

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

AGIS SOFTWARE DEVELOPMENT LLC, §
§

Plaintiff, §

v. §

HUAWEI DEVICE USA INC., HUAWEI DEVICE CO., LTD. AND HUAWEI DEVICE (DONGGUAN) CO., LTD., HTC CORPORATION, LG ELECTRONICS, INC., APPLE INC., ZTE CORPORATION, ZTE (USA), INC., AND ZTE (TX), INC., §
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Defendants.

Civil Action No. 2:17-CV-513-JRG
(Lead Case)

JURY TRIAL DEMANDED

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PROTECTIVE ORDER

WHEREAS, Plaintiff, AGIS Software Development LLC, and Defendants, Huawei Device USA Inc., Huawei Device Co., Ltd. Huawei Device (Dongguan) Co., Ltd., HTC Corporation,¹ LG Electronics, Inc., Apple Inc., ZTE (USA), Inc., and ZTE (TX), Inc.,² hereafter referred to as “the Parties,”³ believe that certain information that is or will be encompassed by discovery demands by the Parties involves the production or disclosure of trade secrets,

¹ HTC Corp. states that it enters into this protective order subject to its motion to dismiss and without waiver of its objection to personal jurisdiction in this case.

² Defendant ZTE Corporation has not yet been served or appeared in this matter; thus, all discovery limits will apply, if Defendant ZTE Corporation is served. Further, ZTE (USA), Inc. and ZTE (TX), Inc. state that they enter into this protective order subject to their motion to dismiss, or in the alternative transfer, and without waiver of its objection to venue in this case.

³ “Party” means any party to this case, including all of its officers, directors, employees, and outside counsel and their support staffs. “Parties” shall also include any other parties that are added to this Action and served with process in accordance with the Federal Rules of Civil Procedure.

confidential business information, or other proprietary information;

WHEREAS, the Parties seek a protective order limiting disclosure thereof in accordance with Federal Rule of Civil Procedure 26(c):

THEREFORE, it is hereby stipulated among the Parties and ORDERED that:

1. Each Party may designate as confidential for protection under this Order, in whole or in part, any document, information or material that constitutes or includes, in whole or in part, confidential or proprietary information or trade secrets of the Party or a Third Party to whom the Party reasonably believes it owes an obligation of confidentiality with respect to such document, information or material (“Protected Material”).
2. To the extent that any one of Defendants in this litigation provides Protected Material under the terms of this Protective Order to Plaintiff, Plaintiff shall not share that material with the other Defendants in this litigation, absent express written permission from the producing Defendant. This Order does not confer any right to any one Defendant to access the Protected Material of any other Defendant.
3. No Defendant is required to produce its Protected Material to any other Defendant or Defendants, but nothing in this Order shall preclude such production. Notwithstanding the provisions of this Protective Order, Plaintiff shall not disclose one Defendant’s Protected Material to any other Defendant or Defendants through Court filings, oral argument in Court, expert reports, deposition, discovery requests, discovery responses, or any other means, without the express prior written consent of the Defendant that produced the Protected Material.
4. Protected Material shall be designated by the Party producing it by affixing a legend or stamp on such document, information or material as follows: “CONFIDENTIAL” or

“RESTRICTED – ATTORNEYS’ EYES ONLY” or “RESTRICTED CONFIDENTIAL SOURCE CODE.” The words “CONFIDENTIAL” or “RESTRICTED – ATTORNEYS’ EYES ONLY” or “RESTRICTED CONFIDENTIAL SOURCE CODE” shall be placed clearly on each page of the Protected Material (except deposition and hearing transcripts) for which such protection is sought.

5. For digital files being produced, the producing Party may mark each viewable page or image with the appropriate designation, and mark the medium, container, and/or communication in which the digital files were contained. In the event that original documents are produced for inspection, the original documents shall be presumed “RESTRICTED – ATTORNEYS’ EYES ONLY” during the inspection and re-designated, as appropriate during the copying process. Where electronic files and documents are produced in native electronic format, such electronic files and documents shall be designated for protection under this Order by appending to the file names or designators information indicating whether the file contains “CONFIDENTIAL,” “RESTRICTED – ATTORNEYS’ EYES ONLY” or “RESTRICTED CONFIDENTIAL SOURCE CODE,” material, or shall use any other reasonable method for so designating Protected Materials produced in electronic format. When electronic files or documents are printed for use at deposition, in a court proceeding, or for provision in printed form to an expert or consultant pre-approved pursuant to paragraph 12, the party printing the electronic files or documents shall affix a legend to the printed document corresponding to the designation of the Designating Party and including the production number and designation associated with the native file. No one shall seek to use in this litigation a .tiff, .pdf or other image format version of a document produced in native file format

without first (1) providing a copy of the image format version to the producing Party so that the producing Party can review the image to ensure that no information has been altered, and (2) obtaining the consent of the producing Party, which consent shall not be unreasonably withheld.

6. For deposition and hearing transcripts, the word “CONFIDENTIAL” or “RESTRICTED – ATTORNEYS’ EYES ONLY” or “RESTRICTED CONFIDENTIAL SOURCE CODE” shall be placed on the cover page of the transcript (if not already present on the cover page of the transcript when received from the court reporter) by each attorney receiving a copy of the transcript after that attorney receives notice of the designation of some or all of that transcript as “CONFIDENTIAL”, “RESTRICTED – ATTORNEYS’ EYES ONLY” or “RESTRICTED CONFIDENTIAL SOURCE CODE.” In the event a deposition is videotaped, the original and all copies of the videotape shall be marked by the video technician to indicate that the contents of the videotape are subject to this Protective Order, substantially along the lines of “This videotape contains confidential testimony used in this case and is not to be viewed or the contents thereof to be displayed or revealed except pursuant to the terms of the operative Protective Order in this matter or pursuant to written stipulation of the parties.” It shall be the responsibility of the Party that designates the deposition as confidential to inform the videographer of the requirements in this Paragraph.
7. Any document produced under Patent Rules 2-2, 3-2, and/or 3-4 before issuance of this Order with the designation “Confidential” or “Confidential - Outside Attorneys’ Eyes Only” shall receive the same treatment as if designated “RESTRICTED – ATTORNEYS’ EYES ONLY” under this Order, unless and until such document is redesignated to have a

different classification under this Order.

8. With respect to documents, information or material designated “CONFIDENTIAL,” “RESTRICTED – ATTORNEYS’ EYES ONLY,” or “RESTRICTED CONFIDENTIAL SOURCE CODE” (“DESIGNATED MATERIAL”),⁴ subject to the provisions herein and unless otherwise stated, this Order governs, without limitation: (a) all documents, electronically stored information, and/or things as defined by the Federal Rules of Civil Procedure; (b) all pretrial, hearing or deposition testimony, or documents marked as exhibits or for identification in depositions and hearings; (c) pretrial pleadings, exhibits to pleadings and other court filings; (d) affidavits; and (e) stipulations. All copies, reproductions, extracts, digests and complete or partial summaries prepared from any DESIGNATED MATERIALS, as well as testimony or presentations by Parties or their counsel in court that might reveal Protected Material shall also be considered DESIGNATED MATERIAL and treated as such under this Order.
9. A designation of Protected Material (i.e., “CONFIDENTIAL,” “RESTRICTED - ATTORNEYS’ EYES ONLY,” or “RESTRICTED CONFIDENTIAL SOURCE CODE”) may be made at any time. Inadvertent or unintentional production of documents, information or material that has not been designated as DESIGNATED MATERIAL shall not be deemed a waiver in whole or in part of a claim for confidential treatment. Any party that inadvertently or unintentionally produces Protected Material without designating it as DESIGNATED MATERIAL may request destruction of that Protected Material by

⁴ The term DESIGNATED MATERIAL is used throughout this Protective Order to refer to the class of materials designated as “CONFIDENTIAL,” “RESTRICTED - ATTORNEYS’ EYES ONLY,” or “RESTRICTED CONFIDENTIAL SOURCE CODE,” both individually and collectively.

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