

# EXHIBIT H

**From:** [Hill Brakefield](#)  
**To:** [Hvidt, Scott K.](#); [Li, Viola](#); [T-Mobile Merger AT](#)  
**Cc:** [Brass, Rachel S.](#); [Stone, Rod](#); [Yu, Minae](#); [Kushner, Sarah M.](#); [Tyson, Thomas](#); [Histed, Clifford](#); [Halter, Julie Anne](#); [Hawley, Alicia M.](#)  
**Subject:** RE: Dale v. Deutsche Telekom AG, Case No. 1:22-cv-03189 (N.D. Ill.): T-Mobile's Response to Plaintiffs' Custodian Proposal  
**Date:** Wednesday, July 24, 2024 1:06:52 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)

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Scott,

Thank you for your letter. We appreciate T-Mobile's willingness to move up to 50 custodians. That number works for us if it includes Mark Nelson, Dave Miller, and Kathleen Ham.

T-Mobile has not substantiated any of its claims that including these individuals will be unduly burdensome. There is no presumption against using in-house counsel as custodians. *See, e.g., Lane Contr. Co. v. Skanska USA Civ. Se., Inc.*, 2022 WL 3136868, at \*2 (M.D. Fla. Jan. 20, 2022) (granting plaintiff's motion to compel production of "documents—or a privilege log—concerning certain of [counter claimant's] in-house lawyers identified in [plaintiff's] discovery requests as custodians"). And the Sedona Conference materials you cite do not support your contentions. The provision you quote on page 2 of your letter relates to custodians that are "only likely to have information relevant to the claims and defenses of a particular matter that came to their attention *after* the litigation commenced or as part of the litigation process." *The Sedona Conference Commentary on Protection of Privileged ESI*, 17 SEDONA CONF. J. 95, 162 (2016) (emphasis added). That is not the case here where Nelson, Miller, and Ham have been integral parts of the business from the time T-Mobile announced the merger and were themselves involved in the merger and business decisions that followed.

It is also factually incorrect to characterize all three of these proposed custodians as lawyers who primarily "provide legal advice to the company." While Kathleen Ham has a law degree, she was a lobbyist for T-Mobile. When an attorney acts as a lobbyist, "matters conveyed to the attorney for the purpose of having the attorney fulfill the lobbyist role do not become privileged by virtue of the fact that the lobbyist has a law degree or may under other circumstances give legal advice on matters that may also be the subject of the lobbying efforts." *A & R Body Specialty and Collision Works, Inc. v. Progressive Cas. Ins. Co.*, 2013 WL 6044342, \*3 (D. Conn. Nov. 14, 2013).

Plaintiffs are willing to litigate the question of including attorneys on the custodian list, but we hope to avoid that. Our proposal is to keep the total number of custodians within the number T-Mobile appears ready to accept (50). To do so, Plaintiffs are willing to sacrifice three of their previously proposed custodians: Peter DeLuca, Dara Sadri, and Mike Enberg. Please let us know if T-Mobile accepts this offer. If not, please let us know your availability for a meet and confer later this week to discuss how the parties will present their custodian dispute to the Court.

Regards,

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**From:** Hvidt, Scott K. <SHvidt@gibsondunn.com>

**Sent:** Monday, July 22, 2024 3:03 PM

**To:** Hill Brakefield <hbrakefield@hausfeld.com>; Li, Viola <VHLi@gibsondunn.com>; TMobile Merger AT <TMobileMergerAT@hausfeld.com>

**Cc:** Brass, Rachel S. <RBrass@gibsondunn.com>; Stone, Rod <RStone@gibsondunn.com>; Yu, Minae <MYu@gibsondunn.com>; Kushner, Sarah M. <SMKushner@gibsondunn.com>; Tyson, Thomas <TTyson@gibsondunn.com>; Histed, Clifford <Clifford.Histed@klgates.com>; Halter, Julie Anne <julianne.halter@klgates.com>; Hawley, Alicia M. <Alicia.Hawley@klgates.com>

**Subject:** RE: Dale v. Deutsche Telekom AG, Case No. 1:22-cv-03189 (N.D. Ill.): T-Mobile's Response to Plaintiffs' Custodian Proposal

 External email >

Hill –

Please see the attached correspondence regarding T-Mobile's custodian list.

Thanks

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Associate Attorney

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**From:** Hvidt, Scott K.

**Sent:** Friday, July 19, 2024 1:53 PM

**To:** 'Hill Brakefield' <[hbrakefield@hausfeld.com](mailto:hbrakefield@hausfeld.com)>; Li, Viola <[VHLi@gibsondunn.com](mailto:VHLi@gibsondunn.com)>; TMobile Merger AT <[TMobileMergerAT@hausfeld.com](mailto:TMobileMergerAT@hausfeld.com)>

**Cc:** Brass, Rachel S. <[RBrass@gibsondunn.com](mailto:RBrass@gibsondunn.com)>; Stone, Rod <[RStone@gibsondunn.com](mailto:RStone@gibsondunn.com)>; Yu, Minae <[MYu@gibsondunn.com](mailto:MYu@gibsondunn.com)>; Kushner, Sarah M. <[SMKushner@gibsondunn.com](mailto:SMKushner@gibsondunn.com)>; Tyson, Thomas <[TTyson@gibsondunn.com](mailto:TTyson@gibsondunn.com)>; Histed, Clifford <[Clifford.Histed@klgates.com](mailto:Clifford.Histed@klgates.com)>; Halter, Julie Anne <[julianne.halter@klgates.com](mailto:julianne.halter@klgates.com)>; Hawley, Alicia M. <[Alicia.Hawley@klgates.com](mailto:Alicia.Hawley@klgates.com)>

**Subject:** RE: Dale v. Deutsche Telekom AG, Case No. 1:22-cv-03189 (N.D. Ill.): T-Mobile's Response to Plaintiffs' Custodian Proposal

Hill –

Thank you for our cooperative meet and confer call yesterday, July 18. During the call, we reiterated that we are getting close to agreement on custodians but that we and our client had a few questions for Plaintiffs to help inform our client's final decision on Plaintiffs' custodian proposal.

To date, T-Mobile has agreed to 40 custodians and the Parties are continuing to discuss an additional 13 individuals. We asked four questions of Plaintiffs' counsel yesterday and learned new information in response.

First, we asked about why Plaintiffs changed their custodian request on July 1 to also request the addition of Dow Draper as a custodian to see if there was any information beyond the brief sentence Plaintiffs included in their July 1 letter for his addition. Plaintiffs answered the question noting that Mr. Draper was added because he was a T-Mobile custodian for its response to the DOJ's second request in its HSR investigation of the Sprint merger, which it learned after reviewing the correspondence T-Mobile produced to Plaintiffs earlier this year.

Second, we sought further understanding why Plaintiffs were seeking the addition of multiple custodians who had left T-Mobile in 2020 or prior to 2020 even though Plaintiffs' claims are about purported effects of the merger that closed in 2020. Plaintiffs responded by elaborating on their position with new details they had not previously articulated.

Third, we asked about Angela Rittgers whose role related to enterprise customers and why Plaintiffs still seek her inclusion as a custodian despite dropping other individuals Plaintiffs previously requested to be custodians who have similar roles in enterprise. Plaintiffs, for the first time, explained they are still seeking her inclusion because she testified in the SDNY State AGs merger trial.

Lastly, we asked Plaintiffs if they had any other specific reasons why they were seeking the addition of three current or former in-house counsel at T-Mobile as ESI custodians. Plaintiffs simply provided high-level assertions that they are seeking their inclusion as custodian because Plaintiffs claim they were involved in business dealings regarding the merger and evaluating the merger and talked to business people about the same. We asked if Plaintiffs had any other reasons or bases for their request and Plaintiffs provided nothing further. We noted the purported roles Plaintiffs described are legal functions.

We appreciate the information shared and are reviewing the information with our client to aid its evaluation of Plaintiffs' proposal. We anticipate being able to share our response to Plaintiffs' latest proposal next week.

Thanks

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Associate Attorney

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**From:** Hill Brakefield <[hbrakefield@hausfeld.com](mailto:hbrakefield@hausfeld.com)>

**Sent:** Monday, July 15, 2024 11:05 AM

**To:** Hvidt, Scott K. <[SHvidt@gibsondunn.com](mailto:SHvidt@gibsondunn.com)>; Li, Viola <[VHLi@gibsondunn.com](mailto:VHLi@gibsondunn.com)>; T-Mobile Merger AT <[TMobileMergerAT@hausfeld.com](mailto:TMobileMergerAT@hausfeld.com)>

**Cc:** Brass, Rachel S. <[RBrass@gibsondunn.com](mailto:RBrass@gibsondunn.com)>; Stone, Rod <[RStone@gibsondunn.com](mailto:RStone@gibsondunn.com)>; Yu, Minae <[MYu@gibsondunn.com](mailto:MYu@gibsondunn.com)>; Kushner, Sarah M. <[SMKushner@gibsondunn.com](mailto:SMKushner@gibsondunn.com)>; Tyson, Thomas <[TTyson@gibsondunn.com](mailto:TTyson@gibsondunn.com)>; Histed, Clifford <[Clifford.Histed@klgates.com](mailto:Clifford.Histed@klgates.com)>; Halter, Julie Anne <[julianne.halter@klgates.com](mailto:julianne.halter@klgates.com)>; Hawley, Alicia M. <[Alicia.Hawley@klgates.com](mailto:Alicia.Hawley@klgates.com)>

**Subject:** RE: Dale v. Deutsche Telekom AG, Case No. 1:22-cv-03189 (N.D. Ill.): T-Mobile's Response to Plaintiffs' Custodian Proposal

[WARNING: External Email]

Scott,

Thursday (7/18) at 4 PM CT/2 PM PT works best for us. Do you plan on circulating a link, or should I?

Thanks,

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**HILL BRAKEFIELD**

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**From:** Hvidt, Scott K. <[SHvidt@gibsondunn.com](mailto:SHvidt@gibsondunn.com)>

**Sent:** Friday, July 12, 2024 10:31 AM

**To:** Hill Brakefield <[hbrakefield@hausfeld.com](mailto:hbrakefield@hausfeld.com)>; Li, Viola <[VHLi@gibsondunn.com](mailto:VHLi@gibsondunn.com)>; T-Mobile Merger AT <[TMobileMergerAT@hausfeld.com](mailto:TMobileMergerAT@hausfeld.com)>

**Cc:** Brass, Rachel S. <[RBrass@gibsondunn.com](mailto:RBrass@gibsondunn.com)>; Stone, Rod <[RStone@gibsondunn.com](mailto:RStone@gibsondunn.com)>; Yu, Minae <[MYu@gibsondunn.com](mailto:MYu@gibsondunn.com)>; Kushner, Sarah M. <[SMKushner@gibsondunn.com](mailto:SMKushner@gibsondunn.com)>; Tyson, Thomas <[TTyson@gibsondunn.com](mailto:TTyson@gibsondunn.com)>; Histed, Clifford <[Clifford.Histed@klgates.com](mailto:Clifford.Histed@klgates.com)>; Halter, Julie Anne <[julianne.halter@klgates.com](mailto:julianne.halter@klgates.com)>; Hawley, Alicia M. <[Alicia.Hawley@klgates.com](mailto:Alicia.Hawley@klgates.com)>

**Subject:** RE: Dale v. Deutsche Telekom AG, Case No. 1:22-cv-03189 (N.D. Ill.): T-Mobile's Response to Plaintiffs' Custodian Proposal

Counsel,

We have reviewed your letter regarding T-Mobile's response to your proposal to add more T-Mobile custodians. We have a few questions regarding your letter and response that we'd like to discuss with you but we are close to agreement on most of the custodians. Please let us know when you are available during the windows below to confer regarding your proposed additional custodians.

**Thursday July 18:** 10 AM CT/8 AM PT; 4 PM CT/2 PM PT

**Friday July 19:** 10 AM CT/8 AM PT; 11 AM CT/9 AM PT

Best,

**Scott K. Hvidt**  
Associate Attorney

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**From:** Hill Brakefield <[hbrakefield@hausfeld.com](mailto:hbrakefield@hausfeld.com)>

**Sent:** Monday, July 1, 2024 7:37 PM

**To:** Li, Viola <[VHLi@gibsondunn.com](mailto:VHLi@gibsondunn.com)>; T-Mobile Merger AT <[TMobileMergerAT@hausfeld.com](mailto:TMobileMergerAT@hausfeld.com)>

**Cc:** Brass, Rachel S. <[RBrass@gibsondunn.com](mailto:RBrass@gibsondunn.com)>; Stone, Rod <[RStone@gibsondunn.com](mailto:RStone@gibsondunn.com)>; Hvidt, Scott K. <[SHvidt@gibsondunn.com](mailto:SHvidt@gibsondunn.com)>; Yu, Minae <[MYu@gibsondunn.com](mailto:MYu@gibsondunn.com)>; Kushner, Sarah M. <[SMKushner@gibsondunn.com](mailto:SMKushner@gibsondunn.com)>; Tyson, Thomas <[TTyson@gibsondunn.com](mailto:TTyson@gibsondunn.com)>; Histed, Clifford

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**Subject:** RE: Dale v. Deutsche Telekom AG, Case No. 1:22-cv-03189 (N.D. Ill.): T-Mobile's Response to Plaintiffs' Custodian Proposal

**[WARNING: External Email]**

Counsel,

Please see the attached correspondence regarding T-Mobile's custodian list.

Regards,

**HILL BRAKEFIELD**

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**From:** Li, Viola <[VHLi@gibsondunn.com](mailto:VHLi@gibsondunn.com)>

**Sent:** Friday, June 21, 2024 4:26 PM

**To:** Hill Brakefield <[hbrakefield@hausfeld.com](mailto:hbrakefield@hausfeld.com)>; TMobile Merger AT <[TMobileMergerAT@hausfeld.com](mailto:TMobileMergerAT@hausfeld.com)>

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**Subject:** Dale v. Deutsche Telekom AG, Case No. 1:22-cv-03189 (N.D. Ill.): T-Mobile's Response to Plaintiffs' Custodian Proposal

Counsel:

Please see attached. Thank you.

Best,

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