

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

~~Default Protective Order~~
PROTECTIVE ORDER

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

1. Confidential information shall be clearly marked “CONFIDENTIAL - PROTECTIVE ORDER MATERIAL” or “HIGHLY CONFIDENTIAL - ATTORNEYS’ EYES ONLY.”

2. Access to confidential information marked “HIGHLY CONFIDENTIAL - ATTORNEYS’ EYES ONLY” is limited to the following individuals who have executed the acknowledgement 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.~~

(A) Outside counsel. Outside counsel of record for a party in the proceeding, including employees 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, paralegal, clerical, and other regular employees of such counsel. All in-house counsel and other representatives of the parties (other than outside counsel of record) shall not be allowed to view HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY Information.

(A)(B) 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.

~~(C)(A) In-house counsel. In-house counsel of a party.~~

~~(D) 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.~~

(B)(C) 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.

(D) 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 confidential information marked “CONFIDENTIAL - PROTECTIVE ORDER MATERIAL” is limited to the following individuals who have executed the acknowledgment appended to this order:

(A) Above Personnel. Those persons or entities identified in paragraph 2 of this Protective Order under the conditions set forth in that paragraph.

(B) Parties. Persons who are owners of a patent involved in the

proceeding and other persons who are named parties to the proceeding.

(C) In-house counsel. In-house counsel of a party.

1.4. 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), in-house counsel and in-house counsel’s support staff, who sign the Acknowledgement~~ 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.

2.5. 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 to maintain the confidentiality of information received that is designated as confidential; and

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

3.6. Persons receiving confidential 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 along with a Motion to Seal. The Motion to Seal should provide a non-confidential description of the nature of the confidential information that is under seal, and set forth the reasons why the information is confidential and should not be made available to the public. A party may challenge the confidentiality of the information by opposing the Motion to

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