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 14 *3DLabs Inc., Ltd.*

15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA
 17 OAKLAND DIVISION

18 FUZZYSHARP TECHNOLOGIES
 INCORPORATED,

19 Plaintiff,

20 v.

21 3DLABS INC., LTD.,

22 Defendant.

23
 24 3DLABS INC., LTD.,

Counterclaimant,

25 v.

26 FUZZYSHARP TECHNOLOGIES
 INCORPORATED,

27 Counter-Defendant.
 28

Case No. C07-CV-5948-SBA-JL

**STIPULATION AND ~~PROPOSED~~
 ORDER REGARDING
 INADVERTENTLY PRODUCED
 PRIVILEGED MATERIALS OR
 INFORMATION**

Honorable Magistrate Judge James Larson

1 In order to ensure that neither party waives any privilege through the inadvertent
2 production of privileged materials or information, and pursuant to Rule 502 of the Federal Rules
3 of Evidence, Plaintiff and Counter-Defendant FuzzySharp Technologies Incorporated, and
4 Defendant and Counterclaimant 3DLabs Inc., Ltd., by and through their respective counsel of
5 record, hereby stipulate as follows:

6 1. Inadvertent production or disclosure of documents or information subject to the
7 attorney-client privilege, work product immunity, or any other applicable privilege shall not
8 constitute a waiver of, nor a prejudice to, any claim that such or related material is privileged or
9 protected by the work product immunity or any other applicable privilege, provided that the
10 producing party notifies the receiving party in writing promptly after discovery of such
11 inadvertent production.

12 2. Such inadvertently produced documents or information, including all copies
13 thereof, shall be returned to the producing party or destroyed immediately upon request.

14 3. No use shall be made of such documents or information during deposition or at
15 trial, nor shall such documents or information be shown to anyone who has not already been
16 given access to them subsequent to the request that they be returned.

17 4. In the case of an inadvertently produced document, the producing party shall then
18 provide a privilege log identifying such inadvertently produced document.

19 5. The receiving party may move the Court for an Order compelling production of
20 any inadvertently produced document or information, but the motion shall not assert as a ground
21 for production the fact or circumstances of the inadvertent productions or raise any other issue
22 concerning such inadvertent production that is inconsistent with Rule 502 of the Federal Rules of
23 Evidence, nor shall the motion disclose or otherwise use the content of the inadvertently produced

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1 document or information (beyond any information appearing on the above-referenced privilege
2 log) in any way in connection with any such motion.

3 **IT IS SO STIPULATED:**

4 Dated: August 13, 2009

By: /s/ David Fink
David Fink

6 *Attorneys for Plaintiff and Counter-Defendant*
7 *FuzzySharp Technologies Incorporated*

8 Dated: August 13, 2009

By: /s/ Jonathan D. Baker
Jonathan D. Baker

10 *Attorneys for Defendant and Counterclaimant*
11 *3DLabs Inc., Ltd.*

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ATTESTATION PURSUANT TO GENERAL ORDER 45

I, Jonathan D. Baker, attest that concurrence in the filing of this document has been obtained from each of the other signatories. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on August 13, 2009 at Mountain View, California.

By: /s/ Jonathan D. Baker
Jonathan D. Baker

PURSUANT TO THIS STIPULATION, IT IS SO ORDERED.

Dated: August 17, 2009


The Honorable James Larson
United States ~~District~~ Magistrate Judge