

DEFAULT STANDARD FOR ACCESS TO SOURCE CODE

Absent agreement among the parties, the following procedures apply to ensure secure access to the source code:

1. A single electronic copy of the source code or executable code shall be made available for inspection on a stand-alone computer.

2. The stand-alone computer shall be password protected and supplied by the source code provider.

3. The stand-alone computer shall be located with an independent escrow agent, the cost of such to be shared by the parties. If the parties cannot agree on an agent, each party shall submit to the court the name and qualifications of their respective proposed agent and the court will choose from among the proposed agents.

4. After notice to the source code provider/producing party and an opportunity to object, access to the stand-alone computer shall be permitted to two (2) outside counsel representing the requesting party and two (2) experts retained by the requesting party, all of whom are previously approved under the protective order in place. No one from the provider/producing party shall have further access to the computer during the remainder of discovery.

5. Source code may not be printed or copied without the consent of the producing party or further order of the court.

6. The source code provider shall provide a manifest of the contents of the stand-alone computer. This manifest shall be supplied in both printed and electronic form and shall list the name, location, and MDS checksum of every source and executable file escrowed on the computer.

7. The stand-alone computer shall include software utilities which allow counsel and experts to view, search, and analyze the source code. At a minimum, these utilities should provide the ability to (a) view, search, and line-number any source file, (b) search for a given pattern of text through a number of files, (c) compare two files and display their differences, and (d) compute the MD5 checksum of a file.

8. If the court determines that an issue of missing files needs to be addressed, the source code provider will include on the stand-alone computer the build scripts, assemblers, and other utilities necessary to rebuild the application from source code, including instructions for their use.

9. To the extent that the provisions of this Default Standard for Access to Source Code and the Default Discovery Confidentiality Order conflict, the Default Standard for Access to Source Code shall control on the matter of source code.

So ordered, September 10, 2010.

/s/ Mary Pat Thyng
UNITED STATES MAGISTRATE JUDGE