

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ANTHONY DALE, BRETT JACKSON,
JOHNNA FOX, BENJAMIN
BORROWMAN, ANN LAMBERT,
ROBERT ANDERSON, and CHAD
HOHENBERY on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

DEUTSCHE TELEKOM AG, TMOBILE US,
INC., and SOFTBANK GROUP CORP.

Defendants.

Case No. 1:22-cv-03189

Hon. Thomas M. Durkin

Hon. Jeffrey Cole

DECLARATION OF MICHAEL L. HASTINGS

I, Michael L. Hastings, declare as follows:

1. I am the eDiscovery Technical Operations Manager for DISH Network Corporation (“DISH”). I make this declaration in support of DISH’s memorandum in opposition to Plaintiffs’ and T-Mobile’s separate Motions to Compel. I have personal knowledge of the facts set forth herein. If called as a witness, I could and would competently testify to the matters stated herein.

2. I have been employed at DISH for three years. In my current role, I manage a team of one employee who provides discovery support to DISH’s counsel working on litigations and investigations.

3. I have personal knowledge of DISH’s processes regarding the discovery of its electronically stored information (“ESI”) for litigations and investigations. By discovery of ESI,

I am referring to the identification, preservation, collection, processing, search, review and analysis, and/or production of ESI.¹

4. DISH uses the Google Workspace suite of tools, specifically Google Vault (“Vault”), for discovery. At the direction of DISH’s counsel, DISH’s discovery team uses Vault to preserve ESI stored within Google Workspace, including Gmail, Chats, and Drive.

5. DISH’s discovery team also uses Vault to defensibly narrow the scope of ESI collected from Vault by applying date ranges and running simple search terms.²

6. Vault only provides hit counts for simple search terms run across Gmail and only for hits within the body of the email message. Vault does not provide hit counts for email attachments and does not provide hit counts for searches run across other data sources such as Chats and Drive. Vault also does not have the functionality to de-duplicate data within or across data sources.

7. At the direction of DISH’s counsel, DISH’s discovery team uses Vault to collect and export data to Lighthouse, DISH’s preferred discovery vendor. DISH has contracted with Lighthouse to provide discovery services, including hosting, processing, searching, reviewing and analyzing, and producing for this matter if DISH is required to conduct custodial discovery. The terms of DISH’s contract with Lighthouse are confidential.

¹ See, e.g., Electronic Discovery Reference Model, *Current EDRM Model*, edrm.net/edrm-model/current/ (last visited Apr. 10, 2025).

² See, e.g., *Use operators to refine a search in Vault*, Google Vault Help, https://support.google.com/vault/answer/2474474?hl=en&ref_topic=3215534&sjid=8289109589411472516-NC#zippy=%2Creview-search-term-complexity (last visited Apr. 10, 2025); *Use Vault to search Gmail*, Google Vault Help, https://support.google.com/vault/answer/2462480?hl=en&ref_topic=3215534&sjid=8289109589411472516-NC#zippy=%2Cwhat-data-is-searched (last visited Apr. 10, 2025).

8. Once DISH loads data onto Lighthouse’s secure servers, Lighthouse uses discovery software to process the data and make it fully searchable, which includes de-NISTing³ and de-duplication.⁴

9. At DISH’s direction, Lighthouse runs search terms across the resulting data set and loads documents that hit on those terms into an instance of Relativity, a review platform, for review and analysis.

10. At DISH’s direction, Lighthouse will identify a team of contract attorneys to conduct a linear review of documents in the review set to determine responsiveness and privilege prior to production. Lighthouse also offers DISH the option of using continuous active learning (“CAL”), a form of technology assisted review, to further limit the volume of documents subject to review.

11. When the review is completed, Lighthouse will produce responsive, not privileged documents in accordance with instructions from DISH’s counsel.

12. The search terms that each party proposed to DISH are too complex for Vault’s search functionality. DISH’s discovery team spent approximately 15 hours reformulating each party’s proposed terms and then ran the simplified search terms, along with each party’s proposed date range, across Gmail for the custodians each party identified.⁵

³ “De-NISTing” refers to the removal of system files from the collected data based on a list of standard system files and hash values maintained by the National Institute of Standards and Technology (“NIST”). *Guidelines for E-Discovery Processing*, Electronic Discovery Reference Model, at 10 (2022), <https://edrm.net/download/153420/?tmstv=1743881074>.

⁴ “De-duplication” refers to the use of hash values to identify and remove duplicate files from collected custodial data to reduce the volume of documents needing review. *Id.* at 10-11.

⁵ Plaintiffs identified Stephen Stokols, John Swieringa, Charlie Ergen, William Platz, Robert Hussa, Jeffrey McSchooler, and Marc Rouanne. T-Mobile identified Stephen Stokols, John Swieringa, Charlie Ergen, William Platz, Robert Hussa, Michael Kelly, and Paul Orban (two of the complex search terms proposed by T-Mobile applied only to Swieringa, Ergen, and Orban). One individual identified by both parties, Stephen Bye, departed DISH in January 2023. DISH has no Gmail, Chats, or Drive data for him.

13. Vault returned 2,608,010 emails that hit on the simplified version of Plaintiffs' search terms for the proposed date range of January 1, 2017 through June 30, 2024. Vault returned 371,877 emails that hit on the simplified version of T-Mobile's search terms for the proposed date ranges⁶ of (i) April 1, 2020 through December 31, 2023 and (ii) April 1, 2020 through June 30, 2024.

14. Based on my experience with DISH's email data and with running search terms in Vault, I estimate these volumes will expand by 50% to account for email attachments, or a total of 3,912,015 emails and attachments with hits on Plaintiffs' search terms, and 557,816 emails and attachments with hits on T-Mobile's search terms.

15. For DISH to further evaluate the Parties' proposed search terms to arrive at a more precise volume of documents for review, DISH's discovery team has to export data to Lighthouse. DISH would incur hosting and processing fees to do so.

16. In lieu of incurring fees, DISH requested Lighthouse to prepare cost estimates for hosting and review based on two different scenarios. Lighthouse's confidential estimates are attached as Ex. A. Lighthouse's confidential estimates are based on certain assumptions, including that 20% of the data received from DISH will de-duplicate upon processing and that the data will be hosted for six months.

17. Scenario 1 - Plaintiffs' Proposed Search Terms, Date Range, and Custodians: Host 264 GB of data that represents the Gmail documents for Plaintiffs' seven custodians for the time period of January 1, 2017 to June 30, 2024. Review 1,564,806 emails and attachments that represent the 3,912,015 emails and attachments from Gmail that hit on Plaintiffs' simplified search terms after applying an assumed 60% de-duplication rate.

⁶ T-Mobile proposed different date ranges for different search terms.

- a. Hosting Estimate: [REDACTED]
- b. Linear Review Estimate: [REDACTED]
- c. CAL Review Estimate: [REDACTED]

18. Scenario 2 - T-Mobile's Proposed Search Terms, Date Range, and Custodians:

Host 238 GB of data that represents the Gmail documents for T-Mobile's seven custodians for the time period of April 1, 2020 to June 30, 2024. Review 223,126 emails and attachments that represent the 557,816 emails with attachments from Gmail that hit on T-Mobile's simplified search terms after applying an assumed 60% de-duplication rate.

- a. Hosting Estimate: [REDACTED]
- b. Linear Review Estimate: [REDACTED]
- c. CAL Review Estimate: [REDACTED]

19. Lighthouse's estimates do not include the fees or costs associated with privilege review and logging or the costs of production. They also do not include the fees or costs that DISH would be billed by outside counsel for overseeing the review and production of custodial data.

20. It is not within the roles and responsibilities of DISH's discovery team to collect structured data for DISH's Mobile Virtual Network Operators Gen Mobile or Ting Mobile.

21. I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.

Executed on April 11, 2025.

/s/ Michael L. Hastings
MICHAEL L. HASTINGS