

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FRONTLINE PLACEMENT	:	CIVIL ACTION
TECHNOLOGIES INC.,	:	NO. 07-2457 07-2457
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
CRS, INC.,	:	
	:	
Defendant.	:	

FILED

AUG 13 2010

MICHAEL E. KUNZ, Clerk
By _____ Dep. Clerk

PROTECTIVE ORDER

AND NOW, this 12th day of August, 2010, upon consideration of the parties' joint motion to enter a protective order regarding production of electronically stored information (doc. no. 35), it is hereby **ORDERED** that the parties' motion is **GRANTED** as to the following:

This Protective Order is issued to expedite the flow of discovery materials, to facilitate the prompt resolution of disputes over confidentiality of discovery materials, to adequately protect information the parties are entitled to keep confidential, to ensure that only materials the parties are entitled to keep confidential are subject to such treatment, and to ensure that the parties are permitted reasonably necessary uses of such materials in preparation for and in the conduct of trial, pursuant to the Federal Rules of Civil Procedure and the Local Rules of this Court. Unless modified pursuant to the terms contained in this Order, this Order and the Court's jurisdiction

over this Order shall survive the termination of this case.

In support of this Order, the Court finds that:

1. Documents, things, or information containing confidential, proprietary business information, trade secrets, or other confidential research, development, or commercial information within the meaning of Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure ("Fed. R. Civ. P.") in which the parties have a privacy interest that outweighs the public's interest in obtaining access ("**CONFIDENTIAL INFORMATION**") are likely to be disclosed or produced during the course of discovery in this litigation;

2. Public dissemination and disclosure of such **CONFIDENTIAL INFORMATION** could severely injure or damage the party disclosing or producing the **CONFIDENTIAL INFORMATION** and could place that party at a competitive disadvantage; and

3. To protect the respective interests of the parties and to facilitate the progress of disclosure and discovery in this case, it is hereby **ORDERED** that this Protective Order is

APPROVED.¹

¹ No later than thirty days after production of information subject to the protective order, and thirty days after each production thereafter, each party shall submit under seal a schedule of information being produced, which describes with sufficient particularity the need for confidentiality that is being asserted (e.g., source codes, trade secrets, technical information regarding new products). This procedure will permit the Court to apply the teachings of Glenmede Trust Co. v. Thompson, 56 F.3d 476 (3d Cir. 1995) and Pansy v. Borough of Stroudsburg, 23 F.3d 772 (3d Cir. 1994).

A. DISCOVERY RULES REMAIN UNCHANGED

4. Nothing herein shall alter or change in any way the disclosure/discovery provisions of the Federal Rules of Civil Procedure, the Court's Local Rules, or any applicable Individual Practices of any judge or magistrate judge presiding in any way over this matter.

B. INFORMATION SUBJECT TO THIS ORDER

Confidential Information

5. For purposes of this Order, **CONFIDENTIAL INFORMATION** shall mean all information or material disclosed to a receiving party that the disclosing party considers, and that a reasonable person or entity in the disclosing party's position would consider, to constitute or to contain trade secrets or other confidential research, development, or commercial information, whether embodied in physical objects, electronically stored information, documents, or the factual knowledge of persons, and that has been so designated by the disclosing party.

CONFIDENTIAL INFORMATION may comprise information or material that a disclosing party is under obligation with a third party to maintain as confidential. A "disclosing party" includes any party to this action and any non-party producing information or material voluntarily or pursuant to a subpoena or a court order.

Any **CONFIDENTIAL INFORMATION** obtained by any receiving party pursuant to discovery in this litigation may be used only for purposes of this litigation, including any appeals and/or retrials.

6. The following information is not **CONFIDENTIAL INFORMATION**:

- (a) any information that at the time of disclosure to a receiving party is readily ascertainable in the public domain by proper means;
- (b) any information that, after disclosure to a receiving party, becomes part of the public domain as a result of publication not involving a violation of this Order or other violation of law;
- (c) any information that a receiving party can show was received by it, whether before or after the disclosure, from a source who obtained the information without use of improper means and is under no obligation of confidentiality to the disclosing party; and
- (d) any information which a receiving party can show was independently developed by it after the time of disclosure by personnel who have not had access to the disclosing party's confidential information.

C. PROCEDURE FOR DESIGNATION

7. Any document or tangible thing containing or including any **CONFIDENTIAL INFORMATION** may be designated as such by the disclosing party by marking it **CONFIDENTIAL (or CONFIDENTIAL INFORMATION)**.

8. All documents (including physical objects) that are disclosed shall be designated as **CONFIDENTIAL INFORMATION** before or at the time of disclosure, except in the case of depositions, which shall be designated as set forth in Paragraph 14. The disclosing party shall designate documents by marking the document or, in the case of documents produced electronically the storage media (e.g., the CD, DVD, hard drive, etc.), with the appropriate designation in a manner that does not interfere with the legibility of the document, and the receiving party shall ensure that all copies and/or printouts of such documents bear the appropriate confidentiality designation. In the event that the disclosure is so voluminous that pre-designating the documents or transporting them to the receiving party is unduly burdensome (considering the least burdensome available means for designating and producing those documents, such as in native electronic form), and the parties are unable to agree upon a way to reasonably limit the scope of production of those materials, then the disclosing party shall make the documents available to the receiving party for inspection. After the receiving party

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