

**** E-filed December 23, 2009 ****

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17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA
 19 SAN JOSE DIVISION
 20

21 LANDMARK SCREENS, LLC, a Delaware
 Limited Liability Company,

22 Plaintiff,

23 v.

24 MORGAN, LEWIS & BOCKIUS LLP, a
 25 limited liability partnership; and THOMAS D.
 KOHLER, an individual,

26 Defendants.
 27

Case No. 5:08-cv-2581 JF

**STIPULATION AND ~~PROPOSED~~
 ORDER FOR IN CAMERA REVIEW OF
 PRIVILEGED DOCUMENTS
 AS AMENDED BY THE COURT**

Judge: Hon. Howard R. Lloyd
 Courtroom 2, 5th Floor

Re: Docket No. 86

1 This stipulation is entered into by and between Plaintiff Landmark Screens, LLC
2 (“Landmark”) and Defendants Morgan, Lewis & Bockius LLP (“MLB”) and Thomas D. Kohler
3 (“Kohler”) as follows:

4 WHEREAS, in a privilege log produced in a state court action and prepared by MLB’s
5 former counsel, MLB partners Michael Bloom and Thomas Kittredge were listed as recipients of
6 three privileged documents (the “Disputed Documents”);

7 WHEREAS, in a privilege log produced in this federal court action, Michael Bloom and
8 Thomas Kittredge were not listed as recipients of the Disputed Documents;

9 WHEREAS, MLB’s current counsel informed Landmark that the state court privilege log
10 incorrectly listed Mr. Bloom and Mr. Kittredge as recipients of the Disputed Documents, and
11 that such errors had been corrected in the federal court privilege log.

12 WHEREAS, Landmark requested that the Disputed Documents be submitted for *in*
13 *camera* review so that the recipients could be verified;

14 WHEREAS, MLB agreed to submit the Disputed Documents for *in camera* review solely
15 for the purpose of verifying the recipients of these documents, as stated in letters dated August
16 11, 2009 and September 23, 2009;

17 WHEREAS, on December 1, 2009, Landmark filed a Motion to Compel Production of
18 Documents Withheld as Privileged, claiming in part that the Disputed Documents “indicate that
19 MLB partners Michael Bloom and Thomas Kittredge, in-house counsel to MLB, were apprised
20 of ‘anticipated litigation’ as early as April 11, 2005.” Docket No. 86, at 7;

21 WHEREAS the parties agree that the Court can efficiently and fairly resolve this dispute
22 and thereby narrow the contested issues presented in Landmark’s December 1, 2009 Motion to
23 Compel;

24 NOW THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE, through
25 their respective counsel of record, that:

26 (1) MLB shall be permitted to submit the Disputed Documents, bearing bates numbers
27 MLBFED0002576, MLBFED0002577, and MLBFED0002578, to the Court *ex parte* for *in*
28 *camera* review for the sole purpose of determining if Michael Bloom and/or Thomas Kittredge

1 are listed as recipients of the Disputed Documents;

2 (2) The submission of the Disputed Documents for *in camera* review for this purpose
3 shall be without prejudice to the Court's consideration of whether *in camera* review of the
4 Disputed Documents may be necessary to resolve other disputes regarding the Disputed
5 Documents, as described in Landmark's December 1, 2009 Motion to Compel; and

6 (3) The submission of the Disputed Documents for *in camera* review shall not constitute
7 the waiver of any privilege or protection afforded to the Disputed Documents.

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9 IT IS SO STIPULATED.

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11 Dated: December 22, 2009

KEKER & VAN NEST LLP

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14 By: /s/ Wendy J. Thurm
15 WENDY J. THURM
16 Attorneys for Defendants
MORGAN, LEWIS & BOCKIUS LLP
and THOMAS D. KOHLER

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17 Dated: December 22, 2009

HAYNES AND BOONE, LLP

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20 By: /s/ Clark S. Stone
21 CLARK S. STONE
22 Attorneys for Plaintiff
23 LANDMARK SCREENS, LLC

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*Filer's Attestation: Pursuant to General
Order No. 45, Section X.B. regrinding non-
filing signatories, Wendy J. Thurm hereby
attests that concurrence in the filing of this
Stipulation and [Proposed] Order has been
obtained from Clark S. Stone.*

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~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

MLB shall submit the Disputed Documents to the court by December 28, 2009.

Dated: December 23, 2009



HON. HOWARD R. LLOYD
United States Magistrate Judge