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CASE NUMBER: 14-2-07669-0 SEA

SUPERIOR COURT OF WASHINGTON  
FOR KING COUNTY

9	MOVE, INC., a Delaware corporation,	)	No. 14-2-07669-0 SEA
	REALSELECT, INC., a Delaware corporation,	)	
10	TOP PRODUCER SYSTEMS COMPANY, a	)	DECLARATION OF ERROL SAMUELSON
	British Columbia unlimited liability company,	)	
11	NATIONAL ASSOCIATION OF	)	
	REALTORS®, an Illinois non-profit corporation,	)	
12	and REALTORS® INFORMATION	)	
	NETWORK, INC., an Illinois corporation,	)	
13		)	
	Plaintiffs,	)	
14		)	
	vs.	)	
15		)	
	ZILLOW, INC., a Washington corporation,	)	
16	ERROL SAMUELSON, an individual, and	)	
	DOES 1-20,	)	
17		)	
	Defendants.	)	
18		)	

19 I, Errol Samuelson, state and declare as follows:

20 1. Until recently, I was employed by Top Producers Systems Company, a British  
21 Columbia company related to Move, Inc. (In this declaration, I will refer to Top Producer  
22 Systems Company and Move, Inc. collectively as "Move"). I recently left Move to join Zillow,  
23 Inc., the leader in the online real estate market.

24 2. I was with Move for more than ten years. I decided to leave Move because of  
25 their unwillingness to make changes I thought were necessary and ethical. My perspective is that  
26 the switch from Move to Zillow is essentially lateral, in terms of my compensation. My

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1 motivation in moving was to go to an environment where I could work with integrity. I left  
2 because I felt that I could no longer, in clear conscience, represent Move given that the company  
3 was asking me to publicly make commitments that the company was unable or unwilling to keep.  
4 Right up until the end, I was pushing for Move to do the right thing in living up to our  
5 commitments to our partner, National Association of Realtors (“NAR”). I joined Zillow because  
6 it leads the real estate industry in innovation and serving consumer needs. Further, I believe the  
7 entire management team at Zillow truly understands the essential role real estate professionals  
8 play, is committed to their success, and wants to create deeper, mutually beneficial partnerships  
9 with the industry.

10 3. At Move, I held various positions over the years, the latest called Chief Strategy  
11 Officer. Move’s court papers exaggerate the importance and secrecy of things I knew because of  
12 my job. I had fairly detailed knowledge about some parts of the business, but only information at  
13 the “30,000 ft. level” for other parts of the business. But it is fair to say I did have some  
14 knowledge of items listed in the Confidentiality Agreement (Ex. 6 to Carol Brummer’s  
15 Declaration).

16 4. Much of what Move now says is “a secret,” isn’t: it’s readily available or already  
17 disclosed. For example, in a business conversation in 2013 with Zillow executives, Steve  
18 Berkowitz shared what I did think would be confidential information about Move—performance  
19 of Move’s web and mobile applications (e.g., the number of inquiries submitted by consumers on  
20 these platforms), plans, business opportunities and such—with Zillow executives who manage  
21 Zillow on a day-to-day basis.

22 5. Too much is made of knowing Move’s “plans” in plaintiffs’ court papers. Where  
23 we compete, what Move can offer is no secret, and also not Zillow’s concern. Our concern and  
24 our “sales pitch” is what Zillow can offer; what we both offer is basically public knowledge in  
25 the industry.

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1           6.       Take for example ListHub, an intermediary owned by Move, discussed at page 2  
2 of plaintiffs' motion for an injunction. ListHub is an intermediary source of information from  
3 Multiple Listing Services (MLS's) and real estate brokers, which it distributes to on-line real  
4 estate companies. Zillow is one of hundreds of customers of ListHub. It's no secret that Zillow  
5 wants to get information directly from brokers and MLS's, and has been trying to do so for years,  
6 rather than going through an intermediary owned by a competitor. No secret insider knowledge  
7 is involved: you can see what ListHub offers. Zillow's approach is to convince brokers of the  
8 advantages of dealing directly with Zillow.

9           7.       Within days after I joined Zillow, I understand that Move CEO, Steve Berkowitz,  
10 and Move CFO, Rachel Glaser, each stated publicly at an industry conference, that Move is  
11 going to shift the expense of collecting and distributing information through ListHub onto Zillow  
12 and another competitor, Trulia, Inc. by jacking up the prices on its competitors. Move's  
13 accusation (Injunction Motion p. 6) that Zillow's "bold claim that Zillow is more valuable to  
14 ListHub than ListHub is to Zillow," is merely Zillow's side of Berkowitz's towel-slapping. To  
15 think that is somehow related to my joining Zillow is nonsense. I do understand that Zillow's  
16 CEO challenged whether Move's power to throw its weight around this way—by jacking up the  
17 prices or turning off the spigot of information to consumers—predicting that to do so will  
18 backfire because of the shifting balance of power between ListHub and customers like Zillow,  
19 but that has nothing to do with me. And, from what I can tell, this declaration of war was  
20 initiated by Move, not Zillow.

21           8.       It is true that I sat in on meetings where strategic plans for 2014 were discussed,  
22 but I am not involved in this at all in my new role with Zillow. It is true that at Zillow, I'll be  
23 responsible for overseeing its business-to-business software strategy ("B-to-B"), so there is the  
24 theoretical potential for overlap. In practice, however, Move and Zillow have taken a different  
25 approach in the B-to-B business. Move has created a suite of premium-priced products which  
26 have deep and robust functionality. Zillow is taking the approach of offering free (or very low-

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1 cost, e.g., \$10/month) products with limited functionality, and then integrating with third-party  
2 companies, such as Top Producer, to offer the additional functionality to agents and brokers on  
3 the third-party platforms they choose to use. Zillow does not consider Move's B-to-B business to  
4 be a competitor. In fact, since September of 2013, Zillow has repeatedly offered to let Move  
5 connect its B-to-B products to Zillow's platform at no charge. And evidently Move does not  
6 consider Zillow's B-to-B business to be competitive to Move's offerings (Move does not list  
7 Zillow as a B-to-B competitor in its most recent SEC filings).

8 9. The only knowledge I have that Move may legitimately be concerned about is in  
9 regard to merger-and-acquisition and licensing targets, and strategic plans for certain segments of  
10 the business that Move may or may not execute in 2014. But such information has a short shelf  
11 life, and my job at Zillow does not require using or disclosing any such Move plans. Generally at  
12 Move, "strategic planning" involved short-term thinking (one or two quarters ahead): "strategic  
13 plans" were either implemented in the near term, which the industry would know about, or  
14 abandoned. The shelf life on "strategic planning" at Move, in my experience, is far shorter than  
15 the year they are trying to keep me from working in the industry.

16 10. At page 3, line 5 of plaintiffs' motion, Move discusses my awareness of NAR's  
17 and Move's plans to make enhancements to realtor.com, which I presume refers to NAR's plans  
18 to add content from NAR's HouseLogic.com and advocacy groups on Realtor.com. That's true,  
19 but it's old news: NAR and Move publicly announced these improvements at NAR's Annual  
20 Convention in November of 2013.

21 11. At page 5, lines 7 and 8 of plaintiffs' motion, Move mentions strategies for  
22 acquiring "a cluster of competitive assets." I'm not sure what they are referring to, and my  
23 agreement with Zillow is that I will stay completely away from situations where I could be  
24 criticized as using or disclosing confidential information. For example, I have already told a  
25 former Move acquisition target who reached out to me that I would not be involved in  
26 approaching Zillow with the opportunity. At lines 8 through 10, there's a discussion of

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1 “opportunities” and “uncompleted strategic initiatives” involving NAR. The only initiatives I  
2 know about and which may be important to NAR, are areas where Zillow has no interest and is  
3 not pursuing. As to whether Zillow could “disrupt” “uncompleted strategic initiatives,” in this  
4 industry, hypothetically they could delay things by making competitive bids or running up the  
5 price for acquisition targets, but Zillow is not doing it so far as I know, and if they were, I would  
6 not be involved.

7 12. Beginning at page 3, line 16 of plaintiffs’ motion, Move says I “deleted and  
8 destroyed evidence.” The suggestion is that I was trying to cover my tracks, which is false.

9 13. Before I left Move, I took steps to minimize the disruption to Move and to leave  
10 things in good order for whomever my successor would be. I made sure to organize and provide  
11 current information stored on my computer to Move before deleting personal data from my own  
12 Mac laptop, which is company property, and returning it to the company. I went to the trouble of  
13 securely deleting because the computer contained sensitive personal information—regarding  
14 financial, personal tax and family matters—and I wanted to protect my privacy and the privacy of  
15 other member of my family.

16 14. I sought advice from a computer store in Vancouver that specializes in Apple  
17 computers regarding how to securely delete personal files from the solid state drive on my work-  
18 issued Mac laptop. I was advised to copy the personal data to a USB drive and to transfer  
19 business data, and then to delete my computer-user profile, using the Mac OS's secure deletion  
20 option. I was told regarding the iPhone and iPad, that the best way to accomplish the deletion of  
21 personal data was to reset these devices to factory settings.

22 15. My plan to transfer the business data by creating a DVD and/or transferring data  
23 to Move's network did not go well. I asked for assistance from two Move employees, Warren  
24 Cree and Ryan Green, and between the three of us, we could not burn a DVD or transfer data to  
25 the Move network. The idea of transferring the data via USB drive came up and this did work. I  
26 transferred data to Warren Cree's computer, and later deleted this data from the USB drive.

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1 There was also a directory containing my public presentations which I had intended to delete, but  
2 inadvertently did not; I have not accessed it since March 4. No data was copied off the USB  
3 drive, with the exception of address book/contact information which I have since purged from  
4 every other computer device. The USB drive is currently in possession of my attorneys.

5 16. Prior to resigning, I returned a checkout Mac laptop that I realized I still had.  
6 Personal data was transferred to my primary Mac laptop. Personal data was deleted from the  
7 checkout laptop, but not securely as this data was not sensitive.

8 17. The Mac laptop replaced my old Dell laptop with a solid state hard drive in the  
9 fall of last year. I did not recall still having this, but Carol Brummer, EVP of Human Resources  
10 at Move, phoned me saying that Move believed I still had the Dell laptop in my possession. I  
11 told Carol that I would search for the Dell laptop and if I found it, I was going to remove my  
12 personal information before returning the Dell laptop, and was not told not to do so. In fact,  
13 Carol said that she didn't want to see my personal information and joked that she'd rather not see  
14 photos of my wife in a bikini. In searching my home, I eventually found the Dell laptop in a box  
15 under my bed. I sought advice from a computer company in Vancouver about how best to  
16 accomplish removing my personal information from the Dell laptop. I was advised to delete the  
17 personal data first, and then a mirrored copy of the active files on the hard drive could be made  
18 and swapped into the Dell laptop.

19 18. The original hard drive for the Dell laptop—as well as the second copy without  
20 personal data—are still in the possession of the third-party vendor, who transferred the business  
21 information onto the second hard drive. The first hard drive, the second hard drive, and the Dell  
22 laptop are being transferred to my attorney and will not come back in to my possession. When I  
23 found the Dell laptop, I also discovered a USB backup made last year of the Dell laptop when it  
24 appeared to be failing. This USB drive is in the possession of my attorney, which likely has  
25 sensitive personal data along with Move business data. I did not look at this data, and had  
26 forgotten that a backup existed.

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1           19. My telephone transfer was done in such a way that it minimized the cost to Move.  
2 Move typically has employees on a BYOD (“bring-your-own-device”) plan for cell phones,  
3 although most Canadian employees use a company-supplied phone. It was not atypical for other  
4 Canadians to have phone numbers transferred to them after termination of employment.

5           20. Beginning at page 4, line 9 of plaintiff’s motion is a discussion about “continuing  
6 to receive Move and NAR trade secrets.” I don’t know what “trade secrets” are being referred to,  
7 but addressing the accusations that begin at that point, here’s what actually happened.

8           21. It’s true that before I resigned I met with the executive team at Zillow. That’s  
9 because the position I was being hired for is a senior executive position, and not everybody at  
10 Zillow knew me. It was part of the interview process, to see if there was a “cultural fit” with the  
11 rest of the team. Also true is that I asked Move HR to provide me copies of any employment  
12 agreements I had signed. I did not have a noncompete agreement. It’s also true that I spoke with  
13 an employment attorney at Davis Wright Tremaine in Seattle. Of course I did: I was negotiating  
14 with Zillow and I wanted to know what restrictions there would be on whether I could take  
15 employment in the industry, and with a wife and daughter to support, I wouldn’t leave a good-  
16 paying job with Move if I couldn’t continue to work in the industry. If I am unable to work for  
17 Zillow for the next 12 months, there is no other job that I could take that would pay me even a  
18 fraction of what I was earning at Move or what I’m currently earning at Zillow. Trulia—a  
19 competitor of Move and Zillow—might, in theory, pay me similarly, but the same noncompete  
20 issues would arise, and I have never had a good relationship with their management, as I had  
21 with Zillow.

22           22. Further complicating matters is my being based in Vancouver, BC. In the  
23 Vancouver market, I would be earning significantly less than 50 percent of what I was earning at  
24 Move.

25           23. What Move omits in its discussion of my departure and the weeks leading up to it,  
26 is any discussion of the reasons I left Move, which they perfectly well know. By November of

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1 2013, the company's unwillingness to live up to obligations Move had made to NAR bothered  
2 me to the point that, in November, and again in December, I reached out to the chairman at Move  
3 about things that needed to be changed. But nothing did.

4 24. In January and February of this year, I repeated and elaborated on my concerns,  
5 and I believed that friction with Berkowitz over my criticisms of the company's decisions had  
6 escalated to the point that I might be fired by Move, and if I was, I would have to go  
7 somewhere—Zillow or somewhere else.

8 25. At the same time, I knew I should be figuring out what my options were for  
9 employment elsewhere and what restrictions might be placed on that, I was also trying to figure  
10 out how to save my job at Move and stay. During the previous three months, I had been  
11 discussing my concerns with Move's Chair, Joe Hanauer, and I don't know what, if any, back-  
12 channeling there was, between the Joe and Berkowitz, but at the same time I was exploring what  
13 employment at Zillow would look like, I continued to do my job at Move. I was still employed  
14 as an officer of the corporation, and tried to continue to fulfill my obligations to Move.

15 26. At page 4, lines 15-24 of plaintiffs' motion, Move's attorneys discuss my  
16 relationship with Curt Beardsley. I didn't at the time know Beardsley had exercised his stock  
17 options, but what I do know is that Zillow had been interested in hiring him—in fact, made him  
18 an offer—back in 2011, when Zillow had tried to recruit me. When I said no, Zillow tried to  
19 recruit Beardsley. My discussion with Beardsley at the time was that going to Zillow was not the  
20 path I wanted to take, let's get it fixed at Move. I subsequently told HR, the chairman and CFO  
21 at Move, that Zillow had approached me in 2011, and although they expressed appreciation that I  
22 decided to stay, I was not told that there was any legal restriction that would have prevented me  
23 from moving to Zillow. When I left for Zillow, Beardsley took my place at Move.

24 27. Apparently, Ernest Graham thinks I did not aggressively enough attack Zillow  
25 during the final minutes of our three-day MLS Executive Board meetings. I could give counter  
26 examples in the weeks before and after the program he is referring to, where I slammed Zillow to

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1 a large group of MLS's in Fort Lauderdale (many of the same people present at the meeting  
2 Graham references) and a group of influential real estate brokers in Las Vegas.

3 28. Move's attorneys argue in their motion that I missed meetings and otherwise  
4 stopped doing my job. Absolutely not the case. I missed a quarterly business review because I  
5 was hosting Move's MLS Executive Advisory Committee in Florida—an event that had been  
6 booked months in advance. As to allowing "time-sensitive joint strategic initiatives with NAR to  
7 stall," this is completely untrue. In fact, I had been pressing NAR to get an answer on plans so  
8 we could move forward. As to "looking for updated information on an unfinished product" the  
9 day before resigning, I'm not sure what this refers to, but what I do recall is working extra hours  
10 so my successor would not get stuck off-the-bat with unfinished work.

11 29. It is not true that my "resignation was timed to inflict maximum damage on  
12 Move," as Move's lawyers claim. As I understood SEC requirements, both Move and Zillow  
13 would have an obligation to file a public document soon after agreement was reached about my  
14 employment (in Zillow's case) and my resignation was tendered (in the case of Move), as this  
15 might be material information investors should know because these were two publicly traded  
16 companies.

17 30. By March 4, I had all but reached a deal with Zillow, so my departure needed to  
18 be disclosed ASAP. I did know Steve Berkowitz would be out of the office on a business trip  
19 that included meetings with investors, but I did not know the specifics about what he would be  
20 doing. I felt that as soon as I reached agreement with Zillow on the material terms of my  
21 employment, I had to resign at Move, which is why I set up a meeting with Carol Brummer of  
22 HR. Move's bylaws require a written resignation. I needed to know how to do this, and got a  
23 fax number from Carol. Then I phoned Steve Berkowitz and got voicemail, and then called the  
24 Move chair, Joe Hanauer. I relayed to Zillow Move's request for a 24-hour delay of the public  
25 announcement, to give Move a longer opportunity to craft their messaging, but Zillow was  
26

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1 concerned that a delay may lead to a leak of the information which could adversely impact both  
2 parties, especially if such leak occurred during market hours.

3 31. To give Move as much advance ability to control the PR as possible, I called  
4 Move's VP of Communications and Carol Brummer on the morning of March 5, and read them  
5 Zillow's draft announcement. As soon as the press release was finalized, I had Zillow email it to  
6 Move. The timing had nothing to do with "trying to inflict maximum damage on Move," even if  
7 Move's lawyers actually believe that claim.

8 32. At page 5 of Move's motion, I read the claim that "Zillow hired (me) to replicate  
9 Move's strategy." I suppose this could be a problem if I had stolen a secret playbook of some  
10 kind and used it at Zillow, but that's hardly the case. Of course, it's true that Zillow wants to  
11 build better relationships in the industry, and that's the industry-relations aspect of my job. But  
12 that doesn't implicate any sort of secret "strategy" at Move. Both companies seek to have good  
13 relationships with customers, and the idea to host a party where there's a trade meeting going on,  
14 solicit feedback from industry constituents, or to make quarterly calls to customers to keep in  
15 touch, are hardly secret business strategies that Move has developed.

16 33. The discussion at page 6 of the motion about hearing something from a Wall  
17 Street analyst about one of Move's products is something I know nothing about.

18 34. It is true (Motion 5:22-23) that I managed the Customer Relationship software  
19 team at Move, but that was between 2003 and 2007—seven years ago. Since then, my  
20 involvement has been at the 30,000 ft. level. I do have some knowledge of Move's business-to-  
21 business products, strategies, and acquisition plans, which I regard as something I would not  
22 want to steal or replicate or share with Zillow for any reason, including because I do not believe  
23 it is a strategy that Zillow will ever want to pursue.

24 35. At page 6 of the Motion, there is an implication that I recruited Curt Beardsley to  
25 Zillow, but that's completely false. He was recruited (I found out afterward, not in advance) by  
26

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1 Spencer Rascoff, CEO of Zillow, but Spencer already knew Beardsley, knew that he was good,  
2 and had previously tried to recruit him before.

3 36. Finally, I understand there is a declaration from Patricia Smith implying that I was  
4 trying to recruit her. What actually happened is there were a handful of people I could not tell in  
5 advance of my departure, but whom I liked and felt bad about leaving without saying goodbye. I  
6 did nothing to try to recruit them or badmouth Move. From what I can tell, it is Move who is  
7 badmouthing me, and is trying to interfere with my employment at Zillow and impugn my  
8 reputation in the industry; it's not me trying to interfere with Move's relationships with the  
9 employees that remain there.

10 37. Before I moved forward with Zillow, I checked with Move HR to be sure I  
11 understood what restrictions there might be on taking a job with Zillow. I learned nothing that  
12 changed my understanding that I could be hired by a competitor in the industry: I had never  
13 signed a covenant not to compete, and was never told by anyone at Move that I was prohibited  
14 from working for a competitor. I do understand, as a matter of business ethics if nothing else,  
15 that I'm not to use or disclose any confidential information (whether or not it qualifies as "trade  
16 secrets" belonging to Move), but my new job at Zillow doesn't require me to do that. I have a  
17 very clear understanding with Zillow that I will not participate in, and will be allowed to excuse  
18 myself from, any discussions or activities that I feel uncomfortable taking part in. Few such  
19 situations are anticipated because of what my duties are at Zillow. Although I have some  
20 knowledge of companies Move had targeted for acquisition, I will not be responsible for M&A at  
21 Zillow or for evaluating potential acquisition targets.

22 38. I live with my wife, who is a stay-at-home mom, and our four-year-old daughter in  
23 Vancouver, British Columbia, where we are building a home. I can't afford to be without a job,  
24 which is why I assured myself there were no restrictions that would keep me from taking a job  
25 elsewhere in the industry, including with a competitor. I also had to be sure that I would not  
26 need to move to a city other than Vancouver.

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1           39.     Before I had a formal offer from Zillow, I met with the executive management  
2 team at Zillow shortly before I resigned from Move, as part of the interview process, so they  
3 could make a final decision whether to extend an offer to me. The job I was being considered for  
4 is an executive level job, and that's why I met with the executive management team. While I  
5 have known Greg Schwartz, the CRO, and Spencer Rascoff, CEO, fairly well for quite some  
6 time, and I have been on the same stage with Zillow's management team at industry conferences,  
7 and had an established relationship and dialogue with the Zillow management team, as well as  
8 other industry "players," before I was interviewed, I understood the purpose of our meeting was  
9 to get serious about being sure I would be a good fit at Zillow, and vice versa. That occurred  
10 maybe two-and-a-half weeks before a concrete offer was extended to me and I left Move.

11           40.     I understand that Zillow and I are being accused by Move of timing the  
12 announcement of my new job a Zillow in such a way as to maximize the embarrassment to  
13 Move. Actually, I didn't want Move to be blindsided, and because I wanted to do what I could to  
14 help Move manage the message, I read them the Zillow press release announcing my new  
15 position with Zillow in advance.

16           41.     Over the years that I worked there, I filled several roles with Move. My duties at  
17 Zillow will be in two areas: (1) industry relations and (2) software development for real estate  
18 agents. I don't need to use or disclose any confidential Move information to do my Zillow job.

19           42.     I haven't worked in the software development area with the Move group of  
20 companies since 2008; I had been doing that type of work since 1992, before I joined Move.

21           43.     As to my industry relations duties at Zillow, it is my relationships in the industry  
22 over more than 20 years that are significant, not information about Move. What I know about  
23 Move and its operations is immaterial to what I am doing for Zillow. It is my general knowledge  
24 and experience in the industry, and my relationships with the people I know in the industry,  
25 formed both before and after working for Move, that matter.

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1 **DECLARATION OF SERVICE**

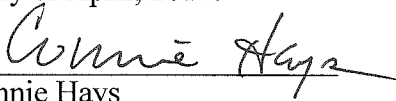
2 The undersigned declares: that the 2nd day of April, 2014, I electronically filed the  
3 foregoing with the Clerk of the Court utilizing the King County Superior Court e-filing system,  
4 and served a copy on the parties' counsel, via King County Superior Court's e-service, at the  
5 addresses set forth below.

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14 I declare under penalty of perjury under the laws of the state of Washington that the  
15 foregoing is true and correct.

16 Signed at Seattle, Washington this 2nd day of April, 2014.

17   
18 Connie Hays  
19 Legal Assistant