

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MR.  
JUSTICE C. MACLEOD

)  
)  
)

MONDAY, THE 3RD  
DAY OF JUNE, 2024

BETWEEN:

DAVID PARKER

Plaintiff

and

BLACKBERRY LIMITED

Defendant



**ORDER**

THIS MOTION, made by the Plaintiff for an Order compelling the Defendant, BlackBerry Limited, to answer any questions improperly refused (set out in a refusals chart in the motion material) and any questions arising therefrom, arising from the Examinations for Discovery of the Defendant’s representatives, Rebecca Graham, on May 2, 3, and 4, 2022, and Ralph Pini, on September 6, 2023, and related relief, was heard by video conference on May 1, 2024 and the decision was reserved to today.

ON READING the Notice of Motion, the parties’ motion records (including the Affidavits of Julia Brush and of Shoshana Israel and related Exhibits), the parties’ factums and authorities, and on hearing the submissions of counsel for the parties,

1. THIS COURT ORDERS that the Defendant answer refusals 12, 13, 17, 18, and 20 set out in the Refusals Chart attached as Schedule "A".

2. THIS COURT ORDERS that, as agreed by the Defendant in its factum, the Defendant answer refusals 9, 16, and 19 set out in the Refusals Chart attached as Schedule "A".

3. THIS COURT ORDERS that, as agreed by the Plaintiff in his factum, the Plaintiff abandoned his request for answers to refusals 2, 10, 11, 14, 15, 21, 22 and 23 set out in the Refusals Chart attached as Schedule "A".

4. THIS COURT ORDERS that the Defendant need not answer refusals 3, 4, 5, 6, 7 and 8 set out in the Refusals Chart attached as Schedule "A". The Defendant, however, is directed to conduct a further search for any additional notes, records, or correspondence relating to the Personnel, Premises and Asset (PPA) Agreement and produce any relevant (non-privileged) notes, records, or correspondence it uncovers. Should the Defendant claim privilege over any such documents, it will provide the Plaintiff with an updated Schedule B to its Affidavit of Documents listing those documents.

5. THIS COURT ORDERS that the Parties devise a procedure to ensure that the redactions of the documents that are the subject of Refusal 1 in the attached Schedule "A" refusals chart are appropriate. If the Parties cannot agree on the redactions, a motion may be brought to an Associate Judge to inspect the unredacted documents and rule on the matter.

6. THIS COURT ORDERS that there be no costs of this motion.

  
\_\_\_\_\_  
(Signature of judge, officer or registrar)

Issuance on July 29, 2024

**SCHEDULE “A”**

Court File No. CV-17-71659-CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

DAVID PARKER

Plaintiff

and

BLACKBERRY LIMITED

Defendant

**REFUSALS CHART**

<b>REFUSALS</b>			
Refusals to answer questions on the examination of Rebecca Graham, dated May 2, 3, and 4, 2022 and further written questions.			
<b>N o.</b>	<b>Ques. No.</b>	<b>Page No.</b>	<b>Additional Follow-up Question</b>
1.	276	80	The HRBP reports that were produced have been redacted beyond readability. These redactions are overbroad. We are seeking production of unredacted versions with respect to any issues relevant to this litigation.
2.	1205	354	The RIF lists that were produced have been redacted beyond readability. These redactions are overbroad. We are seeking production of unredacted versions with respect to any issues relevant to this litigation.

**REFUSALS**

Refusals to answer questions on the examination of Ralph Pini, dated September 6, 2023.

<b>No.</b>	<b>Ques. No.</b>	<b>Page No.</b>	<b>Specific question</b>
3.	110	39	Production of all BlackBerry correspondence related to the Ford- BlackBerry negotiations from June 2016 until September of 2016.
4.	110	39-40	To first check whether it has any internal records or notes of any meetings of the individuals that Mr. Pini described as the senior management team between June 2016 and September 2016. Then confirmed that we asked for agendas and notes, and to the extent that they exist, to produce them.
5.	110	40	Similarly, I would like BlackBerry to check specifically with Mr. Chen and Nita White-Ivy with respect to whether they have any emails and/or notes related to any of the discussions with Ford from June 2016 through September of 2016, and to the extent that they do, to produce them.
6.	159	57-58	First of all, I'd like an undertaking for BlackBerry to check whether it has any email communications between any of the individuals that Mr. Pini described as the senior management team and Ford representatives related to what became this MOU [BB Doc 0001] and the attachment and if so, to produce those.
7.	161	59	I'd like an undertaking for BlackBerry to check whether it has any notes or records from phone calls or meetings with Ford representatives about what ultimately became this attached MOU [BB Doc 0001] and if so, to produce any of those notes or records.
8.	652	247	Production of any summaries that Mr. Mackey may have created with respect to either meetings of the internal BlackBerry team or meetings between Ford and BlackBerry with respect to the negotiation of this agreement.

9.	87	33-34	She (Rebecca Graham) would have been aware in or around this time [June 2016] that BlackBerry was having discussions with Ford about engineering services?
10.	464	176-177	Mr. Pini, you gave evidence that nobody from BlackBerry would've communicated to Ford that these employees' employment would terminate, and here I see an email attachment to an email from Jim Mackey that specifically says that the employees' employment with BlackBerry will terminate on the hire date and that no alternative employment opportunities with BlackBerry will be available. So, you'll agree with me that the statement you gave earlier was not accurate?
11.	384-386	142-146	To the extent it doesn't touch upon legal advice, what -- why was BlackBerry wanting to set out the certain terms and conditions with respect to what the Ford offers would be?
12.	242	92	To check whether BlackBerry's understanding at any point before it signed the QNX implementation agreement was that, first of all, any of the class members would be working using one of these perpetual seat licences as part of the Project Silver engineering services agreement with Ford [during the length of Project Silver, so from October 14, 2016] up until the end of February 2017.
13.	242	92-93	At any point prior to signing the QNX implementation agreement, whether it understood that the class members would be occupying or using the seat licences in their eventual employment with Ford, should they choose to accept it.
14.	340	125-126	Re: BlackBerry Production 0006 (reference to BlackBerry -Ford cross-licence agreement): copy of attachment to this particular email.
15.	403	151-152	We haven't been provided with all the attachments to this email. We only have the QNX implementation agreement and TOR_2023-#12852078. I'd like an undertaking for full production of this email, including its attachments.

16.	444	167-168	For BlackBerry to produce any document or record that confirms as of September 21st, 2016, it would have disputed the statement that the employment with BlackBerry will terminate on the hire date and no alternative employment opportunities with BlackBerry will be available.
17.	301	110	Production of any of these draft spreadsheets that were shared with Ford prior to signing the QNX implementation agreement, an undertaking that those be produced, as well as any relevant -- any communications about the spreadsheet being exchanged with Ford.
18.	630	241	Re BlackBerry Production 6776: undertaking for production of the initial version [of the attachment to this document] that was sent by Mr. Pini to Ford, as well as any related communications.
19.	622	238	[Re Exhibit 4] is it your understanding that at the time of striking the agreement, BlackBerry would have had a similar type of policy with regard to employee privacy? Is that a fair statement?
20.	599	230	So, if, for example, BlackBerry managers had access to a Word version of a Ford offer to one of their employees, that would've fallen outside of what the parties agreed to. Is that fair?
21.	219	82-83	So, if a BlackBerry employee had asked in January to go work for one of those ODMs, there would have been an opportunity to work on one of those contracts?
22.	383	142	I would like an undertaking that the witness produce the handwritten notes that he has in front of him and any notes he's had in front of him during this Examination.
23.	18	8	On your retirement from BlackBerry, were you are [sic] required to sign any kind of agreement with BlackBerry that would require you to cooperate in any ongoing litigation?

DAVID PARKER  
Plaintiff

and

BLACKBERRY LIMITED  
Defendant  
Court File No. CV-17-71659-CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT  
OTTAWA

**ORDER**

**NELLIGAN O'BRIEN PAYNE LLP**

300 - 50 O'Connor Street  
Ottawa, ON K1P 6L2

**Janice Payne / Andrew Montague-Reinholdt / Karine  
Dion / Rhian Foley**

LSO# 16307P / 68239K / 63361F / 84558L

Tel: 613-231-8245 / 613-231-8244 / 613-231-8369 / 613-  
231-8205

Email:

janice.payne@nelliganlaw.ca

andrew.montague-reinholdt@nelliganlaw.ca

karine.dion@nelliganlaw.ca

rhian.foley@nelliganlaw.ca

Lawyers for the Plaintiff

Email for parties served:

Arlen K. Sternberg: asternberg@torys.com

Ryan Lax: rlax@torys.com

Colette Koopman: ckoopman@torys.com