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8 Attorneys for Plaintiff WORLD COURIER, INC.

9  
 10 UNITED STATES DISTRICT COURT  
 11 NORTHERN DISTRICT OF CALIFORNIA

12  
 13 WORLD COURIER, INC., A New York  
 Corporation,

14 Plaintiff,

15 v.

16  
 17 DONEEN BARONE, JERRA LANGIT,  
 18 SUMITRA NADARAJAH, and MARKEN  
 19 LIMITED, dba MARKEN INTERNATIONAL  
 20 COURIER SERVICE and MARKEN  
 Corporation,

21 Defendants.

Case No. C 06-03072 TEH

**STIPULATION FOR AND ORDER  
 RE: EXPEDITED DISCOVERY AND  
 RETURN OF WORLD COURIER  
 PROPERTY**

22  
 23 Plaintiff World Courier, Inc. (“World Courier”) and Defendants Doneen Barone,  
 24 Jerra Langit, and Sumitra Nadarajah (collectively, the “Individual Defendants”), and Defendants  
 25 Marken, Limited and Marken Worldwide Express (collectively, “Marken”), hereby stipulate as  
 26 follows:

27 WHEREAS World Courier alleges that, prior to becoming employed by Marken,  
 28 the Individual Defendants misappropriated confidential and protected business information and

1 other property of World Courier at the time or shortly before the Individual Defendants terminated  
2 their employment relationships with World Courier on April 28, 2006;

3 WHEREAS, to avoid any questions in the future regarding the contents of their  
4 respective computers at the present time, the Individual Defendants have permitted Deloitte &  
5 Touche (“Deloitte”), a neutral, third-party computer forensics firm jointly selected by counsel for  
6 all of the parties, to copy all data contained in all electronic storage media and computer memory  
7 devices used by any of the Individual Defendants or their immediate families as of May 18, 2006  
8 (including, but not limited to: two hard drives delivered by Defendants Barone and Langit to  
9 Finestone & Richter; Defendant Barone’s spouse’s and childrens’ computers; Defendant Langit’s  
10 computer and her husband’s computer; and defendant Nadarajah’s computer), and have agreed  
11 that Deloitte shall maintain in escrow a pristine copy of all such electronic data until further  
12 agreement of the parties or order of this Court;

13 NOW, THEREFORE, World Courier, the Individual Defendants and Marken  
14 hereby stipulate, by and through their respective counsel, that the Court may enter the following  
15 Order:

- 16 1. To the extent such materials or information may currently exist within the  
17 possession, custody or control of any of the Individual Defendants or Marken:  
18 Marken shall promptly deliver to counsel for World Courier any World Courier  
19 property and any documents or emails containing confidential and protected  
20 business information or other property of World Courier obtained by virtue of the  
21 prior employment by World Courier of the Individual Defendants, and shall certify  
22 under penalty of perjury that all such documents have been delivered to World  
23 Courier and that, following the delivery of any such information in electronic  
24 media, that all such electronic media have been deleted from their computer  
25 systems; the Individual Defendants shall promptly deliver to counsel for World  
26 Courier any World Courier property and any documents or emails containing  
27 confidential and protected business information or other property of World Courier  
28 obtained by virtue of the prior employment by World Courier of the Individual

1 Defendants provided, however, that such electronic information resident on the  
2 computers impounded pursuant to paragraph 5 shall be turned over to Deloitte &  
3 Touche;

4 2. To the extent such materials or information may currently exist within the  
5 possession, custody or control of any of the Individual Defendants or Marken:  
6 Marken shall promptly deliver to counsel for World Courier all non-privileged  
7 documents or data derived from World Courier's confidential and protected  
8 business information or property which the Individual Defendants obtained by  
9 virtue of their prior employment by World Courier and shall certify under penalty  
10 of perjury that all such documents have been delivered to World Courier and that,  
11 following the delivery of any such information, that all such electronic media have  
12 been deleted from their computer systems; the Individual Defendants shall promptly  
13 deliver to counsel for World Courier all non-privileged documents or data derived  
14 from World Courier's confidential and protected business information or property  
15 which the Individual Defendants obtained by virtue of their prior employment by  
16 World Courier provided, however, that such electronic information resident on the  
17 computers impounded pursuant to paragraph 5 shall be turned over to Deloitte &  
18 Touche;

19 3. To the extent that any of the Individual Defendants or Marken physically or  
20 electronically possess any confidential and protected business information or other  
21 property of World Courier after the end of the Individual Defendants' employment  
22 with World Courier (April 28, 2006), pending a final ruling by the District Court  
23 regarding the alleged misappropriation, including the scope of any such  
24 misappropriation, if any, or a subsequent order of the District Court regarding the  
25 use of such material, the Individual Defendants and Marken are prohibited from,  
26 making any use or other employment of any and all of World Courier's confidential  
27 and protected business information, and other World Courier property, obtained by  
28 or through the Individual Defendants by virtue of their prior employment with

1 World Courier, including, but not limited to, any such data or information that may  
2 exist within the electronic data being maintained in escrow by Deloitte or that is  
3 deliverable to counsel for World Courier pursuant to Sections 1 or 2 herein.

4 4. Notwithstanding anything contained in Sections 1, 2 and 3, during the pendency of  
5 this action, counsel for the Individual Defendants and Marken shall be permitted to  
6 retain the originals, or to make copies, of any materials delivered to counsel for  
7 World Courier pursuant to paragraphs 1 and 2, and of any of the data currently  
8 being maintained in escrow by Deloitte, but such materials and data shall be used  
9 only for litigation purposes and shall not be used by or disclosed to the Individual  
10 Defendants or anyone employed by or affiliated with Marken for any purpose other  
11 than for use in the defense this litigation.

12 5. The Parties further stipulate that any computers or other electronic media belonging  
13 to the Individual Defendants and/or their families and/or otherwise under their  
14 control containing any World Courier information or property obtained by the  
15 Individual Defendants by virtue of their prior employment with World Courier shall  
16 be delivered immediately to Deloitte & Touche in San Francisco and shall be  
17 impounded there pursuant to the parties' existing agreement with Deloitte &  
18 Touche pending further agreement of the parties or an Order of the Court. The  
19 parties shall promptly meet and confer and attempt to reach agreement on the  
20 prompt release of any clearly personal information belonging to the Individual  
21 Defendants or their family members on any such impounded computers, as well as  
22 to provide prompt access to World Courier to download and analyze the images of  
23 those computers previously made by Deloitte & Touche, and potentially to compare  
24 those images to the actual hard drives as impounded.

25 6. In addition, it is further stipulated by and among the parties to this action, through their  
26 respective counsel, that the Court should enter the following discovery orders:  
27  
28

- 1 7. Defendants and each of them shall respond to plaintiff World Courier's First Request for  
2 Production of Documents, served with the Declaration of William F. Murphy on May 9,  
3 2006, on or before Noon PDT on June 7, 2006.
- 4 8. World Courier is also given permission to conduct depositions of defendants Doneen  
5 Barone, Jerra Langit, Sumitra Nadarajah; Gerard Barba, and John Wagner; and to serve  
6 and receive responses to the subpoena duces tecum directed to, and to depose, David  
7 Arrant of Carefree Computing, Inc., 235 Montgomery Street, San Francisco, California.  
8 Said depositions shall be conducted at mutually agreed upon dates and times, shall each  
9 be limited to no more than 7 hours (without prejudice to an extension by the Court for  
10 good cause shown).
- 11 9. The parties further Stipulate that upon the Court's entry and filing of this stipulated  
12 Order, the hearing on Plaintiff's Application for a Temporary Restraining Order and  
13 Order to Show Cause, and Plaintiff's Motion for Expedited Discovery, currently set for  
14 hearing on June 7, 2006, shall be taken off calendar, without prejudice to Plaintiff's right  
15 to move for a Preliminary Injunction or to seek any other appropriate relief (and without  
16 prejudice to defendants' rights to oppose such a motion or other claims for relief or to  
17 seek other relief) based on information obtained during discovery or otherwise,  
18 including but not limited to a injunctive relief compelling the Individual Defendants and  
19 Marken to refrain from soliciting those World Courier customers for which the  
20 Individual Defendants have allegedly misappropriated from World Courier confidential  
21 and protected business information about said customers, currently believed by World  
22 Courier to be Quest Diagnostics, Theravance, MedImmune, Berlex, BioMarin,  
23 Connetics and Rinat, for business in California.

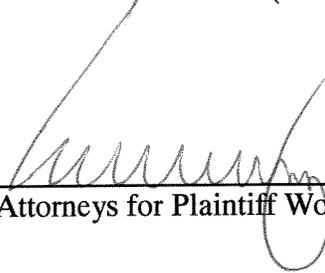
24 The parties have entered into this Stipulation and Order to eliminate the need for  
25 the Court to address World Courier's Application for Expedited Discovery, and World  
26 Courier's Application for a Temporary Restraining Order and Order to Show Cause Re:  
27 Preliminary Injunction.  
28

1 This Stipulation for and Order shall not operate or be construed as an admission  
2 or concession of liability on the part of the Individual Defendants, Marken, or any of them.

3  
4 Dated: May 26, 2006

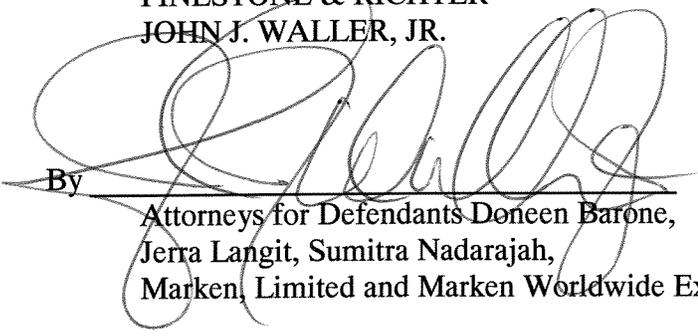
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7 CURTIS, MALLET-PREVOST, COLT &  
8 MOSLE  
9 TURNER P. SMITH (Pro Hac Vice)

10  
11 By   
12 Attorneys for Plaintiff World Courier, Inc.

13  
14 Dated: May 25, 2006

FINESTONE & RICHTER  
JOHN J. WALLER, JR.

15  
16  
17 By   
18 Attorneys for Defendants Doneen Barone,  
19 Jerra Langit, Sumitra Nadarajah,  
20 Marken, Limited and Marken Worldwide Express

21 ORDER

22 The Court, having reviewed the foregoing Stipulation and Order, and good cause  
23 appearing, hereby ORDERS that the foregoing Stipulation shall be and hereby is entered as the  
24 Court's Order. IT IS SO ORDERED.

25 Dated: May 30, 2006.



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27  
28 DISTRICT JUDGE