

1 Christopher (Casey) McNamara (SBN 209205)  
 cmcnamara@foxrothschild.com  
 2 FOX ROTHSCHILD LLP  
 345 California Street, Suite 2200  
 3 San Francisco, CA 94104-2670  
 Telephone: 415.364.5540  
 4 Facsimile: 415.391.4436

5 Attorneys for non-party  
 VALVE CORPORATION

6 Gary A. Angel, CSB No. 70006  
 7 Frear Stephen Schmid, CSB No. 96089  
 LAW OFFICE OF GARY A. ANGEL  
 8 177 Post Street, Suite 550  
 San Francisco, Ca 94108  
 9 Telephone: (415) 788-5935  
 Facsimile: (415) 788-5958  
 10 Email: Angelgary@Aol.Com  
 Email: frearschmid@aol.com

11 Attorneys for Plaintiff  
 12 ELECTRONIC SCRIPTING PRODUCTS, INC.

13  
 14  
 15 **UNITED STATES DISTRICT COURT**  
 16 **NORTHERN DISTRICT OF CALIFORNIA**  
 17 **SAN FRANCISCO DIVISION**

18 ELECTRONIC SCRIPTING PRODUCTS,  
 INC.,

19 Plaintiff,

20 v.

21 HTC AMERICA, INC.,

22 Defendants.  
 23

**Case No: 3:17-cv-05806-RS (RMI)**

**STIPULATION AND ~~PROPOSED~~ ORDER  
 EXTENDING THE DEADLINE TO FILE  
 A MOTION TO RETAIN  
 CONFIDENTIALITY UNDER THE  
 PROTECTIVE ORDER**

24 Non-party Valve Corporation (“Valve”) and Plaintiff Electronic Scripting Products, Inc.  
 25 (“ESPi”) stipulate to extend the deadline for Valve to file a motion to retain the confidentiality of  
 26 materials designated “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES  
 27 ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” under the Stipulated Protective  
 28

1 Order for Litigation Involving Patents, Highly Sensitive Confidential Information and/or Trade  
2 Secrets (“Protective Order”). (Dkt. # 95.)

3 **RECITALS**

4 On March 18, 2020, the Court entered the Protective Order. (Dkt. # 95.) The Protective  
5 Order allows parties and non-parties to designate material produced in discovery and deposition  
6 testimony as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES  
7 ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE.” (Protective Order, § 5.2.) The  
8 Protective Order provides that a party may challenge a confidentiality designation, and, if the  
9 issue is not resolved through the meet and confer process, the designating party or non-party  
10 must file a motion within 21 days of the initial notice challenging the designation. (Protective  
11 Order, § 6.3.)

12 Valve corporate designee Alan Yates was deposed pursuant to Rule 30(b)(6) on July 14,  
13 2021. Valve designated the transcript of the deposition and exhibits thereto as “HIGHLY  
14 CONFIDENTIAL – ATTORNEY’S EYES ONLY” under the Protective Order. On August 12,  
15 2021, ESPi notified Valve that it was challenging all of Valve’s designations of testimony as  
16 “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY.”

17 On August 19, 2021, Defendant HTC America Inc. (“HTC”) filed an administrative  
18 motion to seal certain materials submitted in support of its motion for summary judgment,  
19 including the deposition transcript and exhibits designated by Valve as “HIGHLY  
20 CONFIDENTIAL – ATTORNEY’S EYES ONLY.” (Dkt. # 149.) Valve filed a declaration in  
21 support of HTC’s administrative motion to seal on August 23, 2021. (Dkt. # 153.) ESPI filed an  
22 opposition to the motion on August 25, 2021. (Dkt. # 155.)

23 On August 23, 2021, Valve provided ESPi with a transcript of the deposition of Alan  
24 Yates with revised designations, including removing the confidentiality designations from some  
25 testimony, and designating other testimony as “CONFIDENTIAL,” “HIGHLY  
26 CONFIDENTIAL – ATTORNEY’S EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE  
27 CODE.”

1 The Court has not yet issued a ruling on HTC’s administrative motion to seal. As the  
2 Court’s ruling on HTC’s administrative motion to seal may inform Valve’s and ESPi’s positions  
3 regarding Valve’s confidentiality designations, Valve and ESPi filed a stipulation to extend the  
4 deadline for Valve to file a motion to retain its confidentiality designations from September 2,  
5 2021 to September 7, 2021. (Dkt. # 159.)

6 On September 1, 2021, the Court issued an order advising that sealing motions typically  
7 are not decided prior to a ruling on the associated substantive motion. (Dkt. #160.) Pursuant to  
8 the stipulation between Valve and ESPi, the Court ordered that the deadline for Valve to file a  
9 motion retain its confidentiality designations to September 7, 2021. (Dkt. # 161.)

10 As Valve and ESPi continue to believe the Court’s ruling on HTC’s administrative  
11 motion to seal may inform Valve’s and ESPi’s positions regarding Valve’s confidentiality  
12 designations, Valve and ESPi have agreed to further extend the deadline for Valve to file a  
13 motion to retain its confidential designations from September 7, 2021 to five (5) days after the  
14 Court issues a ruling on HTC’s administrative motion to seal. (Dkt. # 149.)

15 **STIPULATION**

16 Valve and ESPi hereby stipulate that the deadline for Valve to file a motion under  
17 Section 6.3 of the Protective Order to retain its confidentiality designations of the transcript of  
18 the July 14, 2021 deposition of Alan Yates and the exhibits thereto shall be continued from  
19 September 7, 2021 to five (5) days after the Court issues a ruling on HTC’s administrative  
20 motion to seal. (Dkt. # 149.)

21 The filer of this Stipulation attests that concurrence in the filing of the document has been  
22 obtained from each of the other signatories.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: September 7, 2021

FOX ROTHSCHILD LLP

By /s/ Christopher J. McNamara  
Attorneys for Non-Party,  
Valve Corporation

Dated: September 7, 2021

LAW OFFICE OF GARY A. ANGEL

By /s/ Frear Stephen Schmid  
Attorneys for Plaintiff,  
Electronic Scripting Products, Inc.

~~PROPOSED~~ ORDER

PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED.

Dated: September 7, 2021

  
\_\_\_\_\_  
Honorable Robert M. Illman  
United States Magistrate Judge