

Thomas J. Filarski
312 577 1252
tfilarski@steptoe.com

115 S. LaSalle Street
Suite 3100
Chicago, IL 60603
312 577 1300 main
www.steptoe.com



July 15, 2015

VIA ELECTRONIC MAIL
COUNSEL OF RECORD

Re: *Raytheon v. Samsung, et al.*, Lead Case No. 2:15-cv-00341-JRG-RSP

Dear Counsel:

We are writing to you in light of our upcoming productions under P.R. 3-1 and 3-2. As you may know, Raytheon Company is a defense contractor, and many of its products are subject to protections under the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations (EAR). *See* 22 C.F.R. 120-130 (2015); 15 C.F.R. 15.700-799 (2015).

As a result, certain documents related to this case containing technical data under the ITAR or EAR (the ITAR- or EAR-Restricted Documents) must be protected from export or transfer to unauthorized foreign persons, whether located inside or outside of the United States, including any foreign persons (as defined under these export control regimes) that may be employed by law firms, consultants, or any other third party involved in this dispute. Additionally, the furnishing of technical assistance (including the disclosure or release of ITAR-controlled technical data) may constitute a “defense service,” which also requires approval. As you may be aware, any disclosure of Raytheon-produced export-controlled technical data or furnishing of technical assistance where an authorization is needed but not secured constitutes and export violation, which should be disclosed to the Department of State.

Some of the documents to be produced this week, as part of Raytheon’s document productions under P.R. 3-2, are considered export-controlled under the ITAR or EAR, which means they cannot be exported, reexported, or retransferred to foreign persons, as defined by ITAR §120.16, or to any country outside the United States, without a specific or general authorization from the U.S. Department of State and/or the U.S. Department of Commerce (whichever export control regime may be applicable). These export-controlled documents do not relate to Raytheon’s P.R. 3-1(a)-(e) disclosures and/or related P.R. 3-2 document production. These documents also are Confidential and Attorneys Eyes Only.

As such, and to ensure absolute compliance with U.S. export regulations, Raytheon requests that counsel take all necessary steps to ensure that any ITAR- or EAR-Restricted Documents produced by Raytheon will only be provided to or accessible by U.S. persons employed by Counsel that have entered an appearance in this case. Counsel also must ensure that only U.S. persons serving as expert or fact witnesses, or acting on behalf of Counsel as contractors, vendors, or other service providers, have access to export controlled documents. We will designate the documents accordingly.


Please confirm that Counsel will take all necessary steps to ensure access to these documents will be restricted to U.S. persons (as defined by ITAR §120.15), that these documents will not be exported to foreign persons or foreign countries, and that no technical assistance directly related to controlled defense articles or other commodities will be provided to foreign persons or foreign countries.

We will work with you over the next few weeks to incorporate provisions in the Protective Order to cover proper marking and handling of U.S. export-controlled documents. We hope that these provisions will expedite discovery while minimizing the risk that any party inadvertently violates the ITAR or the EAR. To the extent you believe or contemplate that foreign persons will need to have access to export-controlled documentation or related technical assistance, you must so inform Raytheon before any such access is provided and you must cooperate with Raytheon to secure the necessary authorizations. Please be advised that such authorizations can take multiple months to secure through specific applications/requests placed with the relevant U.S. Government agency. Failure to do so can result in civil and criminal penalties.

We ask that you please reply before we transmit Raytheon's initial disclosures on July 16, 2015.

Thank you for your cooperation.

Sincerely,


Thomas J. Filarski

TJF:bdn

Enclosure: *Service List*