insofar as this Request is not proportionate to the needs of the
23 case. Additionally, Zillow objects to the extent that this Request implicates privileged
24 documents.

25 Subject to and without waiving Zillow's General Objections and objections stated
26 immediately above, and following the finalization of a negotiated ESI Protocol between the
27 parties, Zillow will produce all relevant, non-privileged documents responsive to Request No.

1 20 in its possession, custody, or control, if any, subject to negotiated custodians and search
2 terms as set forth in the parties' ESI Protocol.

3 **REQUEST FOR PRODUCTION NO. 21:**

4 Produce all Documents reflecting other naming or labeling conventions considered for
5 the display tabs "Agent listings" and "Other listings."

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 21:**

7 Zillow incorporates its General Objections set forth above as if fully stated herein.
8 Zillow objects to Request No. 21 as overly broad – a request for "*all* Documents" that reflect
9 other naming or labeling conventions considered for the display tabs "Agent listings" and
10 "Other listings" is extremely broad given the nature of Zillow's business in the real estate
11 industry and would be unduly burdensome. Zillow further objects to this Request on the basis
12 that it seeks to compel the production of voluminous documents, requires Defendants to
13 conduct burdensome searches for documents, and to the extent it is duplicative of other
14 discovery requests. Zillow further objects insofar as this Request is not proportionate to the
15 needs of the case. Additionally, Zillow objects to the extent that this Request implicates
16 privileged documents.

17 Subject to and without waiving Zillow's General Objections and objections stated
18 immediately above, and following the finalization of a negotiated ESI Protocol between the
19 parties, Zillow will produce all relevant, non-privileged documents responsive to Request No.
20 21 in its possession, custody, or control, if any, subject to negotiated custodians and search
21 terms as set forth in the parties' ESI Protocol.

22 **REQUEST FOR PRODUCTION NO. 22:**

23 Produce all Documents evidencing any analysis, review, or information concerning the
24 impact of the two-tab display system upon Zillow's consumer-users.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 22:**

26 Zillow incorporates its General Objections set forth above as if fully stated herein.
27 Zillow objects to Request No. 22 as overly broad – a request for "*all* Documents" evidencing
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1 any analysis, review, or information concerning the impact of the two-tab display system upon
2 Zillow's consumer-users is extremely broad given the nature of Zillow's business in the real
3 estate industry and would be unduly burdensome. Zillow further objects to this Request on the
4 basis that it seeks to compel the production of voluminous documents, requires Defendants to
5 conduct burdensome searches for documents, and to the extent it is duplicative of other
6 discovery requests. Zillow further objects insofar as this Request is not proportionate to the
7 needs of the case. Additionally, Zillow objects to the extent that this Request implicates
8 privileged documents.

9 Subject to and without waiving Zillow's General Objections and objections stated
10 immediately above, and following the finalization of a negotiated ESI Protocol between the
11 parties, Zillow will produce relevant, non-privileged documents in its possession, custody, or
12 control, if any, sufficient to show any analysis, review, or information concerning the impact
13 of the two-tab display system upon Zillow's consumer-users.

14 **REQUEST FOR PRODUCTION NO. 23:**

15 Produce all Documents evidencing any analysis, review, or information concerning the
16 impact of the two-tab display system upon listings on Zillow.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 23:**

18 Zillow incorporates its General Objections set forth above as if fully stated herein.
19 Zillow objects to Request No. 23 as overly broad – a request for “*all* Documents” evidencing
20 any analysis, review, or information concerning the impact of the two-tab display system upon
21 Zillow is extremely broad given the nature of Zillow's business in the real estate industry and
22 would be unduly burdensome. Zillow further objects to this Request on the basis that it seeks
23 to compel the production of voluminous documents, requires Defendants to conduct
24 burdensome searches for documents, and to the extent it is duplicative of other discovery
25 requests. Zillow further objects insofar as this Request is not proportionate to the needs of the
26 case. Additionally, Zillow objects to the extent that this Request implicates privileged
27 documents.

1 Subject to and without waiving Zillow’s General Objections and objections stated
2 immediately above, and following the finalization of a negotiated ESI Protocol between the
3 parties, Zillow will produce relevant, non-privileged documents in its possession, custody, or
4 control, if any, sufficient to show any analysis, review, or information concerning the impact
5 of the two-tab display system upon Zillow.

6 **REQUEST FOR PRODUCTION NO. 24:**

7 Produce all Documents related to communications with or complaints or comments
8 from real estate agents, consumers, or others about Zillow site changes from June 2020 to the
9 present.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 24:**

11 Zillow incorporates its General Objections set forth above as if fully stated herein.
12 Zillow objects to Request No. 24 as overly broad – a request for “*all Documents*” relating to
13 communications with or complaints or comments from real estate agents, consumers, or others
14 about Zillow site changes from June 2020 to present is extremely broad given the nature of
15 Zillow’s business in the real estate industry and the numerous, unrelated, and irrelevant
16 changes that have been made to its website and online platforms since June 2020 and would be
17 unduly burdensome. Zillow further objects to this Request on the basis that it seeks to compel
18 the production of voluminous documents, requires Defendants to conduct burdensome
19 searches for documents, and to the extent it is duplicative of other discovery requests. Zillow
20 further objects insofar as this Request is not proportionate to the needs of the case, particularly
21 as the Request as-phrased purports to ask for more data than is necessary for Plaintiff to make
22 its case and is irrelevant to the issues in the case. Zillow also objects to this Request as vague
23 because it does not specify what types of documents it seeks. Additionally, Zillow objects to
24 the extent that this Request implicates privileged documents.

25 Subject to and without waiving Zillow’s General Objections and objections stated
26 immediately above, Zillow will not produce any Documents responsive to Request No. 24 at
27 this time but, following the finalization of a negotiated ESI Protocol between the parties, will
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1 meet and confer with Plaintiff to determine what may constitute a reasonable search for and
2 production of responsive Documents.

3 **REQUEST FOR PRODUCTION NO. 25:**

4 Produce all Documents relating to any review, analysis, study, or critique of Zillow’s
5 two-tab display.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 25:**

7 Zillow incorporates its General Objections set forth above as if fully stated herein.
8 Zillow objects to Request No. 25 as overly broad – a request for “*all* Documents” that relate to
9 any review, analysis, study, or critique of Zillow’s two-tab display is extremely broad given
10 the nature of Zillow’s business in the real estate industry and would be unduly burdensome.
11 Zillow further objects to this Request on the basis that it seeks to compel the production of
12 voluminous documents, requires Defendants to conduct burdensome searches for documents,
13 and to the extent it is duplicative of other discovery requests. Zillow further objects insofar as
14 this Request is not proportionate to the needs of the case. Additionally, Zillow objects to the
15 extent that this Request implicates privileged documents.

16 Subject to and without waiving Zillow’s General Objections and objections stated
17 immediately above, and following the finalization of a negotiated ESI Protocol between the
18 parties, Zillow will produce any non-privileged review, analysis, study, or critique, if any, in
19 its possession, custody, or control, subject to negotiated custodians and search terms as set
20 forth in the parties’ ESI Protocol.

21 **REQUEST FOR PRODUCTION NO. 26:**

22 Produce all Documents relating to any consumer confusion or difficulty about Zillow’s
23 two-tab display.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

25 Zillow incorporates its General Objections set forth above as if fully stated herein.
26 Zillow objects to Request No. 26 as overly broad – a request for “*all* Documents” that relate to
27 any consumer confusion or difficulty about Zillow’s two-tab display is extremely broad given
28

1 the multitude of ways in which a consumer might be confused or have difficulty navigating
 2 Zillow’s two-tab display and would be unduly burdensome. Zillow further objects to this
 3 Request on the basis that it seeks to compel the production of voluminous documents, requires
 4 Defendants to conduct burdensome searches for documents, and to the extent it is duplicative
 5 of other discovery requests. Zillow further objects insofar as this Request is not proportionate
 6 to the needs of the case. Zillow also objects to the phrase “consumer confusion” and use of the
 7 word “difficulty” as vague and ambiguous in that it could encompass reasons a consumer is
 8 confused about Zillow’s website that are wholly unrelated to the issues in this case.
 9 Additionally, Zillow objects to the extent that this Request implicates privileged documents.

10 Subject to and without waiving Zillow’s General Objections and objections stated
 11 immediately above, and following the finalization of a negotiated ESI Protocol between the
 12 parties, Zillow will produce all relevant, non-privileged documents responsive to Request No.
 13 26 in its possession, custody, or control, if any, subject to negotiated custodians and search
 14 terms as set forth in the parties’ ESI Protocol.

15 **REQUEST FOR PRODUCTION NO. 27:**

16 Produce all Documents dated after January 1, 2021, reflecting Zillow’s consideration
 17 of changing its current two-tab display “Agent listings” and “Other listings.”

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 27:**

19 Zillow incorporates its General Objections set forth above as if fully stated herein.
 20 Zillow objects to Request No. 27 as overly broad – a request for “*all* Documents” that reflect
 21 Zillow’s consideration of changing its current two-tab display is extremely broad given that
 22 the Request as-written could encompass technical and coding documents wholly unrelated to
 23 the issues in this case and would be unduly burdensome. Zillow further objects to this Request
 24 on the basis that it seeks to compel the production of voluminous documents, requires
 25 Defendants to conduct burdensome searches for documents, and to the extent it is duplicative
 26 of other discovery requests. Zillow further objects insofar as this Request is not proportionate
 27 to the needs of the case. Zillow also objects to the use of the word “changing” as vague and
 28

1 ambiguous because it does not describe the type of changes for which this Request seeks
2 Documents. Additionally, Zillow objects to the extent that this Request implicates privileged
3 documents.

4 Subject to and without waiving Zillow’s General Objections and objections stated
5 immediately above, and following the finalization of a negotiated ESI Protocol between the
6 parties, Zillow will produce all relevant, non-privileged documents responsive to Request No.
7 27 in its possession, custody, or control, if any, subject to negotiated custodians and search
8 terms as set forth in the parties’ ESI Protocol.

9 **REQUEST FOR PRODUCTION NO. 28:**

10 Produce all Documents evidencing any injury to Zillow from the use of the Two-Tab
11 Display “Agent listings” and “Other listings.”

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 28:**

13 Zillow incorporates its General Objections set forth above as if fully stated herein.
14 Zillow objects to Request No. 28 as overly broad – a request for “*all* Documents” that
15 evidence “*any* injury” to Zillow from the use of the two-tab display is extremely broad given
16 that the Request as-written could encompass Documents regarding technical issues wholly
17 unrelated to the issues in this case and would be unduly burdensome. Zillow further objects to
18 this Request on the basis that it seeks to compel the production of voluminous documents,
19 requires Defendants to conduct burdensome searches for documents, and to the extent it is
20 duplicative of other discovery requests. Zillow further objects insofar as this Request is not
21 proportionate to the needs of the case. Additionally, Zillow objects to the extent that this
22 Request implicates privileged documents.

23 Subject to and without waiving Zillow’s General Objections and objections stated
24 immediately above, and following the finalization of a negotiated ESI Protocol between the
25 parties, Zillow will produce all relevant, non-privileged documents in its possession, custody,
26 or control that exist and are responsive to Request No. 28, subject to negotiated custodians and
27 search terms as set forth in the parties’ ESI Protocol.

1 **REQUEST FOR PRODUCTION NO. 29:**

2 Produce all Documents evidencing any benefit to Zillow from the use of the two-tab
3 display “Agent listings” and “Other listings.”

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 29:**

5 Zillow incorporates its General Objections set forth above as if fully stated herein.
6 Zillow objects to Request No. 29 as overly broad – a request for “*all* Documents” that
7 evidence “*any* benefit” to Zillow from the use of the two-tab display is extremely broad given
8 that it does not purport to seek only quantifiable benefits and thus could include Documents
9 regarding inadvertent or miniscule benefits to Zillow and would be unduly burdensome.
10 Zillow further objects to this Request on the basis that it seeks to compel the production of
11 voluminous documents, requires Defendants to conduct burdensome searches for documents,
12 and to the extent it is duplicative of other discovery requests. Zillow further objects insofar as
13 this Request is not proportionate to the needs of the case. Additionally, Zillow objects to the
14 extent that this Request implicates privileged documents.

15 Subject to and without waiving Zillow’s General Objections and objections stated
16 immediately above, and following the finalization of a negotiated ESI Protocol between the
17 parties, Zillow will produce all relevant, non-privileged reports or analyses in its possession,
18 custody, or control that exist and are responsive to Request No. 29.

19 **REQUEST FOR PRODUCTION NO. 30:**

20 Produce all Documents indicating any advantage or potential advantage to Zillow’s
21 ibuying program because of Zillow’s membership in NAR.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 30:**

23 Zillow incorporates its General Objections set forth above as if fully stated herein.
24 Zillow objects to Request No. 30 as overly broad – a request for “*all* Documents” indicate
25 “*any* advantage or potential advantage” to Zillow’s ibuying program because of Zillow’s
26 membership in NAR since January 1, 2017 is extremely broad given the nature of Zillow’s
27 business in the real estate industry and would be unduly burdensome. Zillow further objects to

1 this Request on the basis that it seeks to compel the production of voluminous documents,
2 requires Defendants to conduct burdensome searches for documents, and to the extent it is
3 duplicative of other discovery requests. Zillow further objects insofar as this Request is not
4 proportionate to the needs of the case particularly as the Request as-phrased purports to ask for
5 more information than is necessary for Plaintiff to make its case and is irrelevant to the issues
6 in the case. Zillow also objects to this Request as vague because it does not specify what types
7 of documents it seeks. Additionally, Zillow objects to the extent that this Request implicates
8 privileged documents. Zillow also objects to the extent that this Request implicates or seeks
9 documents related to Zillow Offers; Zillow is in the process of winding down the line of
10 business offered by Zillow Offers.

11 Subject to and without waiving Zillow's General Objections and objections stated
12 immediately above, Zillow will not produce any Documents responsive to Request No. 30 at
13 this time but, following the finalization of a negotiated ESI Protocol between the parties, will
14 meet and confer with Plaintiff to determine what may constitute a reasonable search for and
15 production of responsive Documents.

16 **REQUEST FOR PRODUCTION NO. 31:**

17 Produce all Documents relating to Zillow's decision to join NAR.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 31:**

19 Zillow incorporates its General Objections set forth above as if fully stated herein.
20 Zillow objects to Request No. 31 as overly broad – a request for “*all* Documents” that relate to
21 Zillow's decision to join NAR since January 1, 2017 is extremely broad given the nature of
22 Zillow's business in the real estate industry and would be unduly burdensome. Zillow further
23 objects to this Request on the basis that it seeks to compel the production of voluminous
24 documents, requires Defendants to conduct burdensome searches for documents, and to the
25 extent it is duplicative of other discovery requests. Zillow further objects insofar as this
26 Request is not proportionate to the needs of the case. Additionally, Zillow objects to the
27 extent that this Request implicates privileged documents.

1 Subject to and without waiving Zillow’s General Objections and objections stated
2 immediately above, and following the finalization of a negotiated ESI Protocol between the
3 parties, Zillow will produce all relevant, non-privileged documents responsive to Request No.
4 31 in its possession, custody, or control, if any, subject to negotiated custodians and search
5 terms as set forth in the parties’ ESI Protocol.

6 **REQUEST FOR PRODUCTION NO. 32:**

7 Produce all Documents indicating any anticipated or realized benefit to Zillow because
8 of Zillow’s membership in NAR.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 32:**

10 Zillow incorporates its General Objections set forth above as if fully stated herein.
11 Zillow objects to Request No. 32 as overly broad – a request for “*all* Documents” that indicate
12 “*any* anticipated or realized benefit” to Zillow because of Zillow’s membership in NAR since
13 January 1, 2017 is extremely broad given the nature of Zillow’s business in the real estate
14 industry and would be unduly burdensome. Zillow further objects to this Request on the basis
15 that it seeks to compel the production of voluminous documents, requires Defendants to
16 conduct burdensome searches for documents, and to the extent it is duplicative of other
17 discovery requests. Zillow further objects insofar as this Request is not proportionate to the
18 needs of the case. Additionally, Zillow objects to the extent that this Request implicates
19 privileged documents.

20 Subject to and without waiving Zillow’s General Objections and objections stated
21 immediately above, and following the finalization of a negotiated ESI Protocol between the
22 parties, Zillow will produce all relevant, non-privileged documents responsive to Request No.
23 32 in its possession, custody, or control, if any, subject to negotiated custodians and search
24 terms as set forth in the parties’ ESI Protocol.

25 **REQUEST FOR PRODUCTION NO. 33:**

26 Produce all Documents indicating any anticipated or realized benefit to Zillow because
27 of Zillow’s membership in any MLS.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 33:**

2 Zillow incorporates its General Objections set forth above as if fully stated herein.
3 Zillow objects to Request No. 33 as overly broad – a request for “*all Documents*” that indicate
4 “*any anticipated or realized benefit*” to Zillow because of Zillow’s membership in any MLS
5 since January 1, 2017 is extremely broad given the nature of Zillow’s business in the real
6 estate industry and would be unduly burdensome. Zillow further objects to this Request on the
7 basis that it seeks to compel the production of voluminous documents, requires Defendants to
8 conduct burdensome searches for documents, and to the extent it is duplicative of other
9 discovery requests. Zillow further objects insofar as this Request is not proportionate to the
10 needs of the case. Additionally, Zillow objects to the extent that this Request implicates
11 privileged documents.

12 Subject to and without waiving Zillow’s General Objections and objections stated
13 immediately above, and following the finalization of a negotiated ESI Protocol between the
14 parties, Zillow will produce all relevant, non-privileged documents responsive to Request No.
15 33 in its possession, custody, or control, if any, subject to negotiated custodians and search
16 terms as set forth in the parties’ ESI Protocol.

17 **REQUEST FOR PRODUCTION NO. 34:**

18 Produce all Documents indicating any advantage or potential advantage to Zillow’s
19 ibuying program because of Zillow’s membership in MLSs.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 34:**

21 Zillow incorporates its General Objections set forth above as if fully stated herein.
22 Zillow objects to Request No. 34 as overly broad – a request for “*all Documents*” that indicate
23 “*any advantage or potential advantage*” to Zillow’s ibuying program because of Zillow’s
24 membership in MLSs since January 1, 2017 is extremely broad given the nature of Zillow’s
25 business in the real estate industry and would be unduly burdensome. Zillow further objects to
26 this Request on the basis that it seeks to compel the production of voluminous documents,
27 requires Defendants to conduct burdensome searches for documents, and to the extent it is
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1 duplicative of other discovery requests. Zillow further objects insofar as this Request is not
2 proportionate to the needs of the case. Additionally, Zillow objects to the extent that this
3 Request implicates privileged documents. Zillow also objects to the extent that this Request
4 implicates or seeks documents from related to Zillow Offers; Zillow is in the process of exiting
5 winding down the line of business offered by Zillow Offers.

6 Subject to and without waiving Zillow's General Objections and objections stated
7 immediately above, Zillow will not produce any Documents responsive to Request No. 34 at
8 this time but, following the finalization of a negotiated ESI Protocol between the parties, will
9 meet and confer with Plaintiff to determine what may constitute a reasonable search for and
10 production of responsive Documents.

11 **REQUEST FOR PRODUCTION NO. 35:**

12 Produce all Documents using the term "embrace and extend."

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 35:**

14 Zillow incorporates its General Objections set forth above as if fully stated herein.
15 Zillow objects to Request No. 35 as vague and ambiguous, in particular as to the undefined
16 phrase "embrace and extend." Zillow further objects insofar as this Request is overly broad,
17 irrelevant, and not proportionate to the needs of the case because it seeks "all Documents" that
18 use the phrase "embrace and extend," a phrase which has no meaning or bearing on the
19 litigation of this matter. Additionally, Zillow objects to the extent that this Request implicates
20 privileged documents.

21 Subject to and without waiving Zillow's General Objections and objections stated
22 immediately above, given the lack of relevance to this matter, Zillow will not produce
23 documents in response to Request No. 35.

24 **REQUEST FOR PRODUCTION NO. 36:**

25 Produce all Documents referring to any anticompetitive practice by any MLS,
26 including without limitation any agreement to limit competition for establishing or negotiating
27 real estate commissions.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 36:**

2 Zillow incorporates its General Objections set forth above as if fully stated herein.
3 Zillow objects to Request No. 36 as overly broad – a request for “*all Documents*” that refer to
4 “*any anticompetitive practice*” by “*any MLS*” since January 1, 2017 is extremely broad given
5 the nature of Zillow’s business in the real estate industry and would be unduly burdensome.
6 Zillow further objects insofar as this Request is not proportionate to the needs of the case.
7 Additionally, Zillow objects to the extent that this Request implicates privileged documents.

8 Subject to and without waiving Zillow’s General Objections and objections stated
9 immediately above, given the lack of relevance to this matter, Zillow will not produce
10 documents in response to Request No. 36.

11 **REQUEST FOR PRODUCTION NO. 37:**

12 Produce all Documents referring to any anticompetitive practice by NAR, including
13 without limitation any agreement to limit competition for establishing or negotiating real estate
14 commissions.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 37:**

16 Zillow incorporates its General Objections set forth above as if fully stated herein.
17 Zillow objects to Request No. 37 as overly broad – a request for “*all Documents*” that refer to
18 “*any anticompetitive practice*” by NAR since January 1, 2017 is extremely broad given the
19 nature of Zillow’s business in the real estate industry and would be unduly burdensome.
20 Zillow further objects to this Request on the basis that it seeks to compel the production of
21 voluminous documents, requires Defendants to conduct burdensome searches for documents,
22 and to the extent it is duplicative of other discovery requests. Zillow further objects insofar as
23 this Request is not proportionate to the needs of the case. Additionally, Zillow objects to the
24 extent that this Request implicates privileged documents.

25 Subject to and without waiving Zillow’s General Objections and objections stated
26 immediately above, Zillow will not produce any Documents responsive to Request No. 37 at
27 this time but, following the finalization of a negotiated ESI Protocol between the parties, will
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1 meet and confer with Plaintiff to determine what may constitute a reasonable search for and
2 production of responsive Documents reasonably related to the allegations in the Amended
3 Complaint.

4 **REQUEST FOR PRODUCTION NO. 38:**

5 Produce all Documents referring to any exclusionary practice by any MLS.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 38:**

7 Zillow incorporates its General Objections set forth above as if fully stated herein.
8 Zillow objects to Request No. 38 as overly broad – a request for “*all* Documents” that refer to
9 “*any* exclusionary practice” by “*any* MLS” since January 1, 2017 is extremely broad given the
10 nature of Zillow’s business in the real estate industry and would be unduly burdensome.
11 Zillow further objects to this Request on the basis that it seeks to compel the production of
12 voluminous documents, requires Defendants to conduct burdensome searches for documents,
13 and to the extent it is duplicative of other discovery requests. Zillow further objects insofar as
14 this Request is not proportionate to the needs of the case particularly as the Request as-phrased
15 purports to ask for more information than is necessary for Plaintiff to make its case and is
16 irrelevant to the issues in the case. Zillow also objects to this Request as vague because it does
17 not specify what types of documents it seeks. Additionally, Zillow objects to the extent that
18 this Request implicates privileged documents.

19 Subject to and without waiving Zillow’s General Objections and objections stated
20 immediately above, Zillow will not produce any Documents responsive to Request No. 38 at
21 this time but, following the finalization of a negotiated ESI Protocol between the parties, will
22 meet and confer with Plaintiff to determine what may constitute a reasonable search for and
23 production of responsive Documents reasonably related to the allegations in the Amended
24 Complaint.

25 **REQUEST FOR PRODUCTION NO. 39:**

26 Produce all Documents referring to any exclusionary practice by NAR.
27
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RESPONSE TO REQUEST FOR PRODUCTION NO. 39:

Zillow incorporates its General Objections set forth above as if fully stated herein. Zillow objects to Request No. 39 as overly broad – a request for “*all* Documents” that refer to “*any* exclusionary practice” by NAR since January 1, 2017 is extremely broad given the nature of Zillow’s business in the real estate industry and would be unduly burdensome. Zillow further objects to this Request on the basis that it seeks to compel the production of voluminous documents, requires Defendants to conduct burdensome searches for documents, and to the extent it is duplicative of other discovery requests. Zillow further objects insofar as this Request is not proportionate to the needs of the case particularly as the Request as-phrased purports to ask for more information than is necessary for Plaintiff to make its case and is irrelevant to the issues in the case. Zillow also objects to this Request as vague because it does not specify what types of documents it seeks. Additionally, Zillow objects to the extent that this Request implicates privileged documents.

Subject to and without waiving Zillow’s General Objections and objections stated immediately above, Zillow will not produce any Documents responsive to Request No. 39 at this time but, following the finalization of a negotiated ESI Protocol between the parties, will meet and confer with Plaintiff to determine what may constitute a reasonable search for and production of responsive Documents reasonably related to the allegations in the Amended Complaint.

REQUEST FOR PRODUCTION NO. 40:

Produce all Documents referring to any MLS as a monopoly or as exhibiting monopolistic behavior.

RESPONSE TO REQUEST FOR PRODUCTION NO. 40:

Zillow incorporates its General Objections set forth above as if fully stated herein. Zillow objects to Request No. 40 as overly broad, unduly burdensome, and irrelevant to the extent it seeks “*all* Documents” that refer to “*any* MLS” as a monopoly or as exhibiting monopolistic behavior. This case does not involve a monopolization claim, and as such this

1 Request is not relevant to any party’s claim or defense, nor proportional to the needs of the
2 case. Additionally, Zillow objects to the extent that this Request implicates privileged
3 documents.

4 Subject to and without waiving Zillow’s General Objections and objections stated
5 immediately above, given the lack of relevance to this matter, Zillow will not produce
6 documents in response to Request No. 40.

7 **REQUEST FOR PRODUCTION NO. 41:**

8 Produce all Documents referring to NAR as a monopoly or as exhibiting monopolistic
9 behavior.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 41:**

11 Zillow incorporates its General Objections set forth above as if fully stated herein.
12 Zillow objects to Request No. 41 as overly broad, unduly burdensome, and irrelevant to the
13 extent it seeks “*all* Documents” that refer to NAR as a monopoly or as exhibiting monopolistic
14 behavior. This case does not involve a monopolization claim, and as such this Request is not
15 relevant to any party’s claim or defense, nor proportional to the needs of the case.

16 Additionally, Zillow objects to the extent that this Request implicates privileged documents.

17 Subject to and without waiving Zillow’s General Objections and objections stated
18 immediately above, given the lack of relevance to this matter, Zillow will not produce
19 documents in response to Request No. 41.

20 **REQUEST FOR PRODUCTION NO. 42:**

21 Produce Documents sufficient to describe how Zillow measures consumer preferences
22 or interest in property characteristics on its websites.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 42:**

24 Zillow incorporates its General Objections set forth above as if fully stated herein.
25 Zillow objects to Request No. 42 as overly broad – a request for Documents sufficient to show
26 “how Zillow measures consumer preferences or interest in property characteristics on its
27 websites” since January 1, 2017 is extremely broad given the nature of Zillow’s business in the
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1 real estate industry and would be unduly burdensome. Zillow further objects to this Request
2 on the basis that it seeks to compel the production of voluminous documents, requires
3 Defendants to conduct burdensome searches for documents, and to the extent it is duplicative
4 of other discovery requests. Zillow further objects insofar as this Request is not proportionate
5 to the needs of the case particularly as the Request as-phrased purports to ask for more
6 information than is necessary for Plaintiff to make its case and is irrelevant to the issues in the
7 case. Zillow also objects to this Request as vague because it does not specify what types of
8 documents it seeks. Additionally, Zillow objects to the extent that this Request implicates
9 privileged documents.

10 Subject to and without waiving Zillow's General Objections and objections stated
11 immediately above, Zillow will not produce any Documents responsive to Request No. 42 at
12 this time but, following the finalization of a negotiated ESI Protocol between the parties, will
13 meet and confer with Plaintiff to determine what may constitute a reasonable search for and
14 production of responsive Documents.

15 **REQUEST FOR PRODUCTION NO. 43:**

16 Produce all Documents evidencing or measuring whether consumers, based on their
17 measured preferences, are effectively locating properties meeting their preferences displayed
18 under the "Other listings" tab.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 43:**

20 Zillow incorporates its General Objections set forth above as if fully stated herein.
21 Zillow objects to Request No. 43 as overly broad – a request for "*all* Documents" that
22 evidence or measure whether consumers are effectively locating properties meeting their
23 preferences displayed under the "Other listings" tab is extremely broad given the nature of
24 Zillow's business in the real estate industry and would be unduly burdensome. Zillow further
25 objects to this Request on the basis that it seeks to compel the production of voluminous
26 documents, requires Defendants to conduct burdensome searches for documents, and to the
27 extent it is duplicative of other discovery requests. Zillow further objects insofar as this
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1 Request is not proportionate to the needs of the case. Zillow further objects to this Request as
2 vague and ambiguous, in particular as to the undefined term “measured preferences.”

3 Additionally, Zillow objects to the extent that this Request implicates privileged documents.

4 Subject to and without waiving Zillow’s General Objections and objections stated
5 immediately above, and following the finalization of a negotiated ESI Protocol between the
6 parties, Zillow will produce all relevant, non-privileged documents responsive to Request No.
7 43 in its possession, custody, or control, if any, subject to negotiated custodians and search
8 terms as set forth in the parties’ ESI Protocol.

9 **REQUEST FOR PRODUCTION NO. 44:**

10 Produce all Documents relating to monetary savings or operating efficiencies expected
11 or realized by Zillow’s access to IDX feeds.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 44:**

13 Zillow incorporates its General Objections set forth above as if fully stated herein.
14 Zillow objects to Request No. 44 as overly broad – a request for “*all* Documents” that relate to
15 monetary savings or operating efficiencies expected or realized by Zillow’s access to IDX
16 feeds is extremely broad given the nature of Zillow’s business in the real estate industry and
17 would be unduly burdensome. Zillow further objects to this Request on the basis that it seeks
18 to compel the production of voluminous documents, requires Defendants to conduct
19 burdensome searches for documents, and to the extent it is duplicative of other discovery
20 requests. Zillow further objects insofar as this Request is not proportionate to the needs of the
21 case. Zillow also objects to the use of the term “operating efficiencies” in this Request as
22 vague and ambiguous in that it does not specify the types of such efficiencies contemplated by
23 this Request. Additionally, Zillow objects to the extent that this Request implicates privileged
24 documents.

25 Subject to and without waiving Zillow’s General Objections and objections stated
26 immediately above, and following the finalization of a negotiated ESI Protocol between the
27 parties, Zillow will produce all relevant, non-privileged documents responsive to Request No.

1 44 in its possession, custody, or control, if any, subject to negotiated custodians and search
2 terms as set forth in the parties' ESI Protocol.

3 **REQUEST FOR PRODUCTION NO. 45:**

4 Produce all Documents reflecting Zillow's dissatisfaction or criticism of NAR or its
5 policies, procedures, or rules.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 45:**

7 Zillow incorporates its General Objections set forth above as if fully stated herein.
8 Zillow objects to Request No. 45 as overly broad – a request for “*all* Documents” that reflect
9 Zillow's dissatisfaction or criticism of NAR or its policies, procedures, or rules since January
10 1, 2017 is extremely broad given the nature of Zillow's business in the real estate industry and
11 would be unduly burdensome. Zillow further objects to this Request on the basis that it seeks
12 to compel the production of voluminous documents, requires Defendants to conduct
13 burdensome searches for documents, and to the extent it is duplicative of other discovery
14 requests. Zillow further objects insofar as this Request is not proportionate to the needs of the
15 case particularly as the Request as-phrased purports to ask for more information than is
16 necessary for Plaintiff to make its case and is irrelevant to the issues in the case. Zillow also
17 objects to this Request as vague because it does not specify what types of documents it seeks.
18 Zillow further objects to this Request as vague and ambiguous, in particular as to the terms
19 “dissatisfaction” and “criticism,” which are undefined. Additionally, Zillow objects to the
20 extent that this Request implicates privileged documents.

21 Subject to and without waiving Zillow's General Objections and objections stated
22 immediately above, Zillow will not produce any Documents responsive to Request No. 45 at
23 this time but, following the finalization of a negotiated ESI Protocol between the parties, will
24 meet and confer with Plaintiff to determine what may constitute a reasonable search for and
25 production of responsive Documents reasonably related to the allegations in the Amended
26 Complaint.

1 **REQUEST FOR PRODUCTION NO. 46:**

2 Produce all Documents reflecting Zillow’s dissatisfaction or criticism of any MLS or
3 its policies, procedures, or rules.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 46:**

5 Zillow incorporates its General Objections set forth above as if fully stated herein.
6 Zillow objects to Request No. 46 as overly broad – a request for “*all* Documents” that reflect
7 Zillow’s dissatisfaction or criticism of “*any* MLS” or its policies, procedures, or rules since
8 January 1, 2017 is extremely broad given the nature of Zillow’s business in the real estate
9 industry and would be unduly burdensome. Zillow further objects to this Request on the basis
10 that it seeks to compel the production of voluminous documents, requires Defendants to
11 conduct burdensome searches for documents, and to the extent it is duplicative of other
12 discovery requests. Zillow further objects insofar as this Request is not proportionate to the
13 needs of the case particularly as the Request as-phrased purports to ask for more information
14 than is necessary for Plaintiff to make its case and is irrelevant to the issues in the case. Zillow
15 also objects to this Request as vague because it does not specify what types of documents it
16 seeks. Zillow further objects to this Request as vague and ambiguous, in particular as to the
17 terms “dissatisfaction” and “criticism,” which are undefined. Additionally, Zillow objects to
18 the extent that this Request implicates privileged documents.

19 Subject to and without waiving Zillow’s General Objections and objections stated
20 immediately above, Zillow will not produce any Documents responsive to Request No. 46 at
21 this time but, following the finalization of a negotiated ESI Protocol between the parties, will
22 meet and confer with Plaintiff to determine what may constitute a reasonable search for and
23 production of responsive Documents reasonably related to the allegations in the Amended
24 Complaint.

25 **REQUEST FOR PRODUCTION NO. 47:**

26 Produce all Documents reflecting any discussion or analysis of the Mandatory Offer of
27 Compensation Rule.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 47:**

2 Zillow incorporates its General Objections set forth above as if fully stated herein.
3 Zillow objects to Request No. 47 as overly broad – a request for “*all* Documents” that reflect
4 “*any* discussion or analysis” of the Mandatory Offer of Compensation Rule since January 1,
5 2017 is extremely broad given the nature of Zillow’s business in the real estate industry and
6 would be unduly burdensome. Zillow further objects to this Request on the basis that it seeks
7 to compel the production of voluminous documents, requires Defendants to conduct
8 burdensome searches for documents, and to the extent it is duplicative of other discovery
9 requests. Zillow further objects insofar as this Request is not proportionate to the needs of the
10 case. Additionally, Zillow objects to the extent that this Request implicates privileged
11 documents.

12 Subject to and without waiving Zillow’s General Objections and objections stated
13 immediately above, and following the finalization of a negotiated ESI Protocol between the
14 parties, Zillow will produce all relevant, non-privileged documents responsive to Request No.
15 47 in its possession, custody, or control, if any, subject to negotiated custodians and search
16 terms as set forth in the parties’ ESI Protocol.

17 **REQUEST FOR PRODUCTION NO. 48:**

18 Produce all Documents relating to any plan, consideration, analysis, or discussion of
19 Zillow providing residential real estate brokerage services for properties not owned by Zillow
20 or its related companies.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 48:**

22 Zillow incorporates its General Objections set forth above as if fully stated herein.
23 Zillow objects to Request No. 48 as overly broad, unduly burdensome, and irrelevant to the
24 extent it seeks “*all* Documents” that relate to any plan, consideration, analysis, or discussion of
25 Zillow providing residential real estate brokerage services for properties not owned by Zillow
26 or its related companies, as such Request is not relevant to any party’s claim or defense, nor
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1 proportional to the needs of the case. Additionally, Zillow objects to the extent that this
2 Request implicates privileged documents.

3 Subject to and without waiving Zillow's General Objections and objections stated
4 immediately above, given the lack of relevance to this matter, Zillow will not produce
5 documents in response to Request No. 48.

6 **REQUEST FOR PRODUCTION NO. 49:**

7 Produce all Documents relating to commissions offered to a buyer's agent or other
8 person for any listing displayed by Zillow on any of its search sites.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 49:**

10 Zillow incorporates its General Objections set forth above as if fully stated herein.
11 Zillow objects to Request No. 49 as overly broad, unduly burdensome, and irrelevant to the
12 extent it seeks "*all* Documents" that relate to commissions offered to a buyer's agent or other
13 person for any listing displayed by Zillow on any of its search sites, as such Request is not
14 relevant to any party's claim or defense, nor proportional to the needs of the case. Zillow
15 further objects to this Request on the grounds that such information is not within its
16 possession, custody, or control and/or is in the possession, custody, or control of third parties.
17 Additionally, Zillow objects to the extent that this Request implicates privileged documents.

18 Subject to and without waiving Zillow's General Objections and objections stated
19 immediately above, given the lack of relevance to this matter, Zillow will not produce
20 documents in response to Request No. 49.

21 **REQUEST FOR PRODUCTION NO. 50:**

22 Produce all Documents relating to commissions received by any buyer's agent or other
23 person for any listing displayed by Zillow on any of its search sites.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 50:**

25 Zillow incorporates its General Objections set forth above as if fully stated herein.
26 Zillow objects to Request No. 50 as overly broad, unduly burdensome, and irrelevant to the
27 extent it seeks "*all* Documents" that relate to commissions received by any buyer's agent or
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1 other person for any listing displayed by Zillow on any of its search sites, as such Request is
2 not relevant to any party’s claim or defense, nor proportional to the needs of the case. Zillow
3 further objects to this Request on the grounds that such information is not within its
4 possession, custody, or control and/or is in the possession, custody, or control of third parties.
5 Additionally, Zillow objects to the extent that this Request implicates privileged documents.

6 Subject to and without waiving Zillow’s General Objections and objections stated
7 immediately above, given the lack of relevance to this matter, Zillow will not produce
8 documents in response to Request No. 50.

9 **REQUEST FOR PRODUCTION NO. 51:**

10 Produce all Documents relating to Zillow’s policies, practices, and procedures for
11 providing to any third-party information about commissions offered or received for any listing
12 displayed by Zillow on any of its search sites.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 51:**

14 Zillow incorporates its General Objections set forth above as if fully stated herein.
15 Zillow objects to Request No. 51 as overly broad – a request for “*all* Documents” that relate to
16 Zillow’s policies, practices, and procedures for providing to any third-party information about
17 commissions offered or received for “*any* listing” displayed by Zillow on “*any* of its search
18 sites” since January 1, 2017 is extremely broad given the nature of Zillow’s business in the
19 real estate industry and would be unduly burdensome. Zillow further objects to this Request
20 on the basis that it seeks to compel the production of voluminous documents, requires
21 Defendants to conduct burdensome searches for documents, and to the extent it is duplicative
22 of other discovery requests. Zillow further objects insofar as this Request is not proportionate
23 to the needs of the case. Additionally, Zillow objects to the extent that this Request implicates
24 privileged documents.

25 Subject to and without waiving Zillow’s General Objections and objections stated
26 immediately above, given the lack of relevance to this matter, Zillow will not produce
27 documents in response to Request No. 51.

1 **REQUEST FOR PRODUCTION NO. 52:**

2 Produce all documents showing Zillow monthly revenues and costs by product and/or
3 service line from 2014 to the present.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 52:**

5 Zillow incorporates its General Objections set forth above as if fully stated herein.
6 Zillow objects to Request No. 52 as overly broad – a request for “*all Documents*” that show
7 Zillow’s monthly revenues and costs by product and/or service line from 2014 to the present is
8 extremely broad given the nature of Zillow’s business and would be unduly burdensome.
9 Zillow further objects to this Request on the basis that it seeks to compel the production of
10 voluminous documents, requires Defendants to conduct burdensome searches for documents,
11 and to the extent it is duplicative of other discovery requests. Zillow further objects insofar as
12 this Request is not proportionate to the needs of the case particularly as the Request as-phrased
13 purports to ask for more information than is necessary for Plaintiff to make its case and is
14 irrelevant to the issues in the case. Additionally, Zillow objects to the extent that this Request
15 implicates privileged documents.

16 Subject to and without waiving Zillow’s General Objections and objections stated
17 immediately above, Zillow will not produce any Documents responsive to Request No. 52 at
18 this time but, following the finalization of a negotiated ESI Protocol between the parties, will
19 meet and confer with Plaintiff to determine what may constitute a reasonable search for and
20 production of responsive Documents.

21 **REQUEST FOR PRODUCTION NO. 53:**

22 Produce all documents that constitute Zillow’s financial statements from 2014 to the
23 present.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 53:**

25 Zillow incorporates its General Objections set forth above as if fully stated herein.
26 Zillow objects to Request No. 53 as overly broad – a request for “*all Documents*” that
27 constitute Zillow’s financial statements from 2014 to the present is extremely broad given the
28

1 nature of Zillow's business and would be unduly burdensome. Zillow further objects to this
2 Request on the basis that it seeks to compel the production of voluminous documents, requires
3 Defendants to conduct burdensome searches for documents, and to the extent it is duplicative
4 of other discovery requests. Zillow further objects insofar as this Request is not proportionate
5 to the needs of the case particularly as the Request as-phrased purports to ask for more
6 information than is necessary for Plaintiff to make its case and is irrelevant to the issues in the
7 case. Additionally, Zillow objects to the extent that this Request implicates privileged
8 documents.

9 Subject to and without waiving Zillow's General Objections and objections stated
10 immediately above, Zillow will not produce any Documents responsive to Request No. 53 at
11 this time but, following the finalization of a negotiated ESI Protocol between the parties, will
12 meet and confer with Plaintiff to determine what may constitute a reasonable search for and
13 production of responsive Documents.

14 **REQUEST FOR PRODUCTION NO. 54:**

15 Produce all documents that discuss or analyze Zillow's competitors, including without
16 limitation Real Estate Brokerage firms, Real Estate Aggregator Sites, ibuyers and Redfin.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 54:**

18 Zillow incorporates its General Objections set forth above as if fully stated herein.
19 Zillow objects to Request No. 54 as overly broad – a request for “*all* Documents” that discuss
20 or analyze Zillow's competitors since January 1, 2017 is extremely broad given the nature of
21 Zillow's business in the real estate industry and would be unduly burdensome. Zillow further
22 objects to this Request on the basis that it seeks to compel the production of voluminous
23 documents, requires Defendants to conduct burdensome searches for documents, and to the
24 extent it is duplicative of other discovery requests. Zillow further objects insofar as this
25 Request is not proportionate to the needs of the case particularly as the Request as-phrased
26 purports to ask for more information than is necessary for Plaintiff to make its case and is
27 irrelevant to the issues in the case. Additionally, Zillow objects to the extent that this Request

1 implicates privileged documents. Zillow also objects to the extent that this Request implicates
2 or seeks documents from related to Zillow Offers; Zillow is in the process of exiting winding
3 down the line of business offered by Zillow Offers.

4 Subject to and without waiving Zillow's General Objections and objections stated
5 immediately above, Zillow will not produce any Documents responsive to Request No. 54 at
6 this time but, following the finalization of a negotiated ESI Protocol between the parties, will
7 meet and confer with Plaintiff to determine what may constitute a reasonable search for and
8 production of responsive Documents.

9 **REQUEST FOR PRODUCTION NO. 55:**

10 Produce all documents by which Zillow communicated with the Federal Trade
11 Commission during the agency's investigation of the proposed acquisition of Trulia.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 55:**

13 Zillow incorporates its General Objections set forth above as if fully stated herein.
14 Zillow objects to Request No. 55 as overly broad, unduly burdensome, and irrelevant to the
15 extent it seeks "*all* Documents by which Zillow communicated with the Federal Trade
16 Commission during the agency's investigation of the proposed acquisition of Trulia," as such
17 Request is not relevant to any party's claim or defense, nor proportional to the needs of the
18 case.

19 Subject to and without waiving Zillow's General Objections and objections stated
20 immediately above, given the lack of relevance to this matter, Zillow will not produce
21 documents in response to Request No. 55.

22 **REQUEST FOR PRODUCTION NO. 56:**

23 Produce all documents provided by Zillow and Trulia to the Federal Trade
24 Commission during the agency's investigation of their proposed merger.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 56:**

26 Zillow incorporates its General Objections set forth above as if fully stated herein.
27 Zillow objects to Request No. 56 as overly broad, unduly burdensome, and irrelevant to the
28

1 extent it seeks “*all Documents*” Zillow or Trulia provided to the Federal Trade Commission
2 during the agency’s investigation of the proposed merger, as such Request is not relevant to
3 any party’s claim or defense, nor proportional to the needs of the case.

4 Subject to and without waiving Zillow’s General Objections and objections stated
5 immediately above, given the lack of relevance to this matter, Zillow will not produce
6 documents in response to Request No. 56.

7 **REQUEST FOR PRODUCTION NO. 57:**

8 Produce all documents referring to Zillow’s management structure including without
9 limitation organization charts and employee rosters.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 57:**

11 Zillow incorporates its General Objections set forth above as if fully stated herein.
12 Zillow objects to Request No. 57 as overly broad – a request for “*all Documents*” that refer to
13 Zillow’s management structure since January 1, 2017 is extremely broad given the nature of
14 Zillow’s business and would be unduly burdensome. Zillow further objects insofar as this
15 Request is not proportionate to the needs of the case. Additionally, Zillow objects to the
16 extent that this Request implicates privileged documents.

17 Subject to and without waiving Zillow’s General Objections and objections stated
18 immediately above, and following the finalization of a negotiated ESI Protocol between the
19 parties, Zillow will produce relevant, non-privileged documents in its possession, custody, or
20 control sufficient to show Zillow’s current management structure for its Industry Relations
21 Group.

22 **REQUEST FOR PRODUCTION NO. 58:**

23 Produce all Documents sufficient to show number of listings in the “Agent listings” tab
24 and “Other listings” tab on a daily basis in REX markets from January 2021 through the
25 present.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 58:**

2 Zillow incorporates its General Objections set forth above as if fully stated herein.
3 Zillow objects to Request No. 58 as overly broad – a request for “*all* Documents” that show
4 the number of listings in the “Agent listings” tab and “Other listings” tab on a daily basis in
5 REX markets from January 2021 to the present is extremely broad given the nature of Zillow’s
6 business in the real estate industry and would be unduly burdensome. Zillow further objects
7 insofar as this Request is not proportionate to the needs of the case. Additionally, Zillow
8 objects to the extent that this Request implicates privileged documents.

9 Subject to and without waiving Zillow’s General Objections and objections stated
10 immediately above, and following the finalization of a negotiated ESI Protocol between the
11 parties, Zillow will produce relevant, non-privileged data or documents in its possession,
12 custody, or control, if any, responsive to Request No. 58.

13 **REQUEST FOR PRODUCTION NO. 59:**

14 Produce all Documents relating to Zillow’s decision to suspend its ibuying program on
15 or about October 18, 2021.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 59:**

17 Zillow incorporates its General Objections set forth above as if fully stated herein.
18 Zillow objects to Request No. 59 as overly broad, unduly burdensome, and irrelevant to the
19 extent it seeks “*all* Documents” that relate to Zillow’s decision to suspend its ibuying program,
20 as such Request is not relevant to any party’s claim or defense, nor proportional to the needs of
21 the case. Additionally, Zillow objects to the extent that this Request implicates privileged
22 documents.

23 Subject to and without waiving Zillow’s General Objections and objections stated
24 immediately above, given the lack of relevance to this matter, Zillow will not produce
25 documents in response to Request No. 59.

1 Dated: November 24, 2021

By: /s/ Aravind Swaminathan

/s/ Nicole Tadano

/s/ John "Jay" Jurata, Jr.

/s/ Russell P. Cohen

/s/ Naomi J. Scotten

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21 ***Attorneys for Defendants Zillow, Inc., Zillow
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Services, Inc., and Trulia, LLC***

CERTIFICATE OF SERVICE

I, Nicole Tadano, hereby certify that on November 24, 2021, I caused a true and correct copy of the foregoing document described as:

**DEFENDANT ZILLOW, INC.’S OBJECTIONS AND RESPONSES TO
PLAINTIFF’S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS**

To be served upon the interested parties in this action as follows:

[] (BY MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope addressed as set forth below. I placed each such envelope for collection and mailing following ordinary business practices. I am readily familiar with this Firm’s practice for collection and processing of correspondence for mailing. Under that practice, the correspondence would be deposited with the United States Postal Service on that same day, with postage thereon fully prepaid at Irvine, California, in the ordinary course of business.

[X] (BY EMAIL) By transmitting a true pdf copy of the foregoing document(s) by e-mail transmission from ntadano@orrick.com to the interested parties at the e-mail address(es) set forth below. Said transmission(s) were completed on the aforesaid date, and there were no errors reported in the transmission process.

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Counsel for The National Association of
Realtors

8
9 EXECUTED this 24th day of November 2021, at Vashon, Washington.

10
11
12
13 By: s/ Nicole Tadano
Nicole Tadano (WSBA No. 40531)

Exhibit D



September 20, 2022

Via E-Mail

Carl Goldfarb
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Re: *REX – Real Estate Exchange, Inc. v. Zillow, Inc., et al.*, No. 2:21-CV-00312-TSZ (W.D. Wash)

Dear Carl:

I write in response to your September 18 letter regarding Zillow's data concerning "For Sale By Owner" ("FSBO") listings. At the outset, and as noted in my September 14 letter to you, we informed you that Zillow would not be producing FSBO data on August 3, and Zillow's position has never changed. Your conclusory assertion of purported relevance on August 5 notwithstanding, we never suggested that production of FSBO data was forthcoming. Despite our numerous meet and confer discussions regarding Zillow's data production, you never once raised this issue, never requested confirmation of production of FSBO listings, nor did you follow up on the issue in any way. Zillow has never conceded relevance of such data, nor did it take any steps that would have prevented REX from taking any action with regard to this data.

Turning to the merits of REX's request for FSBO listings (or any other listings besides REX's appearing on the "Other" tab), we disagree that these are relevant to this case in any manner. But even if they were, the burden of producing such data, which comprises nearly a million listings records and even more engagement records—on top of the already millions of records that Zillow is otherwise producing for MLS and REX's own listings within REX's MSAs—would be disproportionate and outweigh any such relevance.

You assert in your letter that "the impact of the change [to a two-tab display] on all affected listings is therefore relevant for assessing the impact of Zillow's decisions on consumers generally and for assessing the extent to which Zillow degraded the consumer experience for REX listings." But nowhere in the operative Complaint does REX allege it was harmed by any purported impact from the adoption of a two-tab display on FSBO listings, or how consumers generally were harmed from the placement of such listings on the "Other" tab. Relevance is determined based on the allegations in the operative Complaint, and in the absence of any allegations relating to these listings, there is no basis for such discovery. See Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any nonprivileged matter that is *relevant to any party's claim or defense* and proportional to the needs of the case" (emphasis added); *In re German Auto. Manufacturers Antitrust Litig.*, 335 F.R.D. 407, 408 (N.D. Cal. 2020) ("Rule 26(b)(2)(C)(iii) requires courts to disallow discovery outside the scope of Rule 26(b)(1)."); *In re Flash Memory Antitrust Litig.*, No. C



Carl Goldfarb
September 20, 2022
Page 2

07-0086 SBA, 2007 U.S. Dist. LEXIS 95869, at *28 (N.D. Cal. Dec. 24, 2007) (“Discovery in the absence of any operative pleading . . . does not fit easily within the framework established by the Federal Rules.”).

Nor is data regarding FSBO listings relevant to assessing the purported impact of Zillow’s two-tab display *on REX’s listings*. Zillow is producing both the listings and engagement data for REX’s own listings and the MLS listings in REX’s MSAs. That will allow REX to determine, before and after the change to the two-tab display, the engagement with REX’s listings. It will also allow REX to determine the engagement, before and after the change to the two-tab display, with MLS listings. FSBO listings are simply not relevant to the issues in this case.

Your explanation as to why you believe FSBO listings are in the market for brokerage services is also incorrect. There is not a single paragraph in REX’s complaint that explains how—or even alleges that—FSBOs compete with *brokers* for *brokerage services*. FSBOs do not offer brokerage services separately from the homes they are selling; they are typically not licensed brokers or agents and are not authorized to compete with licensed brokers or agents. A homeowner with a FSBO listing represents his home and *only* his home. Once the home is sold, that representation no longer exists. While FSBOs may compete with agent-represented **home sellers** for the sale of their homes, that is unrelated to the provision by agents and brokers of brokerage services, as alleged in the operative Complaint. REX has defined the relevant market(s) in this case. Based on REX’s own definition, the relevant market is one “for the provision of real estate brokerage services to sellers and buyers of residential real estate in local markets throughout the country where REX operates.” Am. Compl. ¶ 119. Market participants “compete to attract buyers and/or sellers to facilitate residential real estate transactions in return for fees, often in the form of percentage-based commissions” and “must maintain licenses to provide residential real estate brokerage services.” *Id.* FSBOs are not in the same market for brokerage services as REX or MLS.

Further, the fact that Zillow sells advertising related to both agent-represented homes and FSBOs (*e.g.*, what you state to be “sell[ing] buyer agents the same opportunity to entice buyers to contact a buyer agent for FSBO sales”) says nothing about whether FSBOs compete in the same relevant product market as REX for brokerage services. While someone in the market to buy a home may consider MLS-listed homes, REX-listed homes or FSBOs, the relevant market in this case is not the market for the sale of homes—it is the market for brokerage services. See Am. Compl. ¶ 119.

Finally, the Federal Rules not only require that discovery be “relevant to any party’s claim or defense” but also that it be “proportional to the needs of the case.” Fed. R. Civ. P. 26(b)(1). Requesting that Zillow produce nearly a million listings records and even more engagement records is not proportional. As we have explained multiple times throughout our meet and confers, Zillow’s process of pulling data is not simple or straightforward. The data collection and extraction takes numerous days of Zillow employees’ time, both in making sure that the queries to *collect* the data are accurate but also to ensure that the data *extracted* did not result in any errors. Zillow is already undertaking this process for REX’s own and MLS listings, and has spent many, many days of employee time on the listings data alone. Given that FSBOs



Carl Goldfarb
September 20, 2022
Page 3

and other "Other listings" data (aside from REX's own) is not relevant and, given the significant burden associated with collecting and preparing the data for production, Zillow stands by its position that it will not produce such data.

We are available to meet and confer on this topic on Tuesday, September 20 at 5pm ET.

Sincerely,

/s/ Jesse Beringer

Jesse Beringer

cc: Ursula Ungaro (*via email*)
Jay Jurata (*via email*)
Russell Cohen (*via email*)
Laura Najemy (*via email*)

Exhibit E



84%
FEWER VIEWS

SELLER BEWARE

ZILLOW ACCUSED OF UNDERMINING SELLERS WHO SELF-LIST