

E-FILED 7/7/2009

NOT FOR CITATION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

SECURITIES AND EXCHANGE
COMMISSION,

No. C07-03798 JW (HRL)

Plaintiff,

**ORDER RE DEFENDANT'S MOTION
FOR ENTRY OF PROTECTIVE ORDER**

v.

[Re: Docket No. 141]

KENNETH L. SCHROEDER,

Defendant.

In this court's April 27, 2009 discovery order, the SEC, Schroeder, and non-parties KLA-Tencor Corporation ("KLA") and Skadden, Arps, Slate, Meagher & Flom ("Skadden") were directed to meet-and-confer for the purpose of entering into a protective order governing the treatment of confidential information. They were unable to reach agreement as to certain terms. Before the court is Schroeder's proposed form of order, on the one hand, and the SEC's proposed form of order (agreed to by KLA and Skadden) on the other. Having considered the moving and responding papers, as well as the parties' respective proposals, this court rules as follows:

With respect to Paragraph 3, this court will adopt the SEC's proposed language. However, this ruling is without prejudice to Schroeder to seek modification of the protective order with respect to specific discovery he desires for use in other identified litigation.

Next, the parties disagree whether KLA and Skadden should be permitted to attend

1 the depositions of witnesses it does not represent. The papers presented indicate that this is
2 primarily a dispute between Schroeder and KLA. This court sees no reason why KLA should
3 be entirely barred from attending depositions where the company's interests might be
4 implicated. Accordingly, the court will adopt the language proposed by the SEC. However,
5 this ruling is without prejudice to Schroeder to seek a protective order precluding KLA from
6 attending a specific deposition. Additionally, KLA is reminded of its prior representation to
7 this court that it would permit Schroeder to obtain discovery *without* objections as to privilege
8 or work product.

9 Finally, in the event Schroeder challenges a confidentiality designation, the parties
10 disagree whether he should be ordered to establish – at the outset – that he is not seeking
11 reconsideration of prior court rulings. Inasmuch as this court did not make definitive rulings as
12 to the claimed confidentiality (or not) of specific documents, it finds that defendant's proposed
13 language is appropriate and adequately addresses the SEC's (and KLA's and Skadden's) stated
14 concerns. Accordingly, defendant's proposed language will be adopted.

15 A protective order will be entered separately.

16 SO ORDERED.

17 Dated: July 7, 2009

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20 HOWARD R. LLOYD
21 UNITED STATES MAGISTRATE JUDGE
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5:07-cv-03798-JW Notice has been electronically mailed to:

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