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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF KING

MOVE, INC., a Delaware corporation,
REALSELECT, INC., a Delaware
corporation, TOP PRODUCER SYSTEMS
COMPANY, a British Columbia unlimited
liability company, NATIONAL
ASSOCIATION OF REALTORS®, an
Illinois non-profit corporation, and
REALTORS® INFORMATION
NETWORK, INC., an Illinois corporation,

Plaintiffs,

vs.

ZILLOW, INC., a Washington corporation,
ERROL SAMUELSON, an individual, and
DOES 1-20,

Defendants.

Case No.

COMPLAINT

Plaintiffs Move, Inc.; RealSelect, Inc.; Top Producer Systems Company, ULC; National
Association of Realtors®; and Realtors® Information Network, Inc., make the following
allegations against defendants Zillow, Inc.; Errol Samuelson; and DOES 1-20 on information and
belief:

1 **I. PARTIES, JURISDICTION, AND VENUE**

2 1.1 Plaintiff National Association of Realtors (“NAR”) is an Illinois non-profit
3 corporation.

4 1.2 Plaintiff Realtors Information Network, Inc. (“RIN”) is an Illinois corporation. It
5 is a wholly-owned subsidiary of NAR.

6 1.3 Plaintiff Move, Inc. (“Move”) is a Delaware corporation.

7 1.4 Plaintiff RealSelect, Inc. (“RS”) is a Delaware corporation. It is a subsidiary of
8 Move.

9 1.5 Plaintiff Top Producer Systems Company (“TopProducer”) is a British Columbia
10 Unlimited Liability Company. It is a wholly-owned subsidiary of Move.

11 1.6 Move is publicly-traded on the NASDAQ exchange.

12 1.7 Move has been in existence for over 20 years and has approximately 950
13 employees.

14 1.8 Move’s net revenues for fiscal year 2013 were \$227 million.

15 1.9 Defendant Zillow, Inc. (“Zillow”) is a Washington corporation with its principal
16 place of business in King County, Washington.

17 1.10 Zillow is publicly-traded on the NASDAQ exchange.

18 1.11 Zillow’s 2013 revenue was \$197.55 million.

19 1.12 Zillow is one of Move’s two biggest competitors. Zillow and Move are two of the
20 top three consumer sites for the online U.S. residential real estate market.

21 1.13 Defendant Errol Samuelson is a resident of Vancouver, British Columbia,
22 Canada. For over a decade leading up to March 5, 2014, Mr. Samuelson was an executive of
23
24

1 Move. As Move's employee, he spent substantial time travelling in the United States, including
2 King County, Washington.

3 1.14 Zillow announced that Mr. Samuelson had joined Zillow on March 5, 2014.

4 1.15 The breaches of contract, breaches of fiduciary duty, and misappropriation of
5 trade secrets alleged below took place, in substantial part, in King County, Washington.

6 1.16 Jurisdiction and venue are appropriate in this Court.

7 II. FACTS

8 The Plaintiffs' relationships and businesses

9 2.1 NAR is a trade organization for real estate professionals.

10 2.2 Move's business is varied but all relates to the online residential real estate
11 market.

12 2.3 In 1996, NAR, RIN, RS, and Move entered into a strategic partnership that allows
13 Move to operate NAR's website www.realtor.com.

14 2.4 The agreements that memorialize the strategic partnership between NAR, RIN,
15 RS, and Move have been revised and renegotiated over the years.

16 2.5 Currently, the strategic partnership between NAR and Move allows NAR to
17 appoint one member of Move's seven-member Board of Directors.

18 2.6 The strategic partnership also involves and requires the sharing of confidential
19 information between NAR, RIN, RS, and Move for the purpose of developing synergistic
20 strategies. Non-disclosure agreements between NAR, RIN, RS, and Move prevent the sharing of
21 confidential information outside of the strategic partnership.

22 2.7 For over a decade, beginning in the mid-1990s, Move consistently commanded
23 the most online traffic of any company in the online residential real estate market.
24

1 2.8 Realtor.com®, a division of Move, is the primary vehicle for Move’s business-to-
2 consumer and consumer line of business. Realtor.com provides consumers with comprehensive
3 real estate information, including real estate listings for purchase or rent.

4 2.9 Move offers business-to-business products and services through its
5 TopProducer®, TigerLead®, and FiveStreet™ lines of business. TopProducer, TigerLead, and
6 FiveStreet provide real estate agents with lead-generation, relationship-management, and
7 website-development services.

8 2.10 Move also operates ListHub™. ListHub aggregates data directly from multiple
9 listing services (“MLSs”) and real estate brokers. ListHub syndicates the compiled data to
10 approximately 130 publishers, including Zillow and other online real estate companies.

11 2.11 Move’s access to data direct from the MLSs is unique in the online real estate
12 market.

13 **Errol Samuelson’s job duties with Move, and his knowledge of the trade**
14 **secrets of Move, RS, NAR, and RIN**

15 2.12 Mr. Samuelson began working for Move in 2001. After a brief interlude as a
16 consultant, Mr. Samuelson rejoined Move in 2003 as a Senior Vice President of Operations and
17 employee and President of TopProducer.

18 2.13 In 2006, Mr. Samuelson became the head of Move’s sales and an officer of Move
19 for purposes of section 16 of the Securities Exchange Act of 1934 (15 U.S.C. § 78a).

20 2.14 In 2007, Mr. Samuelson became President of realtor.com.

21 2.15 In 2009, Mr. Samuelson became Chief Revenue Officer of RealSelect and Move,
22 with responsibility for revenue for all of Move’s businesses.

23 2.16 Mr. Samuelson was primarily responsible for Move’s acquisition of ListHub in
24 September 2010, and the operations of ListHub reported to Mr. Samuelson.

1 2.17 In 2012, Mr. Samuelson was the chief negotiator for Move in the purchase of
2 TigerLead.

3 2.18 In 2013, Mr. Samuelson became Chief Strategy Officer for RealSelect and Move,
4 a position Move created for him. He directed strategy for all of Move's business lines. Mr.
5 Samuelson remained the President of realtor.com.

6 2.19 In Mr. Samuelson's role as Chief Strategy Officer, he oversaw Move's business
7 development and personally directed the team responsible for identifying assets and companies
8 to consider acquiring or merging with.

9 2.20 Beginning in August 2013 Mr. Samuelson was involved in Move's discussions of
10 its budget, strategic planning, and technology development plan for 2014. That process was not
11 complete until the week before he resigned.

12 2.21 In 2009-2013, Mr. Samuelson was Move's second-highest compensated
13 employee. He was the only employee to receive perquisites.

14 2.22 Mr. Samuelson's former roles at Move gave him access to and knowledge of
15 essentially all of Move's trade secrets across all of its business lines, whether those secrets dealt
16 with finance, technology, data content, strategy, marketing, or some another aspect of the
17 business.

18 2.23 The secrets known to Mr. Samuelson would inevitably be useful to him and to
19 Zillow in his role at Zillow.

20 2.24 As President of realtor.com, and in later roles within Move, Mr. Samuelson was
21 involved in negotiations of amendments to the strategic partnership between NAR, RIN, and
22 Move.

1 2.25 Mr. Samuelson was the chief negotiator of a major update to the strategic
2 partnership agreement between Move, RS, NAR and RIN in the middle of 2013.

3 2.26 The negotiation of the strategic partnership involved sharing of confidential
4 information with the protection of a mutual non-disclosure agreement.

5 2.27 While the primary document memorializing the Move/RS/NAR/RIN strategic
6 partnership agreement is public, the attachments to that agreement are not. Mr. Samuelson is
7 familiar with the non-public details of the agreements and relationship between NAR, RIN, RS
8 and Move.

9 2.28 In the course of negotiations with NAR and RIN, in the day-to-day operations of
10 realtor.com, and in joint strategy discussions with NAR and RIN, Mr. Samuelson gained access
11 to the strategic trade secrets of NAR and RIN.

12 2.29 Because Zillow competes with realtor.com, Mr. Samuelson's knowledge of the
13 trade secrets of NAR and RIN will inevitably help and influence him in his new role at Zillow.

14 **Mr. Samuelson's contractual obligations to avoid conflicts of interest and**
15 **preserve confidentiality**

16 2.30 Each quarter that he was employed by, and an officer of, Move, Mr. Samuelson
17 certified in writing that he had read, understood, and would abide by Move's Code of Conduct
18 and Business Ethics.

19 2.31 Section B of the Code, "Conflict of Interest," required every Move employee to
20 avoid any interest that conflicts or appears to conflict with the interests of the company or that
21 could reasonably be determined to harm the company's reputation.

22 2.32 Section C of the Code required Mr. Samuelson to keep proprietary and
23 confidential information concerning Move's business and the business of the company's clients
24 and suppliers confidential during and after his employment.

1 2.33 Section C of the Code also required him to comply with Move’s Invention
2 Assignment and Confidentiality Agreement (“Confidentiality Agreement”).

3 2.34 Section 1 of the Confidentiality Agreement recognizes that the identity and
4 particular needs of Move’s customers and suppliers, as well as the documents and information
5 regarding Move’s customer suppliers, services, methods of operation, sales, pricing, and costs
6 are trade secrets.

7 2.35 Section 1 of the Confidentiality Agreement recognizes that the loss of Move’s
8 trade secrets cannot be adequately compensated by damages in an action at law.

9 2.36 Section 8 of the Confidentiality Agreement required Mr. Samuelson, during and
10 after employment, to keep and hold all of Move’s proprietary information, which includes its
11 trade secrets, in strict confidence and trust.

12 2.37 Section 8 of the Confidentiality Agreement required Mr. Samuelson, upon
13 termination, to promptly deliver to Move all documents and materials of any nature pertaining to
14 his work with Move and not to keep any documents or materials or copies thereof containing any
15 proprietary information.

16 2.38 Section 13 of the Confidentiality Agreement prohibited Mr. Samuelson, after
17 termination from Move, from directly or indirectly soliciting Move’s suppliers or customers if
18 information about the supplier or customer relationship is trade secret.

19 2.39 Section 15 of the Confidentiality Agreement recognizes that a breach or
20 threatened breach of the Confidentiality Agreement by Mr. Samuelson may cause irreparable
21 harm to Move and therefore entitle Move to an immediate injunction or other appropriate
22 restraining order, without the need for Move to prove any actual damage.

1 **Errol Samuelson arranged to defect to Zillow, destroyed evidence, and then**
2 **resigned from Move without notice**

3 2.40 Samuelson met with everyone on the Zillow executive team as well as the
4 executive chairman (Rich Barton) and his co-founder (Llyod Fink) before resigning and while he
5 was an officer of Move.

6 2.41 On March 4, 2014, after deciding to join Zillow, Mr. Samuelson erased all
7 memory from the laptop, iPhone, and iPad issued to him for business purposes by Move.

8 2.42 Mr. Samuelson erased the memory on those devices for personal reasons, despite
9 consistent warnings that the devices and the data they contained belonged to Move.

10 2.43 Every time Mr. Samuelson logged into his Move-issued computer, he was
11 confronted with a screen that required him to click an "OK" button certifying that he understood
12 that the computer belonged to Move, that all activity on the computer can be monitored by
13 Move, and that he has no expectation of any privacy in connection with his use of the computer.

14 2.44 Numerous times over the last several years, Move informed Mr. Samuelson that it
15 was placing "litigation holds" for various lawsuits on all related business documents, including
16 paper files and electronic files on his laptop and other devices, and instructed him to retain,
17 preserve, and not discard, destroy, delete, purge or alter in any way documents, files, or any data
18 on those devices.

19 2.45 Before destroying the memory on the laptop, iPhone, and iPad, Mr. Samuelson
20 copied some business data from the laptop onto an external drive and left it at the TopProducer
21 office.

22 2.46 Move has been unable to recover any data from the laptop, iPhone, or iPad.

23 2.47 Mr. Samuelson has not returned to Move the Move-issued Dell laptop he used for
24 business purposes up until about three months before his resignation from Move.

1 2.48 On Tuesday, March 4, 2014, at 4:00 p.m., while still an employee and officer of
2 Move, Inc., Mr. Samuelson sent an electronic invitation to Move's head of human resources,
3 Carol Brummer, to join him for a phone call at 9:00 a.m. the next morning.

4 2.49 At 9:00 a.m. on Wednesday, March 5, 2014, Mr. Samuelson called Ms. Brummer
5 and announced that he was resigning effective immediately.

6 2.50 In his employment with Move, Mr. Samuelson did not report to Ms. Brummer. He
7 reported to the CEO, Steven Berkowitz.

8 2.51 Ms. Brummer asked Mr. Samuelson if he had spoken with Mr. Berkowitz. He had
9 not.

10 2.52 Mr. Samuelson told Ms. Brummer that he was going to Zillow.

11 2.53 In a later phone call to Ms. Brummer, Mr. Samuelson mentioned that Zillow
12 would be putting out a press release at 1:00 p.m. that day about his transition and that he was
13 aware of its contents.

14 2.54 Mr. Samuelson later notified Mr. Berkowitz by voice mail message that he had
15 resigned and Zillow would be issuing a press release at 1:00 p.m. that day.

16 2.55 Zillow did issue its press release at 1:00 p.m. that day

17 **Mr. Samuelson's departure was timed to damage Move and inhibit Move's**
18 **response**

19 2.56 Move believes that while he was an officer of Move, Mr. Samuelson planned his
20 defection to Zillow over the course of several weeks.

21 2.57 On March 4 and 5, 2014, Morgan Stanley hosted a conference for significant
22 investors in technology companies.

23 2.58 Mr. Samuelson and Zillow were aware well ahead-of-time that Zillow was
24 scheduled to give a presentation on March 4 and Move was scheduled to present on March 5.

1 2.59 Mr. Samuelson and Zillow knew that Mr. Berkowitz was going to be spending the
2 day on March 5, 2014 in meetings with significant investors and would be unable to devote
3 himself to responding to the news of Mr. Samuelson's departure.

4 2.60 Mr. Samuelson and Zillow also knew that Zillow's press release announcing Mr.
5 Samuelson's transition would go public in the middle of Move's investor meetings.

6 **Mr. Samuelson has divulged and will continue to divulge trade secrets to Zillow**

7 2.61 Zillow created a new role within its organization for Mr. Samuelson: Chief
8 Industry Development Officer in charge of Zillow's industry relations strategy.

9 2.62 Mr. Samuelson's job will be to build Zillow's relationships with real estate
10 brokers, franchisors, MLSs, and trade associations and to oversee Zillow's business-to-business
11 product solutions; such duties mirror those that Mr. Samuelson had at Move.

12 2.63 In all of Mr. Samuelson's roles at Zillow, his task will be to help Zillow compete
13 more effectively against Move.

14 2.64 Mr. Samuelson's vast knowledge of Move's trade secrets, strategies, products,
15 and business relationships, particularly his knowledge of Move's strategic plans vis-à-vis Zillow,
16 makes it impossible for him to function in his new position at Zillow without disclosing, or at
17 least using, Move's trade secrets in a manner harmful to Move.

18 2.65 Mr. Samuelson oversaw all negotiations with ListHub publishers, including
19 Zillow, and personally negotiated Zillow's contract with ListHub™ He is aware of Move's
20 strategic motivations in its negotiations with Zillow. ListHub is the primary source of real estate
21 listing information for Zillow. Mr. Samuelson's knowledge of Move's side of Zillow's
22 relationship with ListHub will inevitably be useful to Mr. Samuelson and Zillow if Mr.
23 Samuelson continues in his new role at Zillow.

1 limiting access to certain financial, strategic, and other sensitive information to the executive
2 team or an even smaller group of executives; Move's requiring confidential password logins for
3 all company computers; Move's requirement that all employees to abide by the confidentiality
4 provisions in the Code of Conduct and the Confidentiality Agreement; Move's requirement of
5 non-disclosure agreements in significant negotiations and contracts; Move's requirement that
6 executives certify their compliance with the Code of Conduct each quarter; and the mutual non-
7 disclosure agreements between Move, RS, NAR and RIN.

8 3.6 Mr. Samuelson misappropriated plaintiffs' trade secrets because he acquired them
9 by improper means, namely misrepresentation. Through his actions, including his agreement to
10 abide by the Code of Conduct, and through his failure to disclose that he was defecting to Zillow,
11 Mr. Samuelson led plaintiffs to believe that he would safeguard their trade secrets. Because they
12 were misled by Mr. Samuelson, plaintiffs continued to supply him with trade secrets.

13 3.7 Mr. Samuelson misappropriated plaintiffs' trade secrets because he has disclosed
14 them to Zillow and used them on Zillow's behalf without express or implied consent from
15 plaintiffs. Mr. Samuelson acquired plaintiffs' trade secrets under circumstances giving rise to a
16 duty to maintain their secrecy. His duty to maintain secrecy arises from the fact that at the time
17 he acquired the trade secrets, he was an employee, executive, and officer of Move, President of
18 realtor.com, signatory to the Move Code of Conduct, and bound by the non-disclosure
19 agreements between Move, RS, NAR and RIN.

20 3.8 Zillow misappropriated plaintiffs' trade secrets because it acquired them knowing,
21 or with reason to know, that they were acquired by Mr. Samuelson through improper means.
22 Zillow knew that plaintiffs continued to communicate trade secrets to Mr. Samuelson after he
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1 had decided to leave Move and realtor.com because plaintiffs were misled into believing that Mr.
2 Samuelson could still be trusted with their trade secrets.

3 3.9 Zillow misappropriated plaintiffs' trade secrets because it has used them without
4 the express or implied consent of plaintiffs. It used and disclosed them on or prior to March 4
5 and 10, 2014. At the time of use, Zillow knew that the trade secrets were acquired or derived
6 from or through Mr. Samuelson, who owed a duty to plaintiffs to maintain the secrecy of the
7 trade secrets.

8 3.10 Zillow's act of hiring Mr. Samuelson to act as its Chief Industry Development
9 Officer in charge of Zillow's industry relations strategy—which he cannot do to the best of his
10 ability without using or disclosing plaintiffs' trade secrets— constitutes a threatened
11 misappropriation of plaintiffs' trade secrets.

12 3.11 Mr. Samuelson's act of accepting employment as Zillow's Chief Industry
13 Development Officer in charge of Zillow's industry relations strategy—a job which he cannot
14 perform to the best of his ability without using or disclosing plaintiffs' trade secrets—constitutes
15 a threatened misappropriation of plaintiffs' trade secrets.

16 3.12 If Mr. Samuelson undertakes the tasks for which he was hired by Zillow, the
17 unauthorized disclosure or use of plaintiffs' trade secrets, by Mr. Samuelson and Zillow, is
18 inevitable.

19 3.13 The misappropriation of trade secrets by defendants has harmed and will continue
20 to harm plaintiffs because it provides Zillow with a competitive advantage it would not have in
21 the absence of the misappropriation. This advantage damages plaintiffs' reputation, goodwill,
22 relationships with customers and vendors, and damages plaintiffs financially.
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1 **Cause of Action 2: Move alleges Breach of Fiduciary Duty**

2 3.14 Plaintiff incorporates by reference the allegations in sections 1 and 2 of this
3 Complaint.

4 3.15 As an officer of Move, from 2006 through March 5, 2014, Mr. Samuelson owed
5 fiduciary duties to Move, including duties of good faith and the utmost duty of undivided loyalty.

6 3.16 Mr. Samuelson breached his fiduciary duties by choosing to damage Move and
7 benefit himself by accepting employment with Move’s biggest competitor while he was still an
8 officer of Move.

9 3.17 Mr. Samuelson breached his fiduciary duties when, for personal reasons, he
10 shared trade secrets with Move’s biggest competitor while he was still an officer of Move. In so
11 doing, Mr. Samuelson exploited his position within Move for personal gain.

12 3.18 Mr. Samuelson breached his fiduciary duties when, for personal reasons and
13 while still an officer of Move, he erased the memory from Move’s laptop, iPad, and iPhone.

14 3.19 Mr. Samuelson’s breaches of fiduciary duty have harmed and will continue to
15 harm Move because they provide Zillow with a competitive advantage it would not have in the
16 absence of the breaches. This advantage damages Move’s reputation, goodwill, relationships
17 with customers and vendors, and damages Move financially.

18 **Cause of action 3: Move alleges Breach of Contract**

19 3.20 Plaintiffs incorporate by reference the allegations in sections 1 and 2 of this
20 Complaint.

21 3.21 Mr. Samuelson’s repeated certification of the Move Code of Conduct created a
22 binding contract between Mr. Samuelson and Move. The contract included the terms of the Code
23 of Conduct and the Move Confidentiality Agreement.

