

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Michael J. Watanabe**

Civil Action No. 07-cv-02261-PAB-MJW
(Consolidated with 08-cv-01226-PAB-MJW)

FTR - Courtroom A-502

Date: January 14, 2009

Courtroom Deputy, Ellen E. Miller

ALCOHOL MONITORING SYSTEMS, INC.,

Phillip S. Lorenzo
Michael G. Martin

Plaintiff(s),

v.

ACTSOFT, INC., et al

Kyle B. Fleming

Defendant(s).

COURTROOM MINUTES / MINUTE ORDER

HEARING: MOTIONS HEARING / FINAL PRETRIAL CONFERENCE

Court in Session: 9:00 a.m.

Court calls case. Appearances of counsel.

Court raises Plaintiff's Motion to Have Highly Confidential Designation Removed... [Docket Number 92] for argument.

Arguments by Michael Martin and Kyle Fleming. Findings by the Court.

It is ORDERED: Plaintiff's MOTION TO HAVE HIGHLY CONFIDENTIAL DESIGNATION REMOVED FROM NEW WAVE TECHNOLOGY, INC.'S DOCUMENT HAS001414NWT - HAS001415NWT AND MOTION TO SEAL [Docket No. 92, Filed December 17, 2008] is **GRANTED**. The designation of "Highly Confidential - Attorney Eyes Only" is removed. Exhibit A [Docket 93] remains a SEALED document.

Court raises Defendants' Motion to Preclude Expert Testimony From Jürgen Sohège for Refusal to be Deposed [Docket No. 88] for argument.

Arguments by Phillip Lorenzo and Kyle Fleming. Findings by the Court.

It is ORDERED: Defendants' MOTION TO PRECLUDE EXPERT TESTIMONY FROM JÜRGEN SOHÈGE FOR REFUSAL TO BE DEPOSED [Docket No. 88, Filed December 08, 2008] is **GRANTED IN PART and DENIED IN PART**.

Motion is granted is that Dr. Sohège will not be permitted to provide testimony, declaration, affidavit, or otherwise support the motion for summary judgment. Motion is denied as to further use of Dr. Sohège at trial. Plaintiff must make Dr. Sohège available for deposition without subpoena and going through Hague Convention. The deposition of Dr. Sohège shall be completed before the Preliminary Injunction Hearing currently set APRIL 27, 2009 before District

Judge Philip A. Brimmer.

Mr. Berens makes an Oral Motion to depose certain New Wave Technology employees.

It is ORDERED: Plaintiff's ORAL MOTION TO DEPOSE CERTAIN NEW WAVE TECHNOLOGY EMPLOYEES is **GRANTED**. The deposition(s) shall be completed before the Preliminary Injunction Hearing currently set APRIL 27, 2009 before District Judge Philip A. Brimmer.

The proposed Final Pretrial Order is discussed.

It is ORDERED: The proposed FINAL PRETRIAL ORDER with attachments which was tendered to the court, and modified from the bench, is made an order of court.

The parties anticipate a ten (10) day jury trial, and are directed to the Chambers of District Judge Brimmer for trial setting information.

Hearing concluded.

Court in recess: 9:37 a.m.

Total In-Court Time 00: 37

To order a transcript of this proceeding, please contact Avery Woods Reporting at (303)825-6119.