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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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DENNIS MONTGOMERY and the
MONTGOMERY FAMILY TRUST,

           Plaintiffs,

 vs.

ETREPPID TECHNOLOGIES, LLC;
WARREN TREPP; and the
UNITED STATES DEPARTMENT
OF DEFENSE,

           Defendants.

AND ALL RELATED MATTERS

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O R D E R

On May 29, 2008, the Honorable Valerie P. Cooke, United States

Magistrate Judge, entered an Order Regarding Source Code Discovery (Doc. #645).

On June 12, 2008, Plaintiffs the Montgomery Parties' filed Objections to

Magistrate Judge's Order Regarding Source Code Discovery and Request for Stay Pending

Appeal (Doc. #672). By their objections, the Montgomery Parties' request that this Court

"(1) reverse the May 29 Order to the extent it (a) directs production of the Montgomery

Parties' trade secret source code and (b) dismisses the Montgomery Parties' accounting

claim, and (2) vacate the May 29 Order to the extent it finds that Mr. Montgomery took or

1 deleted source code from eTreppid's computers and/or that Judge Perry so found in

2 February 2006."

3   On June 27, 2008, Magistrate Judge Cooke entered an Order (Doc. #707)

4 granting a Stay of the June 30, 2008 deadline for filing a plan for production of the source

5 code contained in her Order (Doc. #645), pending further Order of this Court (Doc. #707).

6 On June 30, 2008, Defendants eTreppid Technologies, LLC and Warren Trepp filed a

7 Response to the Montgomery Parties' objections (Doc. #715).
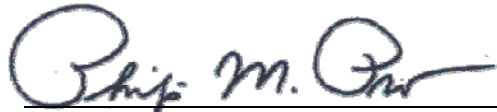
8   In accord with the provisions of 28 U.S.C. § 636, and Local Rule 1B3-1 and 3-2,

9 the Court has reviewed the proceedings before Magistrate Judge Cooke which resulted in

10 the entry of the Order Regarding Source Code Discovery (Doc. #645). The Court finds that

11 the Montgomery Parties' objections to Magistrate Judge Cooke's Order must be overruled,

12 and the Order Regarding Source Code Discovery (Doc. #654) entered by Magistrate Judge

13 Cooke must be affirmed.

14   Specifically, the Court finds that discovery and analysis of the source code at

15 issue in this case is clearly relevant to the resolution of this action and that the Montgomery

16 Parties' should forthwith comply with Magistrate Judge Cooke's Order of production of the

17 source code. The Court further finds that Magistrate Judge Cooke's determination that at

18 the February 7, 2006, preliminary injunction hearing in Nevada State Court, Judge Perry

19 found that Plaintiff Montgomery took or deleted the source code from eTreppid's computer,

20 is not clearly erroneous or contrary to law. Finally, after de novo review, the Court finds

21 that dismissal of the Montgomery Parties' accounting claim is warranted.

22   **IT IS THEREFORE ORDERED** that Plaintiffs Montgomery Parties'

23 Objections to Magistrate Judge's Order Regarding Source Code Discovery and Request for

24 Stay Pending Appeal (Doc. #672) are OVERRULED, and the Order Regarding Source

25 Code Discovery (Doc. #645) entered May 29, 2008, by the Honorable Valerie P. Cooke,

26 United States Magistrate Judge, is AFFIRMED.

1   **IT IS FURTHER ORDERED** that the Stay Order (Doc. #707) entered by

2 Magistrate Judge Cooke on June 27, 2008, is hereby lifted and to that extent if they have

3 not already done so, the parties shall fully comply with Magistrate Judge Cooke's Order

4 Regarding Source Code Discovery (Doc. #645) no later than Monday, July 21, 2008.

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6 DATED: July 3, 2008.

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8   PHILIP M. PRO

9   United States District Judge

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