

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

WILLIAM SYVERSON, et al.,
Plaintiffs,
v.
INTERNATIONAL BUSINESS
MACHINES CORPORATION,
Defendant.

Case No.: C 03-4529 RMW (PVT)

**ORDER VACATING HEARING ON
DEFENDANT'S MOTION TO STRIKE
EXPERT REPORT AND SETTING
DEADLINE FOR DEFENDANT TO
FILE UNREDACTED COPY OF
MOVING BRIEF**

On October 16, 2008, this court denied Defendant's administrative motion to file certain documents under seal. That order was without prejudice to Defendant filing a renewed motion that is properly supported with a showing for each document or portion thereof that sealing is warranted under Rule 26(c) of the Federal Rules of Civil Procedure. Instead of filing a properly supported motion, Defendant instead "withdrew" its motion to seal¹ and retrieved the documents it had sought to file under seal, including the unredacted copy of its moving brief. Defendant filed in the public

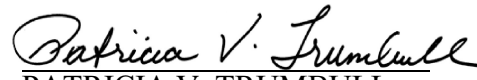
¹ As the court previously noted, it appears that Defendant may have designated as "Confidential" a substantial amount of information that does not warrant protection under Rule 26(c). This over-designation caused Plaintiffs to move for an order sealing their opposition brief because it discloses information designated "Confidential by Defendant. Defendant failed to file any declaration supporting its designations pursuant to Civil Local Rule 79-59(d). Defendant is cautioned that if its over-designation of documents causes Plaintiffs to have to file any further unnecessary motions to seal, Defendant may well be subject to sanctions. Defendant is advised to review its designation of documents to ensure that only those for which protection is warranted under Rule 26(c) are designated "Confidential."

1 record copies of the exhibits it had previously sought to file under seal, but did not file any
2 unredacted copy of its moving brief. Thus, the court has no unredacted copy of the moving brief.
3 Based on the file herein,

4 IT IS HEREBY ORDERED that the hearing on Defendant's Motion to Strike Report of
5 Plaintiffs' Expert, David Neumark, Ph.D. is VACATED, and the motion is submitted on the papers.

6 IT IS FURTHER ORDERED that, no later than November 5, 2008, Defendant shall
7 electronically file an unredacted copy of its moving brief.

8 Dated: 11/3/08

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10 PATRICIA V. TRUMBULL
11 United States Magistrate Judge
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