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 27 **COMPUTER CORP., GIGA-BYTE TECHNOLOGY CO.,**
 28 **LTD., G.B.T., INC., and AMERICAN MEGATRENDS INC.**

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

KINGLITE HOLDINGS INC., a
 Seychelles Company,

Plaintiff,

v.

MICRO-STAR INTERNATIONAL
 CO., LTD., et al.,

Defendants.

Case No. CV 14-03009-JVS (PJWx)
Consolidated with
 Case No. CV 14-04989-JVS (PJWx)

**STIPULATED PROTECTIVE
 ORDER**

See P.21 For Court's Signature

PJW

This Document Relates To: *All Cases*

STIPULATED PROTECTIVE ORDER

1 **1. PURPOSES AND LIMITATIONS**

2 Disclosure and discovery activity in this action, if allowed, are likely to
3 involve production of confidential, proprietary, or private information for which
4 special protection from public disclosure and from use for any purpose other than
5 prosecuting this litigation may be warranted. Accordingly, the parties hereby
6 stipulate to and petition the court to enter the following Stipulated Protective Order.
7 The parties acknowledge that this Order does not confer blanket protections on all
8 disclosures or responses to discovery and that the protection it affords from public
9 disclosure and use extends only to the limited information or items that are entitled
10 to confidential treatment under the applicable legal principles. The parties further
11 acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective
12 Order does not entitle them to file confidential information under seal; L.R. 79-5
13 and this Court’s Procedures for Presenting Documents Electronically for Sealing
14 sets forth the procedures that must be followed and the standards that will be
15 applied when a party seeks permission from the court to file material under seal.

16 **2. DEFINITIONS**

17 2.1 Challenging Party: a Party or Non-Party that challenges the
18 designation of information or items under this Order.

19 2.2 “CONFIDENTIAL” Information or Items: information (regardless of
20 how it is generated, stored or maintained) or tangible things that qualify for
21 protection under Federal Rule of Civil Procedure 26(c).

22 2.3 “HIGHLY CONFIDENTIAL” Information or Items: information that
23 satisfies the requirements of paragraph 2.2 *and* which comprises or contains
24 particularly sensitive information, including trade secrets of a technical nature or
25 extremely sensitive, highly confidential, nonpublic business information, such as
26 financial, regulatory, or strategic information, the disclosure of which to individuals
27 who are authorized to receive CONFIDENTIAL information would put the
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1 Producing Party at a competitive disadvantage.

2 2.4 “HIGHLY CONFIDENTIAL SOURCE CODE” Information or Items:
3 computer code, such as RTL, VHDL, Verilog, GDSII; comments embedded in such
4 code; and schematics, simulations or other design documents generated with such
5 code (“Source Code Material”), disclosure of which by the Producing Party would
6 create a substantial risk of serious harm that could not be avoided by less restrictive
7 means.

8 2.5 Counsel (without qualifier): Outside Counsel of Record and House
9 Counsel (as well as their support staff).

10 2.6 Designating Party: a Party or Non-Party that designates information or
11 items that it produces in disclosures or in responses to discovery as
12 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” or “HIGHLY
13 CONFIDENTIAL SOURCE CODE”.

14 2.7 Disclosure or Discovery Material: all items or information, regardless
15 of the medium or manner in which it is generated, stored, or maintained (including,
16 among other things, testimony, transcripts, and tangible things), that are produced
17 or generated in disclosures or responses to discovery in this matter.

18 2.8 Expert: a person with specialized knowledge or experience in a matter
19 pertinent to the litigation who has been retained by a Party or its counsel to serve as
20 an expert witness or as a consultant in this action.

21 2.9 House Counsel: attorneys who are employees of a party to this action.
22 House Counsel does not include Outside Counsel of Record or any other outside
23 counsel.

24 2.10 Non-Party: any natural person, partnership, corporation, association,
25 or other legal entity not named as a Party to this action.

26 2.11 Outside Counsel of Record: attorneys who are not employees of a
27 party to this action but are retained to represent or advise a party to this action and
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1 have appeared in this action on behalf of that party or are affiliated with a law firm
2 which has appeared on behalf of that party.

3 2.12 Party: any party to this action, including all of its officers, directors,
4 employees, consultants, retained experts, and Outside Counsel of Record (and their
5 support staffs).

6 2.13 Producing Party: a Party or Non-Party that produces Disclosure or
7 Discovery Material in this action.

8 2.14 Professional Vendors: persons or entities that provide litigation
9 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
10 demonstrations, and organizing, storing, or retrieving data in any form or medium)
11 and their employees and subcontractors.

12 2.15 Protected Material: any Disclosure or Discovery Material that is
13 designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” or “HIGHLY
14 CONFIDENTIAL SOURCE CODE”.

15 2.16 Receiving Party: a Party that receives Disclosure or Discovery
16 Material from a Producing Party.

17 **3. SCOPE**

18 The protections conferred by this Stipulation and Order cover not only
19 Protected Material (as defined above), but also (1) any information copied or
20 extracted from Protected Material; (2) all copies, excerpts, summaries, or
21 compilations of Protected Material; and (3) any testimony, conversations, or
22 presentations by Parties or their Counsel that might reveal Protected Material.

23 However, the protections conferred by this Stipulation and Order do not cover the
24 following information: (a) any information that is in the public domain at the time
25 of disclosure to a Receiving Party or becomes part of the public domain after its
26 disclosure to a Receiving Party as a result of publication not involving a violation
27 of this Order, including becoming part of the public record through trial or
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1 otherwise; and (b) any information known to the Receiving Party prior to the
2 disclosure or obtained by the Receiving Party after the disclosure from a source
3 who obtained the information lawfully and under no obligation of confidentiality to
4 the Designating Party. Any use of Protected Material at trial shall be governed by a
5 separate agreement or order. Nothing contained in this Stipulated Protective Order
6 shall prevent a Party's Outside Counsel of Record from providing high level
7 tactical and strategic advice to such Party.

8 **4. DURATION**

9 Even after final disposition of this litigation, the confidentiality obligations
10 imposed by this Order shall remain in effect until a Designating Party agrees
11 otherwise in writing or a court order otherwise directs. Final disposition shall be
12 deemed to be the later of (1) dismissal of all claims and defenses in this action, with
13 or without prejudice; and (2) final judgment herein after the completion and
14 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,
15 including the time limits for filing any motions or applications for extension of time
16 pursuant to applicable law.

17 **5. DESIGNATING PROTECTED MATERIAL**

18 5.1 Exercise of Restraint and Care in Designating Material for Protection.

19 Each Party or Non-Party that designates information or items for protection under
20 this Order must take care to limit any such designation to specific material that
21 qualifies under the appropriate standards. The Designating Party will designate for
22 protection by page only those parts of material, documents, items, or oral or written
23 communications that qualify under this Order.

24 Mass, indiscriminate, or routinized designations are prohibited. Designations
25 that are shown to be clearly unjustified or that have been made for an improper
26 purpose (e.g., to unnecessarily encumber or retard the case development process or
27 to impose unnecessary expenses and burdens on other parties) expose the
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1 Designating Party to sanctions.

2 If it comes to a Designating Party's attention that information or items that it
3 designated for protection do not qualify for protection, that Designating Party must
4 promptly notify all other Parties that it is withdrawing the mistaken designation.

5 5.2 Manner and Timing of Designations. Except as otherwise provided in
6 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
7 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
8 under this Order must be clearly so designated before the material is disclosed or
9 produced.

10 Designation in conformity with this Order requires:

11 (a) for information in documentary form (e.g., paper or electronic
12 documents, but excluding transcripts of depositions or other pretrial or trial
13 proceedings), that the Producing Party affix the appropriate legend to each page that
14 contains protected material. If only a portion or portions of the material on a page
15 qualifies for protection, the Producing Party also must clearly identify the protected
16 portion(s) (e.g., by making appropriate markings in the margins).

17 A Party or Non-Party that makes original documents or materials available
18 for inspection need not designate them for protection until after the inspecting Party
19 has indicated which material it would like copied and produced. During the
20 inspection and before the designation, all of the material made available for
21 inspection shall be deemed "HIGHLY CONFIDENTIAL", except for HIGHLY
22 CONFIDENTIAL SOURCE CODE materials made available for inspection
23 pursuant to Section 7.5 below. After the inspecting Party has identified the
24 documents it wants copied and produced, the Producing Party must determine
25 which documents, or portions thereof, qualify for protection under this Order.
26 Then, before producing the specified documents, the Producing Party must affix the
27 appropriate legend to each page that contains Protected Material. If only a portion
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1 or portions of the material on a page qualifies for protection, the Producing Party
2 also must clearly identify the protected portion(s) (e.g., by making appropriate
3 markings in the margins).

4 (b) for information produced in some form other than documentary and for
5 any other tangible items, that the Producing Party affix in a prominent place on the
6 exterior of the container or containers in which the information or item is stored the
7 legend “CONFIDENTIAL”, “HIGHLY CONFIDENTIAL” or “HIGHLY
8 CONFIDENTIAL SOURCE CODE.” If only a portion or portions of the
9 information or item warrant protection, the Producing Party, to the extent
10 practicable, shall identify the protected portion(s).

11 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
12 failure to designate qualified information or items does not, standing alone, waive
13 the Designating Party’s right to secure protection under this Order for such
14 material. Upon timely correction of a designation, the Receiving Party must make
15 reasonable efforts to assure that the material is treated in accordance with the
16 provisions of this Order.

17 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

18 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
19 designation of confidentiality at any time. Unless a prompt challenge to a
20 Designating Party’s confidentiality designation is necessary to avoid foreseeable,
21 substantial unfairness, unnecessary economic burdens, or a significant disruption or
22 delay of the litigation, a Party does not waive its right to challenge a confidentiality
23 designation by electing not to mount a challenge promptly after the original
24 designation is disclosed.

25 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
26 resolution process by providing written notice of each designation it is challenging
27 and describing the basis for each challenge. To avoid ambiguity as to whether a
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1 challenge has been made, the written notice must recite that the challenge to
2 confidentiality is being made in accordance with this specific paragraph of the
3 Protective Order. The parties shall attempt to resolve each challenge in good faith
4 and must begin the process by conferring directly (in voice to voice dialogue; other
5 forms of communication are not sufficient) within 14 days of the date of service of
6 notice. In conferring, the Challenging Party must explain the basis for its belief that
7 the confidentiality designation was not proper and must give the Designating Party
8 an opportunity to review the designated material, to reconsider the circumstances,
9 and, if no change in designation is offered, to explain the basis for the chosen
10 designation. A Challenging Party may proceed to the next stage of the challenge
11 process only if it has engaged in this meet and confer process first or establishes
12 that the Designating Party is unwilling to participate in the meet and confer process
13 in a timely manner.

14 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without
15 court intervention, the Designating Party shall file and serve a motion to retain
16 confidentiality under L.R. 7-3 – 7-8 (and in compliance with L.R. 79-5) within 21
17 days of the initial notice of challenge or within 14 days of the parties agreeing that
18 the meet and confer process will not resolve their dispute, whichever is earlier.
19 Each such motion must be accompanied by a competent declaration affirming that
20 the movant has complied with the meet and confer requirements imposed in the
21 preceding paragraph. Failure by the Designating Party to make such a motion
22 including the required declaration within 21 days (or 14 days, if applicable) shall
23 automatically waive the confidentiality designation for each challenged designation.
24 In addition, the Challenging Party may file a motion challenging a confidentiality
25 designation at any time if there is good cause for doing so, including a challenge to
26 the designation of a deposition transcript or any portions thereof. Any motion
27 brought pursuant to this provision must be accompanied by a competent declaration
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1 affirming that the movant has complied with the meet and confer requirements
2 imposed by the preceding paragraph.

3 The burden of persuasion in any such challenge proceeding shall be on the
4 Designating Party. Frivolous challenges, and those made for an improper purpose
5 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
6 expose the Challenging Party to sanctions. Unless the Designating Party has
7 waived the confidentiality designation by failing to file a motion to retain
8 confidentiality as described above, all parties shall continue to afford the material in
9 question the level of protection to which it is entitled under the Producing Party's
10 designation until the court rules on the challenge.

11 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

12 7.1 Basic Principles. A Receiving Party may use Protected Material that is
13 disclosed or produced by another Party or by a Non-Party in connection with this
14 case only for prosecuting, defending, or attempting to settle this litigation. Such
15 Protected Material may be disclosed only to the categories of persons and under the
16 conditions described in this Order. When the litigation has been terminated, a
17 Receiving Party must comply with the provisions of section 16 below (FINAL
18 DISPOSITION).

19 Protected Material must be stored and maintained by a Receiving Party at a
20 location and in a secure manner that ensures that access is limited to the persons
21 authorized under this Order.

22 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
23 otherwise ordered by the court or permitted in writing by the Designating Party, a
24 Receiving Party may disclose any information or item designated
25 "CONFIDENTIAL" only to:

26 (a) the Receiving Party's Outside Counsel of Record in this action, as well
27 as employees of said Outside Counsel of Record to whom it is reasonably necessary
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1 to disclose the information for this litigation;

2 (b) the officers, directors, and employees (including House Counsel) of the
3 Receiving Party to whom disclosure is reasonably necessary for this litigation;

4 (c) Experts (as defined in this Order) of the Receiving Party to whom
5 disclosure is reasonably necessary for this litigation and who have signed the
6 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

7 (d) the court, any discovery referee appointed in this action, any mediator
8 and their respective personnel;

9 (e) court reporters and their staff, professional jury or trial consultants, mock
10 jurors, and Professional Vendors to whom disclosure is reasonably necessary for
11 this litigation and who have signed the “Acknowledgment and Agreement to Be
12 Bound” (Exhibit A);

13 (f) the author or recipient of a document containing the information or a
14 custodian or other person who otherwise possessed or knew the information.

15 7.3 Disclosure of “HIGHLY CONFIDENTIAL” Information or Items.

16 Unless otherwise ordered by the court or permitted in writing by the Designating
17 Party, a Receiving Party may disclose any information or item designated
18 “HIGHLY CONFIDENTIAL” only to:

19 (a) the Receiving Party’s Outside Counsel of Record in this action, as well
20 as employees of said Outside Counsel of Record to whom it is reasonably necessary
21 to disclose the information for this litigation;

22 (b) Experts (as defined in this Order) of the Receiving Party to whom
23 disclosure is reasonably necessary for this litigation and who have signed the
24 “Acknowledgment and Agreement to Be Bound” (Exhibit A), provided the
25 Receiving Party first gives all other Parties ten (10) days’ notice in writing of its
26 intent to disclose “HIGHLY CONFIDENTIAL” material to such Expert, so that
27 any objections can be asserted, and further provided that any Expert to whom
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1 Plaintiff intends to disclose HIGHLY CONFIDENTIAL material shall not be
2 actively employed or employed as a consultant to any company in the same
3 industry as any Defendant or Intervening Defendant";

4 (c) the court, any discovery referee appointed in this action, any mediator
5 and their respective personnel;

6 (d) court reporters and their staff, professional jury or trial consultants, mock
7 jurors, and Professional Vendors to whom disclosure is reasonably necessary for
8 this litigation and who have signed the "Acknowledgment and Agreement to Be
9 Bound" (Exhibit A); or

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

12 7.4 Disclosure of "HIGHLY CONFIDENTIAL SOURCE CODE"
13 Information or Items. Unless otherwise ordered by the court or permitted in writing
14 by the Designating Party, a Receiving Party may disclose any information or item
15 designated "HIGHLY CONFIDENTIAL SOURCE CODE" only to:

16 (a) the Receiving Party's Outside Counsel of Record in this action, as well
17 as employees of said Outside Counsel of Record to whom it is reasonably necessary
18 to disclose the information for this litigation;

19 (b) Experts (as defined in this Order) to whom disclosure is reasonably
20 necessary for this Action, who provide a current curriculum vitae and who have
21 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A); provided
22 the Receiving Party first gives all other Parties ten (10) days' notice in writing of its
23 intent to disclose "HIGHLY CONFIDENTIAL SOURCE CODE" material to such
24 Expert, so that any objections can be asserted, and further provided that any Expert
25 to whom Plaintiff intends to disclose HIGHLY CONFIDENTIAL SOURCE CODE
26 material shall not be actively engaged in preparing source code for any company in
27 the same industry as any Defendant or Intervening Defendant and shall not be
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1 actively employed or employed as a consultant to any company in the same
2 industry as any Defendant or Intervening Defendant";

3 (c) the court, any discovery referee appointed in this action, any mediator
4 and their respective personnel;

5 (d) court reporters and their staff;

6 (e) the author or recipient of a document containing the information or a
7 custodian of the document.

8 (f) any other person with the prior written consent of the Producing Party,
9 who also signs the "Acknowledgment and Agreement to Be Bound".

10 7.5 Restrictions on Producing Party's source code that is designated
11 "HIGHLY CONFIDENTIAL SOURCE CODE": To the extent a Producing Party's
12 source code is relevant and discoverable in this action, it may be designated as
13 "HIGHLY CONFIDENTIAL SOURCE CODE" and, unless the Producing Party
14 agrees otherwise, shall be subject to the following additional restrictions and
15 protections:

16 (a) Source code in electronic format shall be made available for inspection
17 at the offices of a Producing Party's Outside Counsel of Record, or at a location
18 designated by the Producing Party and agreed to by the Receiving Party. All source
19 code will be loaded on a single, non-networked computer that is password protected
20 and maintained in a secure, locked area. The computer containing source code will
21 be made available for inspection during regular business hours, upon reasonable
22 notice to the Producing Party. Use of any input/output device (*e.g.*, USB memory
23 stick, CDs, floppy disk, portable hard drive, etc.), as well as any cell phone or
24 laptop, is prohibited while accessing the computer containing the source code.

25 (b) No person shall copy, e-mail, transmit, upload, download, print,
26 photograph or otherwise duplicate any portion of the designated source code,
27 except as follows:
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1 i. The Receiving Party may request a reasonable number of pages
2 of source code to be printed. The Producing Party may object to the Receiving
3 Party’s source code print request within five (5) business days. The Parties will
4 work in good faith to resolve any disputes regarding the printing of source code
5 and, if unsuccessful, the burden is on the Receiving Party to file a motion to
6 compel.

7 ii. Any printed pages of source code, and any other documents or
8 things reflecting source code shall be printed on watermarked paper bearing bates-
9 numbers and the legend “HIGHLY CONFIDENTIAL SOURCE CODE” (hereafter
10 Printed Source Code). To the extent reasonably possible, the parties will endeavor
11 to provide printouts with the full path and file name of the Printed Source Code
12 excerpts and line-numbering.

13 iii. Any printed pages of source code, and any other documents or
14 things reflecting source code that have been designated by the Producing Party as
15 “HIGHLY CONFIDENTIAL SOURCE CODE” may not be copied, digitally
16 imaged, e-mailed, transmitted, uploaded, downloaded, photographed or otherwise
17 duplicated, except in limited excerpts necessary to attach as exhibits to depositions,
18 expert reports or court filings.

19 iv. Any paper copies designated “HIGHLY CONFIDENTIAL
20 SOURCE CODE” shall be stored or viewed only at (i) the offices of Outside
21 Counsel of Record for the Receiving Party, (ii) the offices of outside Experts who
22 have been approved to access source code; (iii) the site where any deposition is
23 taken; (iv) the Court; or (v) any intermediate location necessary to transport the
24 information to a hearing, trial or deposition. Any such paper copies shall be
25 maintained at all times in a locked and secure location. No printed pages of source
26 code or other documents or things reflecting source code may be taken outside of
27 the United States.
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1 (c) A Receiving Party that wants to use any such materials at a deposition
2 may, no earlier than seventy-two (72) hours prior to any such deposition, make only
3 as many copies, and only of the specific pages, as it intends to actually use at the
4 deposition. At the conclusion of the deposition, the Producing Party (or its
5 designee) will collect each copy of such materials and will retain the original of any
6 such exhibit, which shall not be appended to the transcript of the deposition.

7 (d) A Receiving Party that wants to file or otherwise submit any such
8 materials to the Court in connection with a filing may, no earlier than seventy-two
9 (72) hours prior to the relevant filing, make only as many copies, and only of the
10 specific pages as needed, for submission to the Court and shall file any and all such
11 copies of the materials with an application to file under seal.

12 (e) Outside Counsel of Record for the Receiving Party shall maintain an
13 access log relating to the Printed Source Code in its possession pursuant to sub-
14 paragraph (b) above and, for each time that the “HIGHLY CONFIDENTIAL
15 SOURCE CODE” materials are viewed, shall record (i) the name of each person
16 who viewed the materials; (ii) the date of access; and (iii) the number of copies
17 made. The Producing Party shall be entitled to a copy of the log on three (3)
18 business day’s advance notice.

19 (f) No Party shall physically, magnetically, digitally, optically or
20 otherwise copy by any means information or items that another Party has
21 designated “HIGHLY CONFIDENTIAL SOURCE CODE” subject to the
22 exceptions enumerated above.

23 **8. RESTRICTIONS ON DISSEMINATION:**

24 No person who examines any item produced pursuant to this Order shall
25 disseminate orally, in writing or by any other means any materials designated as
26 “CONFIDENTIAL,” “ATTORNEYS’ EYES ONLY,” “HIGHLY
27 CONFIDENTIAL SOURCE CODE” to any person not also authorized to examine
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1 those materials under section 7.2-7.4 of this Order. Nothing contained in this Order
2 shall prevent a Party's Outside Counsel of Record from providing to such Party
3 high level tactical and strategic advice based on materials designated
4 "CONFIDENTIAL," "ATTORNEYS' EYES ONLY," "HIGHLY
5 CONFIDENTIAL SOURCE CODE".

6 **9. USE IN DEPOSITIONS:**

7 (a) Materials designated "CONFIDENTIAL": During a deposition, a
8 deponent may be shown, and examined about material designated as
9 "CONFIDENTIAL". If the deponent is not a designated person authorized to view
10 such material prior to such examination pursuant to Section 7.2, the deponent shall
11 be given a copy of this Order, together with the "Acknowledgment and Agreement
12 to Be Bound" which the deponent will be required to sign and abide by same.

13 (b) Materials designated "HIGHLY CONFIDENTIAL": During a
14 deposition, a deponent may be shown, and examined about material designated as
15 "HIGHLY CONFIDENTIAL" if the deponent is a person denominated in section
16 7.3 of this Order. In the event a Party desires to show a person who is not qualified
17 pursuant to section 7.3 to receive material designated as "HIGHLY
18 CONFIDENTIAL", counsel for the Party shall give counsel for all other Parties at
19 least five (5) business days advance notice of the intent to show material designated
20 as "HIGHLY CONFIDENTIAL" to the deponent. Any counsel objecting shall
21 confer with opposing counsel in an attempt to resolve the matter. If the conference
22 of counsel is not successful, counsel objecting to the disclosure to the deponent
23 shall file a motion for protective order with the Court in advance of the deposition,
24 in which case the deponent shall not receive material designated as "HIGHLY
25 CONFIDENTIAL" until and unless the Court denies said motion. In addition, the
26 deponent shall be given a copy of this Order, together with the "Acknowledgment
27 and Agreement to Be Bound" which the deponent will be required to sign and abide
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1 by same.

2 (c) Materials designated “HIGHLY CONFIDENTIAL SOURCE CODE”:

3 During a deposition, a deponent may be shown, and examined about material
4 designated as “HIGHLY CONFIDENTIAL SOURCE CODE” if the deponent is a
5 person denominated in section 7.4 of this Order. In the event a Party desires to
6 show a person who is not qualified pursuant to section 7.4 to receive material
7 designated as “HIGHLY CONFIDENTIAL SOURCE CODE,” counsel for the
8 Party shall give counsel for all other Parties at least five (5) business days advance
9 notice of the intent to show material designated as “HIGHLY CONFIDENTIAL
10 SOURCE CODE” to the deponent. Any counsel objecting shall confer with
11 opposing counsel in an attempt to resolve the matter. If the conference of counsel is
12 not successful, counsel objecting to the disclosure to the deponent shall file a
13 motion for protective order with the Court in advance of the deposition, in which
14 case the deponent shall not receive material designated as “HIGHLY
15 CONFIDENTIAL SOURCE CODE” until and unless the Court denies said motion.
16 In addition, the deponent shall be given a copy of this Order, together with the
17 “Acknowledgment and Agreement to Be Bound” which the deponent will be
18 required to sign and abide by same.

19 (d) Excluded Persons: Either Party shall have the right to exclude the
20 following persons from a deposition before the taking of testimony that will involve
21 material designated as CONFIDENTIAL, HIGHLY CONFIDENTIAL, or
22 HIGHLY CONFIDENTIAL SOURCE CODE under this Order.

23 i. As to testimony or exhibits to the deposition that a Party deems
24 “CONFIDENTIAL”: all persons except counsel of record for the deponent, counsel
25 for the Parties, and the Parties (or the designated representatives of the Parties) and
26 any retained Experts of a Party for purposes of this Action, and any other person
27 designated in and who complies with paragraph 7.2.
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1 ii. As to testimony or exhibits to the deposition that a Party deems
2 “HIGHLY CONFIDENTIAL”: all persons except outside counsel of record for the
3 deponent, counsel for the Parties, any retained Experts of a Party for purposes of
4 this Action, and any other person designated in and who complies with paragraph
5 7.3.

6 iii. As to testimony or exhibits to the deposition that a Party deems
7 “HIGHLY CONFIDENTIAL SOURCE CODE”: all persons except outside counsel
8 of record for the deponent, counsel for the Parties, any retained Experts of a Party
9 for purposes of this Action, and any other person designated in and who complies
10 with paragraph 7.4.

11 iv. Designation: During the deposition, or within thirty (30) days
12 after receiving a copy of the transcript, a Party or a deponent may designate
13 portions of the transcript, and/or exhibits, as “CONFIDENTIAL,” “HIGHLY
14 CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL SOURCE CODE”. Until the
15 expiration of the 30-day period, the transcript and exhibits shall be treated as
16 “HIGHLY CONFIDENTIAL” or “HIGHLY CONFIDENTIAL SOURCE CODE”,
17 but when such thirty (30)-day period expires, only those pages of the transcript and
18 exhibits designated during the deposition as either “CONFIDENTIAL,” “HIGHLY
19 CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL SOURCE CODE” shall be
20 treated as such. Thereafter, the original and all copies of such pages and exhibits
21 shall be stamped as either “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL,” or
22 “HIGHLY CONFIDENTIAL SOURCE CODE” as set forth in this Order and the
23 title page of the transcript shall state “Contains CONFIDENTIAL Information,”
24 “Contains HIGHLY CONFIDENTIAL Information” and/or “Contains HIGHLY
25 CONFIDENTIAL SOURCE CODE Information.”
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1 **10. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
2 **PRODUCED IN OTHER LITIGATION**

3 If a Party is served with a subpoena or a court order issued in other litigation
4 that compels disclosure of any information or items designated in this action as
5 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” or “HIGHLY
6 CONFIDENTIAL SOURCE CODE” that Party must:

7 (a) promptly notify in writing the Designating Party. Such notification shall
8 include a copy of the subpoena or court order;

9 (b) promptly notify in writing the party who caused the subpoena or order to
10 issue in the other litigation that some or all of the material covered by the subpoena
11 or order is subject to this Protective Order. Such notification shall include a copy of
12 this Stipulated Protective Order; and

13 (c) cooperate with respect to all reasonable procedures sought to be pursued
14 by the Designating Party whose Protected Material may be affected.

15 If the Designating Party timely seeks a protective order, the Party served with
16 the subpoena or court order shall not produce any information designated in this
17 action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” or “HIGHLY
18 CONFIDENTIAL SOURCE CODE” before a determination by the court from
19 which the subpoena or order issued, unless the Party has obtained the Designating
20 Party’s permission. The Designating Party shall bear the burden and expense of
21 seeking protection in that court of its confidential material – and nothing in these
22 provisions should be construed as authorizing or encouraging a Receiving Party in
23 this action to disobey a lawful directive from another court.

24 **11. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**
25 **PRODUCED IN THIS LITIGATION**

26 (a) The terms of this Order are applicable to information produced by a
27 Non-Party in this action and designated as “CONFIDENTIAL” or “HIGHLY
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1 CONFIDENTIAL” or “HIGHLY CONFIDENTIAL SOURCE CODE”. Such
2 information produced by Non-Parties in connection with this litigation is protected
3 by the remedies and relief provided by this Order. Nothing in these provisions
4 should be construed as prohibiting a Non-Party from seeking additional protections.

5 (b) In the event that a Party is required, by a valid discovery request, to
6 produce a Non-Party’s confidential information in its possession, and the Party is
7 subject to an agreement with the Non-Party not to produce the Non-Party’s
8 confidential information, then the Party shall:

- 9 (1) promptly notify in writing the Requesting Party and the Non-
10 Party that some or all of the information requested is subject to a
11 confidentiality agreement with a Non-Party;
- 12 (2) promptly provide the Non-Party with a copy of the Stipulated
13 Protective Order in this litigation, the relevant discovery
14 request(s), and a reasonably specific description of the
15 information requested; and
- 16 (3) make the information requested available for inspection by the
17 Non-Party.

18 (c) If the Non-Party fails to object or seek a protective order from this
19 court within 14 days of receiving the notice and accompanying information, the
20 Receiving Party may produce the Non-Party’s confidential information responsive
21 to the discovery request. If the Non-Party timely seeks a protective order, the
22 Receiving Party shall not produce any information in its possession or control that
23 is subject to the confidentiality agreement with the Non-Party before a
24 determination by the court. Absent a court order to the contrary, the Non-Party
25 shall bear the burden and expense of seeking protection in this court of its Protected
26 Material.

1 **12. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

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

10 **13. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
11 **PROTECTED MATERIAL**

12 When a Producing Party gives notice to Receiving Parties that certain
13 inadvertently produced material is subject to a claim of privilege or other
14 protection, the obligations of the Receiving Parties are those set forth in Federal
15 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
16 whatever procedure may be established in an e-discovery order that provides for
17 production without prior privilege review. Pursuant to Federal Rule of Evidence
18 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure
19 of a communication or information covered by the attorney-client privilege or work
20 product protection, the parties may incorporate their agreement in the stipulated
21 protective order submitted to the court.

22 **14. PROSECUTION BAR**

23 14.1 Documents or things designated as CONFIDENTIAL, HIGHLY
24 CONFIDENTIAL, or HIGHLY CONFIDENTIAL SOURCE CODE are subject to
25 a Prosecution Bar as set forth in Paragraphs 14.2 and 14.3 below.

26 14.2 No documents designated as CONFIDENTIAL, HIGHLY
27 CONFIDENTIAL, or HIGHLY CONFIDENTIAL SOURCE CODE may be used
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1 in the drafting or prosecution of any patent application or patent for any Party to
2 this lawsuit other than the Producing Party of such source code.

3 14.3 No person who reviews documents designated CONFIDENTIAL,
4 HIGHLY CONFIDENTIAL, or HIGHLY CONFIDENTIAL SOURCE CODE
5 ONLY for a Receiving Party shall have direct involvement (e.g., writing,
6 reviewing, or approving new applications; strategically amending or surrendering
7 claim scope during prosecution) in the prosecution of patents for the party for a
8 period commencing upon receipt of such information and ending three years
9 following the conclusion of this case (including any appeals). Nothing in
10 paragraphs 14.2 or 14.3 shall be construed as otherwise preventing any Outside
11 Counsel of Record from participating in any challenge to the enforceability of any
12 patent, including without limitation in proceedings in this Court or post-grant, inter
13 partes review, reexamination or reissue proceedings in the United States or foreign
14 patent offices, provided that such Outside Counsel of Record may not participate in
15 any communication, activity, discussion, analysis or other work relating to any
16 potential claim amendments or claim amendment strategies. This prosecution bar
17 shall be personal to any Outside Counsel of Record who reviews documents or
18 things designated as CONFIDENTIAL, HIGHLY CONFIDENTIAL, or HIGHLY
19 CONFIDENTIAL SOURCE CODE and shall not be imputed to any other persons
20 or attorneys at the Outside Counsel of Record's law firm or company.

21 **15. MISCELLANOUS**

22 15.1 Right to Further Relief. Nothing in this Order abridges the right of any
23 person to seek its modification by the court in the future.

24 15.2 Right to Assert Other Objections. By stipulating to the entry of this
25 Protective Order no Party waives any right it otherwise would have to object to
26 disclosing or producing any information or item on any ground not addressed in
27 this Stipulated Protective Order. Similarly, no Party waives any right to object on
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1 any ground to use in evidence of any of the material covered by this Protective
2 Order.

3 15.3 Filing Protected Material. Without written permission from the
4 Designating Party or a court order secured after appropriate notice to all interested
5 persons, a Party may not file in the public record in this action any Protected
6 Material. A Party that seeks to file under seal any Protected Material must comply
7 with L.R. 79-5 and this Court’s Procedures for Presenting Documents
8 Electronically for Sealing. Protected Material may only be filed under seal
9 pursuant to a court order authorizing the sealing of the specific Protected Material
10 at issue. Pursuant to L.R. 79-5, a sealing order will issue only upon a request
11 establishing that the Protected Material at issue is privileged, protectable as a trade
12 secret, or otherwise entitled to protection under the law. If a Receiving Party's
13 request to file Protected Material under seal pursuant to L.R. 79-5 is denied by the
14 court, then the Receiving Party may file the information in the public record
15 pursuant to L.R. 79-5 unless otherwise instructed by the court.

16 **16. FINAL DISPOSITION**

17 Within 60 days after the final disposition of this action, as defined in
18 paragraph 4, each Receiving Party must return all Protected Material to the
19 Producing Party or destroy such material. As used in this subdivision, “all Protected
20 Material” includes all copies, abstracts, compilations, summaries, and any other
21 format reproducing or capturing any of the Protected Material. Whether the
22 Protected Material is returned or destroyed, the Receiving Party must submit a
23 written certification to the Producing Party (and, if not the same person or entity, to
24 the Designating Party) by the 60 day deadline that (1) identifies (by category, where
25 appropriate) all the Protected Material that was returned or destroyed and (2) affirms
26 that the Receiving Party has not retained any copies, abstracts, compilations,
27 summaries or any other format reproducing or capturing any of the Protected
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1 Material. Notwithstanding this provision, Counsel are entitled to retain an archival
2 copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal
3 memoranda, correspondence, deposition and trial exhibits, expert reports, attorney
4 work product, and consultant and expert work product, even if such materials
5 contain Protected Material. Any such archival copies that contain or constitute
6 Protected Material remain subject to this Protective Order as set forth in Section 4
7 (DURATION).

8 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:**

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11 IT IS SO ORDERED.

12 Dated: November 3, 2014

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14 /s/ Patrick J. Walsh

15 Patrick J. Walsh

16 United States Magistrate Judge
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1 DATED: October 28, 2014

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1 DATED: October 28, 2014

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1 DATED: October 28, 2014

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18 LTD., G.B.T., INC., and AMERICAN
MEGATRENDS, INC.

1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare under penalty
5 of perjury that I have read in its entirety and understand the Stipulated Protective Order
6 that was issued by the United States District Court for the Central District of California
7 on [date] in the cases of *Kinglite Holdings Inc. v. Micro-Star International Co., Ltd.*,
8 United States District Court, Central District of California (Southern Division), Case
9 No. CV 14-03009-JVS(PJWx) and *Kinglite Holdings Inc. v. GIGA-BYTE Technology*
10 *Co., Ltd.*, United States District Court, Central District of California (Southern
11 Division), Case No. CV 14-04989-JVS(PJWx). I agree to comply with and to be
12 bound by all the terms of this Stipulated Protective Order and I understand and
13 acknowledge that failure to so comply could expose me to sanctions and punishment
14 in the nature of contempt. I solemnly promise that I will not disclose in any manner
15 any information or item that is subject to this Stipulated Protective Order to any person
16 or entity except in strict compliance with the provisions of this Order.

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

21 Date: _____

22 City and State where sworn and signed: _____

23 Printed name: _____

24 Signature: _____