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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

Philips North America LLC,

Plaintiff,

v.

Garmin International, Inc.
and Garmin Ltd.,

Defendants.

Case No. 2:19-cv-06301-AB-KS

[PROPOSED]

PROTECTIVE ORDER

1 **PURPOSES AND LIMITATIONS**

2 Discovery in this action is likely to involve production of confidential, proprietary,
3 or private information for which special protection from public disclosure and from use for
4 any purpose other than prosecuting this litigation may be warranted. This Order does not
5 confer blanket protections on all disclosures or responses to discovery and that the
6 protection it affords from public disclosure and use extends only to the limited information
7 or items that are entitled to confidential treatment under the applicable legal principles.
8 This Stipulated Protective Order does not entitle the parties to file confidential information
9 under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the
10 standards that will be applied when a party seeks permission from the court to file material
11 under seal.

12 **GOOD CAUSE STATEMENT**

13 This action is likely to involve trade secrets, and other valuable research,
14 development, commercial, financial, technical and/or proprietary information for which
15 special protection from public disclosure and from use for any purpose other than
16 prosecution of this action is warranted. Such confidential and proprietary materials and
17 information consist of, among other things, confidential business or financial information,
18 information regarding confidential business practices, or other confidential research,
19 development, or commercial information (including information implicating privacy rights
20 of third parties), proprietary software source code, and confidential and trade secret
21 technological information otherwise generally unavailable to the public, or which may be
22 privileged or otherwise protected from disclosure under state or federal statutes, court rules,
23 case decisions, or common law. Accordingly, to expedite the flow of information, to
24 facilitate the prompt resolution of disputes over confidentiality of discovery materials, to
25 adequately protect information the parties are entitled to keep confidential, to ensure that
26 the parties are permitted reasonable necessary uses of such material in preparation for and
27 in the conduct of trial, to address their handling at the end of the litigation, and serve the
28 ends of justice, a protective order for such information is justified in this matter.

1 Information shall not be designated as confidential for tactical reasons and that nothing be
2 so designated without a good faith belief that it has been maintained in a confidential, non-
3 public manner, and there is good cause why it should not be part of the public record of
4 this case.

5 Further to the foregoing, it is hereby ORDERED as follows:

6 1. Confidential business information is information which concerns or relates to the
7 trade secrets, processes, operations, style of work, or apparatus, or to the production, sales,
8 shipments, purchases, transfers, identification of customers, inventories, amount or source
9 of any income, profits, losses, or expenditures of any person, firm, partnership, corporation,
10 or other organization, or other information of commercial value, the disclosure of which is
11 likely to have the effect of either causing substantial harm to the competitive position of
12 the person, firm, partnership, corporation, or other organization from which the information
13 was obtained.

14 2. Any information submitted, in discovery or in a pleading, motion, or response to
15 a motion either voluntarily or pursuant to lawful discovery request, or a court order, which
16 is asserted by a party to contain or constitute confidential business information shall be so
17 designated by such party in writing, or orally at a deposition, conference or hearing.
18 Documents shall be clearly and prominently marked on their face with the legend:
19 "CONFIDENTIAL" or a comparable notice. Such information, whether submitted in
20 writing or in oral testimony, shall be treated in accordance with the terms of this protective
21 order. No party shall redact confidential information in a document; rather, the disclosing
22 party should simply label the document as Confidential, and if it becomes relevant, will
23 inform the receiving party subsequently of any particular portion of the document deemed
24 confidential.

25 3. In the absence of written permission from the disclosing party or an order by the
26 Court, any confidential documents or business information submitted in accordance with
27 the provisions of paragraph 2 above shall not be disclosed to any person other than: (i)
28 outside counsel for parties to this action, including necessary secretarial and support

1 personnel assisting such counsel; (ii) qualified persons taking testimony involving such
2 documents or information and necessary stenographic and clerical personnel thereof; (iii)
3 technical experts and their staff who are employed for the purposes of this litigation (unless
4 they are otherwise employed by, consultants to, or otherwise affiliated with a non-
5 governmental party, or are employees of any domestic or foreign manufacturer, wholesaler,
6 retailer, or distributor of the products, devices or component parts that are the subject of
7 this action); (iv) the Court and its staff.

8 4. Confidential business information submitted in accordance with the provisions of
9 paragraph 2 above shall not be made available to any person designated in paragraph 3(iii)
10 unless he or she shall have first read this order and shall have signed the undertaking at
11 Attachment A. However, Attorneys who have filed an appearance in this matter need not
12 sign the undertaking at Attachment A, but shall nevertheless be subject to, and bound by,
13 the provisions of this Protective Order.

14 5. If the Court orders, or the disclosing party agrees, that access to, or dissemination
15 of information submitted as confidential business information shall be made to persons not
16 included in paragraph 3 above, such matter shall only be accessible to, or disseminated to,
17 such persons based upon the conditions pertaining to, and obligations arising from this
18 order, and such persons shall be considered subject to it, unless the Court finds that the
19 information is not confidential business information as defined in paragraph 1 hereof.

20 6. Any confidential business information submitted to the Court in connection with
21 a motion or other proceeding shall be submitted under seal pursuant to the Local Rules.

22 7. The restrictions upon, and obligations accruing to, persons who become subject
23 to this order shall not apply to any information submitted in accordance with paragraph 2
24 above to which the person asserting the confidential status thereof agrees in writing, or the
25 Court rules, after an opportunity for hearing, was publicly known at the time it was supplied
26 to the receiving party or has since become publicly known through no fault of the receiving
27 party.
28

1 8. If a party who receives materials or information that has been designated as
2 confidential and submitted in accordance with paragraph 2 disagrees with respect to such
3 a designation, in full or in part, it shall notify the disclosing party in writing, and they will
4 thereupon confer as to the status of the subject information proffered within the context of
5 this order. If the receiving party and the disclosing party are unable to concur upon the
6 status of the subject information submitted as confidential business information within ten
7 days from the date of notification of such disagreement, the party challenging the
8 confidentiality designation may file a motion with the Court seeking to remove the
9 confidentiality designation. If such motion is granted, the non-movant shall compensate
10 the movant for the reasonable expenses and fees associated with the motion. In the event
11 of a mixed result, the Court may fairly apportion fees and expenses. The Court may sua
12 sponte question the designation of the confidential status of any information and, after
13 opportunity for hearing, may remove the confidentiality designation.

14 9. No less than 10 days (or any other period of time designated by the Court) prior
15 to the initial disclosure to a proposed expert of any confidential information submitted in
16 accordance with paragraph 2, the party proposing to use such expert shall submit in writing
17 the name of such proposed expert and his or her educational and detailed employment
18 history to the opposing party. If the opposing party objects to the disclosure of such
19 confidential business information to such proposed expert as inconsistent with the language
20 or intent of this order or on other grounds, it shall notify the recipient in writing of its
21 objection and the grounds therefore prior to the initial disclosure. If the dispute is not
22 resolved on an informal basis within ten days of receipt of such notice of objections, the
23 opposing party may file a motion with the Court seeking to block the proposed expert's
24 access to the confidential information. During the pendency of the motion, the expert shall
25 not have access to the disputed information. If the non-movant prevails on the motion, the
26 moving party shall pay to the non-movant all reasonable fees and expenses associated with
27 opposing the motion. In the event of a mixed result, the Court may fairly apportion fees
28 and expenses.

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