

~~DEFAULT~~ UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO. LTD.,
SAMSUNG ELECTRONICS AMERICA, INC., AND
APPLE INC.

Petitioners,

v.

NEONODE SMARTPHONE LLC

Patent Owner.

Case IPR2021-00145
Patent No. 8,812,993

SAMSUNG AND NEONODE JOINT PROPOSED PROTECTIVE

ORDER

PROTECTIVE ORDER

The following ~~Default~~ Protective Order will govern the filing and treatment of Samsung-Neonode confidential information in the proceeding:

~~Default~~ Protective Order

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

1. Confidential information shall be clearly marked “SAMSUNG-NEONODE-CONFIDENTIAL – APPLE ATTORNEYS’ EYES ONLY~~PROTECTIVE ORDER~~ MATERIAL.”

2. Access to confidential information marked “SAMSUNG-NEONODE-CONFIDENTIAL – APPLE ATTORNEYS’ EYES ONLY” is limited to the following individuals who have executed the acknowledgment appended to this order:

(A) Samsung and Neonode Parties; and Representatives. Officers, employees, directors, agents and representatives of, including counsel of record for, Neonode Smartphone LLC, Neonode Inc., Samsung Electronics Co. Ltd., and Samsung Electronics America, Inc.

(B) Persons with Knowledge. Persons who ~~are owners of a patent,~~ (i) participated or were involved in the negotiations and process resulting

in the preparation or drafting of any materials marked SAMSUNG-NEONODE-CONFIDENTIAL – APPLE ATTORNEYS’ EYES ONLY, or (ii) in connection with their work or duties for Neonode Smartphone LLC, Neonode Inc., Samsung Electronics Co. Ltd., and Samsung Electronics America, Inc., or any of their predecessors in interest, had access to materials marked SAMSUNG-NEONODE-CONFIDENTIAL – APPLE ATTORNEYS’ EYES ONLY.

(A)(C) Apple Outside Counsel. Outside counsel of record for the Apple Inc. and any other party in this proceeding and other persons, including employees, of counsel, and contractors of outside counsel of record’s law firm(s) to whom it is reasonably necessary to disclose this information to assist outside counsel of record in connection with this proceeding, including members of their firms, associate attorneys, attorneys who are not employees of counsel of record who are named retained to assist counsel of record on an hourly basis, and paralegal, clerical, and other regular employees of such counsel. All in-house counsel and other representatives of the parties to the proceeding (other than outside counsel of record as defined above) shall not be allowed to view SAMSUNG-NEONODE-CONFIDENTIAL – APPLE ATTORNEYS’ EYES ONLY Information.

~~(A)~~ Party Representatives. Representatives of record for a party in the proceeding.

~~(B)~~~~(D)~~ 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.

~~(B)~~ In house counsel. In house counsel of a party.

~~(C)~~~~(E)~~ 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.

~~(D)~~~~(F)~~~~(H)~~ The Office. Employees and representatives of the United States Patent and Trademark Office who have a need for access to the confidential 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.

3. Employees (e.g., corporate officers), consultants, or other persons performing work for a party, other than those persons identified above in ~~(d)(2)(A)-(E)~~, shall be extended access to confidential information only upon agreement of the parties or by order of the Board upon a motion brought by the party seeking to disclose confidential information to that person and after signing the Acknowledgment. The party opposing disclosure to that person shall have the burden of proving that such person should be restricted from access to confidential information.

4. Persons receiving confidential 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 confidential information understand and abide by the obligation

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