IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURUS TECHNOLOGIES, INC.,	§	
	§	
Plaintiff,	§	
v.	§	CIVIL ACTION NO.
	§	3:16-CV-01338-K
GLOBAL TEL*LINK CORPORATION,	§	
	§	
Defendant.	§	

ORDER

Before the Court is Plaintiff Securus Technologies, Inc.'s Motion to Compel Production of Documents (the "Motion") (ECF No. 93). After careful consideration of the motion, the response, the reply, the supporting appendices, the applicable law, and any relevant portions of the record, the Court **GRANTS** the Motion in part.

In the Motion, Securus Technologies, Inc.'s ("Securus") complains of Global Tel*Link Corporation ("GTL") failure to respond to certain Requests for Production. In Plaintiff's Supplement To Its Motion To Compel Production of Documents (ECF. No. 151), filed September 5, 2017, Plaintiff asserts that GTL has, of that date, failed to respond to Requests for Production Nos.: 22-24, 32-34, 40, 49, which request documents related to the technical features and functionality of GTL's accused products; Requests for Production Nos. 36-39, which request documents related to how GTL detects three way calls; and Requests for Production Nos. 57, 59, and 60, which relate to revenue earned by GTL in connection with its accused products.

GTL does not assert any specific objections the above requests for production; instead GTL simply asserts that it has conducted a good faith effort to search its records for responsive documents and has produced all responsive documents that GTL could locate.

In reply, Securus asserts that GTL did not make a good faith effort to search for and produce documents until after Securus filed its motion to compel production. Securus points out that, in GTL's response, GTL points to 4,229 pages of documents that were produced as responsive to the requests at issue, but that of these 4,025 pages were produced within 24 hours of the time GTL filed its response to Securus' motion to compel production. This substantial production was also made three weeks after Securus' deadline to seek assistance from the Court on this issue. Securus also asserts that even though GTL has now made a substantial document production, GTL's responses are still lacking.

Regarding GTL's effort to locate and produce responsive documents, the Court agrees with Securus that GTL's failure to produce a substantial number of documents responsive to these requests until after Securus filed a motion to compel is indicative that GTL did not put substantial effort into locating and producing responsive documents. But, it may be the case that GTL did put reasonable effort into responding to these discovery requests but was unable to determine exactly what types of documents Securus was seeking until it alerted GTL of these issues in its motion to compel production.

In its reply, Securus goes on to identify specific types of documents that would be responsive to the requests for production; that are likely to be in GTL's possession, custody, or control; and that GTL has not produced.

Requests for Production Nos. 22-24, 32-34, 40, 49, which request documents related to the technical features and functionality of GTL's accused products, read as follows:

> Request for Production No. 22: Design documents, flow charts, datasheets, schematics, manual and drawings showing or describing the system architecture of GTL's ICMv system.
>
> Request for Production No. 23: Documents sufficient to show or describe the network architecture of GTL's Inmate Telephone System.
>
> Request for Production No. 24: For each correctional or other inmate facility to which GTL has provided a telephone system or telephone services between January 2, 2009 and present, documents sufficient to show:
> - any components or devices at the correctional facility used to convert inmate call signals between analog and digital;
> - how the Accused Systems provide or control shared access to electronic inmate records from computers located at the correctional facility; and
> - how GTL uses network equipment to link telephones or computers at the correctional facility to GTL's offsite datacenter.
>
> Request for Production No. 32: Technical documents discussing any VoIP gateways used by the Accused Systems (such as flow charts, product specifications, requirement document, datasheets, schematics, manuals, drawings, guides, instruction, bill of materials, and layouts.
>
> Request for Production No. 33: Documents sufficient to show how call data is routed between correctional facilities, GTL's data centers, and the Public Switched Telephone Network (such as

flow charts, product specifications, datasheets, schematics, manuals, drawings, guides, instructions, and layouts).

Request for Production No. 34: Documents sufficient to identify what data fields or types of information the ICMv system stores per inmate (such as first name, last name, personal identification number ("PIN"), and location).

Request for Production No. 40: Documents sufficient to show how the Accused Systems convert call data received from a public telephone network during an inmate call into a digital data stream.

Request for Production No 49: Documents sufficient to show how the accused Systems validate the identity of an inmate prior to allowing the inmate to place a call.

Securus asserts that of the documents produced as responsive to these requests, only a few actually provide the detail required to analyze the features and functionality of GTL's accused product. Securus asserts that GTL is likely to have and has not produced engineering design documents, release notes, network diagrams for facilities served by GTL and GTL's data centers, database schema, and source code showing how each of the accused features and functionality are implemented in GTL's accused systems.

GTL appears to argue that it might not have many responsive documents regarding the development of the invention because it acquired the invention from another company and was not involved in this development.

The Court is not persuaded by GTL's argument regarding its lack of documents because it purchased the invention from another company. As Securus

points out, GTL actually acquired that entire company, which would likely include possession, custody, and control of these records.

So, the Court specifically ORDERS GTL to conduct a diligent search for and to produce the following types of documents that are responsive to Requests for Productions Nos. 22-24, 32-34, 40, 49: engineering design documents, release notes, network diagrams for facilities served by GTL and GTL's data centers, database schema, and source code showing how each of the accused features and functionality are implemented in GTL's accused systems. Such search and production shall include all documents obtained by GTL through its purchase of the company that GTL purchased in order to acquire the invention.

Requests for Production Nos. 36-39, which request documents related to how GTL detects three way calls, read as follows:

> Request for Production No. 36: All documents discussing or describing the "variety of factors" GTL uses to "detect 3-way [call] attempts," as that term is used in GTL's responses to requests for proposal from correctional facilities (such as flow charts, product specifications, datasheets, schematics, manuals, guides, instructions, and layouts).

> Request for Production No. 37: All documents discussing or describing what operations the Accused Systems perform (such as flagging or terminating a call) in response to detecting three-way call activity.

> Request for Production No. 38: Documents sufficient to show how the Accused Systems detect suspend signals in analog signals received from a public telephone network during an inmate call.

Request for Production No. 39: Documents sufficient to show how the Accused Systems monitor or analyze Voice over Internet Protocol (VoIP) signals to detect three-way call activity.

Securus asserts that GTL has only produced two responsive documents to these requests, neither of which describe how three way calling is detected. Securus specifically identifies some specific type of documents that it believes would be responsive to these requests; that are likely to be in GTL's possession, custody, and control; and which GTL has not produced. These include: engineering design documents, release notes, network diagrams for facilities served by GTL and GTL's data centers, database schema, and source code.

So, the Court ORDERS GTL to conduct a diligent search for and to produce the following types of documents that are responsive to Requests for Productions Nos. 36-39: engineering design documents, release notes, network diagrams for facilities served by GTL and GTL's data centers, database schema, and source code.

Requests for Production Nos. 57, 59, and 60, which relate to revenue earned by GTL in connection with its accused products, read as follows:

Request for Production No. 57: Documents sufficient to show all forms and amounts of GTL's revenue derived from the Accused Systems.

Request for Production No. 59: For each Inmate Telephone System installed at a correctional facility, documents sufficient to show the average price or commissions paid, costs, margins, profit, and total revenue.

Request for Production No. 60: For each correctional facility served by GTL, documents sufficient to show GTL's revenue from inmate communication services between May 13, 2010 and the

present (based on the smallest period GTL uses to keep such records, e.g. weekly, monthly, quarterly, etc.).

Securus asserts that the 12 documents produced in response to these requests fall short because they do not provide any manner to determine revenue from the accused product on a per facility basis, which is asked for in the requests for production. GTL has not provided any explanation as to why the documents produced in response to these requests for production do not provide information of a per facility basis.

So, the Court ORDERS GTL to conduct a diligent search for and to produce documents that are responsive to Requests for Productions Nos. 57, 59, and 60 including any responsive documents that indicate revenue received on a per facility basis.

If GTL, after diligently searching for any the above specific responsive document types, GTL is unable to locate any responsive documents that have not already been produced, GTL shall certify that it has conducted a diligent search and has not located any documents that are not previously produced.
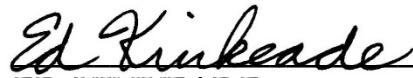
It is further ORDERED that all responses ordered within this order shall be produced to GTL within 30 days of the date of the entry of this order.

It is further ORDERED that if GTL retains or redacts any responsive documents based on an asserted privilege, GTL shall deliver to Securus a privilege log within 30 days of the date of the entry of this order.

It is further ORDERED that if GTL asserts that it has already produced all known responsive documents for any request for production for which the Court has ordered GTL to respond, then GTL shall in its response affirm that all known responsive documents have been previously produced.

SO ORDERED.

Signed September 13th, 2017.

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UNITED STATES DISTRICT JDUGE