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AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY \_\_\_\_\_ DEPUTY



06-MC-00192-DECL

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ETREPPID TECHNOLOGIES, L.L.C., a  
Nevada Limited Liability Company

Plaintiff,

vs.

DENNIS MONTGOMERY, THE  
MONTGOMERY FAMILY TRUST, DENNIS  
MONTGOMERY and BRENDA  
MONTGOMERY as Trustees of The  
MONTGOMERY FAMILY TRUST; and  
DOES 1 through 20,

Defendants.

DENNIS MONTGOMERY; MONTGOMERY  
FAMILY TRUST,

Counterclaimants and Third-Party  
Plaintiffs,

vs.

ETREPPID TECHNOLOGIES, L.L.C.; a  
California Corporation, WARREN TREPP;  
DEPARTMENT OF DEFENSE of the UNITED  
STATES OF AMERICA; and DOES 1-10,

Counterdefendants and Third-Party Defendants

**MS 6 192**

MISC. CAUSE NO.:

No.: 3:06CV00145-BES-VPC  
United States District Court for The  
District of Nevada

DECLARATION OF JERRY M.  
SNYDER IN SUPPORT OF MOTION  
BY ETREPPID TECHNOLOGIES, LLC  
TO COMPEL PRODUCTION OF  
DOCUMENTS BY MICHAEL  
SANDOVAL

**ORIGINAL**

DECLARATION OF JERRY M. SNYDER IN  
SUPPORT OF MOTION BY ETREPPID  
TECHNOLOGIES, LLC TO COMPEL PRODUCTION  
OF DOCUMENTS BY MICHAEL SANDOVAL • 1

O'BRIEN BARTON WIECK & JOE, PLLP  
175 N.E. Gilman Boulevard  
Issaquah, Washington 98027  
425-391-7427 / Fax 425-391-7489

1  
2 I, Jerry M. Snyder, declare under penalty of perjury under the laws of the State of  
3 Nevada:

4 1. I am an attorney duly licensed to practice in the State of Nevada and am an associate  
5 with the law firm of Hale Lane Peek Dennison and Howard. I represent eTreppid  
6 Technologies, L.L.C. ("eTreppid") and Warren Trepp ("Trepp") in the above-captioned matter.  
7 I have personal knowledge of and, if called, could competently testify as to the matters  
8 contained herein.

9 2. On January 19, 2006, eTreppid filed its Complaint against Montgomery in the  
10 Second Judicial District Court for the State of Nevada, Washoe County. Following a lengthy  
11 evidentiary hearing, the court entered the PI Order on February 8, 2006. A true and correct  
12 copy of this Order is attached hereto as **Exhibit 1**. The PI Order states that "Montgomery and  
13 all persons or entities in active concert or participation therewith, are enjoined and restrained  
14 from destroying, hypothecating, transferring, modifying, and/or assigning the ETreppid Source  
15 Code (*sic*), [and] from discussing any ETreppid (*sic*) technology, including anomaly detection  
16 and pattern recognition software, with any third-party, except" in connection with this  
17 litigation.

18 3. In July 2006, eTreppid was informed that Defendant Dennis Montgomery was  
19 communicating and/or negotiating with Azimyth and/or Michael Sandoval, Azimyth's  
20 Chairman and CEO. eTreppid believes that Azimyth or Sandoval was, and currently is,  
21 employing Mr. Montgomery.

22 4. AziMyth's website states that it offers products and solutions involving data  
23 compression and pattern recognition technologies. Based upon this information, as well as  
24 eTreppid's knowledge of AziMyth's business (eTreppid executives have had previous  
25 discussions with AziMyth representatives), eTreppid believes Azimyth is engaged in  
information technology endeavors that utilizes technology that Mr. Montgomery is enjoined

1 from discussing with any third-party not involved in the current litigation.

2 5. On or about July 26, 2006 eTreppid served subpoena *duces tecum* on the Custodian  
3 of Record for Azimyth and Michael Sandoval. True and correct copies of these subpoenas are  
4 attached hereto as **Exhibit 3 and 4**.

5 6. On or about August 9, 2006, eTreppid received objections and responses from  
6 Azimyth. Azimyth represented that it possessed no responsive documents. A true and correct  
7 copy of this document is attached hereto as **Exhibit 5**.

8 7. On or about August 9, 2006, eTreppid also received objections and no responses  
9 from Mr. Sandoval. Mr. Sandoval's responses stated that he was not producing any documents  
10 because of his objections. A true and correct copy of this document is attached hereto as  
11 **Exhibit 6**.

12 8. I communicated with Brian Keeley, counsel for Michael Sandoval and Azimyth,  
13 during the weeks of August 7, 2006 and August 14, 2006. We discussed reaching an  
14 agreement that would address his client's confidentiality concerns and any concerns about the  
15 scope of the document requests. On or about August, 18, 2006, my office sent Mr. Keeley a  
16 letter detailing our arguments regarding the invalidity of Mr. Sandoval's objections to  
17 eTreppid's subpoena *duces tecum* and again suggesting the that the parties discuss the terms of  
18 a confidentiality agreement. A true and correct copy of this letter is attached hereto as **Exhibit**

19 **7**. I did not receive a response to my letter.

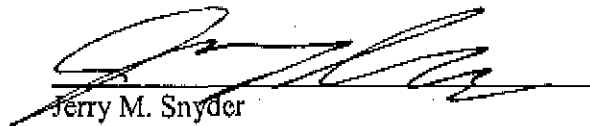
20 9. On or about August 8, 2006, I received a letter from Mr. Montgomery's counsel,  
21 Michael Flynn. In this letter, Mr. Flynn acknowledges that Mr. Montgomery is employed by  
22 AziMyth and/or another company to which Mr. Sandoval is related. A true and correct copy of  
23 this letter is attached hereto as **Exhibit 8**.

24 10. Throughout this litigation, eTreppid has made every effort to preserve this privacy  
25 and confidentiality of the information produced during discovery. Obviously, as the plaintiff in  
a trade secrets case, eTreppid's paramount interest in this litigation is in maintaining the secrecy

1 of the information at issue. To that end, eTreppid has twice sought a protective order  
2 (eTreppid's second motion for a protective order is currently pending). ETreppid has filed  
3 virtually all substantive pleadings conditionally under seal, pending the resolution of its motion  
4 for a protective order. In addition, eTreppid has offered to negotiate the terms of a  
5 confidentiality agreement with Mr. Keeley.

6 11. Because Sandoval, and his counsel, have refused to produce the requested  
7 documents and to engage in any meaningful effort to meet and confer regarding this dispute,  
8 eTreppid has been obliged to file the present motion.

9 DATED: This 27th day of November, 2006.

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12 Jerry M. Snyder

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1 **DECLARATION OF SERVICE**

2 I, Barbara Westfall, declare:

3 I am employed in the City of Issaquah, County of King, State of Washington, by the  
4 law offices of O'Brien, Barton, Wieck, & Joe, PLLP. My business address is: 175 N.E. Gilman  
5 Boulevard, Issaquah, Washington 98027. I am over the age of 18 years and not a party to this  
6 action.

7  
8 On November 27, 2006, I caused the foregoing **MOTION BY ETREPPID  
9 TECHNOLOGIES, LLC TO COMPEL PRODUCTION OF DOCUMENTS BY  
10 MICHAEL SANDOVAL, DECLARATION OF JERRY SNYDER IN SUPPORT OF  
11 ETREPPID'S MOTION TO COMPEL, AND PROPOSED ORDER GRANTING  
12 ETREPPID TECHNOLOGIES, LLC'S MOTION TO COMPEL PRODUCTION OF  
13 DOCUMENTS** to be:

14  X  mailed true copies thereof to the following person(s) at the address(es) listed  
15 below by placing the documents in O'Brien, Barton, Wieck, & Joe, PLLP's  
16 outgoing mail with the United States Postal Service; and,

17  X  filed the foregoing documents with the U.S. District Court for the Western  
18 District of Washington at Seattle.

19 Ronald J. Logar, Esq.  
20 Eric A. Pulver, Esq.  
21 The Law Offices of Logar & Pulver  
22 225 S. Arlington Avenue, Suite A  
23 Reno, NV 89501

24 Michael J. Flynn, Esq.  
25 Philip H. Stillman, Esq.  
Flynn & Stillman  
224 Bermingham Dr., Ste. 1A4  
Cardiff, CA 92007

Fax No.: (775) 786-5044

Fax No.: (888) 235-4279

Email: [Lezlie@renofamilylaw.com](mailto:Lezlie@renofamilylaw.com)

Email: [pstillman@flynnstillman.com](mailto:pstillman@flynnstillman.com)

26 Carlotta P. Wells  
27 Senior Trial Counsel, Federal Programs Branch  
28 Civil Division - Room 7150  
29 U.S. Department of Justice  
30 20 Massachusetts Ave., NW  
31 P.O. Box 883  
32 Washington, DC 20044

33 Medora A. Marisseau, WSBA #23114  
34 Brian K. Keeley, WSBA #32121  
35 Bullivant Houser Bailey PC  
1601 Fifth Avenue, Suite 2300  
Seattle, WA 98101-1618

Fax No.: 206-386-5130

Fax No.: (202) 616-8470

Email: [Carlotta.wells@usdoj.gov](mailto:Carlotta.wells@usdoj.gov)

1 William J. Goines  
Cindy Hamilton  
2 Alisha M. Louie  
Greenberg Traurig, LLP  
3 1900 University Avenue, 5<sup>th</sup> Floor  
East Palo Alto, CA 94303  
4 Fax No.: 650.328.8508  
5

6 I declare under penalty of perjury under the laws of the United States of America that  
7 the foregoing is true and correct, and that this declaration was executed on November 27, 2006.  
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9

10 Barbara Westfall  
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Ex. 1

ORIGINAL

1 CODE: 3060

FILED

FEB - 8 2006

RONALD A. LONGTIN, JR., CLERK

By: *S. Mansfield*  
DEPUTY

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE

8  
9 ETREPPID TECHNOLOGIES, L.L.C., a Nevada  
10 Limited Liability Company,

11 Plaintiff,

12 vs.

Case No. CV06-00114

13 DENNIS MONTGOMERY, an individual; THE  
14 MONTGOMERY FAMILY TRUST; DENNIS  
15 MONTGOMERY and BRENDA  
16 MONTGOMERY, as trustee for THE  
17 MONTGOMERY FAMILY TRUST; and DOES  
18 1 through 20,

Dept. No. 9

18 Defendants.

19  
20 ORDER

21 This matter proceeded to a preliminary injunction hearing before this Court on February 7,  
22 2006 on the issue of Defendant Montgomery's alleged destruction and/or possession of computer  
23 software source code (hereinafter "Source Code"), allegedly belonging to Plaintiff ETreppid  
24 Technologies. The Court has reviewed the entire file, the pleadings, points and authorities, and  
25 exhibits filed therein. In addition, the Court has considered the oral arguments of counsel, and  
26 although the preliminary injunction hearing ultimately concluded before counsel had the opportunity  
27 to finish the examination of one witness, the Court believes it has more than adequate information  
28 upon which to decide the issues before it. The hearing was scheduled for one day. It began at 9:00  
a.m. and concluded at 9:30 p.m. Further examination of the final witness called to testify is



1 unnecessary. See, e.g., *Zupanic v. Sierra Vista Rec., Inc.*, 625 P.2d 1177, 1180 (Nev. 1981).

2 Accordingly, the Court makes its Decision as set out below.<sup>1</sup>

3 A preliminary injunction is available if an applicant can show a likelihood of success on the  
4 merits and a reasonable probability that the non-moving party's conduct, if allowed to continue, will  
5 cause irreparable harm for which compensatory damages is an inadequate remedy. *Dangberg-*  
6 *Holdings Nevada, L.L.C. v. Douglas County*, 115 Nev. 129 (1999).

7 First, the Court finds, pursuant to the employment agreement between the parties, the  
8 subsequent undisputed conduct of the parties throughout the course of Montgomery's employment  
9 with ETreppid, and Montgomery's acquiescence to and active participation in contractual  
10 agreements entered into by ETreppid with third-parties involving the Source Code and technology at  
11 issue, Plaintiff is likely to prevail on the merits of his claims. See, *Brooks v. Bates*, 781 F.Supp. 202,  
12 205-206 (S. DNY 1991) (rights may be acquired "by operation of law," such as in an employer-  
13 employee relationship).

14 Second, the Court finds Plaintiff has demonstrated a reasonable probability that he will suffer  
15 irreparable harm if a preliminary injunction does not issue. The record reflects the Source Code is  
16 essential to the day-to-day business operations of ETreppid, as evidenced by the testimony of Dr.  
17 Sun. Furthermore, the technology at issue, including data compression software, image detection  
18 software, and pattern recognition software, which necessarily relies upon the Source Code for its  
19 operation, is alleged to be valued in excess of \$100,000,000. Without access to the Source Code,  
20 ETreppid may be forced to forego entering into valuable contracts for the use or sale of said  
21 technology. Lastly, the testimony indicates that Plaintiff may suffer damages in excess of \$10,000  
22 per day (ten-thousand) if he remains without possession of the Source Code. This is not to say that  
23 Defendant may or may not have a substantial counterclaim.

24 For the foregoing reasons, the Court concludes that a preliminary injunction is warranted in  
25 the present context. Accordingly, pursuant to the requirements of NRCP 65, Plaintiff is ordered to  
26

27 <sup>1</sup> The Court notes that Defendant gave notice approximately ten (10) hours into the hearing that it would be seeking  
28 federal preemption of the issues at bar under the Copyright Act of 1976. While Defendant's position may indeed have  
merit, the Court declines to address the issue of preemption, deferring such a determination for decision based upon  
application to the proper Court. As such, this Court's Order solely addresses the merits of the preliminary injunction  
issue at hand.

1 post a bond in the amount of \$50,000 (fifty-thousand) to secure payment of such costs and damages  
 2 as may be incurred by Defendant if found to have been wrongfully enjoined or restrained. See,  
 3 *Amer. Bonding Co. v. Roggen Enterprises*, 584 P.2d 868, 870 (Nev. 1993). Good cause appearing.  
 4 Plaintiff's *Motion for Preliminary Injunction* against Dennis Montgomery and the Montgomery  
 5 Family Trust is GRANTED.

6       Until the conclusion of a trial on the merits or other Order, Montgomery and all persons or  
 7 entities in active concert or participation therewith, are enjoined and restrained from destroying,  
 8 hypothecating, transferring, modifying, and/or assigning the ETreppid Source Code, from discussing  
 9 any ETreppid technology, including anomaly detection and pattern recognition software, with any  
 10 third-party, except experts and other persons and witnesses necessary to Defendant's case and  
 11 counsel, provided, however that such witnesses and counsel shall not disclose any information to  
 12 others about ETreppid Source Code.

13       The Court issues this Injunction to maintain the status quo and to avert any irreparable harm  
 14 that ETreppid may suffer and based on the risk that Mr. Montgomery could delete and/or transfer the  
 15 last version of the ETreppid Source Code that remains intact.

16       DATED this 8th day of February, 2006.

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 19 DISTRICT JUDGE  
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**CERTIFICATE OF MAILING**

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 8<sup>th</sup> day of February, 2006, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, and faxed, a true copy of the attached document addressed to:

J. Stephen Peek, Esq.  
5441 Kietzke Lane, Second Floor  
Reno, NV 89511  
Fax No.: (775) 786-6179

David A. Jakopin, Esq.  
Jonathan D. Butler, Esq.  
2475 Hanover St.  
Palo Alto, CA 94303  
Fax No.: (650) 233-4545

Ronald J. Logar, Esq  
Eric A. Pulver, Esq.  
225 S. Arlington Ave., Ste. A  
Reno, NV 89501  
Fax No.: (775) 786-7544

  
Sheila Mansfield

Ex. 2

**Products & Solutions**



AziMyth Products & Platforms

- Data Handling Platform (Compression, Encryption and Pattern Recognition)
  - AziMyth is developing key intellectual property and capabilities around embeddable algorithms that are significantly faster than existing code implementations for raw data compression, encryption and pattern recognition capabilities.
- Rapid Deployment Platform
  - We have combined our extensive customer facing datacenter experience developing templates for rapid deployment of key datacenter compute services that will enable broader adoption of our industry solutions. Our development capability and platform will be a unique differentiator in the market and rapid ROI for customers.
- xPatterns™
  - xPatterns is AziMyth's next generation platform for delivery of personalized information services across multiple communications channels, support and pull models. xPatterns combines and integrates key technologies including content management, personalization and learning engines, rules engine and application integration (XML, web services, content integration) capabilities to deliver unparalleled end-user experiences.

AziMyth Industry Solutions

- Hospitality & Resorts
  - AziMyth is working with the most exclusive global resort experience providers to deliver an unparalleled information experience for demanding clients. Secure and private access to personalized information about key resort services, entertainment, activities, news, email and other internet and web services will be provided in a ubiquitous fashion and delivered across the ultimate information experience. We anticipate a broader rollout across the hospitality sector to a significant portion of the resorts in the industry leveraging both our Rapid Deployment and xPatterns platforms.
- Media and Communications
  - Our solutions for media and communications industries will
    - Include the ability to rapidly reuse and repurpose existing media content through multiple communications channels
    - Leverage our expertise to help media and telecommunication providers work better together in delivering the next generation of multimedia services over networks.
    - Deliver hosted platforms and solutions that will scale to meet the demanding requirements of next generation information/content services that carriers and other service providers can deliver as value added services through customer channels.
    - Provide solutions that leverage our Data Handling, Rapid deployment and xPatterns platforms.
- Wellness Lifestyles
  - We are delivering an integrated information services/content platform for world class health service providers, targeting the delivery of personalized

information to customers who are enrolled in specific healthcare and lifestyle programs; these solutions will be launched jointly with our service provider partners

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Ex. 3

*United States District Court*

**WESTERN DISTRICT OF WASHINGTON**

**ETREPPID TECHNOLOGIES, LLC, a Nevada  
Limited Liability Company,**

Plaintiff,

v.

**DENNIS MONTGOMERY, an individual; THE  
MONTGOMERY FAMILY TRUST, a California  
Trust; DENNIS MONTGOMERY and BRENDA  
MONTGOMERY, as trustees of THE  
MONTGOMERY FAMILY TRUST; and DOES  
1 through 20,**

Defendants.

**SUBPOENA IN A CIVIL CASE**

**CASE NO: 3:06CV00145-BES-VPC  
United States District Court for  
The District of Nevada**

**AND RELATED ACTION.**

**TO: Custodian of Records of  
Azimyth  
Bellevue Place  
800 Bellevue Way, Suite 600  
Bellevue, Washington 98004**

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
---------------------	---------------

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date and time specified below (list documents or objects):

**See Exhibit "A" attached hereto.**


PLACE <b>Pacific Legal 1200 5<sup>th</sup> Avenue Seattle, Washington 98101 (206) 292-1112</b>	DATE AND TIME <b>Thursday, August 10, 2006 @ 10:00 a.m.</b>
---	--

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).



ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) DATE  
 Attorney for Plaintiff July 25, 2006

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER  
Jerry M. Snyder, Esq., Hale Lane Peek Dennison and Howard,  
5441 Kletzke Lane, Second Floor, Reno, Nevada 89511 (775) 327-3000

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

AO 88 (Rev. 11/91) Subpoena in a Civil Case

**PROOF OF SERVICE**

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed \_\_\_\_\_ on \_\_\_\_\_  
Date \_\_\_\_\_ Signature of Server \_\_\_\_\_  
Address of Server \_\_\_\_\_

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance,

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend

trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

## EXHIBIT A

As used herein, the term "documents" is defined as all forms of tangible expression including any written, printed, electronic, recorded, pictorial, graphic or photographic material, however produced or reproduced, of which you have knowledge or which is in your possession, custody or control (together with any matter attached thereto), including the following, which is listed by way of example only and without limitation: correspondence, memoranda (including internal or inter-office memoranda), statements, agreements, email (either active or deleted), contracts, drafts, telegrams, cables, notes, reports, studies, analyses, records, evaluations, charts, ledgers, checks, tables, tabulations, compilations, summaries, indices, abstracts, drawings, blueprints, labels, tags, pleadings, testimony, speeches, articles, books, pamphlets, brochures, magazines, newspapers, calendars, diaries, minutes, orders, photographs, moving pictures, microfilms, microfiche, tapes, recordings, and any other matter which contains any form of communication or representation.

1. Please provide all copies of any and all documents (electronic or otherwise - including, but not limited to, correspondence, notes, memoranda, calendar entries, electronic correspondence, or phone messages) that memorialize, refer to, or constitute any communications between AziMyth or any of its employees, agents, directors, principals, or other representatives, on one hand, and Dennis Montgomery, the Montgomery Family Trust, or any individual representing or otherwise acting on behalf of Dennis Montgomery or the Montgomery Family Trust, on the other hand, which occurred between January 2004 and the present.

2. Please provide copies of any and all documents (electronic or otherwise - including, but not limited to, check stubs, receipts, cancelled checks, bank statements, correspondence, wire transfers, credit card receipts, or any other indicia of payment) that reflect, memorialize or indicate any payments made between January 2004 and the present, by AziMyth, or anyone acting on behalf of AziMyth, on one hand, to Dennis Montgomery, the Montgomery Family Trust, or anyone accepting payments for, representing or otherwise acting on behalf of Montgomery or the Montgomery Family Trust, on the other hand.

3. Please provide copies of any and all documents (electronic or otherwise) that reflect, memorialize or constitute any contract or agreement (including, but not limited to, all draft and finalized versions of contracts or agreements) entered into between January 2004 and the present between AziMyth, or any of its employees, agents, directors, principals, or other representatives, on one hand, and Dennis Montgomery, the Montgomery Family Trust, or any individual representing or otherwise acting on behalf of Dennis Montgomery or the Montgomery Family Trust, on the other hand.

4. Please produce copies of any and all documents (electronic or otherwise) relating in any manner to software or other technology in the fields of data compression, object tracking, pattern recognition and/or anomaly detection, which were received by you or anyone acting on your behalf, on one hand, and provided by Dennis Montgomery, the Montgomery Family Trust, and/or any individual representing or otherwise acting on behalf of Dennis Montgomery or the Montgomery Family Trust, on the other hand, between January 2004 and the present.

5. Please produce copies of any and all documents (electronic or otherwise) that memorialize, refer to or constitute any dissemination by you or anyone acting on your behalf, on one hand, to any other person or entity, on the other hand, between January 2004 and the present, of any information, including but not limited to software or technology, in the fields of data compression, object tracking, pattern recognition and/or anomaly detection, which information was based on materials that you or anyone acting on your behalf received from Dennis Montgomery, the Montgomery Family Trust, or any individual representing or otherwise acting on behalf of Dennis Montgomery or the Montgomery Family Trust.

6. Please produce copies of any and all documents (electronic or otherwise) that memorialize, refer to or constitute commercialization of any product or service (or any offer to commercialize any product or service) that is based upon information, including but not limited to software or other technology that you or anyone acting on your behalf received from Dennis Montgomery, the Montgomery Family Trust, or any individual representing or otherwise acting on behalf of Dennis Montgomery or the Montgomery Family Trust, from January 2004 to the present.

ORIGINAL CHECK HAS A COLORED BACKGROUND PRINTED ON CHEMICAL REACTIVE PAPER SEE BACK FOR DETAILS

Bellevue, WA 98004

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HALE LANE PEEK DENNISON and HOWARD  
General Account Reno, Nevada 89511

075162

7/25/2008

AziMyth

Matter ID

Amount

Invoice Date

Invoice No.

Description

200801-0002

46.00

7/25/2008

200801-0002 (7/25)

Witness fee and mileage



Ex. 4

*United States District Court*  
**WESTERN DISTRICT OF WASHINGTON**

**ETREPID TECHNOLOGIES, LLC, a Nevada  
 Limited Liability Company,**

Plaintiff,

v.

**DENNIS MONTGOMERY, an Individual; THE  
 MONTGOMERY FAMILY TRUST, a California  
 Trust; DENNIS MONTGOMERY and BRENDA  
 MONTGOMERY, as trustees of THE  
 MONTGOMERY FAMILY TRUST; and DOES  
 1 through 20,**

Defendants.

**SUBPOENA IN A CIVIL CASE**

**CASE NO: 3:06CV00145-BES-VPC  
 United States District Court for  
 The District of Nevada**

**AND RELATED ACTION.**

**TO: Michael Sandoval  
 Chairman of the Board and CEO  
 AziMyth  
 Bellevue Place  
 800 Bellevue Way, Suite 600  
 Bellevue, Washington 98004**

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
---------------------	---------------

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date and time specified below (list documents or objects):

See Exhibit "A" attached hereto.

PLACE Pacific Legal 1200 5 <sup>th</sup> Avenue Seattle, Washington 98101 (206) 262-1112	DATE AND TIME Thursday, August 10, 2006 @ 10:00 a.m.
--	---

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)  Attorney for Plaintiff	DATE July 25, 2006
---	-----------------------

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER Jerry M. Snyder, Esq., Hale Lane Peek Dennison and Howard, 5441 Kietzka Lane, Second Floor, Reno, Nevada 89511 (775) 327-3000
--

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

AO 88 (Rev. 11/91) Subpoena in a Civil Case

PROOF OF SERVICE

SERVED	DATE 26 July 06 at 3:10pm	PLACE 800 Bellevue Way #600, Bellevue WA 98004
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SERVED ON (PRINT NAME) Michael Sandoval / AziMyth	MANNER OF SERVICE Served Andrew Boyd, CFO, Treasurer
--	---

SERVED BY (PRINT NAME) T. Tugsbiley	TITLE Process Server # 9402780
--	-----------------------------------

DECLARATION OF SERVER Also served \$46.00 Check

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed  
Date

on  \_\_\_\_\_  
Signature of Server

222 Westlake Ave N  
Address of Server

Seattle WA 98109



Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance,

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend

trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT A

As used herein, the term "documents" is defined as all forms of tangible expression including any written, printed, electronic, recorded, pictorial, graphic or photographic material, however produced or reproduced, of which you have knowledge or which is in your possession, custody or control (together with any matter attached thereto), including the following, which is listed by way of example only and without limitation: correspondence, memoranda (including internal or inter-office memoranda), statements, agreements, email (either active or deleted), contracts, drafts, telegrams, cables, notes, reports, studies, analyses, records, evaluations, charts, ledgers, checks, tables, tabulations, compilations, summaries, indices, abstracts, drawings, blueprints, labels, tags, pleadings, testimony, speeches, articles, books, pamphlets, brochures, magazines, newspapers, calendars, diaries, minutes, orders, photographs, moving pictures, microfilms, microfiche, tapes, recordings, and any other matter which contains any form of communication or representation.

1. Please produce copies of any and all documents (electronic or otherwise - including, but not limited to, correspondence, notes, memoranda, calendar entries, electronic correspondence, or phone messages) that memorialize, refer to or constitute any communications between you or anyone acting on your behalf, on one hand, and Dennis Montgomery, the Montgomery Family Trust, or any individual representing or otherwise acting on behalf of Dennis Montgomery or the Montgomery Family Trust, on the other hand, which occurred between January 2004 and the present.

2. Please produce copies of any and all documents (electronic or otherwise - including, but not limited to, check stubs, receipts, cancelled checks, bank statements, correspondence, wire transfers, credit card receipts, or any other indicia of payment) that reflect, memorialize or indicate any payments made between January 2004 and the present by you, or anyone acting on your behalf, on one hand, to Dennis Montgomery, the Montgomery Family Trust, and/or anyone accepting payments for, representing, or otherwise acting on behalf of Montgomery or the Montgomery Family Trust, on the other hand.

3. Please produce copies of any and all documents (electronic or otherwise) that reflect, memorialize or constitute any contract or agreement (including, but not limited to, all draft and finalized versions of contracts or agreements) entered into between January 2004 and the present between you or anyone acting on your behalf, and Dennis Montgomery, the Montgomery Family Trust, or any individual representing or otherwise acting on behalf of Dennis Montgomery or the Montgomery Family Trust, on the other hand.

4. Please produce copies of any and all documents (electronic or otherwise) relating in any manner to software or other technology in the fields of data compression, object tracking, pattern recognition and/or anomaly detection, which were received by you or anyone acting on your behalf, on one hand, and provided by Dennis Montgomery, the Montgomery Family Trust, and/or any individual representing or otherwise acting on behalf of Dennis Montgomery or the Montgomery Family Trust, on the other hand, between January 2004 and the present.

5. Please produce copies of any and all documents (electronic or otherwise) that memorialize, refer to or constitute any dissemination by you or anyone acting on your behalf, on one hand, to any other person or entity, on the other hand, between January 2004 and the present, of any information, including but not limited to software or technology, in the fields of data compression, object tracking, pattern recognition and/or anomaly detection, which information was based on materials that you or anyone acting on your behalf received from Dennis Montgomery, the Montgomery Family Trust, or any individual representing or otherwise acting on behalf of Dennis Montgomery or the Montgomery Family Trust.

6. Please produce copies of any and all documents (electronic or otherwise) that memorialize, refer to or constitute commercialization of any product or service (or any offer to commercialize any product or service) that is based upon information, including but not limited to software or other technology, that you or anyone acting on your behalf received from Dennis Montgomery, the Montgomery Family Trust, or any individual representing or otherwise acting on behalf of Dennis Montgomery or the Montgomery Family Trust, from January 2004 to the present.

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X


filed the document electronically with the U.S. District Court and therefore the court's computer system has electronically delivered a copy of the foregoing document to the following person(s) at the following e-mail addresses:

Email [Lezlie@renofamilylaw.com](mailto:Lezlie@renofamilylaw.com)  
Ronald J. Logar, Esq.  
Eric A. Pulver, Esq.  
The Law Offices of Logar & Pulver  
225 S. Arlington Avenue, Suite A  
Reno, NV 89501

Email [pstillman@flynnstillman.com](mailto:pstillman@flynnstillman.com)  
Michael J. Flynn, Esq.  
Philip H. Stillman, Esq.  
Flynn & Stillman  
224 Bermingham Dr., Ste. 1A4  
Cardiff, CA 92007

Carlotta P. Wells  
Senior Trial Counsel  
Federal Programs Branch  
Civil Division - Room 7150  
U.S. Department of Justice  
20 Massachusetts Ave., NW  
P.O. Box 883  
Washington, DC 20044  
[Carlotta.wells@usdoj.gov](mailto:Carlotta.wells@usdoj.gov)

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on August 4, 2006.

  
\_\_\_\_\_  
Gaylene Silva

Hale Lane Peck Dennison and Howard  
5441 Kietzke Lane, Second Floor  
Reno, Nevada 89511

**PROOF OF SERVICE**

I, Gaylene Silva, declare:

I am employed in the City of Reno, County of Washoe, State of Nevada, by the law offices of Hale Lane Peek Dennison and Howard. My business address is: 5441 Kletzke Lane, Second Floor, Reno, Nevada 89511. I am over the age of 18 years and not a party to this action

I am readily familiar with Hale Lane Peek Dennison and Howard's practice for collection of mail, delivery of its hand-deliveries and their process of faxes.

On August 4, 2006, I caused the foregoing SUBPOENA IN A CIVIL CASE to be:

  X   mailed a true copy thereof to the following person(s) at the address(es) listed below by placing the document in Hale Lane Peek Dennison and Howard's practice for collection and processing of its outgoing mail with the United States Postal Service to the following:

*Fax No. 202/616-8470*  
Carlotta P. Wells  
Senior Trial Counsel  
Federal Programs Branch  
Civil Division - Room 7150  
U.S. Department of Justice  
20 Massachusetts Ave., NW  
P.O. Box 883  
Washington, DC 20044

  X   faxed a true copy thereof to the fax number indicated below by placing the document in Hale Lane Peek Dennison and Howard's practice for collection and processing of its faxes to:

*Fax No. 786-5044*  
Ronald J. Logar, Esq.  
Eric A. Pulver, Esq.  
The Law Offices of Logar & Pulver  
225 S. Arlington Avenue, Suite A  
Reno, NV 89501

*Fax No. 888-235-4279*  
Michael J. Flynn, Esq.  
Philip H. Stillman, Esq.  
Flynn & Stillman  
224 Bermingham Dr., Ste. 1A4  
Cardiff, CA 92007

///

///

///

Hale Lane Peek Dennison and Howard  
5441 Kletzke Lane, Second Floor  
Reno, Nevada 89511

Ex. 5

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ETREPPID TECHNOLOGIES, LLC, a  
Nevada Limited Liability Company,

Plaintiff,

v.

DENNIS MONTGOMERY, an individual;  
THE MONTGOMERY FAMILY TRUST a  
California trust; DENNIS MONTGOMERY  
and BRENDA MONTGOMERY, as trustees  
of THE MONTGOMERY FAMILY TRUST;  
and DOES 1 through 20,

Defendants.

No.: 3:06CV00145-BES-VPC  
United States District Court for The District  
of Nevada

NON-PARTY AZIMYTH'S OBJECTIONS  
AND RESPONSES TO THE SUBPOENA  
OF ETREPPID TECHNOLOGIES, LLC

NON-PARTY AZIMYTH'S OBJECTIONS AND RESPONSES TO THE  
SUBPOENA OF ETREPPID TECHNOLOGIES, LLC

AziMyth, a non-party in the above-captioned case, by and through undersigned  
counsel and pursuant to Rule 45(c)(2)(B) of the Federal Rules of Civil Procedure, hereby  
submits its Objections and Responses to the Subpoena for Production of Business Records  
("Subpoena"), served by Plaintiff eTrepid Technologies, LLC ("eTrepid") on July 26,  
2006.

**GENERAL OBJECTIONS**

1  
2 1. The Subpoena was delivered to the Custodian of Records of AziMyth,  
3 Bellevue Place, 800 Bellevue Way, Suite 600, Bellevue, Washington 98004. These  
4 Responses are served solely by AziMyth and relate solely to documents within the  
5 possession, custody or control of AziMyth, to the extent such documents, if any, exist.  
6 AziMyth objects to the identification of the entity subject to the Subpoena as vague and  
7 ambiguous to the extent the Subpoena is directed at any person or entity other than AziMyth.

8 2. AziMyth objects to the Subpoena to the extent that it seeks documents or  
9 information beyond the scope of discovery permitted under the Federal Rules of Civil  
10 Procedure.

11 3. AziMyth objects to the Subpoena to the definition of the term "documents"  
12 and instructions set forth in the Subpoena as being overly broad, unduly burdensome, vague  
13 and ambiguous, and to the extent that they are inconsistent with the meanings and definitions  
14 provided under the Federal Rules of Civil Procedure and Washington Rules of Court,  
15 Federal.

16 4. AziMyth objects to the Subpoena to the extent that it seeks or purports to  
17 require, or complying with it would require, production or disclosure of documents,  
18 responses, or information that is protected from discovery by the attorney-client privilege,  
19 the work-product doctrine, or any common law, statutory or regulatory proscription or  
20 exemption from discovery.

21 5. AziMyth objects to the Subpoena to the extent that it calls for or requires  
22 production of documents that are not in its possession, custody, or control, or to the extent  
23 the Subpoena would require the production of documents beyond those maintained in its  
24 physical files.

25 6. In the event that it is determined that AziMyth must produce documents in  
26 response to the Subpoena, either at the present time or in the future, AziMyth shall request



1 payment of its reasonable costs of gathering the records requested to comply with the  
2 Subpoena, simultaneously with delivery of the records.

3 **SPECIFIC OBJECTIONS**

4 Without waiving any of the foregoing General Objections, AziMyth interposes the  
5 following objections and responses to the specific requests:

6 **Request No. 1:**

7 Please provide all copies of any and all documents (electronic or otherwise --  
8 including, but not limited to, correspondence, notes, memoranda, calendar entries, electronic  
9 correspondence, or phone messages) that memorialize, refer to, or constitute any  
10 communications between AziMyth or any of its employees, agents, directors, principals, or  
11 other representatives, on one hand, and Dennis Montgomery, the Montgomery Family Trust,  
12 or any individual representing or otherwise acting on behalf of Dennis Montgomery or the  
13 Montgomery Family Trust, on the other hand, which occurred between January 2004 and the  
14 present.

15 **Response to Request No. 1:**

16 AziMyth incorporates herein its General Objections in response to this Request No. 1.  
17 AziMyth objects to this Request to the extent that it is vague, ambiguous, overly broad,  
18 harassing, unduly burdensome, oppressive and not reasonably calculated to lead to the  
19 discovery of admissible evidence germane to the above-captioned action. AziMyth further  
20 objects to this Request to the extent it seeks documents or information protected by the  
21 attorney-client privilege and/or work product doctrine and to the extent it seeks disclosure of  
22 documents of a confidential and proprietary nature, including documents containing trade  
23 secrets and/or confidential research, development, or other commercial, financial, or business  
24 information. AziMyth further objects to this Request to the extent it violates the rights of  
25 privacy of AziMyth, Michael Sandoval, Dennis Montgomery, the Montgomery Family Trust,  
26 and/or others.

1 Notwithstanding and without waiving these objections, no such documents exist.

2  
3 Request No. 2:

4 Please provide copies of any and all documents (electronic or otherwise – including,  
5 but not limited to, check stubs, receipts, cancelled checks, bank statements, correspondence,  
6 wire transfers, credit card receipts, or any other indicia of payment) that reflect, memorialize  
7 or indicate any payments made between January 2004 and the present, by AziMyth, or  
8 anyone acting on behalf of AziMyth, on one hand, to Dennis Montgomery, the Montgomery  
9 Family Trust, or anyone accepting payments for, representing or otherwise acting on behalf  
10 of Montgomery or the Montgomery Family Trust, on the other hand.

11 Response to Request No. 2

12 AziMyth incorporates herein its General Objections in response to this Request No. 2.  
13 AziMyth objects to this Request to the extent that it is vague, ambiguous, overly broad,  
14 harassing, unduly burdensome, oppressive and not reasonably calculated to lead to the  
15 discovery of admissible evidence germane to the above-captioned action. AziMyth also  
16 objects to this Request to the extent it seeks documents or information protected by the  
17 attorney-client privilege and/or work product doctrine and to the extent it seeks disclosure of  
18 documents of a confidential and proprietary nature, including documents containing trade  
19 secrets and/or confidential research, development, or other commercial, financial, or business  
20 information. AziMyth further objects to this Request to the extent it violates the rights of  
21 privacy of AziMyth, Michael Sandoval, Dennis Montgomery, the Montgomery Family Trust,  
22 and/or others.

23 Notwithstanding and without waiving these objections, no such documents exist.

24 Request No. 3:

25 Please provide copies of any and all documents (electronic or otherwise) that reflect,  
26 memorialize or constitute any contract or agreement (including, but not limited to, all draft

1 and finalized versions of contracts or agreements) entered into between January 2004 and the  
2 present between AziMyth, or any of its employees, agents, directors, principals, or other  
3 representatives, on one hand, and Dennis Montgomery, the Montgomery Family Trust, or  
4 any individual representing or otherwise acting on behalf of Dennis Montgomery or the  
5 Montgomery Family Trust, on the other hand.

6 Response to Request No. 3

7 AziMyth incorporates herein its General Objections in response to this Request No. 3.  
8 AziMyth objects to this Request to the extent that it is vague, ambiguous, overly broad,  
9 harassing, unduly burdensome, oppressive and not reasonably calculated to lead to the  
10 discovery of admissible evidence germane to the above-captioned action. AziMyth also  
11 objects to this Request to the extent it seeks documents or information protected by the  
12 attorney-client privilege and/or work product doctrine and to the extent it seeks disclosure of  
13 documents of a confidential and proprietary nature, including documents containing trade  
14 secrets and/or confidential research, development, or other commercial, financial, or business  
15 information. AziMyth further objects to this Request to the extent it violates the rights of  
16 privacy of AziMyth, Michael Sandoval, Dennis Montgomery, the Montgomery Family Trust,  
17 and/or others.

18 Notwithstanding and without waiving these objections, no such documents exist.

19 Request No. 4:

20 Please produce copies of any and all documents (electronic or otherwise) relating in  
21 any manner to software or other technology in the fields of data compression, object  
22 tracking, pattern recognition and/or anomaly detection, which were received by you or  
23 anyone acting on your behalf, on one hand, and provided by Dennis Montgomery, the  
24 Montgomery Family Trust, and/or any individual representing or otherwise acting on behalf  
25 of Dennis Montgomery or the Montgomery Family Trust, on the other hand, between  
26 January 2004 and the present.

1 Response to Request No. 4

2 Azimyth incorporates herein its General Objections in response to this Request No. 4.  
3 Azimyth objects to this Request to the extent that it is vague, ambiguous, overly broad,  
4 harassing, unduly burdensome, oppressive and not reasonably calculated to lead to the  
5 discovery of admissible evidence germane to the above-captioned action. Azimyth objects to  
6 the term "you" on the basis that it is vague and ambiguous. Azimyth further objects to this  
7 Request to the extent it seeks documents or information protected by the attorney-client  
8 privilege and/or work product doctrine and to the extent it seeks disclosure of documents of a  
9 confidential and proprietary nature, including documents containing trade secrets and/or  
10 confidential research, development, or other commercial, financial, or business information.

11 Notwithstanding and without waiving these objections, no such documents exist.

12 Request No. 5:

13 Please produce copies of any and all documents (electronic or otherwise) that  
14 memorialize, refer to or constitute any dissemination by you or anyone acting on your behalf,  
15 on one hand, to any other person or entity, on the other hand, between January 2004 and the  
16 present, of any information, including but not limited to software or technology, in the fields  
17 of data compression, object tracking, pattern recognition and/or anomaly detection, which  
18 information was based on materials that you or anyone acting on your behalf received from  
19 Dennis Montgomery, the Montgomery Family Trust, or any individual representing or  
20 otherwise acting on behalf of Dennis Montgomery or the Montgomery Family Trust.

21 Response to Request No. 5

22 Azimyth incorporates herein its General Objections in response to this Request No. 5.  
23 Azimyth objects to this Request to the extent that it is vague, ambiguous, overly broad,  
24 harassing, unduly burdensome, oppressive and not reasonably calculated to lead to the  
25 discovery of admissible evidence germane to the above-captioned action. Azimyth further  
26 objects to this Request to the extent it seeks documents or information protected by the

1 attorney-client privilege and/or work product doctrine and to the extent it seeks disclosure of  
2 documents of a confidential and proprietary nature, including documents containing trade  
3 secrets and/or confidential research, development, or other commercial, financial, or business  
4 information.

5 Notwithstanding and without waiving these objections, no such documents exist.

6 Request No. 6:

7 Please produce copies of any and all documents (electronic or otherwise) that  
8 memorialize, refer to or constitute commercialization of any product or service (or any offer  
9 to commercialize any product or service) that is based upon information, including but not  
10 limited to software or other technology that you or anyone acting on your behalf received  
11 from Dennis Montgomery, the Montgomery Family Trust, or any individual representing or  
12 otherwise acting on behalf of Dennis Montgomery or the Montgomery Family Trust, from  
13 January 2004 to the present.

14 Response to Request No. 6

15 AziMyth incorporates herein its General Objections in response to this Request No. 6.  
16 AziMyth objects to this Request to the extent that it is vague, ambiguous, overly broad,  
17 harassing, unduly burdensome, oppressive and not reasonably calculated to lead to the  
18 discovery of admissible evidence germane to the above-captioned action. AziMyth further  
19 objects to this Request to the extent it seeks documents or information protected by the  
20 attorney-client privilege and/or work product doctrine and to the extent it seeks disclosure of  
21 documents of a confidential and proprietary nature, including documents containing trade  
22 secrets and/or confidential research, development, or other commercial, financial, or business  
23 information.

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Notwithstanding and without waiving these objections, no such documents exist.

DATED: August 9, 2006

BULLIVANT HOUSER BAILEY PC

By: *Brian K. Keeley*  
Madora A. Marinseau, WSBA # 23114  
Brian K. Keeley, WSBA #32121

Attorneys for AziMyth

GREENBERG TRAUIG, LLP

By: *William J. Goines*  
William J. Goines  
Cindy Hamilton  
Aliaha M. Louie

Attorneys for AziMyth

**CERTIFICATE OF SERVICE**

I certify under penalty of perjury under the laws of the State of Washington that on this day I caused to be delivered via ABC Legal Messenger a copy of this document to Pacific Legal

*Michael J. Smith*

Dated: 8/9/06 at Seattle, Washington.

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ETREPPID TECHNOLOGIES, LLC, a  
Nevada Limited Liability Company,

Plaintiff,

v.

DENNIS MONTGOMERY, an individual;  
THE MONTGOMERY FAMILY TRUST a  
California trust; DENNIS MONTGOMERY  
and BRENDA MONTGOMERY, as trustees  
of THE MONTGOMERY FAMILY TRUST;  
and DOES 1 through 20,

Defendants.

No.: 3:06CV00145-BES-VPC  
United States District Court for The District  
of Nevada

NON-PARTY MICHAEL SANDOVAL'S  
OBJECTIONS AND RESPONSES TO THE  
SUBPOENA OF ETREPPID  
TECHNOLOGIES, LLC

NON-PARTY MICHAEL SANDOVAL'S OBJECTIONS AND RESPONSES  
TO THE SUBPOENA OF ETREPPID TECHNOLOGIES, LLC

Michael Sandoval, a non-party in the above-captioned case, by and through  
undersigned counsel and pursuant to Rule 45(c)(2)(B) of the Federal Rules of Civil  
Procedure, hereby submits his Objections and Responses to the Subpoena for Production of  
Business Records ("Subpoena"), served by Plaintiff eTrepid Technologies, LLC  
("eTrepid") on July 26, 2006.



1 **GENERAL OBJECTIONS**

2 1. The Subpoena was delivered to Michael Sandoval, Chairman of the Board and  
3 CEO, AziMyth, Bellevue Place, 800 Bellevue Way, Suite 600, Bellevue, Washington 98004.

4 These Responses are served solely by Michael Sandoval and relate solely to documents  
5 within the possession, custody or control of Michael Sandoval, to the extent such documents,  
6 if any, exist. Michael Sandoval objects to the identification of the entity subject to the  
7 Subpoena as vague and ambiguous to the extent the Subpoena is directed at Michael  
8 Sandoval in an individual capacity or as Chairman of the Board and CEO of AziMyth.

9 2. Michael Sandoval objects to the Subpoena to the extent that it seeks  
10 documents or information beyond the scope of discovery permitted under the Federal Rules  
11 of Civil Procedure.

12 3. Michael Sandoval objects to the Subpoena to the definition of the term  
13 "documents" and instructions set forth in the Subpoena as being overly broad, unduly  
14 burdensome, vague and ambiguous, and to the extent that they are inconsistent with the  
15 meanings and definitions provided under the Federal Rules of Civil Procedure and Local  
16 Rules of Western District of Washington.

17 4. Michael Sandoval objects to the Subpoena to the extent that it seeks or  
18 purports to require, or complying with it would require, production or disclosure of  
19 documents, responses, or information that is protected from discovery by the attorney-client  
20 privilege, the work-product doctrine, or any common law, statutory or regulatory  
21 proscription or exemption from discovery.

22 5. Michael Sandoval objects to the Subpoena to the extent that it calls for or  
23 requires production of documents that are not in his possession, custody, or control, or to the  
24 extent the Subpoena would require the production of documents beyond those maintained in  
25 his physical files.

26 6. In the event that it is determined that Michael Sandoval must produce

1 documents in response to the Subpoena, either at the present time or in the future, Michael  
2 Sandoval shall request payment of his reasonable costs of gathering the records requested to  
3 comply with the Subpoena, simultaneously with delivery of the records.

4 **SPECIFIC OBJECTIONS**

5 Without waiving any of the foregoing General Objections, Michael Sandoval  
6 interposes the following objections and responses to the specific requests:

7 **Request No. 1:**

8 Please produce copies of any and all documents (electronic or otherwise -- including,  
9 but not limited to, correspondence, notes, memoranda, calendar entries, electronic  
10 correspondence, or phone messages) that memorialize, refer to or constitute any  
11 communications between you or anyone acting on your behalf, on one hand, and Dennis  
12 Montgomery, the Montgomery Family Trust, or any individual representing or otherwise  
13 acting on behalf of Dennis Montgomery or the Montgomery Family Trust, on the other hand,  
14 which occurred between January 2004 and the present.

15 **Response to Request No. 1:**

16 Michael Sandoval incorporates herein his General Objections in response to this  
17 Request No. 1. Michael Sandoval objects to this Request to the extent that it is vague,  
18 ambiguous, overly broad, harassing, unduly burdensome, oppressive and not reasonably  
19 calculated to lead to the discovery of admissible evidence germane to the above-captioned  
20 action. Michael Sandoval further objects to this Request to the extent it seeks documents or  
21 information protected by the attorney-client privilege and/or work product doctrine and to the  
22 extent it seeks disclosure of documents of a confidential and proprietary nature, including  
23 documents containing trade secrets and/or confidential research, development, or other  
24 commercial, financial, or business information. Michael Sandoval further objects to this  
25 Request to the extent it violates the rights of privacy of Michael Sandoval, Dennis  
26 Montgomery, the Montgomery Family Trust, and/or others.

1 On the basis of the foregoing objections, Michael Sandoval will not produce any  
2 documents.

3 Request No. 2:

4 Please produce copies of any and all documents (electronic or otherwise – including,  
5 but not limited to, check stubs, receipts, cancelled checks, bank statements, correspondence,  
6 wire transfers, credit card receipts, or any other indicia of payment) that reflect, memorialize  
7 or indicate any payments made between January 2004 and the present by you, or anyone  
8 acting on your behalf, on one hand, to Dennis Montgomery, the Montgomery Family Trust,  
9 and/or anyone accepting payments for, representing, or otherwise acting on behalf of  
10 Montgomery or the Montgomery Family Trust, on the other hand.

11 Response to Request No. 2

12 Michael Sandoval incorporates herein his General Objections in response to this  
13 Request No. 2. Michael Sandoval objects to this Request to the extent that it is vague,  
14 ambiguous, overly broad, harassing, unduly burdensome, oppressive and not reasonably  
15 calculated to lead to the discovery of admissible evidence germane to the above-captioned  
16 action. Michael Sandoval also objects to this Request to the extent it seeks documents or  
17 information protected by the attorney-client privilege and/or work product doctrine and to the  
18 extent it seeks disclosure of documents of a confidential and proprietary nature, including  
19 documents containing trade secrets and/or confidential research, development, or other  
20 commercial, financial, or business information. Michael Sandoval further objects to this  
21 Request to the extent it violates the rights of privacy of Michael Sandoval, Dennis  
22 Montgomery, the Montgomery Family Trust, and/or others.

23 On the basis of the foregoing objections, Michael Sandoval will not produce any  
24 documents.

25 Request No. 3:

26 Please produce copies of any and all documents (electronic or otherwise) that reflect,

1 memorialize or constitute any contract or agreement (including, but not limited to, all draft  
2 and finalized versions of contracts or agreements) entered into between January 2004 and the  
3 present between you or anyone acting on your behalf, and Dennis Montgomery, the  
4 Montgomery Family Trust, or any individual representing or otherwise acting on behalf of  
5 Dennis Montgomery or the Montgomery Family Trust, on the other hand.

6 Response to Request No. 3

7 Michael Sandoval incorporates herein his General Objections in response to this  
8 Request No. 3. Michael Sandoval objects to this Request to the extent that it is vague,  
9 ambiguous, overly broad, harassing, unduly burdensome, oppressive and not reasonably  
10 calculated to lead to the discovery of admissible evidence germane to the above-captioned  
11 action. Michael Sandoval also objects to this Request to the extent it seeks documents or  
12 information protected by the attorney-client privilege and/or work product doctrine and to the  
13 extent it seeks disclosure of documents of a confidential and proprietary nature, including  
14 documents containing trade secrets and/or confidential research, development, or other  
15 commercial, financial, or business information. Michael Sandoval further objects to this  
16 Request to the extent it violates the rights of privacy of Michael Sandoval, Dennis  
17 Montgomery, the Montgomery Family Trust, and/or others.

18 On the basis of the foregoing objections, Michael Sandoval will not produce any  
19 documents.

20 Request No. 4:

21 Please produce copies of any and all documents (electronic or otherwise) relating in  
22 any manner to software or other technology in the fields of data compression, object  
23 tracking, pattern recognition and/or anomaly detection, which were received by you or  
24 anyone acting on your behalf, on one hand, and provided by Dennis Montgomery, the  
25 Montgomery Family Trust, and/or any individual representing or otherwise acting on behalf  
26 of Dennis Montgomery or the Montgomery Family Trust, on the other hand, between

1 January 2004 and the present.

2 **Response to Request No. 4**

3 Michael Sandoval incorporates herein his General Objections in response to this  
4 Request No. 4. Michael Sandoval objects to this Request to the extent that it is vague,  
5 ambiguous, overly broad, harassing, unduly burdensome, oppressive and not reasonably  
6 calculated to lead to the discovery of admissible evidence germane to the above-captioned  
7 action. Michael Sandoval further objects to this Request to the extent it seeks documents or  
8 information protected by the attorney-client privilege and/or work product doctrine and to the  
9 extent it seeks disclosure of documents of a confidential and proprietary nature, including  
10 documents containing trade secrets and/or confidential research, development, or other  
11 commercial, financial, or business information.

12 On the basis of the foregoing objections, Michael Sandoval will not produce any  
13 documents.

14 **Request No. 5:**

15 Please produce copies of any and all documents (electronic or otherwise) that  
16 memorialize, refer to or constitute any dissemination by you or anyone acting on your behalf,  
17 on one hand, to any other person or entity, on the other hand, between January 2004 and the  
18 present, of any information, including but not limited to software or technology, in the fields  
19 of data compression, object tracking, pattern recognition and/or anomaly detection, which  
20 information was based on materials that you or anyone acting on your behalf received from  
21 Dennis Montgomery, the Montgomery Family Trust, or any individual representing or  
22 otherwise acting on behalf of Dennis Montgomery or the Montgomery Family Trust.

23 **Response to Request No. 5**

24 Michael Sandoval incorporates herein his General Objections in response to this  
25 Request No. 5. Michael Sandoval objects to this Request to the extent that it is vague,  
26 ambiguous, overly broad, harassing, unduly burdensome, oppressive and not reasonably

1 calculated to lead to the discovery of admissible evidence germane to the above-captioned  
2 action. Michael Sandoval further objects to this Request to the extent it seeks documents or  
3 information protected by the attorney-client privilege and/or work product doctrine and to the  
4 extent it seeks disclosure of documents of a confidential and proprietary nature, including  
5 documents containing trade secrets and/or confidential research, development, or other  
6 commercial, financial, or business information.

7 On the basis of the foregoing objections, Michael Sandoval will not produce any  
8 documents.

9 Request No. 6:

10 Please produce copies of any and all documents (electronic or otherwise) that  
11 memorialize, refer to or constitute commercialization of any product or service (or any offer  
12 to commercialize any product or service) that is based upon information, including but not  
13 limited to software or other technology, that you or anyone acting on your behalf received  
14 from Dennis Montgomery, the Montgomery Family Trust, or any individual representing or  
15 otherwise acting on behalf of Dennis Montgomery or the Montgomery Family Trust, from  
16 January 2004 to the present.

17 Response to Request No. 6

18 Michael Sandoval incorporates herein his General Objections in response to this  
19 Request No. 6. Michael Sandoval objects to this Request to the extent that it is vague,  
20 ambiguous, overly broad, harassing, unduly burdensome, oppressive and not reasonably  
21 calculated to lead to the discovery of admissible evidence germane to the above-captioned  
22 action. Michael Sandoval further objects to this Request to the extent it seeks documents or  
23 information protected by the attorney-client privilege and/or work product doctrine and to the  
24 extent it seeks disclosure of documents of a confidential and proprietary nature, including  
25 documents containing trade secrets and/or confidential research, development, or other  
26 commercial, financial, or business information.

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On the basis of the foregoing objections, Michael Sandoval will not produce any documents.

DATED: August 9, 2006

BULLIVANT HOUSER BAILEY PC

By: *Thia H. Keeley*  
Medora A. Marisseau, WSBA #23114  
Brian K. Keeley, WSBA #32121

Attorneys for Michael Sandoval

GREENBERG TRAURIG, LLP

By: *William J. Goines*  
William J. Goines  
Cindy Hamilton  
Allaha M. Louie

Attorneys for Michael Sandoval

**CERTIFICATE OF SERVICE**

I certify under penalty of perjury under the laws of the State of Washington that on this day I caused to be delivered via ABC Legal Messenger a copy of this document to Pacific Legal

*Stuart M. White*

Direct: 8906 at Seattle, Washington.

3502206.1

Ex. 7



# HALE LANE

ATTORNEYS AT LAW

5441 Kietzke Lane | Second Floor | Reno, Nevada 89511  
Telephone (775) 327-3000 | Facsimile (775) 786-6179  
www.halelane.com

JERRY M. SNYDER

jsnyder@halelane.com  
Direct: (775) 327-3017

August 18, 2006

VIA FACSIMILE & U.S. MAIL

Brian Keeley, Esq.  
Bullivant Houser Bailey, LLP  
1501 5th Ave. Ste. 2300  
Seattle, WA 98101-1158

Re: eTreppid/Montgomery, Our File No. 20801-2

Dear Mr. Keeley:

We are in receipt of the objections and responses submitted by AziMyth, Inc. and Michael Sandoval in connection with the Subpoenas served by eTreppid on July 27, 2006. We also spoke about these Subpoenas both last week and earlier this week. Although you stated that you would inquire as to the possibility of reaching some agreement regarding the scope and confidentiality concerns set forth in your objections, I have not heard back from you.

As I have explained, eTreppid is currently engaged in litigation with Dennis Montgomery regarding ownership rights to certain computer source codes and technology (which incorporate *inter alia* data compression and pattern recognition functions). On February 8, 2006, the Second Judicial District Court in Washoe County, Nevada conducted a lengthy evidentiary hearing, which included testimony by our clients and by Mr. Montgomery. After that hearing, the Court entered a Preliminary Injunction Order (the "PI Order") which forbids Mr. Montgomery from (1) transferring, licensing, or modifying any eTreppid source code; and (2) discussing any eTreppid technology, including pattern recognition and anomaly detection software, with any third-party. Furthermore, the PI Order encompasses "all persons or entities in active concert or participation" with Mr. Montgomery. Accordingly, the PI Order applies to your clients, assuming that they are connected with Mr. Montgomery in any manner. If you deny any connection with Mr. Montgomery, please inform us immediately.

If, however, you concede that any sort of connection exists between your clients and Mr. Montgomery, we reiterate that eTreppid is seeking information relevant both to the PI Order and to its ongoing litigation with Mr. Montgomery. Specifically, we are requesting materials that relate to the nature of any employment or other contractual relationship with Mr. Montgomery – whether with AziMyth or any other entity connected with Mr. Sandoval.

## HALE LANE PECK DENNISON AND HOWARD

LAS VEGAS OFFICE: 3930 Howard Hughes Parkway | Fourth Floor | Las Vegas, Nevada 89169 | Phone (702) 222-2500 | Facsimile (702) 365-6940  
CARSON CITY OFFICE: 777 East William Street | Suite 200 | Carson City, Nevada 89701 | Phone (775) 684-6000 | Facsimile (775) 684-6001

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August 18, 2006  
Page 2

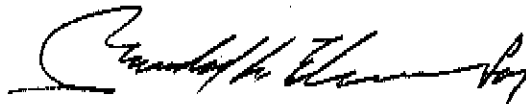
**HALE LANE**  
ATTORNEYS AT LAW

Notwithstanding any assertions by Mr. Montgomery or his counsel as to the enforceability of the PI Order, that order is fully enforceable until the Court rules otherwise. *GTE Sylvania, Inc. v. Consumers Union of United States, Inc.*, 445 U.S. 375, 386 (1980) (“[P]ersons subject to an injunctive order issued by a court with jurisdiction are expected to obey that decree until it is modified or reversed, even if they have proper grounds to object to the order”); *Zapon v. United States Dept. of Justice*, 53 F.3d 283, 285 (9th Cir. 1995). This ineluctable fact is reinforced by the nature of your clients’ business, which appears to involve development of products involving the same types of source codes and technology as are at issue between eTrepid and Mr. Montgomery (if not the very source codes and technology that eTrepid alleges were stolen by Mr. Montgomery). We tailored our Subpoenas to elicit documentary evidence relevant to whether or not your clients or Mr. Montgomery have violated the terms of the PI Order.

Our Subpoenas relate directly to the merits of both the PI Order and eTrepid’s ongoing litigation with Mr. Montgomery. If you refuse to cooperate with our Subpoenas, we will take appropriate relief. Furthermore, if your clients are currently involved Mr. Montgomery in any manner that violates the terms of the PI Order, we have provided you with a copy of that order and we reiterate that you and your clients are on notice of that court order. If it is ultimately determined that you and/or your clients have violated the terms of the PI Order, we will seek appropriate relief – especially if those violations began or continued after your clients became aware of the PI Order.

The Subpoenas are clear and unambiguous, and they seek information that is relevant and within the scope of permissible discovery. If you have any valid concerns regarding the confidentiality of any requested documents, we are willing to accommodate those concerns with an appropriate confidentiality agreement. If, however, you refuse to cooperate with our repeated efforts to obtain the requested documents, we will move to compel production and seek fees and costs. Please respond by Monday, August 21, 2006 so that we expedite the resolution of this matter.

Sincerely,



Jerry M. Snyder

JMS/gs  
C: Client

Ex. 8

**FLYNN & STILLMAN**  
PO Box 690  
Rancho Santa Fe, CA 92067  
(858)759-7000 • Fax: (858) 759-0711

### FAX COVER SHEET

To: Jerry Snyder

FAX NUMBER TRANSMITTED TO: 775 786 6179  
From: Michael J Flynn

Date: 8/ 09/ 06

**DOCUMENTS:**

**NUMBER OF PAGES\***  
(not including fax cover page)

1	Letter re objections to subpoenas	3
2.		
3.		
4		

**COMMENTS:**

**CONFIDENTIALITY APPLIES IF THIS BOX IS CHECKED:**

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Michael J. Flynn  
Licensed only in Massachusetts

One Center Plaza, Suite 240  
Boston, Massachusetts 02108  
Telephone (617) 720-2700  
Facsimile (617) 720-2709

August 8, 2006

VIA E-MAIL

Jerry Snyder, Esq.  
Hale Lane  
5441 Kietzke Lane, 2<sup>nd</sup> Fl.  
Reno, Nevada 89511

RE: ETreppid's Subpoenas to Non-party Witnesses to Try to Obtain Private  
Employment Related Documents of Dennis Montgomery

Dear Mr. Snyder:

As you know, my client's termination/departure from Etreppid Technologies was in January 2006. There is no non-compete/restrictive covenant agreement restricting his employment elsewhere. He has sought other employment. You and your client have no rights, privileges or entitlement to any of his related employment files and/or related documents.

You have sent me several subpoenas seeking various categories of documents, one apparently served on a Company with which Mr. Montgomery has no affiliation, and another on an individual who is related to a Company with which Mr. Montgomery has an employment relationship. Aside from the fact that your subpoenas are mis-directed, irrelevant, overbroad and amount to a fishing expedition into Mr. Montgomery's private, professional life, any documents that do relate to his current employment are protected by Mr. Montgomery's privacy rights under Washington and Federal law, which substantially outweigh any relevancy, whether remote or otherwise, to the claims and defenses in *Montgomery v. ETreppid* and *ETreppid v. Montgomery*.

Moreover, Mr. Montgomery's current employment relationship has no relevancy whatsoever to the unenforceable preliminary injunction issued by the state court in Washoe County, Nevada. As you know, there is a pending motion to vacate that injunction in the Reno Federal District Court; and your efforts to modify the injunction once you realized that it was unenforceable, were

denied.

We view the subpoenas as just another form of illegal and unconscionable abuse of the judicial system to harass Mr. Montgomery, similar to the illegal raid on his home spawned by your client's demonstrably and overtly false statements and representations to the FBI and to the Air Force; as well as your client's corrupting influence over the politicians who engineered the raid.

As with the raid, we will file claims for this latest form of harassment.

I strongly encourage you to withdraw your subpoenas forthwith. The following recitation of the applicable law may give you some direction and assistance. Employment related documents are recognized by Washington Courts as protected by a citizen's right to privacy. In particular, Mr. Montgomery has a right to privacy in all of his employment files. *See Donald v. Rast*, 927 F.2d 379, 381 (8<sup>th</sup> Cir. 1991) ("We agree with the district court that given the confidential nature of the information contained in the [defendant] police officer's personnel file, this course of discovery [i.e., in camera inspection] was prudent . . ."). I note that *Donald v. Rast*, 927 F.2d at 379, is cited in *Wobler v. Kitsap Mental Health Services*, 2006 U.S. Dist. LEXIS 44766, a June 2006 case out of the Western District of Washington, where the court said, "[a]lthough many cases have held that personnel files of similarly situated individuals may contain highly relevant information, this information is subject to privacy concerns . . .").

Washington has a strong interest in protecting its citizens privacy rights. For example, in *Bacon v. Washington Dept. of Corrections*, 2002 Wash. App. LEXIS 1878, even though a public employee's performance evaluations were public records, within the meaning of Wash. Rev. Code § 42.17.020(36), those records were exempt from disclosure under the Public Disclosure Act because they were protected by the employee's privacy interests. As you know, we are not dealing with a public employee. However, the *Bacon* case illustrates how important an employee's privacy rights are because there the employee's privacy rights trumped the Public Disclosure Statute.

Mr. Montgomery has not waived any of his privacy rights, since he has not placed his employment AFTER ETreppid at issue in either case. Therefore, assuming he went to work for another Company with which Mr. Sandoval has a relationship AFTER he left ETreppid, as you claim, any employment related documents, if any, would be irrelevant to the claims and defenses in these cases, which you specifically claim in your complaint occurred while Mr. Montgomery was employed with ETreppid.

Even assuming employment related documents, if any, were even remotely relevant, which they absolutely are not, when balancing Mr. Montgomery's privacy rights against ETreppid's alleged need for these documents, the scales tip heavily in favor of Mr. Montgomery. Mr. Montgomery is the holder of his privacy rights, and no documents will be produced absent a court order.

Please consider this letter a formal objection to your subpoenas pursuant to Rule 45 of the Federal Rules of Civil Procedure. Additionally, Mr. Montgomery incorporates herewith into his

objections any and all objections made by the subpoenaed non-parties; and herewith instructs said non-parties to invoke and adhere to the applicable laws governing the privacy rights of employees.

Sincerely,



Michael J. Flynn, Esq.  
Attorney for Dennis Montgomery