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ORDER E-FILED 10-15-2009

6 Attorneys for Defendant
 7 D-WAVE SYSTEMS INC. dba D-WAVE
 8 SYSTEMS INTERNATIONAL, INC.

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION

11 HERBERT J. MARTIN,
 12 Plaintiff,
 13 v.
 14 D-WAVE SYSTEMS INC. dba D-WAVE
 15 SYSTEMS INTERNATIONAL, INC.; and
 16 DOES 1-50, inclusive,
 17 Defendants.

CASE NO. C 09-03602 RMW (HRL)

PROTECTIVE ORDER RELATED TO SENSITIVE D-WAVE BUSINESS INFORMATION DISCOVERABLE FOR HEARING ON LACK OF PERSONAL JURISDICTION AND FORUM NON-CONVENIENS

Judge: Hon. Ronald M. Whyte
 Dept: Courtroom 6, 4th Floor
 Complaint Filed: May 19, 2009
 Trial Date: None Set

(MODIFIED BY THE COURT)

1 Plaintiff Herbert J. Martin (“Plaintiff”) and Defendant D-Wave Systems Inc. d/b/a D-
2 Wave Systems International, Inc. (“Defendant” and/ or “D-Wave”), through their Counsel,
3 stipulate as follows:

4 WHEREAS, certain information to be produced in this action may incorporate sensitive
5 trade secret information, subject to protection under federal law; and

6 WHEREAS, counsel for the parties to this action have expressed their desire to enhance
7 the flow of discovery material and to facilitate the prompt resolution of disputes over privileged
8 and otherwise confidential information;

9 IT IS HEREBY STIPULATED AND AGREED by and between the Plaintiff and
10 Defendant that the following protective order be entered into in this action:

11 1. APPLICABILITY OF PROTECTIVE ORDER:

12 This Order shall be applicable to govern all depositions, documents, information or other
13 things produced by a party or third party in connection with this litigation in response to request
14 for production of documents, answers to interrogatories, responses to request for admission,
15 answers to deposition questions and all other discovery taken pursuant to the Federal Rules of
16 Civil Procedure, as well as testimony adduced at trial, matters in evidence, and other information
17 that the Producing Party designates as “SUBJECT TO PROTECTIVE ORDER” (or a reasonably
18 similar designation) furnished, directly or indirectly, by or on behalf of any party or any non-party
19 witness in connection with this action.

20 2. DEFINITIONS

21 2.1 Parties.

22 2.1.1 Party. “Party” means any of the parties in the action presently pending in
23 the Northern District of California—San Jose Division case number C 09-03602 RMW (HRL)
24 (the “Litigation”). The parties include Plaintiff Herbert J. Martin and Defendant D-Wave.

25 2.1.2 Producing Party. “Producing Party” means a party to this Litigation, or
26 any third party, that produces or otherwise makes available Information.

27 2.1.3 Receiving Party. “Receiving Party” means a party to this Litigation that
28 receives Information.

1 2.1.4 Designating Party. “Designating Party” means a party to this Litigation, or
2 any third party, that asserts that it or any other Party or non-party produced any Information that
3 should be designated as Protected Material.

4 2.2 Information. “Information” means any document, electronic and magnetic media,
5 tangible thing, response to discovery requests, deposition testimony or transcript, and any other
6 similar materials, or portions thereof.

7 2.3 Protected Material. “Protected Material” means any Information that is designated
8 as confidential pursuant to Paragraph 3 below, in accordance with the designation procedures set
9 forth in Paragraph 4 below, and any copies, abstracts, summaries, or information derived from
10 this designated Information, and any notes or other records regarding the contents of this
11 designated Information.

12 3. PROTECTED MATERIAL—Two-Tier Designations

13 3.1 Confidential Business Information. Any Party or non-party may designate as
14 “SUBJECT TO PROTECTIVE ORDER” any Information that the Party or non-party considers in
15 good faith to be confidential or sensitive information including, but not limited to, trade secrets,
16 research, design, development, financial information, as such terms are used in Rule 26(c)(7) of
17 the Federal Rules of Civil Procedure and any applicable case law interpreting Rule 26(c)(7).

18 3.2 Attorney’s Eyes Only. Any Party or non-party may further designate as
19 “ATTORNEY’S EYES ONLY” certain sensitive information, including trade secrets, research,
20 design, development, financial information, and other confidential information which may be
21 relevant to the jurisdictional inquiry, but not necessary for Plaintiff, as D-Wave’s former Chief
22 Executive Officer, or any third parties to view or have access to.

23 4. DESIGNATION OF PROTECTED MATERIALS

24 4.1 A Party or non-party producing Information may designate the Information as
25 Protected Material by so indicating in the relevant discovery responses or on the record at a
26 deposition or pursuant to paragraph 9 below and requesting the preparation of a separate
27 transcript of the material. Protected Material must be clearly and prominently marked on its face
28 with a legend stating "SUBJECT TO PROTECTIVE ORDER" and/or “ATTORNEY’S EYES

1 ONLY” as the Protected Material necessitates. Each page of a document containing or
2 constituting Protected Material must be marked with an appropriate designation. Transcript pages
3 containing or constituting Protected Material must be separately bound by the court reporter and
4 marked with the appropriate confidentiality notice on each page.

5 4.2 Any Party or non-party may designate Information produced by anyone else that
6 contains or is derived from that Party or non-party's own Protected Material. Each Party or non-
7 party that designates Information will be treated as the Designating Party for purposes of this
8 Order.

9 5. ACCESS TO PROTECTED MATERIAL – GENERALLY

10 5.1 “SUBJECT TO PROTECTIVE ORDER” Designation. Except with the prior
11 written consent of the affected Designating Parties, or an order of the Court, Protected Material
12 designated by the term “SUBJECT TO PROTECTIVE ORDER” must not be disclosed to any
13 person other than:

14 5.1.1 the Court and Court personnel;

15 5.1.2 the court reporter and videographer (if any) present at any hearing,
16 deposition, or trial;

17 5.1.3 counsel for a Receiving Party and the employees of counsel whose review
18 of such Information is required to conduct the Litigation;

19 5.1.4 employees of a Receiving Party whose review of such Information is
20 required to conduct the Litigation;

21 5.1.5 persons who authored, prepared, or received the Information in a context
22 outside this Litigation;

23 5.1.6 Percipient witnesses in this litigation who have complied with the
24 requirements of Paragraph 6.

25 5.2 “ATTORNEY’S EYES ONLY” Designation. Except with the prior written
26 consent of the affected Designating Parties, or an order of the Court, Protected Material
27 designated by the term “ATTORNEY’S EYES ONLY” must not be disclosed to any person other
28 than:

- 1 5.2.1 the Court and Court personnel;
- 2 5.2.2 the court reporter and videographer (if any) present at any hearing,
- 3 deposition, or trial;
- 4 5.2.3 counsel for a Receiving Party;
- 5 5.2.4 persons who authored, prepared, or received the Information in a context
- 6 outside this Litigation;

7
8 Persons receiving Protected Material must not reveal or discuss that Information to or with
9 any person who is not entitled to receive the Protected Material, except as set forth in this Order.

10 6. ACCESS TO PROTECTED MATERIAL—PERCIPIENT WITNESSES

11 6.1 All percipient witnesses, including Parties or present employees of a Party, may be
12 examined and may testify concerning: (i) any Protected Material produced by that Party; (ii) any
13 document containing Protected Material that clearly appears on its face or from other documents
14 or testimony to have been prepared by, received by, or communicated to the witness in a context
15 outside this Litigation, or as to which it appears highly likely on the face of the document that the
16 only confidential, proprietary, or competitively sensitive information contained in the document is
17 information already personally known to that witness; and (iii) any other document containing
18 Protected Material, provided that the Party intending to examine the witness concerning such
19 document(s) gives the affected Designating Parties five (5) days prior written notice specifically
20 identifying the document(s), and either there is no objection or the Court otherwise orders that the
21 witness may be examined and may testify concerning the document(s). For any percipient
22 witness to review or discuss any document designated “ATTORNEY’S EYES ONLY,” the
23 percipient witness must have authored, received, or prepared the information in accordance with
24 Paragraph 5.2.4.

25 6.2 Any transcript discussing or containing Protected Material must be designated as
26 Protected Material within thirty (30) days of receipt of the transcript by the Producing Party. If
27 there is no designation, then the transcript will not be Protected Material. The Producing Party
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1 must notify all Parties and provide them, and non-parties, an opportunity to designate the
2 transcript as Protected Material following the process described in Paragraph 4.

3 7. ACCESS TO PROTECTED MATERIAL—INDEPENDENT EXPERT WITNESSES

4 Protected Material (from whatever source) may be disclosed to an Independent Expert
5 only if he or she has agreed in writing by executing the Confidentiality Agreement attached as
6 Appendix A, or on the record during a deposition, to be bound by this Protective Order. Counsel
7 must provide ten (10) days written notice to all Parties and any affected Designating Party before
8 any Protected Material can be disclosed to any Independent Expert. The notice must identify the
9 Independent Expert and provide a copy of the expert's current resume, supplemented if necessary
10 to provide a brief description of the expert's business, qualifications, and past and present
11 affiliations. This notice is not the same as or a substitute for expert disclosure under FRCP 26(a).
12 The Parties and any affected Designating Party will have ten (10) days from receipt of the notice
13 to deliver to the notifying Party their good faith written objections to the Independent Expert.
14 Absent timely objection, Protected Materials may be disclosed to the Independent Expert. If a
15 Party raises a timely objection, then the Protected Materials must not be disclosed to the
16 Independent Expert until resolution of the issue by order of the Court or the written agreement of
17 the affected Parties. **The party opposing disclosure bears the burden of proving that the risk
of harm the disclosure would entail (under any proposed safeguards)
outweighs the Receiving Party's need to disclose the material to its expert.**

18 8. ACKNOWLEDGMENT OF PROTECTIVE ORDER

19 Except for persons identified in paragraphs 5.1, 5.1.1, 5.1.2, and 5.1.3, every person who
20 inspects or has access to Protected Material must execute the Confidentiality Agreement attached
21 to this Order in Appendix A and thereby agree to be bound by its provisions. The Confidentiality
22 Agreements must be retained by counsel to the party that disclosed the Protected Material during
23 the pendency of the action and for a period of five years after the conclusion of the action as
24 defined in paragraph 17 below. The Confidentiality Agreements need not be disclosed to
25 opposing counsel, but opposing counsel may apply to the Court for an order compelling
26 disclosure on a showing of good cause.

27 9. USE OF PROTECTED MATERIALS: MOTION PRACTICE AND LITIGATION

28

1 9.1 Deposition Proceedings. In the case of depositions, designation of the portion of
2 the transcript (including exhibits) that contains “SUBJECT TO PROTECTIVE ORDER” or
3 “ATTORNEYS’ EYES ONLY” shall be made by a statement to such effect on the record in the
4 course of the deposition; or upon review of such transcript, by counsel for the party to whose
5 “SUBJECT TO PROTECTIVE ORDER” or “ATTORNEYS’ EYES ONLY” the deponent has
6 had access, said counsel designating within thirty (30) calendar days after counsel’s receipt of the
7 final transcript, and listing on a separate piece of paper the numbers of the pages of the transcript
8 containing “SUBJECT TO PROTECTIVE ORDER” or “ATTORNEYS’ EYES ONLY,”
9 inserting the list at the end of the transcript, and mailing copies of the list to counsel for all parties
10 so that it may be affixed to the face of the transcript and each copy thereof. Pending such
11 designation by counsel, the entire deposition transcript, including exhibits, shall be deemed
12 “SUBJECT TO PROTECTIVE ORDER,” unless counsel during the deposition states that the
13 information is “ATTORNEYS’ EYES ONLY.” If no designation is made within thirty (30) days
14 after receipt of the final transcript, the transcript shall be considered not to contain any
15 information “SUBJECT TO PROTECTIVE ORDER” other than those portions designated on the
16 record during the deposition, if any.

17 9.2 Non-paper Media. Any Protected Materials produced in non-paper media (e.g.,
18 videotape, audio tape, computer disk, etc.) may be designated as such by labeling the outside of
19 such non-paper media as “SUBJECT TO PROTECTIVE ORDER” or “ATTORNEYS’ EYES
20 ONLY.” In the event a Receiving Party generates any “hard copy” transcription or printout from
21 any such designated non-paper media, such party must stamp each page “SUBJECT TO
22 PROTECTIVE ORDER” and/or “ATTORNEYS’ EYES ONLY,” and the hard copy,
23 transcription or printout shall be treated as it is designated.

24 9.3 Filing Under Seal. No documents or materials shall be filed under seal with the
25 Court, including, without limitation, discovery materials, answers to interrogatories, expert
26 reports, deposition transcripts, trial exhibits, demonstrative exhibits, trial transcripts, pleadings,
27 briefs, and memoranda that comprise or contain Protected Materials without complying with all
28 applicable rules of this Court. The party desiring to place any Protected Materials before the

comply with Civil Local Rule 79-5.

1 Court shall lodge the information in a sealed envelope along with a copy of a Proposed Order
2 Sealing Documents. Said envelope shall be endorsed with the title of this action, an indication of
3 the nature of the contents of such sealed envelope, the identity of the party filing the materials, the
4 phrase "PROTECTED MATERIALS SUBJECT TO PROTECTIVE ORDER," and a statement
5 substantially in the following form:

6 ~~THIS ENVELOPE CONTAINS MATERIALS SUBJECT TO A~~
7 ~~PROTECTIVE ORDER ENTERED IN THIS ACTION. IT IS~~
8 ~~NOT TO BE OPENED NOR ARE ITS CONTENTS TO BE~~
9 ~~DISPLAYED, REVEALED, OR MADE PUBLIC, EXCEPT BY~~
10 ~~ORDER OF THE COURT. UNLESS THE COURT ORDERS~~
11 ~~THAT IT NOT BE FILED, IT SHALL BE FILED UNDER SEAL.~~

12 ~~In the event the Court denies any request to file information under seal, that information, after~~
13 ~~having been considered by the Court, shall be returned to the party that lodged it.~~

14 9.4 Use in Court Proceeding Will Not Affect Confidential Status. In the event that any
15 Protected Materials are used in any court proceeding in connection with this litigation, it shall not
16 lose its Confidential and Protected status through such use, and the parties shall take all steps
17 reasonably required to protect its confidentiality during such use.

18 9.5 Subpoenas in Other Actions. In the event any Receiving Party having possession,
19 custody or control of any Protected Materials receives from a third party a subpoena or other
20 process or order to produce such information in another legal proceeding, such Receiving Party
21 shall notify counsel for the Disclosing Party of the subpoena or other process or order, furnish
22 counsel for the Disclosing Party with a copy of said subpoena or other process or order, and
23 cooperate with respect to all reasonable procedures sought to be pursued by the Disclosing Party
24 whose interests may be affected to protect its "PROTECTED INFORMATION." The Disclosing
25 Party or third party asserting that the materials are protected shall have the burden of challenging
26 or otherwise defending against such subpoena, process or order. Until and unless there is an
27 agreement between the parties or a further order of the Court, the party receiving the subpoena or
28 other process or order shall ensure protection of confidentiality. **Nothing in this order should be
encouraging disobedience of a lawful directive from another court.**

9.6 Exclusion of Individuals from Depositions. Counsel for either party shall have the
right to exclude from oral depositions, other than the deponent, the deponent's counsel, the

1 deposing counsel, the videographer and the reporter, any person who is not authorized by this
2 Protective Order to receive documents or information designated "SUBJECT TO PROTECTIVE
3 ORDER" or "ATTORNEYS' EYES ONLY." Such right of exclusion shall be applicable only
4 during periods of examination or testimony directed to or comprising Protected Materials of the
5 party seeking to exclude the person from the deposition.

6 10. COPIES OF PROTECTED MATERIAL

7 This Order does not restrict a person who is properly in the possession of Protected
8 Material from: (1) making working copies, abstracts, digests, and analyses of Protected Material
9 for use in connection with this Litigation; or (2) converting or translating Protected Material into
10 machine readable form for incorporation in a data retrieval system used in connection with this
11 litigation. Any such copies, abstracts, digests, analyses, or data compilations have the same level
12 of protection under the terms of this Order as the Protected Material from which they are derived.

13 11. INADVERTENT FAILURE TO DESIGNATE

14 If a Producing Party through inadvertence produces Information without labeling or
15 marking or otherwise designating it as Protected Material, the Producing Party may subsequently
16 give written notice that the Information produced is designated Protected Material as defined in
17 Paragraph 2. After a notice is received, all Receiving Parties must treat the designated
18 Information with the noticed level of protection. Disclosure of the Information before the receipt
19 of the notice to persons not authorized to receive the Information is not a violation of this Order.
20 A Receiving Party must, however, use its best efforts to retrieve and re-designate the Information
21 in accordance with the subsequently noticed level of protection.

22 12. INADVERTENT DISCLOSURE OF PROTECTED MATERIAL

23 If any Party or non-Party inadvertently discloses Protected Material to any person not
24 authorized under this Order to receive the Protected Material, then the Party that made or is
25 responsible for the inadvertent disclosure must immediately: (1) notify the affected Designating
26 Parties of the inadvertent disclosure and the identity of the person to whom the inadvertent
27 disclosure was made; (2) use its best efforts to retrieve the Protected Material and all copies
28 thereof from the person to whom it was inadvertently disclosed or delivered; and (3) take all steps

1 necessary to have the person who received the Protected Material execute the Confidentiality
2 Agreement attached hereto as Appendix A. The executed Confidentiality Agreement must
3 promptly be served on the affected Designating Parties.

4 13. VOLUNTARY WAIVER OF CONFIDENTIAL DESIGNATION

5 Unless designated as Protected Material by any other Designating Party, any Party or non-
6 party may voluntarily disclose any Information that it has designated as Protected Material.

7 14. CHALLENGES TO DESIGNATIONS

8 14.1 Timing. Challenges to designations may be made at any time prior to fifteen (15)
9 days before the hearing date set for November 20, 2009, or any other date for the hearing so
10 designated by the Court.

11 14.2 Initial Procedure. All challenges to the designation of Protected Material must
12 first be made informally in writing by letter or other document identifying the material
13 challenged. Within five (5) court days of such a challenge, the Designating Party must state the
14 basis for such designation in writing, or forever waive the protections of this Order with respect to
15 the challenged information. The Parties then must attempt to resolve such challenges in good
16 faith on an informal basis within five (5) court days after the objecting Party has received notice
17 of the basis for the asserted designation.

18 14.3 Motion Procedure. If a dispute over designation cannot be resolved informally,
19 the Party or non-party challenging the designation may file an appropriate motion in this Court.
20 The Party or non-party making the designation bears the burden of demonstrating that the
21 disputed confidential designation(s) is/are legally warranted.

22 14.4 Treatment of Information While Challenges Are Pending. Until a dispute over the
23 asserted designation is finally resolved by the Parties or the Court, all Parties and persons must
24 treat the information or materials in question as protected under its originally designation as
25 Protected material.

26 15. RIGHT TO ASSERT OTHER OBJECTIONS

27 Nothing in this Order waives any right to assert any objection to discovery based on
28 relevance, burden, privilege, or other grounds.

1 16. INADVERTENT PRODUCTION OF PRIVILEGED MATERIAL

2 16.1 If a Party inadvertently produces Information that it later discovers, or in good
3 faith later asserts, to be privileged or otherwise protected from disclosure, the production of that
4 Information will not be presumed to constitute the waiver of any applicable privileges or other
5 protection. Fed. Evid. R. 502 (b). In these circumstances, the Producing Party must immediately
6 notify all Parties in writing of the inadvertent production and the basis for the privilege or other
7 protection from production, and request in writing the return or confirmed destruction of the
8 privileged or protected Information. Within five (5) days of receiving such notification, all
9 Receiving Parties must return or confirm destruction of all such materials, including any
10 summaries thereof. The return or confirmation of destruction will not preclude any Receiving
11 Party from seeking to compel production of the materials for reasons other than its inadvertent
12 production and will not constitute an admission by any Receiving Party that the materials were, in
13 fact, privileged or otherwise protected in any way.

14 17. CONCLUSION OF LITIGATION

15 17.1 Conclusion of Litigation. The conclusion of this action is defined as 30 days after
16 the expiration of the time to appeal or challenge any final judgment, settlement, or consent
17 decree.

18 17.2 Continuing Effect of this Order. [^]~~The~~ Court reserves jurisdiction to enforce this
19 Order. **For a period of six months after the conclusion of this action, the** Following the conclusion of the litigation, the terms of this Order will continue to bind the
20 Parties and all persons who have signed the Confidentiality Agreement.

21 17.3 Treatment of Protected Material at Conclusion of Litigation. Upon conclusion of
22 this action, a party who received Protected Material in the context of this action must assemble all
23 Protected Material, including all copies thereof, and must either (a) return the Protected Material
24 to the Producing Party, or (b) if requested by the Producing Party and Designating Parties, destroy
25 the Protected Material and provide an appropriate certification of destruction to the Producing
26 Party. The attorneys of record for each Party will be entitled to retain all pleadings, motion
27 papers, legal memoranda, correspondence, and work product necessary to comply with California
28 statutes or Rules of Court for archival purposes.

1 18. MISCELLANEOUS

2 18.1 In the event that any person, Party, or non-party having possession, custody or
3 control of Protected Material receives a subpoena, order or other process to produce the Protected
4 Material, the recipient of the subpoena, order or other process must immediately notify the
5 Producing Party of the pendency of the subpoena, order or other process and provide a copy of it
6 to the Producing Party, and must not produce the Protected Material until the Producing Party has
7 had a reasonable time to object or take other appropriate steps to protect the confidentiality of the
8 Protected Material. **Nothing in this order should be construed as authorizing or encouraging
9 disobedience of a lawful directive from another court.**

10 18.2 Entry of this Protective Order will not prevent any Party from seeking further
11 Court orders concerning the production or use of discovery materials.

12 18.3 When notice is required to be given pursuant to any provisions of this Protective
13 Order to any Party or non-party, the notice must be in writing and given to counsel of record for
14 the Party or non-party. Notice is complete upon receipt and not upon sending. Notice may be by
15 facsimile.

16 18.4 All witnesses or other person, firms or entities from which discovery is sought
17 must be informed of this Protective Order, must be provided a copy of the Order, and must be
18 informed that they may obtain the protection of this Order. The notice and a copy of the Order
19 must be provided at the time any subpoena is served and at the time of any deposition or similar
20 proceeding.

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IT IS HEREBY STIPULATED AND AGREED by and between counsel for the Plaintiff

Herbert J. Martin and counsel for Defendant D-Wave.

DATED: ^{October 7} September __, 2009

HENRY G. WYKOWSKI & ASSOCIATES

By: 
Henry G. Wykowski, Esq.
Counsel for Plaintiff Herbert J. Martin

DATED: September __, 2009

MCKENNA LONG & ALDRIDGE LLP

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IT IS HEREBY STIPULATED AND AGREED by and between counsel for the Plaintiff

Herbert J. Martin and counsel for Defendant D-Wave.

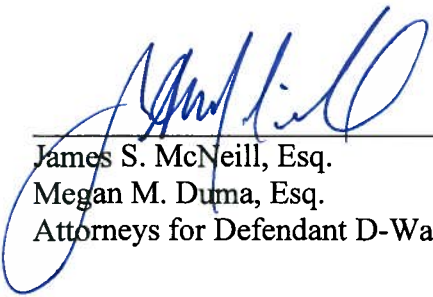
DATED: October 7, 2009

HENRY G. WYKOWSKI & ASSOCIATES

By: _____
Henry G. Wykowski, Esq.
Counsel for Plaintiff Herbert J. Martin

DATED: October 7, 2009

MCKENNA LONG & ALDRIDGE LLP

By:  _____
James S. McNeill, Esq.
Megan M. Duma, Esq.
Attorneys for Defendant D-Wave

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EXHIBIT A

AGREEMENT CONCERNING INFORMATION

COVERED BY PROTECTIVE ORDER

I, _____, hereby acknowledge that I have received a copy of the Protective Order entered in this action (Case No. C 09-03602 RMW (HRL) by the United States District Court for the Northern District of California—San Jose Division (hereinafter, “the Protective Order”)).

1. I have either read the Protective Order or have had the terms of the Protective Order explained to me by my attorney.

2. I understand the terms of the Protective Order and agree to comply with and to be bound by such terms.

3. If I receive documents or information designated as “SUBJECT TO PROTECTIVE ORDER” and/or “ATTORNEY’S EYES ONLY” (as those terms are defined in the Protective Order), I understand that such information is provided to me pursuant to me pursuant to the terms and restrictions of the Protective Order

4. I agree to hold in confidence and not further disclose or sue for any purpose (other than as permitted by the Protective Order) any information disclosed to me pursuant to the terms of the Protective Order.

5. I hereby submit myself to the jurisdiction of the United States District Court for the Northern District of California—San Jose Division for resolution of any matters pertaining to the Protective Order.

My address is: _____

My present employer is _____

Dated: _____ Signed: _____

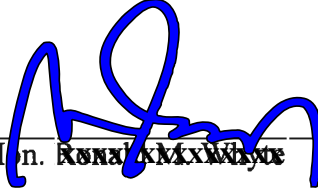
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ORDER

~~Based upon the Stipulation of the parties and good cause appearing therefore, the Protective Order is hereby granted.~~ Pursuant to stipulation (as modified by the court),

IT IS SO ORDERED.

October
DATED: ~~September~~ 15, 2009



~~Hon. Ronald M. Whyte~~
Howard R. Lloyd
United States Magistrate Judge