

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

KLEEN PRODUCTS LLC, et al.
individually and on behalf of all those
similarly situated,

Plaintiff,

v.

PACKAGING CORPORATION OF
AMERICA, et al,

Defendants.

Civil Case No. 1:10-cv-05711

Hon. Milton I. Shadur

Hon. Nan R. Nolan

STIPULATION AND ORDER RELATING TO ESI SEARCH

WHEREAS, in response to plaintiffs' May 3, 2011 Request for Production of Documents (the "First Request") in this matter, defendants have collected electronic and hard copy documents;

WHEREAS, defendants will continue to collect certain documents in response to the First Request, including without limitation such documents that may be collected for review in response to discovery conferences or pursuant to judicial orders arising out of motions brought on the First Request (*e.g.*, any documents that the Court orders included for review and production based on the motions to be filed in July and August, 2012) (collectively all of the documents that have been or will be collected in response to the First Request shall be referred to in this Stipulation as the "First Request Corpus");

WHEREAS, defendants have employed ESI vendors to process the electronic documents contained within the First Request Corpus, and those ESI vendors have done so and continue to do so;

WHEREAS, defendants have applied and continue to apply their ESI search methodology (hereafter “Defendants’ ESI Methodology”), which was described during the evidentiary hearings conducted on February 21, 2012 and on March 28, 2012 (the “Evidentiary Hearings”), to those processed electronic documents within the First Request Corpus;

WHEREAS, plaintiffs have challenged Defendants’ ESI Methodology for the identification of documents responsive to the First Requests and asked the Court to order defendants to employ a “Content Based Advanced Analytics” (“CBAA”) approach, as defined by plaintiffs, instead of Defendants’ ESI Methodology;

WHEREAS, defendants have opposed this challenge;

WHEREAS, the parties have made a substantial number of written submissions and oral presentations to the Court with their views on this issue, and the Court held the Evidentiary Hearings to address this dispute; and

WHEREAS, the parties continue to have a number of disputes, but in order to narrow the issues, the parties have reached an agreement that will obviate the need for additional evidentiary hearings on the issue of the technology to be used to search for documents responsive to the First Requests.

THEREFORE, based upon and incorporating the foregoing, the parties, through their respective counsel of record, hereby stipulate to and the Court hereby orders:

1. Plaintiffs withdraw their demand that defendants apply CBAA to documents contained within the First Request Corpus. Plaintiffs will not claim that defendants must use an electronic search process other than Defendants’ ESI Methodology to locate relevant documents contained in the First Request Corpus.

2. As to any documents or ESI beyond the First Request Corpus, plaintiffs will not argue or contend that defendants should be required to use or apply the types of CBAA or “predictive coding” methodology and technology that were proposed by plaintiffs in connection with the Evidentiary Hearings with respect to any requests for production served on any defendant prior to October 1, 2013. With respect to any requests for production served on any defendant on or after October 1, 2013, that requires the collection of documents beyond the First Request Corpus, the parties will meet and confer regarding the appropriate search methodology to be used for such newly collected documents. If the parties fail to agree on a search methodology, either party may file a motion with the Court seeking resolution.

3. Plaintiffs do not waive any additional objections they may have to defendants’ search methodology for the First Requests, including any additional objections relating to defendants’ identification, collection, custodians, data sources, search terms, statistical validation, review or production of documents, and that defendants’ objections to the First Request unduly narrowed the scope of responsive documents, and defendants will not argue or contend that plaintiffs, in whole or in part, have waived or otherwise failed to fully reserve such additional objections by entering into this Stipulation. The Court has established briefing schedules and other processes to resolve some of these issues by the end of September 2012.

4. Defendants reserve all rights they currently have with respect to their position that their document collection and production efforts met or exceeded relevant legal standards.

5. In light of this agreement by the parties, the Evidentiary Hearings are discontinued.

Stipulated and agreed:

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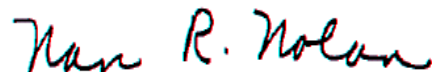
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Dated: August 21, 2012



NAN R. NOLAN
United States Magistrate Judge