

John V. Picone III, Bar No. 187226
 jpicone@hopkinscarley.com
 Jeffrey M. Ratinoff, Bar No. 197241
 jratinoff@hopkinscarley.com
 HOPKINS & CARLEY
 A Law Corporation
 The Letitia Building
 70 South First Street
 San Jose, CA 95113-2406

mailing address:

P.O. Box 1469
 San Jose, CA 95109-1469
 Telephone: (408) 286-9800
 Facsimile: (408) 998-4790

Attorneys for Plaintiff and Counter-Defendant
 NEO4J, INC., NEO4J SWEDEN AB

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

NEO4J, INC., a Delaware corporation,
 NEO4J SWEDEN AB, a Swedish
 corporation,

Plaintiffs,

v.

PURETHINK LLC, a Delaware limited
 liability company, IGOV INC., a Virginia
 corporation, and JOHN MARK SUHY, an
 individual,

Defendants.

CASE NO. 5:18-cv-07182-EJD

**JOINT STIPULATION AND [PROPOSED]
 ORDER FOR GREYSTONES
 CONSULTING GROUP, LLC'S
 PRODUCTION OF DOCUMENTS**

AND RELATED COUNTERCLAIM.

1 Plaintiffs Neo4j, Inc. and Neo4j Sweden AB (collectively “Plaintiffs”) and Non-Party
 2 Greystones Consulting Group, LLC’s (“Greystones”) hereby stipulate and agree, by and through
 3 their undersigned counsel, that the following specifications shall govern production of the
 4 electronically stored information (“ESI”) in Greystones email accounts in response to a
 5 Document Subpoena attached hereto as **Exhibit A** (“Subpoena”).

6 **RECITALS**

7 WHEREAS, Greystones previously marketed its GreyRAVEN platform as being based on
 8 ONgDB (the software accused of violating the Digital Millennium Copyright Act (DMCA) in the
 9 above-entitled action) before developing its Greystones Analytics Platform (collectively,
 10 “GreyRAVEN”).

11 WHEREAS, Neo4j served the Subpoena on Greystones on October 19, 2022 with a
 12 compliance date of November 4, 2022. The Subpoena, *inter alia*, sought documents relating to
 13 Greystones’ development and use of GreyRAVEN in conjunction with two contracts that
 14 Greystones received from the United States Air Force (USAF). Such information is relevant to
 15 assessing Plaintiffs’ damages in relation to its Lanham Act and DMCA claims asserted against
 16 Defendants PureThink LLC, iGov, Inc., and John Mark Suhy (collectively, “Defendants”).

17 WHEREAS, Neo4j also served a deposition subpoena on Greystones on October 19, 2022
 18 so that their deposition would be taken after their production of the aforementioned documents.

19 WHEREAS, Greystones has consented to this Court’s jurisdiction to resolve any and all
 20 disputes in relation to the subpoenas served by Plaintiffs.

21 WHEREAS, on November 20, 2022, Greystones produced 660 pages of contract
 22 documents with financial information redacted and refused to search for and produce responsive
 23 emails based on its concerns over the potential burden of searching its emails for responsive
 24 documents. As a result, Greystones, did not produce any responsive emails prior to the
 25 deposition of its company representative.

26 WHEREAS, on December 1, 2022, Plaintiffs took the deposition of Greystones’ Rule
 27 30(b)(6) witness without the benefit of any responsive emails.

28 ///

1 WHEREAS, Greystones testified during its deposition that Greystones had hired
2 Benjamin Nussbaum to develop GreyRAVEN (potentially utilizing ONgDB) in connection with
3 their USAF Small Business Innovative Research (SBIR) Phase II project. Greystone further
4 testified that the only person who had actual knowledge of the use of ONgDB in GreyRAVEN
5 was Greystones' now former employee, Mr. Nussbaum.

6 WHEREAS, Mr. Nussbaum is also the co-owner of the three Defendants in a related
7 action entitled *Neo4j, Inc. v. Graph Foundation, Inc.*, Case No. 3:19-cv-06226-EJD ("GFI
8 Action"), where a judgment and permanent injunction was entered against them for the same
9 aforementioned DMCA violations. See GFI Action, Dkt. No. 110.

10 WHEREAS, Greystones has identified approximately 8,000 emails within its email
11 system containing the term "ONgDB," 1,124 of those emails reside in Mr. Nussbaum's
12 Greystones email account.

13 WHEREAS, Plaintiffs and Greystones have met and conferred regarding Greystones'
14 compliance with the Subpoena and have reached an agreement on a two-phase process for the
15 search and production of responsive ESI as set forth below.

16 **STIPULATION**

17 **I. PROTOCOL FOR PHASE I SEARCH FOR GREYSTONES ESI**

18 1. On or before December 13, 2022, Greystones will run and produce emails
19 responsive to the following non-case sensitive Boolean searches of ESI residing in all email
20 accounts assigned to and/or used by Benjamin Nussbaum:

- 21 • ("ONgDB" OR "NEO4J") AND ("AtomRain" OR "GraphGrid")
- 22 • ("ONgDB" OR "GraphStack" OR "GraphGrid" OR "NEO4J") AND
23 ("GreyRAVEN" OR "Grey Raven")
- 24 • ("ONgDB" OR "GraphStack" OR "GraphGrid" OR "NEO4J" OR "GreyRAVEN"
25 OR "Grey Raven") AND ("USAF" OR "Air Force" OR "SBIR" OR "Phase" OR
26 "AFWIC")
- 27 • ("ONgDB" OR "GraphStack" OR "GraphGrid" OR "NEO4J" OR "GreyRAVEN"
28 OR "Grey Raven") AND (@mail.mil OR @us.af.mil)
- ("ONgDB" OR "GraphStack" OR "GraphGrid" OR "NEO4J" OR "GreyRAVEN"
OR "Grey Raven") AND ("consulting" OR "support" OR "services" OR
"deployment" OR "development" OR "prototype" OR "environment")

- (“ONgDB” OR “GraphStack” OR “GraphGrid” OR “NEO4J” OR “GreyRAVEN” OR “Grey Raven”) AND (“dashboard” OR “graph” OR “knowledge” OR “model” OR “data” OR “CSV” OR “customize” OR “configure” OR “visualization” OR “architecture” OR “micro-service” OR “analyst” OR “analyze” OR “node”)
- (“ONgDB” OR “GraphStack” OR “GraphGrid” OR “NEO4J” OR “GreyRAVEN” OR “Grey Raven”) AND (“AGPL” OR “restriction” OR “license” OR “open source” OR “server” OR “cpu” OR “memory” OR “ram” OR “core” OR “cluster” OR “causal” OR “commons clause” OR “free” OR “open source”)

2. The date limitation for the foregoing searches shall be from May 1, 2018 to the present. Within five (5) days of running the foregoing searches on all email accounts assigned to and/or used by Benjamin Nussbaum, Greystones shall (a) provide a search report of the number of hits for each of the foregoing parameters; (b) produce all such non-privileged emails in accordance with Section III below; and (c) produce a privilege log of all emails withheld based on attorney-client privilege or the attorney work product doctrine.

3. If Plaintiffs determine that the resulting production is insufficient to ascertain: (a) the acquisition, integration, implementation and use of ONgDB and/or Neo4j source code in GreyRAVEN; (b) how ONgDB was or is being used in GreyRAVEN; (c) the version(s) used; (d) the number of computers and servers running ONgDB; (e) the numbers of CPU cores and memory per server or computer; and (f) the number of clusters and number of servers or computers per cluster, then Plaintiffs shall provide written notice to Greystones.

4. Within five (5) days of receiving such notice, Greystones shall produce all 1,124 emails containing the term “ONgDB” from the accounts assigned to and/or used by Benjamin Nussbaum in accordance with Section III. To the extent that any such emails are subject a claim of privilege based on the attorney-client privilege or the attorney work product doctrine, Greystones shall also produce a privilege log of all emails withheld on that basis.

5. If Plaintiffs determine that the second production is insufficient to ascertain: (a) the acquisition, integration, implementation and use of ONgDB and/or Neo4j source code in GreyRAVEN; (b) how ONgDB was or is being used in GreyRAVEN; (c) the version(s) used; (d) the number of computers and servers running ONgDB; (e) the numbers of CPU cores and

///

///

memory per server or computer; and (f) the number of clusters and number of servers or computers per cluster, Plaintiffs shall provide written notice to Greystones and proceed with the protocols of Section II below.

II. PROTOCOL FOR PHASE II SEARCH FOR GREYSTONES ESI

1. Within three (3) days of receiving written notice regarding the insufficiency of the second production in Section II, Paragraph 5 above, Greystones will run and produce emails responsive to the following non-case sensitive Boolean searches of ESI residing in all email accounts:

- (“ONgDB” OR “NEO4J”) AND (“AtomRain” OR “GraphGrid”)
- (“ONgDB” OR “GraphStack” OR “GraphGrid” OR “NEO4J”) AND (“GreyRAVEN” OR “Grey Raven”)
- (“ONgDB” OR “GraphStack” OR “GraphGrid” OR “NEO4J” OR “GreyRAVEN” OR “Grey Raven”) AND (“USAF” OR “Air Force” OR “SBIR” OR “Phase” OR “AFWIC”)
- (“ONgDB” OR “GraphStack” OR “GraphGrid” OR “NEO4J” OR “GreyRAVEN” OR “Grey Raven”) AND (@mail.mil OR @us.af.mil)
- (“ONgDB” OR “GraphStack” OR “GraphGrid” OR “NEO4J” OR “GreyRAVEN” OR “Grey Raven”) AND (“consulting” OR “support” OR “services” OR “deployment” OR “development” OR “prototype” OR “environment”)
- (“ONgDB” OR “GraphStack” OR “GraphGrid” OR “NEO4J” OR “GreyRAVEN” OR “Grey Raven”) AND (“dashboard” OR “graph” OR “knowledge” OR “model” OR “data” OR “CSV” OR “customize” OR “configure” OR “visualization” OR “architecture” OR “micro-service” OR “analyst” OR “analyze”)
- (“ONgDB” OR “GraphStack” OR “GraphGrid” OR “NEO4J” OR “GreyRAVEN” OR “Grey Raven”) AND (“AGPL” OR “restriction” OR “license” OR “open source” OR “server” OR “cpu” OR “memory” OR “ram” OR “core” OR “cluster” OR “causal” OR “commons clause” OR “free” OR “open source”)

2. The date limitation for the foregoing searches shall be from May 1, 2018 to the present. Within ten (10) days of running the foregoing searches on all email accounts, Greystones shall (a) provide a search report of the number of hits for each of the foregoing parameters; (b) produce all such non-privileged emails in accordance with Section III below; and (c) produce a privilege log of all emails withheld based on attorney-client privilege or the attorney work product doctrine.

///

1 III. PROTOCOL FOR PRODUCTION OF GREYSTONES ESI

2 The ESI collection shall be maintained in native form and all files will be assigned an
3 electronic control number, i.e. Greystones' production will be assigned a unique sequential
4 control number ("Native Production Set"). To the extent that a native file is converted to an OCR-
5 capable .PDF file for use in the underlying litigation as a declaration, deposition or trial exhibit, it
6 will be assigned a Bates number with a "GREY" prefix and the same sequential ten-digit number,
7 e.g. GREY0008675309. For multiple page documents or emails with attachments, such files will
8 be sequentially numbered as follows GREY0008675309.001, GREY0008675309.002,
9 GREY0008675309.003, etc. and such Bates numbers will be affixed in the lower right hand
10 corner where practical.

11 Greystones will designate all produced documents appropriately under the Protective
12 Order. (Dkt. No. 34.) For all ESI in the Native Production Set, it shall be temporarily designated
13 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the Protective Order.
14 Greystones shall have thirty (30) days from the date of production to review the ESI and re-
15 designate and/or designate such ESI in a manner consistent with the Protective Order's definitions
16 of "CONFIDENTIAL" and "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" and
17 its prohibitions on blanket designations. *See* Dkt. No. 34 at ¶¶ 1, 2.8 and 2.9. The designations
18 made to native documents shall also apply to their converted versions.

19 For any production of documents in connection with the Subpoena and this Stipulation,
20 Greystones will provide a declaration from a custodian of records authenticating the documents
21 produced. Greystones also agrees to de-duplicate its document productions to ensure that only
22 one unique copy of a document is produced. De-duplication will occur at the family level.

23 IV. FURTHER GREYSTONES DEPOSITION

24 At Plaintiffs' election, Greystones will submit to an additional three (3) hour deposition of
25 Greystones Rule 30(b)(6) witness limited to the topic of documents produced pursuant to this
26 Stipulation. This deposition is exempt from the December 1, 2022, discovery cut-off and will
27 occur within fourteen (14) days after Greystones completes its final production pursuant to this
28 Stipulation.

V. GOOD FAITH MEET AND CONFER REQUIREMENTS

The Parties shall make their reasonable and diligent efforts to comply with and resolve any differences concerning compliance with this Stipulation. If a dispute under this stipulation arises, the Parties shall thereafter conduct a live meet and confer before a Party seeks relief from the Court concerning compliance with the Stipulation. Greystones again expressly consents to the jurisdiction of this Court to resolve any dispute related to this Stipulation and, as previously agreed, consents to the jurisdiction of this Court to resolve any other discovery dispute related to this action.

IT IS SO STIPULATED.

Dated: December 6, 2022

HOPKINS & CARLEY
A Law Corporation

By: /s/ Jeffrey M. Ratinoff

Jeffrey M. Ratinoff
Attorneys for Plaintiff and Counter-
Defendant NEO4J, INC.

MCMAHON, WELCH AND LEARNED,
PLLC

Dated: December 6, 2022

By: /s/ Lewis P. Rhodes

Lewis P. Rhodes
Attorneys for Non-Party GREYSTONES
CONSULTANTS GROUPS, LLC

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____

Hon. Susan van Keulen
UNITED STATES MAGISTRATE JUDGE

FILER'S ATTESTATION

I, Jeffrey M. Ratinoff, am the ECF user whose credentials were utilized in the electronic filing of this document. In accordance with N.D. Cal. Civil Local Rule 5-1(i)(3), I hereby attest that all signatories hereto concur in this filing.

Dated: December 6, 2022

HOPKINS & CARLEY
A Law Corporation

By: /s/ Jeffrey M. Ratinoff
Jeffrey M. Ratinoff
Attorneys for Plaintiff and Counter-
Defendant NEO4J, INC.