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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

QUALCOMM INCORPORATED,

Plaintiff,

v.

APPLE INCORPORATED,

Defendant.

AND RELATED COUNTERCLAIMS.

Case No. 3:17-CV-02403-CAB-MDD

[REDLINED] AMENDED
**PROTECTIVE ORDER GOVERNING
CONFIDENTIAL MATERIAL**

Judge: Hon. Cathy Ann Bencivengo

Magistrate Judge: Hon. Mitchell D. Dembin

1 In order to expedite the flow of discovery material, facilitate the prompt
2 resolution of disputes over confidentiality, adequately protect confidential materials,
3 and ensure that protection is afforded only to material so entitled, and for good cause
4 shown, pursuant to Fed. R. Civ. P. 26(c), it is hereby ORDERED THAT:

5 **1. PURPOSE AND LIMITATIONS**

6 1.1 Protected Material designated as “CONFIDENTIAL,” “HIGHLY
7 CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL
8 – OUTSIDE ATTORNEYS’ EYES ONLY – SOURCE CODE” under the terms of
9 this Protective Order shall be used by a Receiving Party solely for the above-captioned
10 cases and all related appeals, and shall not be used directly or indirectly for any other
11 purpose whatsoever, except as expressly provided for herein and/or agreed to by the
12 producing party.

13 1.2 Nothing in this Protective Order shall be construed to require a
14 Producing Party to produce or disclose information not otherwise required to be
15 produced under the applicable rules or orders of the Court. Production or disclosure
16 of “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
17 ONLY,” or “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY
18 – SOURCE CODE” information under this Protective Order shall not prejudice the
19 right of any Producing Party making that production or disclosure to maintain the
20 trade secret status or confidentiality of that information in other contexts. Similarly,
21 no Producing Party waives any right to object on any ground to the admissibility of
22 any of the Discovery Material, or portion thereof, covered by this Protective Order.

23 1.3 Disclosure and discovery activity in this Action is likely to involve
24 production of confidential, proprietary, or private information for which special
25 protection from public disclosure and from use for any purpose other than litigating
26 this Action may be warranted. Accordingly, the Parties hereby stipulate to and petition
27 the Court to enter this Protective Order. The Parties acknowledge that this Protective
28

Order does not confer blanket protections on all disclosures or responses to discovery

1 and that the protection it affords from public disclosure and use extends only to the
2 limited information or items that are entitled to confidential treatment under the
3 applicable legal principles.

4 **2. DEFINITIONS**

5 2.1 Action: *Qualcomm Incorporated v. Apple Inc.*, Case No. 3:17-CV-
6 02403-CAB-MDD.

7 2.2 Challenging Party: a Party or Non-Party that challenges the designation
8 of information or items under this Protective Order.

9 2.3 Chip-Level Schematics: include electronic drawings and symbolic
10 representations that describe or depict digital or analog electrical or electronic circuits
11 within integrated circuit chips.

12 2.4 “CONFIDENTIAL” Information or Items: information (regardless of
13 how it is generated, stored or maintained) or tangible things that qualify for protection
14 under Federal Rule of Civil Procedure 26(c). A Producing Party may designate any
15 Disclosure or Discovery Material as “CONFIDENTIAL” if it contains or reflects
16 confidential, proprietary, and/or commercially sensitive information.

17 2.5 Counsel (without qualifier): Outside Counsel of Record and House
18 Counsel (as well as their legal support staff).

19 2.6 Designating Party: a Party or Non-Party that designates information or
20 items that it produces in disclosures or in responses to discovery as
21 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
22 ONLY,” or “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY
23 – SOURCE CODE.”

24 2.7 Disclosure or Discovery Material: all items or information, regardless
25 of the medium or manner in which it is generated, stored, or maintained (including,
26 among other things, testimony, transcripts, and tangible things), that are produced or
27 generated in disclosures or responses to discovery in this matter.

1 2.8 Expert: a person with specialized knowledge or experience in a matter
2 pertinent to the litigation who has been retained by a Party or its Outside Counsel of
3 Record to serve as an expert witness or a litigation consultant in this Action (including
4 any necessary support personnel of such person to whom disclosure is reasonably
5 necessary for this litigation), and who is not a current employee of a Party or of a
6 competitor of a Party, and who, at the time of retention, is not anticipated to become
7 an employee of a Party or of a competitor of a Party.

8 2.9 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
9 Information or Items: “Confidential Information or Items” that contain or reflect
10 information that is extremely confidential and/or sensitive in nature and the Producing
11 Party reasonably believes that the disclosure of such Discovery Material is likely to
12 cause economic harm or significant competitive disadvantage to the Producing Party.
13 The Parties agree that the following information, if non-public, shall be presumed to
14 merit the “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” designation:
15 trade secrets, pricing information, financial data, sales or marketing forecasts or plans,
16 business plans, sales or marketing strategy, product development information,
17 engineering documents, testing documents, employee information, and other non-
18 public information of similar competitive and business sensitivity.

19 2.10 “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES
20 ONLY – SOURCE CODE” Information or Items: extremely sensitive “Confidential
21 Information or Items” that include Source Code (as defined below) or Chip-Level
22 Schematics (as defined above), disclosure of which to another Party or Non-Party
23 would create a substantial risk of serious competitive harm that could not be avoided
24 by less restrictive means. Nothing in this Protective Order shall be construed as a
25 representation or admission that Source Code or Chip-Level Schematics are properly
26 discoverable in this Action, or to obligate any Party to produce any Source Code or
27 Chip-Level Schematics.

1 2.11 House Counsel: attorneys who are employees in the legal department of
2 a Party in this Action and who have responsibility for managing this Action. House
3 Counsel does not include Outside Counsel of Record or any other outside counsel.

4 2.12 Non-Party: any natural person, partnership, corporation, association, or
5 other legal entity not named as a Party to this Action.

6 2.13 Outside Counsel of Record: attorneys who are not employees of a Party
7 to this Action but are retained to represent or advise a Party in connection with this
8 Action and have entered an appearance on behalf of that Party in this Action, as well
9 as other attorneys or support staff employed by the same firm as one of the attorneys
10 who has entered an appearance on behalf of one of the Parties in this Action, to whom
11 it is reasonably necessary to disclose the information for this Action.

12 2.14 Party: any party to this Action, including all of its officers, directors,
13 employees, consultants, retained experts, and Outside Counsel of Record (and their
14 support staffs).

15 2.15 Producing Party: a Party or Non-Party that produces Disclosure or
16 Discovery Material in this Action.

17 2.16 Professional Vendors: persons or entities that provide litigation support
18 services (e.g., photocopying, videotaping, translating, preparing exhibits or
19 demonstrations, and organizing, storing, or retrieving data in any form or medium)
20 and their employees and subcontractors. For the avoidance of doubt, Professional
21 Vendors does not include professional jury or trial consultants or mock jurors.

22 2.17 Protected Material: any Disclosure or Discovery Material that is
23 designated as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’
24 EYES ONLY”, or as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’
25 EYES ONLY – SOURCE CODE”, as provided for in this Protective Order.

26 2.18 Receiving Party: a Party that receives Disclosure or Discovery Material
27 from a Producing Party.

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