

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CALLWAVE COMMUNICATIONS, LLC,

Plaintiff,

v.

AT&T MOBILITY, LLC, and GOOGLE INC.,

Defendants.

C.A. No. 12-1701-RGA

CALLWAVE COMMUNICATIONS, LLC,

Plaintiff,

v.

SPRINT NEXTEL CORP. and GOOGLE INC.,

Defendants.

C.A. No. 12-1702-RGA

CALLWAVE COMMUNICATIONS, LLC,

Plaintiff,

v.

T-MOBILE USA INC. and GOOGLE INC.,

Defendants.

C.A. No. 12-1703-RGA

CALLWAVE COMMUNICATIONS, LLC,

Plaintiff,

v.

VERIZON COMMUNICATIONS, INC.,
CELLCO PARTNERSHIP, D.B.A. VERIZON
WIRELESS, and GOOGLE INC.,

Defendants.

C.A. No. 12-1704-RGA

CALLWAVE COMMUNICATIONS, LLC,

Plaintiff,

v.

AT&T MOBILITY, LLC; BLACKBERRY
LIMITED, and BLACKBERRY CORP.,

Defendants.

C.A. No. 12-1788-RGA

BROADSOFT INC.,

Plaintiff,

v.

CALLWAVE COMMUNICATIONS, LLC,

Defendant.

C.A. No. 13-0711-RGA

AGREED PROTECTIVE ORDER

In order to expedite the flow of discovery materials, facilitate the prompt resolution of disputes over confidentiality of discovery materials, adequately protect information the parties are entitled to keep confidential, ensure that only materials the parties are entitled to keep confidential are subject to such treatment, and ensure that the parties are permitted reasonably necessary uses of such materials in preparation for and in the conduct of trial, pursuant to Fed. R. Civ. P. 26(c), it is hereby ORDERED THAT:

1. INFORMATION SUBJECT TO THIS ORDER

Discovery materials produced in this case may be labeled as one of three categories: CONFIDENTIAL, CONFIDENTIAL OUTSIDE COUNSEL ONLY and RESTRICTED CONFIDENTIAL - SOURCE CODE, as set forth in Items A through C below. All three of the identified categories of information shall be identified collectively in this Order by the title "Protected Information." For purposes of this order, CallWave Communications, LLC ("CallWave") shall be referred to as "Plaintiff," regardless of whether CallWave is a plaintiff or declaratory judgment defendant in each action. For purposes of this order, parties accused of infringement by CallWave or contesting infringement of CallWave patents shall be referred to as "Defendants," regardless of whether such party is a defendant or a declaratory judgment plaintiff in each action.

A. Information Designated as Confidential Information

1. For purposes of this Order, "CONFIDENTIAL INFORMATION" shall mean all information or material produced for or disclosed in connection with these actions to a receiving party that a producing party, including any party to these actions and any non-party producing information or material voluntarily or pursuant to a subpoena or a court order in connection with these actions, considers to comprise confidential technical, sales, marketing,

financial, or other commercially sensitive information, whether embodied in physical objects, documents, or the factual knowledge of persons, and which has been so designated by the producing party. Any CONFIDENTIAL INFORMATION obtained from any party pursuant to a discovery request in a given Track (as defined in 12-cv-1701, D.I. 57, ¶ 1) may be used only for purposes of the respective Track in which it was produced and may not be disclosed to or used in connection with any other party without the consent of the producing party. If the receiving party contends that specifically identified portions of the CONFIDENTIAL INFORMATION of the producing party are reasonably necessary for its case preparation in connection with a claim against another party in the same Track in which it was produced, the receiving party may seek consent of the producing party and provide notice of such request to the party against whom the material is sought to be used, or seek leave of Court to disclose the specifically identified CONFIDENTIAL INFORMATION to the other party.

2. Any document or tangible thing containing or including any CONFIDENTIAL INFORMATION may be designated as such by the producing party by marking it "CONFIDENTIAL" prior to or at the time copies are furnished to the receiving party.

3. All CONFIDENTIAL INFORMATION not reduced to documentary, tangible or physical form or which cannot be conveniently designated as set forth in paragraph 2, shall be designated by the producing party by informing the receiving party of the designation in writing.

4. Any documents (including physical objects) made available for inspection by counsel for the receiving party prior to producing copies of selected items shall initially be considered, as a whole, to constitute CONFIDENTIAL INFORMATION (unless otherwise designated at the time of inspection) and shall be subject to this Order. Thereafter, the producing party shall have a reasonable time, but in no event more than seventeen (17) days from the

inspection to review and designate the appropriate documents as CONFIDENTIAL INFORMATION (or otherwise as appropriate) and to furnishing copies to the receiving party.

5. The following information is not CONFIDENTIAL INFORMATION:

a. Any information that is or, after its disclosure to a receiving party, becomes part of the public domain as a result of publication not involving a violation of this Order or other obligation to maintain the confidentiality of such information;

b. Any information that the receiving party can show was already publicly known prior to the disclosure; and,

c. Any information that the receiving party can show by written records was received by it from a source who obtained the information lawfully and under no obligation of confidentiality to the producing party.

6. Documents designated CONFIDENTIAL and information contained therein shall be available only to:

a. Outside litigation counsel of record and supporting personnel employed in the law firm(s) of outside litigation counsel of record (and not hired as a consultant), such as attorneys, paralegals, legal translators, technical specialists, patent agents, legal secretaries, legal clerks and shorthand reporters;

b. Technical advisers and their necessary support personnel, and technical specialists who are not full-time employees of the law firm(s) of outside litigation counsel of record, subject to the provisions of Paragraphs 3.A.-3.F. herein, and who have signed the form attached hereto as Attachment A; the term “technical adviser” shall mean independent outside expert witnesses, technical specialists or consultants (i.e., not employees of a party) with whom counsel may deem it necessary to consult and who have been designated in compliance with Paragraphs 3.C. - 3.F. of this Protective Order;

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