

1 Laura C. Hess (SBN 198284)  
lhess@kringandchung.com  
2 Allyson K. Thompson (SBN 235933)  
athompson@kringandchung.com  
3 KRING & CHUNG, LLP  
38 Corporate Park  
4 Irvine, California 92606-5105  
Telephone: (949) 261-7700  
5 Facsimile: (949) 261-8800

6 Attorneys for Plaintiff  
ABDUL ASLAMI

7  
8 R. CHRISTOPHER CATALDO (Admitted *Pro Hac Vice*)  
ccataldo@jaffelaw.com  
9 PATRICE S. AREND (Admitted *Pro Hac Vice*)  
parend@jaffelaw.com  
10 JAFFE RAITT HEUER & WEISS, P.C.  
27777 Franklin Road, Suite 2500  
11 Southfield, Michigan 48034  
Telephone: (248) 351-3000  
12 Facsimile: (248) 351-3082

13 LARRY C. DRAPKIN (SBN 98771)  
lcd@msk.com  
14 JOLENE KONNERSMAN (SBN 217574)  
jrk@msk.com  
15 BRIAN M. RAGEN (SBN 275045)  
byr@msk.com  
16 MITCHELL SILBERBERG & KNUPP LLP  
11377 West Olympic Boulevard  
17 Los Angeles, California 90064-1683  
Telephone: (310) 312-2000  
18 Facsimile: (310) 312-3100

NOTE: CHANGES MADE BY THE COURT

19 Attorneys for Defendant  
NICHIA AMERICA CORPORATION

20 UNITED STATES DISTRICT COURT  
21 CENTRAL DISTRICT OF CALIFORNIA

22 ABDUL ASLAMI,  
23 Plaintiff,  
24 v.  
25 NICHIA AMERICA CORPORATION,  
a Pennsylvania corporation; and  
26 DOES 1 to 20, inclusive,  
27 Defendants.

Case No. CV 14-2785 JAK (FFMx)

**[PROPOSED] STIPULATED  
PROTECTIVE ORDER**

Judge: The Hon. John A. Kronstadt

File Date: April 11, 2014  
Trial Date: Not yet set

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**STIPULATED PROTECTIVE ORDER**

Pursuant to the agreement between Abdul Aslami (Plaintiff), and Nichia America Corporation (“Defendant”) (collectively, Plaintiff and Defendant are referred to together as the “Parties” and each as a “Party”) and approval of the Court, this Stipulated Protective Order (“Protective Order”) shall govern the production of confidential documents, deposition testimony, discovery and other information produced in this action.

**1. GOOD CAUSE STATEMENT**

Pursuant to Fed. R. Civ. P. 26(c), good cause exists for entry of this Protective Order because the Parties to this action: (1) have sought and expect to seek and disclose in the future certain Confidential Information, as defined herein, in this action; (2) believe that unrestricted disclosure or dissemination of such Confidential Information will cause injury to their business, commercial and/or privacy interests; (3) desire an efficient and practical means to designate such information as CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY and thereby help ensure its continued protection against unwarranted disclosure or dissemination; and (4) have agreed to such means as set forth herein.

**2. DEFINITIONS**

2.1 As used herein, the term “Confidential Information” shall mean: (a) any type of information that has not been made generally available to the public and the disclosure of which the disclosing Party or third party contends would cause serious harm to the disclosing Party’s or third party’s business operations or other interests, including, but not limited to, contracts for goods or services, customer lists, customer data, costs of goods or services sold, manufacturing or other costs of doing business, employee salaries, employee personnel materials, employee health or medical records, marketing plans,

1 financial performance data, sales records, inventory sheets, and manufacturing,  
2 product development, and business development strategies; (b) data derived from  
3 such Confidential Information, including any summaries, compilations, quotes, or  
4 paraphrases thereof; (c) any other oral, written, or recorded material that consists  
5 of or contains trade secrets (as defined in California Civil Code § 3426.1(d)) or  
6 other confidential research, development, or commercial information (as referred  
7 to in Fed. R. Civ. P. 26(c)(1)(G)); or (d) any other information that the designating  
8 Party reasonably believes (1) constitutes proprietary information, confidential  
9 business information, information that the designating Party may need, for any  
10 business, employment or competitive purposes, to be protected from disclosure,  
11 trade secrets, and/or information in which the Party or any third party has a privacy  
12 interest, or (2) is subject to protection from disclosure, or limitation upon  
13 disclosure, under applicable law.

14           2.2 As used herein, the terms “Document” and “Documents,” mean  
15 all documents, writings, tangible things, recordings, and photographs as defined in  
16 Fed. R. Civ. P. 34(a) and Fed. R. Evid. 1001, and include, but are not limited to,  
17 records, exhibits, reports, samples, transcripts, video or audio recordings, disks,  
18 affidavits, briefs, summaries, notes, abstracts, drawings, company records and  
19 reports, answers to interrogatories, responses to requests for admissions, and  
20 motions, including copies or computer-stored versions of any of the foregoing.

21           2.3 As used herein, “Highly Confidential – Attorneys’ Eyes Only”  
22 means Confidential Information that the designating Party reasonably believes  
23 requires for its protection that it not be disclosed to the adverse Party.

24           2.4 As used herein, the term “Protected Material” means any  
25 Confidential Information that has been designated by a Party or third party as  
26 “Confidential” or “Highly Confidential – Attorneys’ Eyes Only.”

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1           **3.     DESIGNATION OF CONFIDENTIAL INFORMATION**

2           3.1     This Protective Order applies to all initial disclosures, discovery  
3 responses, Documents and other information or materials containing Confidential  
4 Information disclosed in this action that are designated by a Party or third party as  
5 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,  
6 whether such disclosure is by order of the Court or by response to questions in a  
7 deposition, written interrogatories, requests for the production of Documents and  
8 other tangible things, requests for admission, subpoenas to third parties, or any  
9 other discovery or disclosure undertaken in this action.

10           3.2     Such designation shall be accomplished by placing the notation  
11 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
12 ONLY” on every page of each Document or portion thereof so designated. In the  
13 case of Confidential Information disclosed in a non-paper medium (e.g., videotape,  
14 audiotape, computer disks, etc.), the appropriate notation shall be affixed to the  
15 outside of the medium or its container so as to clearly give notice of the  
16 designation. Such designation is deemed to apply to the Document itself and to the  
17 Confidential Information contained therein.

18           3.3     Protected Material shall be used only for the purposes of this  
19 litigation and may not be used by any Party to whom or which that information is  
20 produced or disclosed for research, development, sales, marketing, publicity, or  
21 competitive purposes, or any other purpose. Protected Material shall not be  
22 disclosed to anyone other than those persons identified in Paragraphs 5.3 and 5.4,  
23 *infra*, except as may be ordered by the Court or agreed to in writing by the Parties.

24           3.4     The Parties and any third parties responding to discovery in this  
25 action shall use reasonable care to avoid designating any Documents or other  
26 materials as CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’  
27 EYES ONLY that are: (a) not entitled to such designation, or (b) generally  
28 available to the public.

1           **4.     DEPOSITIONS**

2           4.1     With respect to the examination of witnesses upon oral  
3 deposition, when Protected Material is supplied to the deponent, or when the  
4 deponent’s testimony contains, reflects, or comments on Protected Material, the  
5 deposition reporter and/or videographer shall be informed of this Protective Order  
6 by the Party or third party seeking to invoke its protection, and shall place on the  
7 cover of any deposition transcript or video that contains any Protected Material the  
8 words “CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A  
9 COURT PROTECTIVE ORDER.” Counsel for the Parties then shall take  
10 appropriate steps to prevent any portions of any deposition transcript or videotape  
11 designated CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’  
12 EYES ONLY from being disclosed to any person, except as provided in this  
13 Protective Order.

14           4.2     Testimony at a deposition may be designated CONFIDENTIAL  
15 or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY if this Protective  
16 Order is invoked at the deposition by counsel for a Party or the counsel for a third  
17 party deponent. The designating Party or third party also may, within a reasonable  
18 time after receiving a copy of the deposition transcript, provide all Parties with a  
19 written list of the page(s) of the deposition transcript, and any exhibits attached  
20 thereto, that the Party or third party designates as CONFIDENTIAL or HIGHLY  
21 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.

22           4.3     If Protected Material is to be discussed or disclosed in a  
23 deposition, any Party or third party claiming such confidentiality may exclude  
24 from the room any person who is not entitled to receive such Confidential  
25 Information during that portion of the deposition in which the Confidential  
26 Information is actually discussed or disclosed. If Protected Material is to be  
27 discussed or disclosed at a hearing or at trial, the Parties may request that the Court  
28 exclude from the courtroom any person who is not entitled to receive such

1 Confidential Information during that portion of the hearing or trial in which the  
2 Confidential Information is actually discussed or disclosed.

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4 **5. DISCLOSURE OF PROTECTED MATERIAL**

5 5.1 The Parties, counsel for the Parties, and all persons who view  
6 Protected Material shall maintain all information designated as CONFIDENTIAL  
7 or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY in confidence and  
8 shall not disclose such information, directly or indirectly, to any person except as  
9 provided in this Protective Order.

10 5.2 While the disclosure of Protected Material to persons not  
11 authorized by this Protective Order could, by definition, be prejudicial to the  
12 business, operations, or interests of the designating Party or third party, the  
13 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY  
14 designations should not be overused.

15 5.3 Access to Confidential Information designated as  
16 CONFIDENTIAL shall be limited to the following persons:

17 5.3.1 Outside counsel of record and in-house counsel for the  
18 Parties (together with and their support personnel and outside contractors services  
19 who are working on this litigation under the direction of such attorneys).

20 5.3.2 Expert witnesses and/or consultants (together with their  
21 support personnel) retained by counsel of record on behalf of the Parties for  
22 purposes of this litigation who have signed the “Acknowledgement and Agreement  
23 to Be Bound” that is attached hereto as Exhibit A.

24 5.3.3 Pursuant to Paragraphs 4.1 through 4.3, *supra*, deponents  
25 who have signed the “Acknowledgement and Agreement to Be Bound” that is  
26 attached hereto as Exhibit A. Counsel should have a good faith belief that such  
27 disclosure is necessary before disclosing Confidential Information to the deponent.

1                   5.3.4 Court reporter(s), videographers, and their staff engaged  
2 in this litigation.

3                   5.3.5 The Parties to this action, as well as officers, directors,  
4 and employees of the Parties to this action that are corporate entities who have  
5 signed the “Acknowledgement and Agreement to Be Bound” that is attached  
6 hereto as Exhibit A.

7                   5.3.6 Any court-appointed or private neutral used in settlement  
8 proceedings in this action (together with their support personnel).

9                   5.3.7 The Court and its personnel.

10                  5.4 Access to Confidential Information designated as HIGHLY  
11 CONFIDENTIAL – ATTORNEYS’ EYES ONLY shall be limited to the  
12 following persons:

13                   5.4.1 Outside counsel of record and in-house counsel for the  
14 Parties (together with and their support personnel and outside contractors services  
15 who are working on this litigation under the direction of such attorneys).

16                   5.4.2 Expert witnesses and/or consultants (together with their  
17 support personnel) retained by counsel of record on behalf of the Parties for  
18 purposes of this litigation who have signed the “Acknowledgement and Agreement  
19 to Be Bound” that is attached hereto as Exhibit A.

20                   5.4.3 Pursuant to Paragraphs 4.1 through 4.3, *supra*, deponents  
21 who have signed the “Acknowledgement and Agreement to Be Bound” that is  
22 attached hereto as Exhibit A. Counsel should have a good faith belief that such  
23 disclosure is necessary before disclosing Confidential Information to the deponent.

24                   5.4.4 Court reporter(s), videographers, and their staff engaged  
25 in this litigation.

26                   5.4.5 Any court-appointed or private neutral used in settlement  
27 proceedings in this action (together with their support personnel).

28                   5.4.6 The Court and its personnel.



1           **6. CHALLENGING A DESIGNATION**

2           6.1 A Party which disputes the propriety of a designation ~~may shall~~  
3 challenge such designation ~~at any within a reasonable~~ time after the materials are  
4 so designated. **(FFM)** In the event that a Party challenges such designation, the  
5 Party shall provide written notice to the designating Party explaining the basis for  
6 its disagreement with the designation. The Parties shall first attempt to resolve the  
7 dispute in good faith and shall employ the procedures of Local Rules 37-1 through  
8 37-4 to resolve that dispute. If the dispute cannot be resolved, the receiving Party  
9 may apply to the Court for a ruling concerning the status of such material, and,  
10 pending such application and ruling, the receiving Party shall treat such material as  
11 Protected Material under this Protective Order. Upon any hearing, the burden of  
12 proving that material has been properly designated is on the Party making such  
13 designation. Frivolous challenges, and those made for an improper purpose (e.g., to  
14 harass or impose unnecessary expenses and burdens on other Parties) may expose  
15 the challenging Party to sanctions.

16           6.2 For Documents that any Party might wish to file with the Court  
17 under seal, that Party shall employ the procedures of Local Rule 79-5.1 and  
18 comply with the requirements of Section 10, *infra*.

19           6.3 No Party shall be obligated to challenge the propriety of a  
20 designation, and a failure to do so shall not preclude a subsequent attack on the  
21 propriety of any other designation.

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23           **7. FAILURE TO DESIGNATE**

24           7.1 If timely corrected, an inadvertent failure to designate qualified  
25 Confidential Information does not, standing alone, waive the designating Party’s or  
26 third party’s right to secure protection under this Protective Order for such  
27 Confidential Information.



1           7.2    Upon timely correction of a designation, the receiving Party  
2 must make reasonable efforts to assure that the designated Protected Material is  
3 treated in accordance with the provisions of this Protective Order.  
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5           **8.    UNAUTHORIZED DISCLOSURE**

6           8.1    If a Party learns that, by inadvertence or otherwise, it has  
7 disclosed Protected Material to any person or in any circumstance not authorized  
8 under this Protective Order, it must immediately (a) notify in writing the  
9 designating Party or third party of the unauthorized disclosure, (b) use its best  
10 efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the  
11 person or persons to whom unauthorized disclosures were made of all the terms of  
12 this Protective Order, and (d) request such person or persons to execute the  
13 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit  
14 A.  
15

16           **9.    CUSTODY AND DISPOSITION OF PROTECTED MATERIAL**

17           9.1    Protected Material shall be maintained in the custody of counsel  
18 for the Parties, except for information in the custody of: (a) the Court; (b) any  
19 court reporter transcribing testimony given in this action, for the limited purpose of  
20 rendering his or her normal transcribing services; and (c) consultants or experts  
21 entitled to see such information under the terms of this Protective Order, to the  
22 extent necessary for their study, analysis, and preparation of the case. Except for  
23 the Court, a person with custody of Protected Material shall maintain it in a manner  
24 that limits access to it to only those persons entitled under this Protective Order to  
25 examine it.

26           9.2    Unless counsel agree otherwise in writing, within sixty (60)  
27 days of the conclusion of this litigation, whether by settlement and dismissal or  
28 final, non-appealable decision of the Court, the Parties, counsel for the Parties, and

1 all other persons who are in possession of Protected Material agree that they will  
2 (a) destroy or return to the producing Party or third party all hard copy Documents,  
3 other than attorney work product, containing Protected Material produced by a  
4 Party or third party; and (b) delete all electronically stored Documents, other than  
5 attorney work product, containing Protected Material produced by a Party or third  
6 party. Notwithstanding the foregoing, the parties shall not have any obligation  
7 under this Protective Order to ensure the destruction of any copies of  
8 electronically-stored Protected Material made by the automatic processes of their  
9 computer systems, including but not limited to any such copies that may reside on  
10 their servers and/or backup tapes.

11           9.3 Notwithstanding the foregoing, counsel of record and each  
12 Party shall be permitted to retain a file copy of all pre-trial, trial, and post-trial  
13 materials, discovery, depositions and deposition exhibits, and Document databases.  
14 Nothing in this paragraph shall be construed to require any Party to return or  
15 destroy work product or attorney client privileged communications, whether from  
16 or to outside or in-house counsel. Such file copies must be maintained under the  
17 conditions of maintaining confidentiality as set forth in Paragraph 8.1, *supra*.

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19           **10. MISCELLANEOUS PROVISIONS**

20           10.1 Except as otherwise set forth in Paragraphs ~~10.2-10.4~~ ~~9.2-9.4~~  
21 **(FFM)** regarding the introduction and use of Confidential Information at trial and  
22 by the Court, and as may be required by law or legal process, the obligations of  
23 confidentiality and nondisclosure shall be effective and shall be respected by the  
24 Parties and all persons in any way involved in these proceedings or to whose  
25 attention Confidential Information shall come unless and until otherwise ordered  
26 by the Court or stipulated by all Parties to this action. These obligations of  
27 confidentiality and nondisclosure shall bind all such persons through all  
28 proceedings in this action, except trial, including all appeals, arbitrations, and

1 proceedings upon remand, and shall survive the conclusion of this action unless  
2 and until otherwise ordered by the Court, or until the Parties to this action stipulate  
3 that Protected Material can be disclosed.

4           10.2 This Protective Order shall not apply to trial proceedings.  
5 However, in advance of or during trial, any Party may move the Court to maintain  
6 the confidentiality of any Document or information governed by this Protective  
7 Order or seek a protective order with respect to testimony containing Confidential  
8 Information that may be offered at trial or specific Documents containing  
9 Confidential Information that may be marked as exhibits at trial in order to ensure  
10 the confidentiality of such information.

11           10.3 In general, court orders are available to the public. To the  
12 extent that a Party refers to or relies upon material that is filed under seal in its  
13 pleadings, the pleadings must request that specific information be kept confidential  
14 in the court's order. Absent the granting of such advance request, the Court may  
15 incorporate all evidence in its written and oral rulings.

16           10.4 By entering into this Protective Order, no Party or third party  
17 waives any objections it might have to the production of Documents or information  
18 covered by this Protective Order.

19           10.5 No Party to this action, by entering into this Protective Order,  
20 by designating certain information as CONFIDENTIAL or HIGHLY  
21 CONFIDENTIAL – ATTORNEYS' EYES ONLY, or by failing to object to any  
22 other Party's such designation, shall be deemed to have admitted or agreed that any  
23 such designated information is, in fact, private, a trade secret or other confidential  
24 research, development, or commercial information.

25           10.6 The Court retains jurisdiction even after termination of this  
26 action to enforce this Protective Order and to make such deletions from or  
27 amendments, modifications, and additions to the Protective Order that the Court  
28 may from time to time deem appropriate. The Parties hereto reserve all rights to

1 apply to the Court at any time, before or after termination of this action, for an  
2 order modifying this Protective Order or seeking further protection against  
3 disclosure or use of claimed Confidential Information.

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5 **11. FILING OR LODGING UNDER SEAL**

6 11.1 Without written permission from the designating Party or third  
7 party, or a court order secured after appropriate notice to all interested persons, a  
8 Party may not file any Protected Material in the public record. Such materials shall  
9 be submitted to the Court in accordance with the procedures set forth in C.D. Cal.  
10 Local Rule 79-5.1 for filing documents under seal. Where one Party or third party  
11 wishes to file or lodge any documents or things with the Court under seal, the other  
12 Party or Parties shall not unreasonably withhold agreement to such filing or  
13 lodging under seal. If such agreement is provided, the Parties shall submit to the  
14 Court a stipulation and proposed order for such filing or lodging under seal. **In**  
15 **any event, if no such agreement is provided, then** the filing or lodging Party or  
16 third party shall submit an application and proposed order to the Court pursuant to  
17 C.D. Cal. Local Rule 79-5.1. **(FFM)**

18 11.2 The Party filing Protected Material under C.D. Cal. Local Rule  
19 79-5.1 shall designate to the Clerk that all or a designated portion thereof is subject  
20 to this Protective Order and is requested to be kept under seal, except that upon the  
21 failure of the filing Party to so designate, any Party may do so.

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23 **12. PROTECTED MATERIAL SUBPOENAED OR ORDERED**  
24 **PRODUCED IN OTHER LITIGATION**

25 12.1 If a Party is served with a subpoena or a court order issued in  
26 other litigation that compels disclosure of any Protected Material, that Party must:

27 12.1.1 promptly notify in writing the designating Party or  
28 third party. Such notification shall include a copy of the subpoena or court order;

1                   12.1.2   promptly notify in writing the party who caused the  
2 subpoena or order to issue in the other litigation that some or all of the material  
3 covered by the subpoena or order is subject to this Protective Order. Such  
4 notification shall include a copy of this Protective Order; and

5                   12.1.3   cooperate with respect to all reasonable procedures  
6 sought to be pursued by the designating Party or third party whose Confidential  
7 Information may be affected.

8                   12.2   If the designating Party or third party timely seeks a protective  
9 order, the Party served with the subpoena or court order shall not produce any  
10 information designated in this action as CONFIDENTIAL or HIGHLY  
11 CONFIDENTIAL – ATTORNEYS’ EYES ONLY before a determination by the  
12 court from which the subpoena or order issued, unless the Party has obtained the  
13 designating Party or third party’s permission. The designating Party or third party’s  
14 shall bear the burden and expense of seeking protection of its Confidential  
15 Information. Nothing in this Protective Order should be construed as authorizing  
16 or encouraging any Party or non-party in this action to disobey a lawful directive  
17 from another court.

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19                   IT IS SO ORDERED this 30<sup>th</sup> day of June, 2014.

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/S/ FREDERICK F. MUMM  
The Honorable Frederick F. Mumm  
United States Magistrate Judge

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_, declare under penalty of perjury that I have read in its entirety and understand the Protective Order that was issued by the United States District Court for the Central District of California on \_\_\_\_\_, 2014 in the case of *Aslami v. Nichia America Corporation*, Case No. 2:14-cv-02785 JAK (FFMx). I agree to comply with and to be bound by all the terms of this Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Protective Order, even if such enforcement proceedings occur after termination of this action.

Date	City and State where sworn and signed.
Print Name	Signature