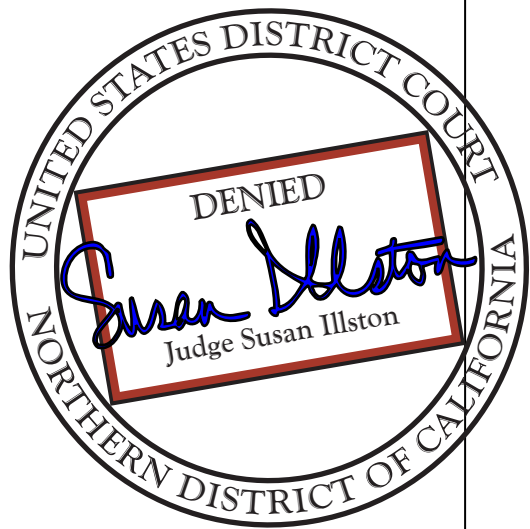


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10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 SAN FRANCISCO DIVISION

Denied as Moot

13 KEVIN KEITHLEY and TREN
 14 TECHNOLOGIES HOLDINGS, LLC,
 15 Plaintiffs,
 16 v.
 17 THE HOMESTORE.COM, INC., et al.,
 18 Defendants.

CASE No. C03-04447 SI (EDL)

**PLAINTIFFS' MOTION FOR
 ADMINISTRATIVE RELIEF PURSUANT
 TO CIVIL L.R. 7-11; DECLARATION OF
 SCOTT R. MOSKO; AND [PROPOSED]
 ORDER**

1 In light of comments from the bench during the November 14, 2008 hearing on Defendants’
2 pending “Motion for Summary Judgment as to Non-Infringement and Invalidity Based on
3 Indefiniteness” (Dkt. No. 732), Plaintiffs seek a stay until the Court rules at least on this motion.

4 Plaintiffs respectfully make this request because this Court’s decision on the above-referenced
5 motion (and perhaps others filed currently with said motion) will likely have a significant impact on
6 the content of the parties’ pretrial submissions, currently due on December 2, 2008. Currently, the
7 parties will be exchanging witness lists, evidence lists, exhibit lists, and jury verdict forms on
8 November 19, 2008. On November 24, 2008, the parties will be serving objections to (1) the
9 already-exchanged jury instructions, (2) exhibits proposed by the opposing side, and (3) discovery
10 that the opposing side has indicated it will use at trial. Significant time and effort will be expended
11 by both sides that could be avoided (or may have to be re-done) depending upon this Court’s decision
12 on the pending Summary Judgment Motions. The above-referenced exchanges will be used by both
13 sides in their Pre-Trial Conference Statements. The contents of the parties’ Pre-Trial Conference
14 Statements will likely be affected based on this Court’s ruling on the pending Summary Judgment
15 Motion addressed during the hearing. Hence, the proposed stay would allow the parties to conform
16 their statements consistent with this Court’s yet-to-be issued rulings.

17 By filing this motion, Plaintiffs do not seek to hurry the Court in its decision-making process.
18 Instead, Plaintiffs are simply proposing a temporary stand-still arrangement pending an order on the
19 motions. Once this Court issues this order, the Pre-Trial Conference documents can be prepared
20 consistent with it, which will further facilitate the Pre-Trial Conference, now scheduled for
21 December 16, 2008.

22 The parties disagree on whether this temporary stay should issue. While Defendants may be
23 willing to adjust one or more of the internal deadlines the parties have set, Defendants do not want
24 any adjustment of the dates this Court has already set. Plaintiffs on the other hand believe that a

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1 logically-ordered process, one allowing the parties to prepare their Pre-Trial Conference submissions
2 consistent with this Court’s yet-to-be issued rulings on the pending motions, makes more sense, and
3 consequently move for a temporary stay until this Order issues.

4 Respectfully submitted,

5 Dated: November 18, 2008

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

7 By: _____ /s/
8 Scott R. Mosko
9 Attorneys for Plaintiffs
10 Kevin Keithley and TREN
11 Technologies Holdings, LLC

12 **DECLARATION OF SCOTT R. MOSKO**

13 I, Scott R. Mosko, declare as follows:

14 1. I am an attorney licensed to practice before this Court and all courts of the State of
15 California, and am a partner with Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., counsel
16 for Plaintiffs in the above-entitled action. I submit this declaration in support of Plaintiffs Kevin
17 Keithley and Tren Technologies Holdings, Inc.’s Administrative Motion for Administrative Relief.
18 The matters stated herein are based upon my personal knowledge, and if called as a witness, would
19 testify as to the following statements.

20 2. The dates for exchange of information consistent with this Court’s Pre-Trial
21 Conference submissions as set forth in the body of this motion are accurately stated. Currently, the
22 Court has ordered the parties to file their Pre-Trial Conference Statements on December 2, 2008.
23 The Pre-Trial Conference is scheduled for December 16, 2008. The trial date is January 12, 2009.

24 3. On November 17, 2008, I spoke with Luther Orton, counsel for Defendants and
25 proposed a temporary stay. Mr. Orton advised that Defendants would not agree to any stay of the
26 proceedings, although Defendants might consider altering one or more of the earlier internal agreed-
27 upon dates the parties had set so that the Pre-Trial Conference Statements could be timely filed.

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1 4. On November 18, 2008, Mr. Luther again advised that Defendants did not agree to
2 any stay or stand-still agreement pending this Court's decision on the Summary Judgment Motions.

3 I declare under penalty of perjury under the laws of the United States that the foregoing is true
4 and correct and this declaration was executed this November 18, 2008, at Palo Alto, California.

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_____/s/_____
Scott R. Mosko

[PROPOSED] ORDER

Upon good cause shown, IT IS HEREBY ORDERED that the Parties not exchange documents in preparation for the Pre-Trial Conference Statement until seven days after this Court issues its Order on the pending Motions for Summary Judgment. If a further adjustment to the current schedule is necessary, the parties are ordered to meet and confer, and provide a proposed order to the Court for consideration.

Dated: _____, 2008

UNITED STATES DISTRICT JUDGE

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