

THE HONORABLE JAMES L. ROBART

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

CYWEE GROUP LTD.,
Plaintiff,
v.
HTC CORPORATION
and
HTC AMERICA, INC.,
Defendants.

CASE NO. 2:17-cv-00932-JLR

STIPULATED PROTECTIVE ORDER

JURY TRIAL DEMANDED

**NOTE ON MOTION CALENDAR:
JUNE 4, 2018**

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles, and it does not presumptively entitle parties to file confidential information under seal.

STIPULATED PROTECTIVE ORDER

SHORE CHAN DEPUMPO LLP
901 MAIN STREET, SUITE 3300
DALLAS, TX 75202

1 2. “CONFIDENTIAL” MATERIAL

2 “Confidential” material shall include the following documents and tangible things
3 produced or otherwise exchanged that constitute or include, in whole or in part, confidential or
4 proprietary information or trade secrets including, but not limited to, source code, product design
5 files, engineering specifications, confidential financial information and customer information of
6 any party hereto or any third party whom a party reasonably believes it owes an obligation of
7 confidentiality with respect to such document, information or material.

8 3. “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” MATERIAL

9 “Highly Confidential – Attorneys’ Eyes Only” material shall include extremely sensitive
10 “Confidential Information or Items,” disclosure of which to another party or non-party would
11 create a substantial risk of serious harm that could not be avoided by less restrictive means.

12 4. “HIGHLY CONFIDENTIAL – SOURCE CODE” MATERIAL

13 “Highly Confidential – Source Code” material shall include extremely sensitive
14 “Confidential Information or Items” representing computer code, physical design files and
15 associated comments and revision histories, formulas, engineering specifications, recipes, run
16 sheets, or schematics that define or otherwise describe in detail the algorithms or structure of
17 software or hardware designs, disclosure of which to another party or non-party would create a
18 substantial risk of serious harm that could not be avoided by less restrictive means.

19 5. SCOPE

20 The protections conferred by this agreement cover not only confidential material (as
21 defined above), but also (1) any information copied or extracted from confidential material; (2) all
22 copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony,
23 conversations, or presentations by parties or their counsel that might reveal confidential material.

24 However, the protections conferred by this agreement do not cover information that is in
25 the public domain or becomes part of the public domain other than as a result of a disclosure by
26 the receiving party in violation of this Order, including through trial or otherwise.

1 6. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

2 6.1 Basic Principles. A receiving party may use confidential material that is disclosed
3 or produced by another party or by a non-party in connection with this case only for prosecuting,
4 defending, or attempting to settle this litigation. Confidential material may be disclosed only to the
5 categories of persons and under the conditions described in this agreement. Confidential material
6 must be stored and maintained by a receiving party at a location and in a secure manner that ensures
7 that access is limited to the persons authorized under this agreement.

8 6.2 Disclosure of “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’
9 EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or Items. Unless
10 otherwise ordered by the court or permitted in writing by the designating party, a receiving party
11 may disclose any confidential material only to:

12 (a) the receiving party’s outside counsel of record in this action, as well as
13 employees of counsel to whom it is reasonably necessary to disclose the information for this
14 litigation;

15 (b) the officers, directors, and employees (including in-house counsel) of the
16 receiving party to whom disclosure is reasonably necessary for this litigation, unless a particular
17 document or material produced is designated “HIGHLY CONFIDENTIAL – ATTORNEYS’
18 EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” and is so designated;

19 (c) one designated in-house counsel of the receiving party to whom disclosure
20 is reasonably necessary for litigation and who have signed the “Acknowledgment and Agreement
21 to Be Bound” (Exhibit A);

22 (d) experts and consultants to whom disclosure is reasonably necessary for this
23 litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

24 (e) the court, court personnel, and court reporters and their staff;

25 (f) copy or imaging services retained by counsel to assist in the duplication of
26 confidential material, provided that counsel for the party retaining the copy or imaging service

1 instructs the service not to disclose any confidential material to third parties and to immediately
2 return all originals and copies of any confidential material;

3 (g) during their depositions, witnesses in the action to whom disclosure is
4 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound”
5 (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Pages of
6 transcribed deposition testimony or exhibits to depositions that reveal confidential material must
7 be separately bound by the court reporter and may not be disclosed to anyone except as permitted
8 under this agreement;

9 (h) the author or recipient of a document containing the information or a
10 custodian or other person who otherwise possessed or knew the information.

11 6.3 Filing Confidential Material. Before filing confidential material or discussing or
12 referencing such material in court filings, the filing party shall confer with the designating party
13 to determine whether the designating party will remove the confidential designation, whether the
14 document can be redacted, or whether a motion to seal or stipulation and proposed order is
15 warranted. Local Civil Rule 5(g) sets forth the procedures that must be followed and the standards
16 that will be applied when a party seeks permission from the court to file material under seal. The
17 ability to file confidential materials is not contingent upon the Court granting any sealing request.

18 7. DESIGNATING PROTECTED MATERIAL

19 7.1 Exercise of Restraint and Care in Designating Material for Protection. Each party
20 or non-party that designates information or items for protection under this agreement must take
21 care to limit any such designation to specific material that qualifies under the appropriate
22 standards. The designating party must designate for protection only those parts of material,
23 documents, items, or oral or written communications that qualify, so that other portions of the
24 material, documents, items, or communications for which protection is not warranted are not swept
25 unjustifiably within the ambit of this agreement.

1 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
2 shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*, to
3 unnecessarily encumber or delay the case development process or to impose unnecessary expenses
4 and burdens on other parties) expose the designating party to sanctions.

5 If it comes to a designating party's attention that information or items that it designated for
6 protection do not qualify for protection, the designating party must promptly notify all other parties
7 that it is withdrawing the mistaken designation.

8 7.2 Manner and Timing of Designations. Except as otherwise provided in this
9 agreement (see, *e.g.*, second paragraph of section 5.2(a) below), or as otherwise stipulated or
10 ordered, disclosure or discovery material that qualifies for protection under this agreement must
11 be clearly so designated before or when the material is disclosed or produced.

12 (a) Information in documentary form: (*e.g.*, paper or electronic documents and
13 deposition exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings),
14 the designating party must affix the word or phrases "CONFIDENTIAL," "HIGHLY
15 CONFIDENTIAL – ATTORNEYS' EYES ONLY," or "HIGHLY CONFIDENTIAL – SOURCE
16 CODE" to each page that contains confidential material. If only a portion or portions of the
17 material on a page qualifies for protection, the producing party also must clearly identify the
18 protected portion(s) (*e.g.*, by making appropriate markings in the margins).

19 (b) Other tangible items: the producing party must affix in a prominent place
20 on the exterior of the container or containers in which the information or item is stored the word
21 or phrases "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY,"
22 or "HIGHLY CONFIDENTIAL – SOURCE CODE." If only a portion or portions of the
23 information or item warrant protection, the producing party, to the extent practicable, shall identify
24 the protected portion(s).

25 A party or non-party that makes original documents or materials available for
26 inspection need not designate them for protection until after the inspecting party has indicated

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