

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ILLINOIS COMPUTER RESEARCH, LLC.,)	
)	
Plaintiff and Counterclaim Defendant)	
)	
v.)	Case No. 07 C 5081
)	
FISH & RICHARDSON P.C.,)	Judge Rebecca R. Pallmeyer
)	Mag. Judge Maria Valdez
Defendant, Counterclaimant and)	
Third-Party Plaintiff,)	
)	
v.)	
)	
SCOTT C. HARRIS,)	
)	
Third-Party Defendant. And Counterclaimant)	
)	
FISH & RICHARDSON P.C.,)	
)	
Defendant, Counterclaimant, Third-Party)	
Plaintiff and Counterclaim Defendant.)	

**ICR'S AND SCOTT HARRIS' PRELIMINARY RESPONSE
TO FISH & RICHARDSON P.C.'S MOTION TO COMPEL
DISCOVERY AND COMPLIANCE WITH THE COURT'S ORDER**

For the second time in as many motions, Fish has eschewed its obligations under Local Rule 37 and rushed to this Court on contrived grounds of urgency. Scott Harris and ICR request that they be given five days (until December 18, 2007) to file a substantive written response to the motion for the following reasons:

- Harris' and ICR's counsel who has been dealing with Fish on discovery and privilege issues and disputes and privilege issues and disputes, Paul Vickrey, has been tied up in depositions in San Jose and San Francisco since December 10 and will not return until late tonight.

Mr. Vickrey so informed Fish and stated that he would be available to discuss discovery issues on December 13 (Ex. A). Fish nonetheless filed this motion without complying with the pre-filing conference requirement of Local Rule 37.

- Harris and ICR have produced all the documents that Fish requested in its motion for expedited discovery. They also have produced most of the documents requested in Fish's subsequent letter requests, the exceptions being privileged and/or work product documents. In addition, Harris has provided a log of his representation agreements with the Niro, Scavone, Haller & Niro law firm pertaining to the enforcement of the Harris patents.
- Meanwhile, Fish has continued to withhold documents concerning its investigation into Scott Harris' activities which cleared him of any wrongdoing. Fish unequivocally disclosed the results of its April 2007 investigation of Harris, and those results are completely at odds with Fish's litigation position. Harris informed Fish last week of his intention to seek judicial relief if the issue could not be resolved.

The timing of this motion suggests gamesmanship relating to the above described issues. Harris and ICR respectfully request that they be given until December 18, 2007 to substantively respond to the motion and to file their own cross motion directed to the documents that Fish has improperly withheld. In this way, the Court can address all extant discovery issues relating to privilege in a single proceeding.

Respectfully submitted,

/s/ David J. Sheikh

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CERTIFICATION OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **ICR'S AND SCOTT HARRIS' PRELIMINARY RESPONSE TO FISH & RICHARDSON P.C.'S MOTION TO COMPEL DISCOVERY AND COMPLIANCE WITH THE COURT'S ORDER** was electronically filed with the Clerk of Court using CM/ECF system, which will send notification by electronic mail to the following:

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on December 12, 2007.

/s/ David J. Sheikh