

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

CELLULAR COMMUNICATIONS
EQUIPMENT LLC,

Plaintiff,

v.

LG ELECTRONICS, INC., ET AL.,

Defendants.

Civil Action No. 6:14-cv-982-JRG
LEAD CASE

AGREED PROTECTIVE ORDER

The parties hereby stipulate that the following Protective Order (“Order”) regarding confidential information may be entered by the Court:

1. INTRODUCTION AND SCOPE

This Order shall govern all documents and things (whether or not embodied in any physical medium) exchanged during this action, including but not limited to documents produced by the parties or third-parties, testimony taken at a hearing or other proceeding, and discovery, including but not limited to deposition testimony, interrogatory answers, and responses to requests for admission. In the event a party wishes to use any Protected Information in any affidavits, briefs, memoranda of law, or other papers filed with the Court in this action, such Protected Information used therein shall be filed under seal with the Court pursuant to Local Rule CV-5(a)(7). Production or disclosure of “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY,” or HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY COMPUTER SOURCE CODE” information under this Order shall not prejudice the right of any party making that production or disclosure to maintain the trade secret status or confidentiality of that information in other contexts.

2. DISCOVERY RULES REMAIN UNCHANGED

Nothing herein shall alter or change in any way the discovery provisions set forth by the Federal Rules of Civil Procedure (“Federal Rules”), the Local Rules for the Eastern District of Texas, or this Court. Identification of any individual pursuant to this Order does not make that individual available for deposition or any other form of discovery outside of the restrictions and procedures of the Federal Rules of Civil Procedure and the Court’s Deadlines set out in the applicable Scheduling Order. Nothing in this Order shall be construed to require a party to produce or disclose information not otherwise required to be produced under the applicable rules or orders of this Court.

3. DEFINITIONS

3.1. Court Staff

“Court Staff” is defined in this Order as the Court and its personnel, court reporters, independent shorthand reporters, and their staffs, and videographers, interpreters, or translators engaged for depositions or proceedings necessary to this case.

3.2. Discovery Material

The term “Discovery Material” shall refer to all items or information, including from a non-party, regardless of the medium or manner generated, stored, or maintained (including, among other things, testimony, transcripts, or tangible things) that are produced or generated in disclosures or responses to discovery in this matter.

3.3. Inside Counsel

The term “Inside Counsel” shall mean employees of a named party to this action who (a) are members of the named party’s legal team, (b) have responsibility for maintaining, defending or evaluating this action, (c) have responsibility for making decisions dealing directly with this action, (d) are not involved in competitive decision-making, as defined by *U.S. Steel v. United States*, 730

F.2d 1465, 1468 n.3 (Fed. Cir. 1984), on behalf of a named party to this action or a competitor of a named party to this action, and (e) are subject to the provisions of Sections 6.6.4-6.6.6, below.

3.4. Outside Consultant

The term “Outside Consultant” shall mean any outside person (and their support personnel) who is not an employee of a party or any Related Entity, and who is identified as an expert whose opinions may be presented at trial of this case, or who is retained or specially employed in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial, including but not limited to, a proposed expert witness with whom counsel may deem it necessary to consult concerning technical, financial, or other aspects of this case for the preparation or trial thereof. This term is to be construed within the meaning of Federal Rule 26(b)(4)(a)-(b).

3.5. Outside Counsel

The term “Outside Counsel” shall mean individual attorneys who are not employees of any named party to this action or any Related Entity, but who are retained to represent or advise a named party to this action or any Related Entity, including support personnel; contract attorneys; paralegals; consultants; legal secretaries; legal clerks; technical advisors; employees of outside vendors providing copy services, document, graphics, and exhibit preparation services; and jury consultant and research services.

3.6. Producing Party

The term “Producing Party” shall mean a party or third-party that produces Discovery Material, including Protected Information, in this action.

3.7. Protected Information

The term “Protected Information” shall mean any Discovery Material that the Producing Party in good faith designates as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY COMPUTER

SOURCE CODE.” Protected Information also includes any information copied or extracted therefrom, as well as all copies, excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by parties or counsel to or in court or in other settings that might reveal Protected Information.

3.7.1. **Confidential Information.** A Producing Party, including any party to this action and any third-party producing information or material voluntarily or pursuant to a subpoena or a court order, may designate Discovery Material as “CONFIDENTIAL” if the Producing Party has a good faith belief that such Discovery Material constitutes or contains confidential information, whether embodied in physical objects, documents, or the factual knowledge of persons.

3.7.2. **Highly Confidential — Attorneys’ Eyes Only Information.** A Producing Party, including any party to this action and any third-party producing information or material voluntarily or pursuant to a subpoena or a court order, may designate Discovery Material as “HIGHLY CONFIDENTIAL —ATTORNEYS’ EYES ONLY” if the Producing Party has a good faith belief that such Discovery Material constitutes or contains proprietary financial, business, or technical data, commercially sensitive competitive information or trade secrets (*e.g.*, nonpublic technical information, including schematic diagrams, technical reference manuals, and operations manuals); damages-related information (*e.g.*, sale volumes, revenues, costs, and profitability), licenses and licensing documentation, business plans, strategic plans; and settlement agreements or settlement communications, the disclosure of which could cause harm to the business or competitive position of the Producing Party.

3.7.3. **Highly Confidential — Attorneys’ Eyes Only Computer Source Code Information.** A Producing Party, including any party to this action and any third-party producing information or material voluntarily or pursuant to a subpoena or a court order, may

alternatively designate Discovery Material “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY COMPUTER SOURCE CODE” if the Producing Party has a good faith belief that such Discovery Material contains a party’s Source Code, which shall mean computer object code or other executable code or source code or similar programming statements or instructions that in general are converted into machine language by compilers, assemblers, or interpreters, or portions of any document reproducing such code.

3.7.4. **Non-Confidential Information.** The following is not “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY INFORMATION,” or “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY COMPUTER SOURCE CODE” Discovery Material:

- a. any information which, at the time of disclosure to a Receiving Party, is lawfully public knowledge;
- b. any information which, after disclosure to a Receiving Party, lawfully becomes public knowledge as a result of publication not involving a violation of this Order;
- c. any information that a Receiving Party can show was received by it, whether before or after the disclosure, from a source who obtained the information lawfully and under no obligation of confidentiality; and
- d. any information that a Receiving Party can show was independently developed by it or its personnel who have not had access to the Producing Party's Protected Information.

3.8. Receiving Party

The term “Receiving Party” shall mean a party that receives Discovery Material from a Producing Party.

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