

EXHIBIT 1

**[REDACTED - PUBLICLY FILED
VERSION OF ECF NO. 169-4
PURSUANT TO COURT ORDER
DATED MARCH 30, 2023 (ECF NO. 189)]**

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

- - -

CAT BROOKS and RASHEED : CASE NO. 3:21-cv-
SHABAZZ, individually and on : 1418-EMC
behalf of all others :
similarly situated, :
Plaintiffs, :
vs. :
THOMSON REUTERS CORPORATION, :
Defendant. :

- - -
CONFIDENTIAL

Wednesday, February 22, 2023

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Remote videotaped stenographic deposition of
ERIC GERHARD, conducted at the location of the witness
in Minneapolis, Minnesota, commencing at approximately
10:02 a.m., on the above date, before Rosemary
Locklear, a Registered Professional Reporter,
Certified Realtime Reporter and California CSR
(#13969).

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1 ALSO PRESENT:

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3 BEN MERTEN, Video Operator

4 JON OLSON, ESQUIRE, Thomson Reuters

5 JENNIFER HOROWITZ, Paralegal, Cohen Milstein

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1 dark web in CLEAR?

2 A. No.

3 Q. How do you know that?

4 A. We don't have dark web data in CLEAR.

5 Q. How do you know that Thomson Reuters does not
6 use information from the dark web in CLEAR?

7 A. Based on my understanding of what dark web
8 data is, I --

9 Q. And -- sorry. I didn't mean to interrupt.

10 A. Yeah. I mean, that's it.

11 Q. And what is your understanding of what dark
12 web data is?

13 A. Data that is outside of a normal web browser
14 search.

15 Q. Well, fair to say that Thomson Reuters has
16 data that is outside of a normal Web browser search
17 accessible through it?

18 MR. SCHOTTLAENDER: Objection.

19 THE WITNESS: Yeah. That -- I mean, that's
20 not -- I mean, it would be like illicit data
21 potentially outside of -- I mean, that is not the
22 definition of CLEAR -- I would not call data that is
23 in CLEAR dark web data, if that's the question.

24 BY MS. PUTTIEVA:

25 Q. So the dark web contains illicit data.

1 A. Like I said, I don't -- I've never accessed
2 the dark web. I don't know what's on the dark web. I
3 think that changes hourly, daily, weekly. So, yeah, I
4 don't know what specifically is on the dark web.

5 Q. But you know that it's illicit data.

6 A. Potentially. But, yeah, I don't -- for me to
7 speak about what is currently on the dark web right
8 now, I have -- I don't know if anyone could do that.

9 MS. PUTTIEVA: Let's go to Control 4.

10 MS. HOROWITZ: I'm loading that now.

11 MS. PUTTIEVA: Mr. Gerhard, I believe that's
12 going to be Exhibit K-11, unless Jenny kindly corrects
13 me. And that's a document beginning with the Bates
14 number TR-BROOKS318714.

15 (Exhibit K-11 was marked for identification.)

16 MS. HOROWITZ: You're correct. And it's been
17 introduced as K-11.

18 MS. PUTTIEVA: Thank you.

19 THE WITNESS: Yeah. Let me review.

20 I've reviewed.

21 BY MS. PUTTIEVA:

22 Q. Let's start with the first page, which ends in
23 the Bates number 714, just the very first page of the
24 document.

25 Do you see this is an email from Paul Wohletz

1 sent to you, Mr. Gerhard, as well as a Jacob Hauck. I
2 may be mispronouncing his name.

3 A. Yep.

4 Q. On April 17th, 2017; is that right?

5 A. Yes.

6 Q. Subject is [REDACTED]

7 A. Yes.

8 Q. The attachment, which is forwarded, [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 Do you see that?

12 A. Yes.

13 Q. Okay. And it reads, [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 Do you see that?

19 A. Yes.

20 Q. What is T, or who is T?

21 A. I don't know. It's not my email.

22 Q. Well, you received it, didn't you?

23 A. Yeah; but I -- yeah. I don't know what T is
24 in the context of this email from April 17th of 2017.

25 Q. NPD here is the new product development that

1 what do you mean by that?

2 A. Allocation of resources for developing
3 products on CLEAR.

4 Q. Understood.

5 So he forwards you this [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 A. I don't know.

9 Q. Do you have an understanding of what a [REDACTED]
10 [REDACTED] based on this communication from
11 Mr. Wohletz to you directly?

12 A. Based on this specific email, it appears that
13 this is regarding a [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 A. I don't know.

18 Q. How often does Thomson Reuters [REDACTED]

19 [REDACTED]

20 MR. SCHOTTLAENDER: Objection. Form.

21 THE WITNESS: I mean, I -- just once.

22 BY MS. PUTTIEVA:

23 Q. How do you know it was just once?

24 [REDACTED]

25 [REDACTED]

1 Q. And what did Thomson Reuters get from this
2 particular vendor, [REDACTED]

3 MR. SCHOTTLAENDER: Objection. Form.

4 THE WITNESS: I don't remember the details of
5 if a, like a deal was ever even finalized around this
6 particular project.

7 BY MS. PUTTIEVA:

8 Q. Any reason to believe the deal was not
9 finalized?

10 A. I have no knowledge one way or the other.

11 Q. So you have no reason to believe the deal was
12 not finalized.

13 A. Like I said, I don't know.

14 Q. [REDACTED] considered to be proprietary?

15 MR. SCHOTTLAENDER: Objection.

16 THE WITNESS: Proprietary to whom?

17 BY MS. PUTTIEVA:

18 Q. Well, Thomson Reuters has data that is public
19 record data; is that right?

20 A. Correct.

21 Q. It also has data that is proprietary, not
22 publicly available?

23 A. Correct.

24 Q. Is data from a [REDACTED] proprietary?

25 MR. SCHOTTLAENDER: Objection.

1 MS. PUTTIEVA: Let's take a five-minute break.

2 MR. SCHOTTLAENDER: Can we get a time check as
3 well before we take that?

4 MS. PUTTIEVA: Off the record at 6:18 p.m.

5 (Recess, 6:18-6:34 p.m.)

6 VIDEO OPERATOR: We are back on the record at
7 6:34 p.m.

8 MS. PUTTIEVA: Jenny, can you load the
9 document ending in 0706?

10 MS. HOROWITZ: Yeah. I'm loading that right
11 now.

12 It's been introduced as K-12.

13 (Exhibit K-12 was marked for identification.)

14 BY MS. PUTTIEVA:

15 Q. So, Mr. Gerhard, you should be able to see the
16 document bearing the Bates number TR-BROOKS310706 in
17 your marked exhibits folder.

18 A. Yeah. Let me just review it.

19 Okay. I've reviewed it.

20 Q. So it's an email about four months later from
21 the previous document. This is August 18th, 2017, an
22 email from Jacob Hauck to Mr. Wohletz, Kevin Appold,
23 and to you; is that right?

24 A. Correct.

25 Q. Subject is [REDACTED] is that right?

1 A. Yes.

2 Q. And it reads, [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 Do you see that?

20 A. Yes.

21 Q. So what is a lower environment of CLEAR?

22 A. A lower environment would be a development
23 environment.

24 Q. Is that the environment you work in?

25 A. No.

1 Q. When you say a lower environment of CLEAR is a
2 development environment, what do you mean by that?

3 A. A QA environment.

4 Q. And what is QA environment? What does that
5 stand for?

6 A. It's a development environment before you
7 would release something to production to customers --

8 Q. Understood.

9 A. -- outside of all the subscription stuff that
10 we talked about.

11 Q. And it says here, [REDACTED]

12 [REDACTED]

13 What is [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 Q. Including this one?

17 A. Yeah. I can't -- I honestly can't remember if
18 we did meet with [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 Q. The email states that [REDACTED]

24 [REDACTED] correct?

25 A. Yeah. I guess with [REDACTED]

1

2

MS. PUTTIEVA: Jenny, could you load the

3

document -- one second, there we go -- ending in 9749.

4

MS. HOROWITZ: That's been introduced as K-13.

5

(Exhibit K-13 was marked for identification.)

6

MS. PUTTIEVA: And for the record, that's the

7

document bearing the Bates number TR-BROOKS319749.

8

THE WITNESS: Yeah. Let me review.

9

Yeah, I've had a chance to review.

10

BY MS. PUTTIEVA:

11

Q. At the bottom of Page ending in 749 --

12

A. Yes.

13

Q. -- you see there is an invitation to a WebEx

14

that you, Eric Gerhard, sent to yourself, Jacob Hauck,

15

Kim Smith.

16

Do you see that?

17

A. Yes.

18

Q. The subject is

19

A. Yeah.

20

Q. What is

21

A. That would be a meeting to discuss

22

23

So it looks like that meeting was scheduled.

24

I did not recall that.

25

Q. And what did you discuss at that meeting?

1 A. Like, honestly, like I don't remember the
2 meeting, but based on the context of this particular
3 email and who the meeting was set up with, it would be

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]

8 it -- they go hand in hand, I would say.

9 Q. And how would [REDACTED]
10 [REDACTED]

11 A. I mean, so this meeting would be to determine
12 that. So --

13 Q. Did this meeting take place?

14 A. I -- yeah. Like I said, I don't recall a
15 specific meeting with Kim Smith and Jacob Hauck but, I
16 mean, it looks like it was scheduled.

17 If that meeting did take place, the discussion
18 would be around [REDACTED]

19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]

23 MS. PUTTIEVA: Jenny, let's load the document
24 ending in 5076.

25 MS. HOROWITZ: That's been introduced as

1 Exhibit K-14.

2 (Exhibit K-14 was marked for identification.)

3 MS. PUTTIEVA: That's a document beginning
4 with the Bates number TR-BROOKS025076.

5 THE WITNESS: Yeah. Let me just review.

6 Okay. I've reviewed.

7 BY MS. PUTTIEVA:

8 Q. Mr. Gerhard, do you see this is an email from
9 Kyle McSherry --

10 A. Yes.

11 Q. -- sent --

12 And who's Kyle McSherry?

13 A. Kyle McSherry works in marketing.

14 Q. And it was sent to a number of people,
15 including yourself, on November 14th, 2018; is that
16 right?

17 A. Yes.

18 Q. The subject is [REDACTED]

19 A. Yes.

20 Q. So you attended the [REDACTED] webinar that's
21 discussed here?

22 A. I don't -- I can't remember if I actually did
23 attend the [REDACTED] webinar. I -- like I don't have a
24 personal recollection of attending this webinar. So,
25 yeah, I don't -- I don't know if I actually did

1 attend. I can't -- can't remember.

2 Q. The email reads, [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 There's a URL link. Underneath that it says,

12 [REDACTED]

13 Do you see that?

14 A. Yes.

15 Q. And the first key takeaway is, [REDACTED]

16 [REDACTED]

17 Is that worldwide web?

18 A. I don't know what Kyle meant by WWW.

19 Q. You don't know what WWW stands for?

20 MR. SCHOTTLAENDER: Objection.

21 THE WITNESS: I -- in the context of this

22 email, I don't know what WWW stands for. I'm not

23 Kyle.

24 BY MS. PUTTIEVA:

25 Q. [REDACTED]

1

2

Do you see that?

3

A. Yes.

4

Q. The second talking point is -- excuse me.

5

Second key takeaway is, "Good talking point for

6

7

8

9

You see that?

10

A. Yes.

11

Q. Why is that a good talking point?

12

A. I --

13

MR. SCHOTTLAENDER: Objection.

14

THE WITNESS: I don't know why Kyle thought

15

that that was a good talking point.

16

BY MS. PUTTIEVA:

17

Q. Does CLEAR use dark web data?

18

MR. SCHOTTLAENDER: Objection. Form.

19

THE WITNESS: Does CLEAR use dark web data?

20

MS. PUTTIEVA: Yes.

21

THE WITNESS: Currently?

22

MS. PUTTIEVA: Yes.

23

THE WITNESS: No.

24

BY MS. PUTTIEVA:

25

Q. Did CLEAR use dark web data?

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MR. SCHOTTLAENDER: Objection. Form.

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MS. PUTTIEVA: All right. Let's go off the

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record.

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VIDEO OPERATOR: We're off the record at 6:51

1 STATE OF CALIFORNIA)

2 COUNTY OF LOS ANGELES)

3 I, ROSEMARY LOCKLEAR, a Certified Shorthand
4 Reporter of the State of California, duly authorized
5 to administer oaths pursuant to Section 2025 of the
6 California Code of Civil Procedure, do hereby certify
7 that

8 ERIC GERHARD, the witness in the foregoing
9 deposition, was by me duly remotely sworn to testify
10 the truth, the whole truth and nothing but the truth
11 in the within-entitled cause; that said testimony of
12 said witness was stenographically reported by me, a
13 disinterested person, and was thereafter transcribed
14 under my direction into typewriting and is a true and
15 correct transcription of said proceedings, to the best
16 of my ability.

17 I DO FURTHER CERTIFY that I am neither a
18 relative nor employee nor attorney nor counsel of any
19 of the parties to this action, and that I am neither a
20 relative nor employee of such attorney or counsel, and
21 that I am not financially interested in the action.

22 
23

24 ROSEMARY LOCKLEAR, RPR, CRR, NJ-CSR, CA CSR 13969

25 Dated: