

## Standing Stipulated Protective Order

This standing stipulated protective order governs the treatment and filing of confidential protected information, including documents and testimony.

1. Confidential Protected information shall be clearly marked “~~PROTECTIVE ORDER MATERIAL.~~” CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY”.

2. Access to confidential protected information marked “CONFIDENTIAL” is limited to the following individuals who have executed the acknowledgment appended to this order:

(A) *Parties*. Persons who are owners of a patent involved in the proceeding and other persons who are named parties to the proceeding.

(B) *Party Representatives*. Representatives of record for a party in the proceeding.

(C) *Experts*. Retained experts of a party in the proceeding who further certify in the Acknowledgement that they are not a competitor to any party, or a consultant for, or employed by, such a competitor with respect to the subject matter of the proceeding.

(D) *In-house counsel*. In-house counsel of a party.

(E) *Other Employees of a Party*. Employees, consultants or other persons performing work for a party, other than in-house counsel and in-house counsel’s support staff, who sign the Acknowledgement shall be extended access to confidential protected information only upon agreement of the parties or by order of the Board upon a motion brought by the party seeking to disclose confidential protected information to that person. The party opposing disclosure to that person shall have the burden of proving that such person should be restricted from access to confidential protected information.

(F) *The Office*. Employees and representatives of the Office who have a need for access to the confidential protected information shall have such access without the requirement to sign an Acknowledgement. Such employees and representatives shall include the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons acting on behalf of the Office.

(G) *Support Personnel*. Administrative assistants, clerical staff, court reporters and other support personnel of the foregoing persons who are reasonably necessary to assist those persons in the proceeding shall not be required to sign an Acknowledgement, but shall be informed of the terms and requirements of the Protective Order by the person they are supporting who receives confidential information.

3. Access to protected information marked “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” is limited to the following individuals who have executed the acknowledgement appended to this order: outside counsel of record for a party in this IPR proceeding, and the individuals identified above in 2(C), 2(D), 2(F), and 2(G); provided, however, that access by in-house counsel pursuant

to paragraph 2(D) be limited to in-house counsel who exercise no competitive decision-making authority on behalf of the client. Such material may include the following types of information: (1) sensitive technical information, including current research, development and manufacturing information; (2) sensitive business information, including highly sensitive financial or marketing information; (3) competitive technical information, including technical analyses or comparisons of competitor's products or services; (4) competitive business information, including non-public financial and marketing analyses, media scheduling, comparisons of competitor's products or services, and strategic product/service expansion plans; (5) personal health or medical information; (6) an individual's personal credit, banking or other financial information; or (7) any other commercially sensitive information the disclosure of which to non-qualified persons subject to this Order the producing party reasonably and in good faith believes would likely cause harm.

4. Persons receiving confidentialprotected information shall use reasonable efforts to maintain the confidentiality of the information, including:

(A) Maintaining such information in a secure location to which persons not authorized to receive the information shall not have access;

(B) Otherwise using reasonable efforts to maintain the confidentiality of the information, which efforts shall be no less rigorous than those the recipient uses to maintain the confidentiality of information not received from the disclosing party;

(C) Ensuring that support personnel of the recipient who have access to the confidentialprotected information understand and abide by the obligation to maintain the confidentiality of information received that is designated as confidential; and

(D) Limiting the copying of confidentialprotected information to a reasonable number of copies needed for conduct of the proceeding and maintaining a record of the locations of such copies.

45. Persons receiving confidentialprotected information shall use the following procedures to maintain the confidentiality of the information:

(A) *Documents and Information Filed With the Board.*

(i) A party may file documents or information with the Board under seal, together with a non-confidential description of the nature of the confidentialprotected information that is under seal and the reasons why the information is confidential and should not be made available to the public. The submission shall be treated as confidential and remain under seal, unless, upon motion of a party and after a hearing on the issue, or *sua sponte*, the Board determines that the documents or information do not to qualify for confidential treatment.

(ii) Where confidentiality is alleged as to some but not all of the information submitted to the Board, the submitting party shall file confidential and non-confidential versions of its submission, together with a Motion to Seal the confidential version setting forth the reasons why

the information redacted from the non-confidential version is confidential and should not be made available to the public. The nonconfidential version of the submission shall clearly indicate the locations of information that has been redacted. The confidential version of the submission shall be filed under seal. The redacted information shall remain under seal unless, upon motion of a party and after a hearing on the issue, or *sua sponte*, the Board determines that some or all of the redacted information does not qualify for confidential treatment.

(B) *Documents and Information Exchanged Among the Parties*. Information designated as confidential that is disclosed to another party during discovery or other proceedings before the Board shall be clearly marked as ~~“PROTECTIVE ORDER MATERIAL”~~ “CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” and shall be produced in a manner that maintains its confidentiality.

(j) *Standard Acknowledgement of Protective Order*. The following form may be used to acknowledge a protective order and gain access to information covered by the protective order:

[CAPTION]

#### **Standard Acknowledgment for Access to Protective Order Material**

I \_\_\_\_\_, affirm that I have read the Protective Order; that I will abide by its terms; that I will use the confidential information only in connection with this proceeding and for no other purpose; that I will only allow access to support staff who are reasonably necessary to assist me in this proceeding; that prior to any disclosure to such support staff I informed or will inform them of the requirements of the Protective Order; that I am personally responsible for the requirements of the terms of the Protective Order and I agree to submit to the jurisdiction of the Office and the United States District Court for the Eastern District of Virginia for purposes of enforcing the terms of the Protective Order and providing remedies for its breach.

[Signature]

6. The protective orders in the co-pending district court litigations (2:16-cv-00693, 2:16-cv-00692, 2:16-cv-00695) are not affected by this Stipulated Protective Order.