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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

NETAIRUS TECHNOLOGIES, LLC,) **Civil Action**
a California limited liability company,) **Case No. 2:10-cv-03257-JAK-Ex**

Plaintiff

vs.

APPLE, INC.,
a California corporation,

Defendant.

) **STIPULATION AND**
) ~~**PROPOSED**~~ **AMENDED**
) **PROTECTIVE ORDER**

APPLE, INC.,
a California corporation,

Counter-Claimant

vs.

NETAIRUS TECHNOLOGIES, LLC,
a California limited liability company,

Counter-Defendant

1 **STIPULATION AND [PROPOSED] AMENDED PROTECTIVE ORDER**

2 WHEREAS, Plaintiff NetAirus Technologies, LLC and Defendant Apple
3 Inc., hereafter referred to as “the Parties,” believe that certain information that is or
4 will be encompassed by discovery demands by the Parties involves the production
5 or disclosure of Trade Secrets, confidential business information, or other
6 proprietary information;

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

9 WHEREAS, the Parties have agreed to add language to Paragraph 10 to
10 expressly state the implicit restriction limiting disclosure of materials marked as
11 RESTRICTED-ATTORNEYS’ EYES ONLY to only to those persons associated
12 with NetAirus identified in Paragraph 6(a-b) and (e-g): THEREFORE, it is hereby
13 stipulated among the Parties and ORDERED that:

14 1. As used in this Protective Order, the following terms shall have the
15 meanings set forth below.

16 (a) “Patent-in-Suit” means U.S. Patent No. 7,103,380, and any other
17 patent asserted in this action, as well as any continuations,
18 continuations-in-part and/or divisionals.

19 (b) “Producing Party” means any Party or non-party entity that discloses
20 or produces any Discovery Material in this case.

21 (c) “Receiving Party” means any Party who receives Discovery Material
22 from a Producing Party.

23 (d) “Source Code” means computer code, scripts, assembly, object code,
24 source code listings and descriptions of source code, object code
25 listings and descriptions of object code, and Hardware Description
26 Language (HDL) or Register Transfer Level (RTL) files that describe
27 the hardware design of any ASIC or other chip.

28

1 (e) "Trade Secret(s)" shall have the meaning set forth in California Civil
2 Code § 3426.1 as follows: "information, including a formula, pattern,
3 compilation, program, device, method, technique, or process that (1)
4 Derives independent economic value, actual or potential, from not
5 being generally known to the public or to other persons who can
6 obtain economic value from its disclosure or use; and (2) Is the
7 subject of efforts that are reasonable under the circumstances to
8 maintain its secrecy."

9 2. Each Party may designate as confidential for protection under this Order, in
10 whole or in part, any document, information or material that constitutes or
11 includes, in whole or in part, confidential or proprietary information or
12 Trade Secrets of the Party or a Third Party to whom the Party reasonably
13 believes it owes an obligation of confidentiality with respect to such
14 document, information or material ("Protected Material"). Protected
15 Material shall be designated by the Party producing it by affixing a legend or
16 stamp on such document, information or material as follows:

17 "CONFIDENTIAL." The word "CONFIDENTIAL" shall be placed clearly
18 on each page of the Protected Material (except deposition and hearing
19 transcripts) for which such protection is sought. For deposition and hearing
20 transcripts, the word "CONFIDENTIAL" shall be placed on the cover page
21 of the transcript (if not already present on the cover page of the transcript
22 when received from the court reporter) by each attorney receiving a copy of
23 the transcript after that attorney receives notice of the designation of some or
24 all of that transcript as "CONFIDENTIAL."

25 3. Any document produced before issuance of this Order with the designation
26 "Confidential" or "Confidential - Outside Attorneys' Eyes Only" shall
27 receive the same treatment as if designated "RESTRICTED -
28

1 ATTORNEYS' EYES ONLY" under this Order, unless and until such
2 document is redesignated to have a different classification under this Order.
3 4. With respect to documents, information or material designated
4 "CONFIDENTIAL," "RESTRICTED - ATTORNEYS' EYES ONLY," or
5 "RESTRICTED CONFIDENTIAL SOURCE CODE" ("DESIGNATED
6 MATERIAL"),¹ subject to the provisions herein and unless otherwise stated,
7 this Order governs, without limitation: (a) all documents, electronically
8 stored information, and/or things as defined by the Federal Rules of Civil
9 Procedure; (b) all pretrial, hearing or deposition testimony, or documents
10 marked as exhibits or for identification in depositions and hearings;
11 (c) pretrial pleadings, exhibits to pleadings and other court filings;
12 (d) affidavits; and (e) stipulations. All copies, reproductions, extracts,
13 digests and complete or partial summaries prepared from any
14 DESIGNATED MATERIALS shall also be considered DESIGNATED
15 MATERIAL and treated as such under this Order.
16 5. A designation of Protected Material (*i.e.*, "CONFIDENTIAL,"
17 "RESTRICTED - ATTORNEYS' EYES ONLY," or "RESTRICTED
18 CONFIDENTIAL SOURCE CODE") may be made at any time. Inadvertent
19 or unintentional production of documents, information or material that has
20 not been designated as DESIGNATED MATERIAL shall not be deemed a
21 waiver in whole or in part of a claim for confidential treatment. Any party
22 that inadvertently or unintentionally produces Protected Material without
23 designating it as DESIGNATED MATERIAL may request destruction of
24 that Protected Material by notifying the recipient(s), as soon as reasonably
25 possible after the Producing Party becomes aware of the inadvertent or
26 unintentional disclosure, and providing replacement Protected Material that

27 ¹ The term DESIGNATED MATERIAL is used throughout this Protective Order to refer to the class of materials
28 designated as "CONFIDENTIAL," "RESTRICTED - ATTORNEYS' EYES ONLY," or "RESTRICTED
CONFIDENTIAL SOURCE CODE," both individually and collectively.

1 is properly designated. The recipient(s) shall then destroy all copies of the
2 inadvertently or unintentionally produced Protected Materials and any
3 documents, information or material derived from or based thereon.

4 6. "CONFIDENTIAL" documents, information and material may be disclosed
5 only to the following persons, except upon receipt of the prior written
6 consent of the designating party, upon order of the Court, or as set forth in
7 paragraph 13 herein:

- 8 (a) outside counsel of record in this Action for the Parties;
9 (b) employees of such counsel assigned to and reasonably necessary to
10 assist such counsel in the litigation of this Action;
11 (c) in-house counsel for the Parties who either have responsibility for
12 making decisions dealing directly with the litigation of this Action, or
13 who are assisting outside counsel in the litigation of this Action;
14 (d) up to and including three (3) designated representatives of each of the
15 Parties to the extent reasonably necessary for the litigation of this
16 Action, except that either party may in good faith request the other
17 party's consent to designate one or more additional representatives,
18 the other party shall not unreasonably withhold such consent, and the
19 requesting party may seek leave of Court to designate such additional
20 representative(s) if the requesting party believes the other party has
21 unreasonably withheld such consent;
22 (e) outside consultants or experts (*i.e.*, not existing employees or affiliates
23 of a Party or an affiliate of a Party) retained for the purpose of this
24 litigation, provided that: (1) such consultants or experts are not
25 presently employed by the Parties hereto for purposes other than this
26 Action; (2) before access is given, the consultant or expert has
27 completed the Undertaking attached as Appendix A hereto and the
28 same is served upon the Producing Party with a current curriculum

1 vitae of the consultant or expert at least ten (10) days before access to
2 the Protected Material is to be given to that consultant or Undertaking
3 to object to and notify the Receiving Party in writing that it objects to
4 disclosure of Protected Material to the consultant or expert. The
5 Parties agree to promptly confer and use good faith to resolve any
6 such objection. If the Parties are unable to resolve any objection, the
7 objecting Party may file a motion with the Court within fifteen
8 (15) days of the notice, or within such other time as the Parties may
9 agree, seeking a protective order with respect to the proposed
10 disclosure. The objecting Party shall have the burden of proving the
11 need for a protective order. No disclosure shall occur until all such
12 objections are resolved by agreement or Court order;

13 (f) independent litigation support services, including persons working for
14 or as court reporters, graphics or design services, jury or trial
15 consulting services, and photocopy, document imaging, and database
16 services retained by counsel and reasonably necessary to assist
17 counsel with the litigation of this Action; and

18 (g) the Court and its personnel.

19 7. A Party shall designate documents, information or material as
20 "CONFIDENTIAL" only upon a good faith belief that the documents,
21 information or material contains confidential or proprietary information or
22 Trade Secrets of the Party or a Third Party to whom the Party reasonably
23 believes it owes an obligation of confidentiality with respect to such
24 documents, information or material.

25 8. Documents, information or material produced pursuant to any discovery
26 request in this Action, including but not limited to Protected Material
27 designated as DESIGNATED MATERIAL, shall be used by the Parties only
28 in the litigation of this Action and shall not be used for any other purpose.

1 Any person or entity who obtains access to DESIGNATED MATERIAL or
2 the contents thereof pursuant to this Order shall not make any copies,
3 duplicates, extracts, summaries or descriptions of such DESIGNATED
4 MATERIAL or any portion thereof except as may be reasonably necessary
5 in the litigation of this Action. Any such copies, duplicates, extracts,
6 summaries or descriptions shall be classified DESIGNATED MATERIALS
7 and subject to all of the terms and conditions of this Order.

8 9. To the extent a Producing Party believes that certain Protected Material
9 qualifying to be designated CONFIDENTIAL is so sensitive that its
10 dissemination deserves even further limitation, the Producing Party may
11 designate such Protected Material "RESTRICTED -- ATTORNEYS' EYES
12 ONLY," or to the extent such Protected Material includes Source Code
13 and/or live data (that is, data as it exists residing in a database or databases)
14 ("Source Code Material"), the Producing Party may designate such
15 Protected Material as "RESTRICTED CONFIDENTIAL SOURCE CODE."

16 10. For Protected Material designated RESTRICTED - ATTORNEYS' EYES
17 ONLY, access to, and disclosure of, such Protected Material shall be limited
18 to individuals listed in paragraphs 6(a-c) and (e-g); provided, however, that
19 access by in-house counsel pursuant to paragraph 6(c) be limited to in-house
20 counsel who exercise no competitive decision-making authority on behalf of
21 the client. Further, as NetAirus has no in-house counsel, materials produced
22 to NetAirus marked as RESTRICTED-ATTORNEYS' EYES ONLY, may
23 only be shown to individuals listed in paragraphs 6(a-b) and (e-g)."

24 11. For Protected Material designated RESTRICTED CONFIDENTIAL
25 SOURCE CODE, the following additional restrictions apply:

26 (a) Access to a Party's Source Code Material shall be provided only on
27 "stand-alone" computer(s) (that is, the computer may not be linked to
28 any network, including a local area network ("LAN"), an intranet or

1 the Internet). The stand-alone computer(s) may be connected to a
2 printer. The stand-alone computer(s) may only be located at the
3 offices of the Producing Party's outside counsel;

4 (b) The Receiving Party shall make reasonable efforts to restrict its
5 requests for such access to the stand-alone computer(s) to normal
6 business hours, which for purposes of this paragraph shall be 8:00
7 a.m. through 6:00 p.m. However, upon reasonable notice from the
8 Receiving Party, the Producing Party shall make reasonable efforts to
9 accommodate the Receiving Party's request for access to the stand-
10 alone computer(s) outside of normal business hours. The Parties
11 agree to cooperate in good faith such that maintaining the Producing
12 Party's Source Code Material at the offices of its outside counsel shall
13 not unreasonably hinder the Receiving Party's ability to efficiently
14 and effectively conduct the prosecution or defense of this Action;

15 (c) The Producing Party shall provide the Receiving Party with
16 information explaining how to start, log on to, and operate the stand-
17 alone computer(s) in order to access the produced Source Code
18 Material on the stand-alone computer(s);

19 (d) The Producing Party will produce Source Code Material in computer
20 searchable format on the stand-alone computer(s) as described above;

21 (e) Access to Protected Material designated RESTRICTED
22 CONFIDENTIAL - SOURCE CODE shall be limited to outside
23 counsel and up to three (3) outside consultants or experts² (*i.e.*, not
24 existing employees or affiliates of a Party or an affiliate of a Party)
25 retained for the purpose of this litigation and approved to access such
26 Protected Materials pursuant to paragraph 6(e) above. A Receiving

27 ² For the purposes of this paragraph, an outside consultant or expert is defined to include the outside consultant's or
28 expert's direct reports and other support personnel, such that the disclosure to a consultant or expert who employs
others within his or her firm to help in his or her analysis shall count as a disclosure to a single consultant or expert.

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Party may include excerpts of Source Code Material in a pleading, exhibit, expert report, discovery document, deposition transcript, other Court document, provided that the Source Code Documents are appropriately marked under this Order, restricted to those who are entitled to have access to them as specified herein, and, if filed with the Court, filed under seal in accordance with the Court’s rules, procedures and orders;

(f) To the extent portions of Source Code Material are quoted in a Source Code Document, either (1) the entire Source Code Document will be stamped and treated as RESTRICTED CONFIDENTIAL SOURCE CODE or (2) those pages containing quoted Source Code Material will be separately stamped and treated as RESTRICTED CONFIDENTIAL SOURCE CODE;

(g) Except as set forth in paragraph 11(k) below, no electronic copies of Source Code Material shall be made without prior written consent of the Producing Party, except as necessary to create documents which, pursuant to the Court’s rules, procedures and order, must be filed or served electronically;

(h) The Receiving Party shall be permitted to make a reasonable number of printouts and photocopies of Source Code Material, all of which shall be designated and clearly labeled “RESTRICTED CONFIDENTIAL SOURCE CODE,” and the Receiving Party shall maintain a log of all such files that are printed or photocopied;

(i) Should such printouts or photocopies be transferred back to electronic media, such media shall be labeled “RESTRICTED CONFIDENTIAL SOURCE CODE” and shall continue to be treated as such;

(j) If the Receiving Party’s outside counsel, consultants, or experts obtain printouts or photocopies of Source Code Material, the Receiving Party

1 shall ensure that such outside counsel, consultants, or experts keep the
2 printouts or photocopies in a secured locked area in the offices of such
3 outside counsel, consultants, or expert. The Receiving Party may also
4 temporarily keep the printouts or photocopies at: (i) the Court for any
5 proceedings(s) relating to the Source Code Material, for the dates
6 associated with the proceeding(s); (ii) the sites where any
7 deposition(s) relating to the Source Code Material are taken, for the
8 dates associated with the deposition(s); and (iii) any intermediate
9 location reasonably necessary to transport the printouts or photocopies
10 (e.g., a hotel prior to a Court proceeding or deposition); and

11 (k) A Producing Party's Source Code Material may only be transported
12 by the Receiving Party at the direction of a person authorized under
13 paragraph 11(e) above to another person authorized under
14 paragraph 11(e) above, on paper, via hand carry. Source Code
15 Material may not be transported or transmitted electronically over a
16 network of any kind, including a LAN, an intranet, or the Internet.
17 Source Code Material may only be transported electronically for the
18 purpose of Court proceeding(s) or deposition(s) as set forth in
19 paragraph 11(j) above and is at all times subject to the transport
20 restrictions set forth herein. But, for those purposes only, the Source
21 Code Materials may be loaded onto a stand-alone computer.

22 12. Any attorney representing a Party, whether in-house or outside counsel, and
23 any person associated with a Party and permitted to receive the other Party's
24 Protected Material that is designated RESTRICTED -- ATTORNEYS'
25 EYES ONLY and/or RESTRICTED CONFIDENTIAL SOURCE CODE
26 (collectively "HIGHLY SENSITIVE MATERIAL"), who obtains, receives,
27 has access to, or otherwise learns, in whole or in part, the other Party's
28 HIGHLY SENSITIVE MATERIAL under this Order shall not prepare,

1 prosecute, supervise, or assist in the preparation or prosecution of any patent
2 application pertaining to the field of the invention of the Patent-in-Suit on
3 behalf of the Receiving Party or its acquirer, successor, predecessor, or other
4 affiliate during the pendency of this Action and for one year after its
5 conclusion, including any appeals. To ensure compliance with the purpose
6 of this provision, each Party shall create an "Ethical Wall" between those
7 persons with access to HIGHLY SENSITIVE MATERIAL and any
8 individuals who, on behalf of the Party or its acquirer, successor,
9 predecessor, or other affiliate, prepare, prosecute, supervise or assist in the
10 preparation or prosecution of any patent application pertaining to the field of
11 invention of the Patent-in-Suit. For the avoidance of any doubt, this section
12 shall not in any way limit or prevent any attorney representing a Party from
13 participating or assisting in any reexaminations of any patents pertaining to
14 the field of invention of the Patent-in-Suit.

- 15 13. Nothing in this Order shall require production of documents, information or
16 other material that a Party contends is protected from disclosure by the
17 attorney-client privilege, the work product doctrine, or other privilege,
18 doctrine, or immunity. If documents, information or other material subject
19 to a claim of attorney-client privilege, work product doctrine, or other
20 privilege, doctrine, or immunity is inadvertently or unintentionally produced,
21 such production shall in no way prejudice or otherwise constitute a waiver
22 of, or estoppel as to, any such privilege, doctrine, or immunity. Any Party
23 that inadvertently or unintentionally produces documents, information or
24 other material it reasonably believes are protected under the attorney-client
25 privilege, work product doctrine, or other privilege, doctrine, or immunity
26 may obtain the return of such documents, information or other material by
27 promptly notifying the recipient(s) and providing a privilege log for the
28 inadvertently or unintentionally produced documents, information or other

1 material. The recipient(s) shall gather and return all copies of such
2 documents, information or other material to the Producing Party, except for
3 any pages containing privileged or otherwise protected markings by the
4 recipient(s), which pages shall instead be destroyed and certified as such to
5 the Producing Party.

6 14. There shall be no disclosure of any DESIGNATED MATERIAL by any
7 person authorized to have access thereto to any person who is not authorized
8 for such access under this Order. The Parties are hereby ORDERED to
9 safeguard all such documents, information and material to protect against
10 disclosure to any unauthorized persons or entities.

11 15. Nothing contained herein shall be construed to prejudice any Party's right to
12 use any DESIGNATED MATERIAL in taking testimony at any deposition
13 or hearing provided that the DESIGNATED MATERIAL is only disclosed
14 to a person(s) who is: (i) eligible to have access to the DESIGNATED
15 MATERIAL by virtue of his or her employment with the designating party,
16 (ii) identified in the DESIGNATED MATERIAL as an author, addressee, or
17 copy recipient of such information, (iii) although not identified as an author,
18 addressee, or copy recipient of such DESIGNATED MATERIAL, has, in
19 the ordinary course of business, seen such DESIGNATED MATERIAL,
20 (iv) a current or former officer, director or employee of the Producing Party
21 or a current or former officer, director or employee of a company affiliated
22 with the Producing Party; (v) counsel for a Party, including outside counsel
23 and in-house counsel (subject to paragraph 10 of this Order); (vi) an
24 independent contractor, consultant, and/or expert retained for the purpose of
25 this litigation; (vii) court reporters and videographers; (viii) the Court; or
26 (ix) other persons entitled hereunder to access to DESIGNATED
27 MATERIAL. DESIGNATED MATERIAL shall not be disclosed to any
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- 1 other persons unless prior authorization is obtained from counsel
2 representing the Producing Party or from the Court.
- 3 16. Parties may, at the deposition or hearing or within thirty (30) days after
4 receipt of a deposition or hearing transcript, designate the deposition or
5 hearing transcript or any portion thereof as “CONFIDENTIAL,”
6 “RESTRICTED - ATTORNEY’ EYES ONLY,” or “RESTRICTED
7 CONFIDENTIAL SOURCE CODE” pursuant to this Order. Access to the
8 deposition or hearing transcript so designated shall be limited in accordance
9 with the terms of this Order. Until expiration of the 30-day period, the entire
10 deposition or hearing transcript shall be treated as confidential.
- 11 17. Any DESIGNATED MATERIAL that is filed with the Court shall be filed
12 under seal and shall remain under seal until further order of the Court. The
13 filing party shall be responsible for informing the Clerk of the Court that the
14 filing should be sealed and for placing the legend “FILED UNDER SEAL
15 PURSUANT TO PROTECTIVE ORDER” above the caption and
16 conspicuously on each page of the filing. Exhibits to a filing shall conform
17 to the labeling requirements set forth in this Order. If a pretrial pleading
18 filed with the Court, or an exhibit thereto, discloses or relies on confidential
19 documents, information or material, such confidential portions shall be
20 redacted to the extent necessary and the pleading or exhibit filed publicly
21 with the Court.
- 22 18. The Order applies to pretrial discovery. Nothing in this Order shall be
23 deemed to prevent the Parties from introducing any DESIGNATED
24 MATERIAL into evidence at the trial of this Action, or from using any
25 information contained in DESIGNATED MATERIAL at the trial of this
26 Action, subject to any pretrial order issued by this Court.
- 27 19. A Party may request in writing to the other Party that the designation given
28 to any DESIGNATED MATERIAL be modified or withdrawn. If the

1 designating Party does not agree to redesignation within ten (10) days of
2 receipt of the written request, the requesting Party may apply to the Court
3 for relief. Upon any such application to the Court, the burden shall be on the
4 designating Party to show why its classification is proper. Such application
5 shall be treated procedurally as a motion to compel pursuant to Federal
6 Rules of Civil Procedure 37, subject to the Rule's provisions relating to
7 sanctions. In making such application, the requirements of the Federal Rules
8 of Civil Procedure and the Local Rules of the Court shall be met. Pending
9 the Court's determination of the application, the designation of the
10 designating Party shall be maintained.

11 20. Each outside consultant or expert to whom DESIGNATED MATERIAL is
12 disclosed in accordance with the terms of this Order shall be advised by
13 counsel of the terms of this Order, shall be informed that he or she is subject
14 to the terms and conditions of this Order, and shall sign an acknowledgment
15 that he or she has received a copy of, has read, and has agreed to be bound
16 by this Order. A copy of the acknowledgment form is attached as
17 Appendix A.

18 21. To the extent that any discovery is taken of persons who are not Parties to
19 this Action ("Third Parties") and in the event that such Third Parties
20 contended the discovery sought involves Trade Secrets, confidential
21 business information, or other proprietary information, then such Third
22 Parties may agree to be bound by this Order.

23 22. To the extent that discovery or testimony is taken of Third Parties, the Third
24 Parties may designate as "CONFIDENTIAL" or "RESTRICTED --
25 ATTORNEYS' EYES ONLY" any documents, information or other
26 material, in whole or in part, produced or give by such Third Parties. The
27 Third Parties shall have ten (10) days after production of such documents,
28 information or other materials to make such a designation. Until that time

- 1 period lapses or until such a designation has been made, whichever occurs
2 sooner, all documents, information or other material so produced or given
3 shall be treated as "CONFIDENTIAL" in accordance with this Order.
- 4 23. Within thirty (30) days of final termination of this Action, including any
5 appeals, all DESIGNATED MATERIAL, including all copies, duplicates,
6 abstracts, indexes, summaries, descriptions, and excerpts or extracts thereof
7 (excluding excerpts or extracts incorporated into any privileged memoranda
8 of the Parties and materials which have been admitted into evidence in this
9 Action), shall at the Producing Party's election either be returned to the
10 Producing Party or be destroyed. The Receiving Party shall verify the return
11 or destruction by affidavit furnished to the Producing Party, upon the
12 Producing Party's request. Notwithstanding the provisions for return of
13 DESIGNATED MATERIAL, outside counsel may retain one set of
14 pleadings, correspondence and attorney and consultant work product (but
15 not document productions) for archival purposes, but must return or destroy
16 any pleadings, correspondence, and consultant work product that contain
17 Source Code Material.
- 18 24. The failure to designate documents, information or material in accordance
19 with this Order and the failure to object to a designation at a given time shall
20 not preclude the filing of a motion at a later date seeking to impose such
21 designation or challenging the propriety thereof. The entry of this Order
22 and/or the production of documents, information and material hereunder
23 shall in no way constitute a waiver of any objection to the furnishing thereof,
24 all such objections being hereby preserved.
- 25 25. Any Party knowing or believing that any other party is in violation of or
26 intends to violate this Order and has raised the question of violation or
27 potential violation with the opposing party and has been unable to resolve
28 the matter by agreement may move the Court for such relief as may be

1 appropriate in the circumstances. Pending disposition of the motion by the
2 Court, the Party alleged to be in violation of or intending to violate this
3 Order shall discontinue the performance of and/or shall not undertake the
4 further performance of any action alleged to constitute a violation of this
5 Order.

6 26. Production of DESIGNATED MATERIAL by each of the Parties shall not
7 be deemed a publication of the documents, information and material (or the
8 contents thereof) produced so as to void or make voidable whatever claim
9 the Parties may have as to the proprietary and confidential nature of the
10 documents, information or other material or its contents.

11 27. Nothing in this Order shall be construed to effect an abrogation, waiver or
12 limitation of any kind on the rights of each of the Parties to assert any
13 applicable discovery or trial privilege.

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1 28. Each of the Parties shall also retain the right to file a motion with the Court
2 (a) to modify this Order to allow disclosure of DESIGNATED MATERIAL
3 to additional persons or entities if reasonably necessary to prepare and
4 present this Action and (b) to apply for additional protection of
5 DESIGNATED MATERIAL.
6

7 Dated: June 24, 2013

8 Respectfully submitted,
9

10 By: /s/Mark C. Scarsi
11 **MILBANK TWEED HADLEY & MCCLOY, LLP**
12 Mark C. Scarsi
13 Chris L. Holm
14 Hannah L. Cannom

15 *Attorneys for Defendant Apple Inc.*


16 By: /s/Mark D. Roth
17 Mark D. Roth
18 Keith Orum

19 *NetAirus Technologies, LLC*

20 **ORDER**

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23 IT IS SO ORDERED.

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25 Dated: 6/24/13


The Honorable Charles F. Eick
United States Magistrate Judge

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APPENDIX A
UNDERTAKING OF EXPERTS OR CONSULTANTS REGARDING
PROTECTIVE ORDER

I, _____, declare

that:

29. My address is _____.

My current employer is _____.

My current occupation is _____.

30. I have received a copy of the Protective Order in this action. I have carefully read and understand the provisions of the Protective Order.

31. I will comply with all of the provisions of the Protective Order. I will hold in confidence, will not disclose to anyone not qualified under the Protective Order, and will use only for purposes of this action any information designated as "CONFIDENTIAL," "RESTRICTED -- ATTORNEYS' EYES ONLY," or "RESTRICTED CONFIDENTIAL SOURCE CODE" that is disclosed to me.

32. Promptly upon termination of these actions, I will return all documents and things designated as "CONFIDENTIAL," "RESTRICTED -- ATTORNEYS' EYES ONLY," or "RESTRICTED CONFIDENTIAL SOURCE CODE" that came into my possession, and all documents and things that I have prepared relating thereto, to the outside counsel for the party by whom I am employed.

33. I hereby submit to the jurisdiction of this Court for the purpose of enforcement of the Protective Order in this action.

I declare under penalty of perjury that the foregoing is true and correct.

Signature _____

Date _____