IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE, WESTERN DIVISION

ECIMOS, LLC.	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2:15-cv-2726-JPM-cgc
	)	
CARRIER CORPORATION,	)	
	)	
Defendant.	)	

ORDER ON MOTION OF DEFENDANT CARRIER CORPORATION FOR A PROTECTIVE ORDER GOVERNING INSPECTION AND TESTING PURSUANT TO PLAINTIFF ECIMOS, LLC'S REQUEST PURSUANT TO RULE 34

Before the Court is Defendant Carrier Corporation's ("Carrier") Motion for a Protective Order Governing Inspection and Testing Pursuant to Plaintiff ECIMOS, LLC's Request Pursuant to Rule 34, filed January 28, 2016. (ECF No. 16.) Specifically, Carrier has agreed to an inspection but objects to ECIMOS personnel being present at the inspection and testing because the information to which ECIMOS would have access Carrier claims to be confidential and proprietary. (Id. at 1.) ECIMOS, LLC ("ECIMOS") responded in opposition on February 16, 2016. (ECF No. 26.) The Court held a hearing on the instant motion on February 25, 2016. (ECF No. 32.) At the hearing, the Court determined that a limited inspection by ECIMOS personnel would result in minimal risk to Carrier's trade secrets.

Accordingly, the Court permits such an inspection, subject to the following conditions:

1. ECIMOS may have three individuals present at the inspection: Stephen Olita, Scot Curtiss, and one of its attorneys. These individuals will not be entitled to any unsupervised access to Carrier's facilities or testing software. These individuals will not be entitled to speak with any of Carrier's employees, except as necessary to perform the inspection.
2. Defendant may have four individuals, including an attorney, present at the inspection. If Defendant seeks to involve more than four individuals, it must provide a clear explanation of who the additional individuals are and why they are involved in the inspection.
3. The inspection will be limited to that described in Paragraph 7 of Olita's affidavit. (ECF No. 26-1.) Specifically, it will involve observation of the 103 IPCS AutoTest work stations, AutoTest assembled hardware, and AutoTest database structure, as well as the most recent "Run Test" test results through the "Interlocks" table and the "Runtest_CCV_Results" table. This may also involve observation of Carrier's computer server. The purpose of this investigation is to visually determine whether "all or some of the ECI APIs, ECIScript Files,

AutoTest software, . . . AutoTest assembled hardware," or other ECI trade secret remains in use by Carrier. (See id. ¶ 7.)

4. ECIMOS is entitled to take still photographs throughout the inspection, but may not make a video recording of the inspection.

5. ECIMOS, its agents, and its employees, shall not be permitted to disclose or use any trade secret discovered, inadvertently or otherwise, in connection with this inspection.

6. ECIMOS is not entitled to view or copy any source code in the course of this inspection.

7. This inspection shall be performed by March 14, 2016. If Carrier's facility is not operating and the inspection cannot be performed by this date, the parties shall notify the Court and perform the inspection as soon as the facility restarts operations.

IT IS SO ORDERED this 26th day of February 25, 2016.

/s/ Jon P. McCalla
JON P. McCALLA
UNITED STATES DISTRICT JUDGE