

WHEREAS, no grounds separate from the grounds set forth in Kyocera's Motion have been raised by Defendants, and no distinction was made at the hearing between the arguments raised by Plaintiff and Kyocera in Civil Action No. 06-404-JJF-LPS, and the arguments advanced by Plaintiff and Defendants here;

WHEREAS, I have recommended the denial of Kyocera's Motion;

NOW THEREFORE, for the reasons set forth in the Report and Recommendation Regarding Motions To Dismiss For Lack Of Subject Matter Jurisdiction And For Jurisdictional Discovery (D.I.183 in Civil Action No. 06-404-JJF-LPS), I recommend that Defendants Motion To Dismiss For Lack Of Subject Matter Jurisdiction (D.I. 69) be DENIED.

This Report and Recommendation is filed pursuant to 28 U.S.C. 636(b)(1)(B), Fed. R. Civ. P. 72(b)(1) and D. Del. L.R. 72.1. The parties may serve and file specific written objections within ten (10) days after being served with a copy of this Report and Recommendation. Fed. R. Civ. P. 72(b). The failure of a party to object to legal conclusions may result in the loss of the right to de novo review in the district court. *See Henderson v. Carlson*, 812 F.2d 874, 878-879 (3d Cir. 1987); *Simcavage v. Barnhart*, 171 Fed. Appx. 924, 925 n.1 (3d Cir. 2006).

Dated: May 4, 2009



The Honorable Leonard P. Stark
UNITED STATES MAGISTRATE JUDGE