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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

APPLE INC.,)	Case No. 14cv2235-DMS (BLM)
)	
Plaintiff,)	AGREED PROTECTIVE
)	ORDER REGARDING THE
v.)	DISCLOSURE AND USE OF
)	DISCOVERY MATERIALS
WI-LAN, INC.,)	
)	
Defendant.)	

Plaintiff Apple Inc. and Defendant Wi-LAN Inc. anticipate that documents, testimony, or information containing or reflecting confidential, proprietary, trade secret, and/or commercially sensitive information are likely to be disclosed or produced during the course of discovery, initial disclosures, and supplemental disclosures in this Litigation and request that the Court enter this Order setting forth the conditions for treating, obtaining, and using such information.

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, the Court finds good cause for the following Agreed Protective Order Regarding the Disclosure and Use of Discovery Materials (“Order” or “Protective Order”).

1. **PURPOSES AND LIMITATIONS**

(a) Protected Material designated under the terms of this Protective Order shall be used by a Receiving Party solely for this Litigation, and shall be used

1 only for the purpose of litigating this Litigation, and shall not be used directly or
2 indirectly for any other purpose whatsoever.

3 (b) The Parties acknowledge that this Order does not confer blanket
4 protections on all disclosures during discovery, or in the course of making initial or
5 supplemental disclosures under Rule 26(a). Designations under this Order shall be
6 made with care and shall not be made absent a good faith belief that the designated
7 material satisfies the criteria set forth below. If it comes to a Producing Party's
8 attention that designated material does not qualify for protection at all, or does not
9 qualify for the level of protection initially asserted, the Producing Party must promptly
10 notify all other Parties that it is withdrawing or changing the designation.

11 2. **DEFINITIONS**

12 (a) "Discovery Material" means all items or information, including
13 from any non-party, regardless of the medium or manner generated, stored, or
14 maintained (including, among other things, testimony, transcripts, or tangible things)
15 that are produced, disclosed, or generated in connection with discovery or Rule 26(a)
16 disclosures in this Litigation.

17 (b) "Litigation" means the case styled as *Apple Inc. v. Wi-LAN Inc.*,
18 Case No. 3:14-cv-02235-DMS (BLM) (S.D. Cal.).

19 (c) "Outside Counsel" means (i) outside counsel who appear on the
20 pleadings as counsel for a Party and (ii), partners, associates, and staff of such counsel
21 to whom it is reasonably necessary to disclose the information for this Litigation,
22 including supporting personnel employed by the attorneys, such as paralegals, legal
23 secretaries, legal translators, and legal clerks; or (iii) independent attorneys contracted
24 to assist outside counsel in connection with this action.

25 (d) "Patents-in-suit" means U.S. Patent Nos. 8,457,145; 8,462,723;
26 8,537,757; 8,615,020; and 8,462,761, and any other patent asserted in this Litigation,
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1 as well as any related patents, patent applications, provisional patent applications,
2 continuations, and/or divisionals.

3 (e) “Party” means any party to this Litigation, including all of its
4 officers, directors, employees, consultants (and their support staff), retained experts
5 (and their support staff), and Outside Counsel.

6 (f) “Producing Party” means any Party or non-party that discloses or
7 produces any Discovery Material in this Litigation.

8 (g) “Protected Material” means any Discovery Material that is
9 designated as “CONFIDENTIAL,” “CONFIDENTIAL – ATTORNEYS’ EYES
10 ONLY,” or “CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY –
11 RESTRICTED,” as provided for in this Order. Protected Material shall not include:
12 (i) advertising materials that have been actually published or publicly disseminated;
13 and (ii) materials that show on their face they have been disseminated to the public.

14 (h) “Receiving Party” means any Party who receives Discovery
15 Material from a Producing Party.

16 (i) “Source Code” means confidential, proprietary, trade secret and/or
17 commercially sensitive computer code, scripts, assembly code, object code, source
18 code listings and descriptions of source code, object code listings and descriptions of
19 object code, and Hardware Description Language (HDL) or Register Transfer Level
20 (RTL) files that describe the hardware design of any ASIC or other chip, and similar
21 detailed implementation documents.

22 3. COMPUTATION OF TIME

23 The computation of any period of time prescribed or allowed by this Order shall
24 be governed by the provisions for computing time set forth in Federal Rules of Civil
25 Procedure 6 and Local Rule 7.1(c), in their present form as of the date this Order is
26 entered by the Court.

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1 4. **SCOPE**

2 (a) The protections conferred by this Order cover not only Discovery
3 Material governed by this Order as addressed herein, but also any information copied
4 or extracted therefrom, as well as all copies, excerpts, summaries, or compilations
5 thereof, plus testimony, conversations, or presentations by Parties or their counsel in
6 court or in other settings that might reveal Protected Material.

7 (b) Nothing in this Protective Order shall prevent or restrict a
8 Producing Party's own disclosure or use of its own Protected Material for any
9 purpose, and nothing in this Order shall preclude any Producing Party from showing
10 its Protected Material to an individual who prepared the Protected Material.

11 (c) Nothing in this Order shall be construed to prejudice any Party's
12 right to use any Protected Material in court or in any court filing with the consent of
13 the Producing Party or by order of the Court.

14 (d) This Order is without prejudice to the right of any Party to seek
15 further or additional protection of any Discovery Material or to modify this Order in
16 any way, including, without limitation, an order that certain matter not be produced at
17 all.

18 5. **DURATION**

19 Even after the termination of this Litigation, the confidentiality obligations
20 imposed by this Order shall remain in effect until a Producing Party agrees otherwise
21 in writing or a court order otherwise directs.

22 6. **ACCESS TO AND USE OF PROTECTED MATERIAL**

23 (a) Basic Principles. All Protected Material shall be used solely for
24 this Litigation or any related appellate proceeding, and not for any other purpose
25 whatsoever, including without limitation any other litigation, patent prosecution or
26 acquisition, patent reexamination or reissue proceedings, or any business or
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1 competitive purpose or function. Protected Material shall not be distributed, disclosed
2 or made available to anyone except as expressly provided in this Order.

3 (b) Patent Prosecution Bar. Absent written consent of the Producing
4 Party, any person on behalf of the Receiving Party who receives one or more items
5 designated “CONFIDENTIAL ATTORNEYS’ EYES ONLY” or “CONFIDENTIAL
6 - OUTSIDE ATTORNEYS’ EYES ONLY – RESTRICTED” by the Producing Party
7 shall not participate in the preparation or prosecution, on behalf of the Receiving
8 Party, its acquirer, successor, predecessor, or other affiliate, before a Patent Office of
9 any patent, patent application, or for drafting or revising patent claims (excluding such
10 activities conducted in the context of postgrant proceeding including reexamination,
11 Inter Partes Review, or opposition proceedings) directed to wireless or RF
12 communications involving requesting and allocating bandwidth, or products
13 incorporating such technology, from the time of receipt of such material following the
14 first to occur of (i) the complete resolution of this case through entry of a final non-
15 appealable judgment or order for which appeal has been exhausted; or (ii) the
16 complete settlement of all claims in this action; or (iii) the individual person(s) cease
17 to represent the Receiving Party or respective client in this case.

18 (c) Secure Storage. Protected Material must be stored and maintained
19 by a Receiving Party at a location and in a secure manner that ensures that access is
20 limited to the persons authorized under this Order.

21 (d) Legal Advice Based on Protected Material. Nothing in this
22 Protective Order shall be construed to prevent counsel from advising their clients with
23 respect to this Litigation based in whole or in part upon Protected Materials, provided
24 counsel does not disclose the Protected Material itself except as provided in this
25 Order.

26 (e) Filing Protected Material. Without written permission from the
27 Producing Party or a Court Order secured after appropriate notice to all interested
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