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March 17, 2015

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Ari N. Rodopoulos, Esq.  
Wood Law Firm  
1100 Main Street, Suite 1800  
Kansas City, MO 64105

**Re:** *Alexander, et al. v. BF Labs Inc.*  
Proposed ESI Search and Production Protocols

Dear Mr. Rodopoulos:

We are working on a comprehensive written response to your March 3, 2015 letter, but for now I wanted to provide information as soon as possible to allow the parties to move forward with ESI discovery. Before doing so, I must note that the language and tone used in your March 3, 2015 letter is unprofessional and extremely disappointing. While you characterize BF Labs' discovery responses as egregious, we could say the same about the scope of your requests, and the entirely unrealistic, unreasonable, and unduly burdensome positions and discovery approach you have taken in this case.

Your repeated claims of "discovery tactics" and "sanctionable" conduct are also unprofessional and irresponsible. You go so far as to claim that our offer to confer on search terms and custodians is a discovery tactic. To the contrary, it is entirely proper and, in fact, contemplated by the Agreed Order Establishing Protocol for ESI and Paper Documents approved by the parties and entered by the Court. You also make repeated efforts that can only be designed to give the Court the false impression that BF Labs has produced "zero documents" and "refused to produce" documents. The parties have not even discussed how to handle ESI discovery until the call last Friday, so I am simply at a loss to understand how in good conscience you can make such a claim. To make matters worse, you make claims of spoliation in your letter without any factual basis to support them. You also take the position, and remarkably stood by it on the phone last week, that your preservation letter sent in this case back in April 2014 somehow gave rise to an obligation requiring BF Labs to *create* records for you and your lawsuit.





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You've given me the strong impression that instead of litigating this case on the merits, you are more interested in avoiding such an investment of time and resources, and using threats of sanctions and spoliation as your centerpiece. I hope I am mistaken, but only time will tell. In the meantime, we will focus on productive efforts, and attempt to work with you under the Agreed Order referenced above. To that end, attached you'll find Exhibit A, which represents the names that were included in the electronic privileged terms search I described on the phone on Friday. Exhibit B identified the 10 key player custodians I identified. And Exhibit C represents the search terms we are proposing as a reasonable and proportional approach for responding to Plaintiffs' requests for production of documents and otherwise assisting us in meeting our search and production obligations in this case.

We have created a data collection set of emails for the ten custodians identified in Exhibit B. After running the privileged terms search, and excluding those 7,765 hits, the set contains approximately 218,000 documents. The search terms in Exhibit C, when queried against the 218,000 documents, results in 79,251 hits (this figure includes parent and child emails and attachments).

We do not believe a review of either the 218,000 or 79,251 documents is realistic, proportional, or reasonable. We are therefore looking for practical alternatives to reduce the size of the review and production set. While we are making this proposal, it's my understanding that you want information on the entire universe of ESI regardless of whether it is reasonably accessible, or even potentially relevant. To that end, I am informed that the size of our ESI vendor's data collection was 1.6TB. That number includes custodian computer data collection, Gmail and Google Drive data, and a Magento, Fishbowl, ShipStation, and Quickbooks data collection. Finally, although this information is designed to satisfy your desire for information on the entire universe of BF Labs' ESI, we are not willing to interview every employee or otherwise conduct additional collection size estimate efforts as would be required to meet your unreasonable demand. At a minimum, I would first need to hear from you on how it is you must have information beyond the 1.6TB collection without imposing an undue burden and disregarding any concept of proportionality in e-discovery.



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We look forward to professional and productive discussions of these issues as needed to move forward with ESI discovery.

Sincerely,

A handwritten signature in black ink that reads "James M. Humphrey". The signature is fluid and cursive.

James M. Humphrey

JMH:bl  
Enclosures  
cc: Noah K. Wood, Esq.

**Exhibit A**

|  |
|--|
| (Abrams w/2 (Christopher OR Chris))    |
| (Anderson w/2 (Alan OR Al))            |
| (Baca w/2 Anissa)                      |
| (Bailey w/2 Miriam)                    |
| (Bell w/2 (Jeffrey OR Jeff))           |
| (Bird w/2 (James OR Jim))              |
| (Bolliger w/2 Lisa)                    |
| (Boyer w/2 Brenda)                     |
| (Campbell w/2 (Jeannine OR Jean))      |
| (Cyr w/2 Tara)                         |
| (DeMarea w/2 (Andrew OR Andy OR Drew)) |
| (Demory w/2 (Wesley OR Wes))           |
| (Edwards w/2 (Erik OR Rik))            |
| (Eng w/2 (Jennifer OR Jen))            |
| (Fasel w/2 (Geoffrey OR Geoff))        |
| (Fisher w/2 (Kathleen OR Kathy))       |
| (Foster w/2 (Michael OR Mike))         |
| (Graves w/2 Todd)                      |
| (Griffin w/2 (James OR Jim))           |
| (Humphrey w/2 (James OR Jim))          |
| (Izaguirre w/2 Brisa)                  |
| (Jarvis w/2 (Joseph OR Joe))           |

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|---|
| (Jones w/2 (Russell OR Russ))                     |
| (Kempen w/2 Michiel)                              |
| (Kennyhertz w/2 John)                             |
| (Klein w/2 (Susan OR Sue))                        |
| (Klink w/2 (Timothy OR Tim))                      |
| (Kruger w/2 (Nichole OR Ni <sup>*</sup> ))        |
| (Kurt w/2 (Nick OR Nic <sup>*</sup> ))            |
| (Lee w/2 Brenda)                                  |
| (Link w/2 Darcie)                                 |
| (Mahood w/2 (William OR Will OR Bill))            |
| (Mather w/2 (Mary-jo OR Mary <sup>*</sup> OR MJ)) |
| (Maxwell w/2 Korb)                                |
| (McDermitt w/2 Erin)                              |
| (McDonald w/2 Ian)                                |
| (Morris w/2 (Jeffrey OR Jeff))                    |
| (Murray w/2 (Kimberly OR Kim))                    |
| (Musil w/2 (Gregory OR Greg))                     |
| (Naseem w/2 Shazzie)                              |
| (Nazar w/2 (Andrew OR Andy OR Drew))              |
| (O'Bryan w/2 Sean)                                |
| (O'Grady w/2 (Melody OR Mel))                     |
| (O'Leary w/2 Michelle)                            |
| (Orlowski w/2 (Michael OR Mike))                  |

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|--|
| (Paytas w/2 (Antoinette OR Toni))          |
| (Perry w/2 Braden)                         |
| (Plank w/2 Lisa)                           |
| (Pugh w/2 (Theresa OR Terri))              |
| (Quirk w/2 (William OR Will OR Bill))      |
| (Reitz w/2 Kristel)                        |
| (Salmon w/2 Travis)                        |
| (Schul w/2 Michiel)                        |
| (Shafie w/2 Behrouz)                       |
| (Shomali w/2 Maher)                        |
| (Shuman w/2 (Robert OR Bob))               |
| (Simon w/2 Amber)                          |
| (Simpson w/2<br>(Christopher OR Chris))    |
| (Sims w/2 (Melvin OR Mel))                 |
| (Smith w/2 (Matthew OR Matt))              |
| (Snyder w/2 (Jeffrey OR Jeff))             |
| (Spake w/2 (Robert OR Rob OR Bob))         |
| (Steffens w/2 (Timothy OR Tim))            |
| (Thomsen w/2 (Roszel OR Ro <sup>o</sup> )) |
| (Whitworth w/2 Justin)                     |
| (Willard w/2 Joy)                          |
| (Williamson w/2 (Michael OR Mike))         |

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|--|
| (Wolf w/2 Brian)   |
| (Zeeck w/2 (Phillip OR Phill OR Phil))   |
| (Zickefoose w/2 Brian)   |
| Behrouz Shafie   |
| Berkowitz  |
| BOWSE  |
| Graves Garrett   |
| Kennyhertz Perry   |
| Loyens and Loeff   |
| Loyens Loeff   |
| mail( <a href="mailto:aanderson@polsinelli.com">aanderson@polsinelli.com</a> )   |
| mail( <a href="mailto:abaca@polsinelli.com">abaca@polsinelli.com</a> )           |
| mail( <a href="mailto:ademarea@polsinelli.com">ademarea@polsinelli.com</a> )     |
| mail( <a href="mailto:anazar@polsinelli.com">anazar@polsinelli.com</a> )         |
| mail( <a href="mailto:asimon@polsinelli.com">asimon@polsinelli.com</a> )         |
| mail( <a href="mailto:behrouzshafie@gmail.com">behrouzshafie@gmail.com</a> )     |
| mail( <a href="mailto:bizaguirre@polsinelli.com">bizaguirre@polsinelli.com</a> ) |
| mail( <a href="mailto:blee@polsinelli.com">blee@polsinelli.com</a> )             |
| mail( <a href="mailto:bmahood@polsinelli.com">bmahood@polsinelli.com</a> )       |
| mail( <a href="mailto:bquirk@polsinelli.com">bquirk@polsinelli.com</a> )         |

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| mail( <a href="mailto:braden@kennyhertzperry.com">braden@kennyhertzperry.com</a> )   |
| mail( <a href="mailto:Brenda@t-b.com">Brenda@t-b.com</a> )                           |
| mail( <a href="mailto:bwolf@polsinelli.com">bwolf@polsinelli.com</a> )               |
| mail( <a href="mailto:bzickefoose@polsinelli.com">bzickefoose@polsinelli.com</a> )   |
| mail( <a href="mailto:cabrams@polsinelli.com">cabrams@polsinelli.com</a> )           |
| mail( <a href="mailto:csimpson@polsinelli.com">csimpson@polsinelli.com</a> )         |
| mail( <a href="mailto:dlink@polsinelli.com">dlink@polsinelli.com</a> )               |
| mail( <a href="mailto:eedwards@polsinelli.com">eedwards@polsinelli.com</a> )         |
| mail( <a href="mailto:erin@shusny.com">erin@shusny.com</a> )                         |
| mail( <a href="mailto:gfasel@polsinelli.com">gfasel@polsinelli.com</a> )             |
| mail( <a href="mailto:gmusil@polsinelli.com">gmusil@polsinelli.com</a> )             |
| mail( <a href="mailto:imcdonald@polsinelli.com">imcdonald@polsinelli.com</a> )       |
| mail( <a href="mailto:jbelle@polsinelli.com">jbelle@polsinelli.com</a> )             |
| mail( <a href="mailto:jbird@polsinelli.com">jbird@polsinelli.com</a> )               |
| mail( <a href="mailto:jeff@shumansnyder.com">jeff@shumansnyder.com</a> )             |
| mail( <a href="mailto:jeng@polsinelli.com">jeng@polsinelli.com</a> )                 |
| mail( <a href="mailto:jgriffin@sakg.com">jgriffin@sakg.com</a> )                     |
| mail( <a href="mailto:jhumphrey@polsinelli.com">jhumphrey@polsinelli.com</a> )       |
| mail( <a href="mailto:jjarvis@polsinelli.com">jjarvis@polsinelli.com</a> )           |
| mail( <a href="mailto:jmorris@berkowitzoliver.com">jmorris@berkowitzoliver.com</a> ) |



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| mail( <a href="mailto:john@kennyhertzperry.com">john@kennyhertzperry.com</a> )                     |
| mail( <a href="mailto:jrcampbell@polsinelli.com">jrcampbell@polsinelli.com</a> )                   |
| mail( <a href="mailto:jwhitworth@gravesgarrett.com">jwhitworth@gravesgarrett.com</a> )             |
| mail( <a href="mailto:jwillard@polsinelli.com">jwillard@polsinelli.com</a> )                       |
| mail( <a href="mailto:kfisher@gravesgarrett.com">kfisher@gravesgarrett.com</a> )                   |
| mail( <a href="mailto:kmaxwell@polsinelli.com">kmaxwell@polsinelli.com</a> )                       |
| mail( <a href="mailto:kmurray@polsinelli.com">kmurray@polsinelli.com</a> )                         |
| mail( <a href="mailto:kreitz@polsinelli.com">kreitz@polsinelli.com</a> )                           |
| mail( <a href="mailto:lbolliger@sakg.com">lbolliger@sakg.com</a> )                                 |
| mail( <a href="mailto:lisa@shumansnyder.com">lisa@shumansnyder.com</a> )                           |
| mail( <a href="mailto:maher@t-b.com">maher@t-b.com</a> )   |
| mail( <a href="mailto:maryjo@t-b.com">maryjo@t-b.com</a> )   |
| mail( <a href="mailto:mbailey@polsinelli.com">mbailey@polsinelli.com</a> )                         |
| mail( <a href="mailto:mfooster@polsinelli.com">mfooster@polsinelli.com</a> )                       |
| mail( <a href="mailto:michiel.schul@loyensloeff.com">michiel.schul@loyensloeff.com</a> )           |
| mail( <a href="mailto:michiel.van.kempen@loyensloeff.com">michiel.van.kempen@loyensloeff.com</a> ) |
| mail( <a href="mailto:mogradys@polsinelli.com">mogradys@polsinelli.com</a> )                       |
| mail( <a href="mailto:moleary@polsinelli.com">moleary@polsinelli.com</a> )                         |

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|-----------------------------------|
| mail(morlowski@polsinelli.com)    |
| mail(msims@polsinelli.com)        |
| mail(msmith@polsinelli.com)       |
| mail(mwilliamson@polsinelli.com)  |
| mail(nkruger@gravesgarrett.com)   |
| mail(nkurt@berkowitzoliver.com)   |
| mail(pobryan@polsinelli.com)      |
| mail(pzeeck@polsinelli.com)       |
| mail(rjones@polsinelli.com)       |
| mail(roz@t-b.com)                 |
| mail(rspake@polsinelli.com)       |
| mail(shu@shusny.com)              |
| mail(sklein@polsinelli.com)       |
| mail(snaseem@berkowitzoliver.com) |
| mail(tcyr@polsinelli.com)         |
| mail(terri@t-b.com)               |
| mail(tgraves@gravesgarrett.com)   |
| mail(tklink@polsinelli.com)       |
| mail(tpaytas@t-b.com)             |
| mail(tsalmon@polsinelli.com)      |

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| mail( <a href="mailto:tsteffens@polsinelli.com">tsteffens@polsinelli.com</a> ) |
| mail( <a href="mailto:wes@t-b.com">wes@t-b.com</a> )                           |
| Polsinelli   |
| Scharnhorst  |
| Shuman Snyder  |
| Thomsen and Burke  |
| Thomsen Burke  |

**Exhibit B**

Key Custodians:

Bruce Bourne

Jody Drake

Nasser Ghoseiri

Dave McClain

Marc Goodpasture

John Mutrux

Jeff Ownby

Paul Scholes

Sonny Vleisides

Josh Zerlan

## Exhibit C

### Search Terms

Total Documents: 218,154

Documents with Hits, including Family: 79,251

(procedur\* OR polic\* OR guideline\*) w/5 (publish\* OR market\* OR sales OR sell\*)

(project\* OR estimate\* OR schedule\*) w/3 (ship\* OR date)

ship\* w/3 (last half of OR end of)

ship\* w/3 (expect\* OR begin\* OR start\* OR initiate OR first)

(current\* OR schedule\*) w/3 (deliver\* OR ship\*)

"terms and conditions"

Attorney\* General OR FTC OR Federal Trade Commission OR BBB OR Better Business Bureau OR United States Government

(sale\* OR ship\*) w/3 (miner OR machine OR cloud OR Monarch\* OR Bitforce\* OR jalapeno)

request\* w/2 refund\*

product\* w/2 (develop\* OR design\*)

(service\* OR change\*) w/2 order\*

(production OR ship\*) w/3 timeline\*

(receipt\* OR payment OR cash OR check OR wire OR bitcoin\*) w/3 preorder\*

(mine\* OR mining) w/2 (activit\* OR operation\* OR effort\*)

self min\*

lawsuit OR Meissner OR Lolli OR Tomaszewski

(ship\* OR deliver\*) w/2 (estimat\* OR schedule\*)

ready for delivery

scheduled for delivery

manual\* OR policy OR policies OR procedure\* OR training

product\* w/3 specificat\*

product\* w/3 announce\*

availab\* w/3 order

design\* w/3 (start\* OR began\* OR begin\* OR finish\*)

production w/3 (start\* OR began\* OR begin\* OR finish\*)

order\* w/2 (amount OR value\*)

refund\* w/3 (request\* OR provid\*)  
ship\* w/3 date\*  
(how many OR number\*) w/3 ship\*  
(complain\* OR concern\*) w/3 (defect\* OR malfunction\*)  
prototype\*  
Patel  
Cheng  
Chronicle  
Custom Silicon Solutions or Custom Silicon  
Interconnect Systems or Interconnect  
Nanium  
Bayside Design or Bayside  
i2A Technologies or i2A  
Sierra Circuits or Sierra  
Spel Semiconductor or Spel  
CoolIT Systems or CoolIT  
Celsia Technologies or Celsia  
Altera Technologies or Altera  
Enner Technology or Enner  
Ironwood Electronics or Ironwood  
Pengchu  
Renesas  
Sunyon Industry or Sunyon  
T-Global Technology or T-Global  
"A&E Metal" or "A&E"  
Taiyo Yuden or Taiyo  
Toshiba  
Murata Electronics or Murata  
United Chemi-Con or Chemi-Con  
TDK Corporation or TDK  
Panasonic – ECG  
Atmel

Microchip Technology  
Infineon Technologies or Infineon  
Rohm Semiconductor or Rohm  
Molex  
Lite-On  
IDT  
Fox Electronics or Fox  
FTDI  
TE Connectivity  
Wurth  
Kemet  
ECS International or ECS  
CUI  
Diodes  
Analog Devices  
Avago Technologies or Avago  
Bourns  
Abracon  
NDK  
AVX  
Kyocera  
FCI Electronics  
BitPay  
Texas Instruments  
STMicroelectronics  
"Alpha & Omega Semiconductor" or "Alpha & Omega"  
Caddock Electronics or Caddock  
NXP Semiconductors or NXP  
Coilcraft  
Stanley Electric  
Osram Opto Semiconductors or Osram Opto  
Sullins Connector Solutions or Sullins

Vishay Dale or Vishay

JST America or JST

Great wall

Cooler Master

EVGA

Domains by Proxy

GoDaddy.com

DHL Express or DHL

Federal Express

FedEx Ground Package Systems or FedEx

United Parcel Service or UPS

Bandwidth.com

RingCentral

final stage development

initial product delivery

final stage development w/5 (BitForce or SC or chip)

initial product delivery w/5 (BitForce or SC or chip)

development w/3 (issue\* or problem\* or difficulties)

ship\* w/3 (issue\* or problem\* or difficulties)

ready for delivery w/3 schedule

final stage development w/2 (tapeout or wafer\*) w/5 (produc\* or foundry)

project\* w/2 (ship\* or date)

test\* w/2 (protocol\* or procedure\* or method\* or polic\* or guideline\* or directive)

(component\* or part\* or suppl\* or vendor or provide\*) w/5 (estimate\* or project\* or timeline or delay\* or timing or schedule\*)

manufacture\* w/5 (estimate\* or project\* or timeline or delay\* or timing or schedule\*)