

IN THE COUNTY COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY, FLORIDA

STATE OF FLORIDA,

vs.

Case No. 2006 CT 12017 NC

KYLE WOODS,

Defendant.

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**MOTION FOR PROTECTIVE ORDER**

COMES NOW, CMI, Inc., d/b/a CMI, Inc. of Kentucky ("CMI"), hereby moves this Court for a Protective Order under Fla.R.Crim.Pro. 3.220 (l)(1) from subpoenas issued by this Court regarding the Source Code and asserts a trade secret privilege under Florida Statute 90.506, and as support provides that:

1. This Court has issued a subpoena duces tecum to CMI for production of the Source Code.
2. The information requested is proprietary and is a trade secret.
3. The Sarasota County Courts have previously held the Source Code is a trade secret.
4. In *State v. Jack Irish*, Criminal Case No. 2006 CT 02109 SC (Order on Defendant's Motion to Compel Production of the Source Code dated May 4, 2006), the *Irish* decision noted that "both the State and the defense experts agree that the source code constitutes a trade secret."
5. Florida Statute 90.506 provides:

A person has a privilege to refuse to disclose, and to prevent other persons from disclosing, a trade secret owned by that person if the allowance of the privilege

will not conceal fraud or otherwise work injustice. When the court directs disclosure, it shall take the protective measures that the interests of the holder of the privilege, the interests of the parties, and the furtherance of justice require.

6. CMI is requesting that since the subpoenaed information is a trade secret, the proprietary rights of CMI and the irreparable harm that would result should this information be disclosed outweigh the potential benefit to Defendant's preparation of his defense, and a Protective Order should be issued denying Defendant's the right to the subpoenaed Source Code.
7. Non-disclosure of the Source Code will not conceal fraud or otherwise work injustice, since Defendant's have numerous other avenues from which they can prepare an adequate defense.
8. In the alternative, should this Court decide the Source Code is reasonable and necessary under 90.506, and direct disclosure of the Source Code, CMI respectfully requests this Court issue the attached Protective Order and require the requesting party sign the attached Non-Disclosure Agreement.
9. The Protective Order and Non-Disclosure Agreement are necessary to protect the proprietary nature of the Source Code and the interests of CMI.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by ordinary U.S. Mail to the individuals on the attached service list this 19 day of November, 2007.

Respectfully submitted,

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