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28***E-FILED 9/2/2008***

NOT FOR CITATION
 IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

PHASE FORWARD, INCORPORATED,

No. C05-04232 JF (HRL)

Plaintiff,

**ORDER GRANTING PLAINTIFF'S
 MOTION FOR PROTECTIVE ORDER
 AND DENYING PLAINTIFF'S
 REQUEST FOR FEES**

v.

MARY NOEL ADAMS, individually and d/b/a
 PHASE FORWARD, and PHASE FORWARD
 LLC,

[Re: Docket No. 101]

Defendants.

On August 29, 2008, plaintiff filed an emergency motion for a protective order to preclude defendants from proceeding with document and deposition discovery of non-party Institute of International Research ("IIR"). Defendants oppose the motion. Plaintiff has filed a reply. Pursuant to this court's August 29, 2008 order shortening time, the matter is deemed submitted without oral argument. Civ. L.R. 7-1(b). Defendants contend that the requested discovery is important evidence that, in fairness, ought to be presented at trial. Nevertheless, discovery has long since closed. Plaintiff's motion for protective order is granted without prejudice to defendants to move to re-open discovery for the limited purpose of seeking the discovery in question. Plaintiff's motion for attorney's fees is denied.

Dated: September 2, 2008

/s/ electronic signature authorized

 HOWARD R. LLOYD
 UNITED STATES MAGISTRATE JUDGE

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