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13 Attorneys for Defendants
14 Comcast Corporation, Comcast Phone,
15 LLC, Comcast Phone II, LLC and
16 Comcast Business Communications,
17 LLC

Attorneys for Plaintiff Free
Conferencing Corporation

FILED
CLERK, U.S. DISTRICT COURT
FEB 18 2016
CENTRAL DISTRICT OF CALIFORNIA
BY [Signature] DEPUTY

16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA

18 FREE CONFERENCING
19 CORPORATION, a Nevada corporation,
20 Plaintiff,
21 v.
22 COMCAST CORPORATION, a
23 Pennsylvania corporation, COMCAST
24 PHONE LLC, a Delaware limited
25 liability corporation, COMCAST PHONE
26 II LLC, a Delaware limited liability
27 corporation, and COMCAST BUSINESS
28 COMMUNICATIONS LLC, a
Pennsylvania limited liability corporation
and
JOHN DOES 1-10,
Defendants.

Case No. 2:15-cv-04076-FMO (PJWx)
Assigned to Hon. Fernando M. Olguin
Hon. Patrick J. Walsh (Magistrate Judge)

[DISCOVERY MATTER]
[PROPOSED] STIPULATED
PROTECTIVE ORDER

Action Filed: May 29, 2015
Trial Date: December 13, 2016

See Court's changes
at p. 8, P14
PJW

1 **PROTECTIVE ORDER**

2 **WHEREAS** discovery in the above-entitled action is likely to involve the
3 production or disclosure of confidential, proprietary, private, or sensitive
4 commercial, financial or business information by parties to this Action for which
5 special protection from public disclosure and from use for any purpose other than
6 prosecuting this litigation may be warranted; and

7 **WHEREAS**, counsel for all parties herein (Plaintiff Free Conferencing
8 Corporation and Defendants Comcast Corporation, Comcast Phone, LLC, Comcast
9 Phone II, LLC, and Comcast Business Communications, LLC) have consented to
10 entry of this Order by and through their respective counsel of record;

11 **IT IS HEREBY ORDERED:**

12 1. This Protective Order supersedes any prior confidentiality agreements
13 executed among the parties in relation to this Action.

14 2. As used in this Protective Order (the "Order"):

15 (a) The term "discovery material" may include, without limitation,
16 all information contained in: documents; correspondence; memoranda; bulletins;
17 blueprints; customer lists or other material that identify customers or potential
18 customers; price lists or schedules or other matter identifying pricing; minutes;
19 telegrams; letters; statements; cancelled checks; contracts; invoices; drafts; books of
20 account; worksheets; notes of conversations; desk diaries; appointment books;
21 expense accounts; recordings; photographs; motion pictures; compilations from
22 which information can be obtained and translated into reasonably usable form
23 through detection devices; sketches; drawings; notes (including laboratory
24 notebooks and records); reports; instructions; disclosures; models and prototypes
25 and other physical objects; computer data and reports; deposition testimony and
26 exhibits; interrogatory answers; responses to requests for admission; pleadings;
27 motions; briefs; affidavits; and any other written, recorded, computerized electronic,
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1 transcribed or graphic matter produced by any party or obtained by any party during
2 discovery in this action, and any copies thereof.

3 (b) The terms “producing party” and “designating party” shall
4 include any person who provides discovery material whether or not a party to
5 above-entitled action.

6 (c) The term “Action” shall mean *Free Conferencing Corporation*
7 *v. Comcast Corporation, et al.*, Case No. 2:15-CV-04076-FMO (PJWx), pending in
8 the United States District Court for the Central District of California.

9 (d) The term “Comcast” shall mean shall mean Comcast
10 Corporation, Comcast Phone, LLC, Comcast Phone II, LLC, and Comcast Business
11 Communications, LLC, collectively.

12 (e) The terms “Disclosure” and “Disclosed” shall mean, without
13 limitation, allowing or failing to take reasonable steps to prevent: (1) visual
14 inspection of a discovery material designated as “Confidential” or “Confidential and
15 Attorneys’ Eyes Only,” by any individual not authorized under this Order to do so;
16 and/or (2) any communication that reveals, reflects, conveys, or otherwise discloses
17 the substance of all or any part of a discovery material designated as “Confidential”
18 or “Confidential and Attorneys’ Eyes Only,” to an individual not authorized to
19 receive such information under this Order.

20 (f) The term “Free Conferencing” shall mean Free Conferencing
21 Corporation.

22 3. This Order shall apply to discovery material that has been designated
23 “Confidential” or “Confidential and Attorneys’ Eyes Only” pursuant to this Order.

24 **DISCOVERY MATERIAL ELIGIBLE FOR DESIGNATION AS**
25 **“CONFIDENTIAL” OR “ATTORNEYS’ EYES ONLY” AND PERSONS**
26 **TO WHOM SUCH MATERIAL MAY BE DISCLOSED**

27 4. “Confidential” and “Attorneys’ Eyes Only” Discovery Material.
28

1 (a) Any producing party may designate as “Confidential,” in the
2 manner set forth in Paragraph 6, *infra*, discovery materials that have been or will be
3 made available in this Action. A producing party shall make such designation only
4 with respect to nonpublic discovery materials which the party reasonably and in
5 good faith believes are confidential, proprietary, or contain or constitute one or
6 more trade secrets.

7 (b) In addition to the “Confidential” designation, any producing
8 party may designate discovery materials as “Attorneys’ Eyes Only,” in the manner
9 set forth in Paragraph 6. A producing party shall make such designation only with
10 respect to materials which the party reasonably and in good faith believes contain
11 information that, if disclosed to employees of another party, including in-house
12 counsel, pursuant to this Order, would create a substantial risk of competitive injury
13 to the producing party.

14 5. Disclosure of “Confidential” and “Attorneys’ Eyes Only” Discovery
15 Material.

16 (a) Discovery material designated as “Confidential” may be
17 Disclosed only to the following persons, and may be used by such persons solely
18 for the purposes of this Action and for no other business or other purposes
19 whatsoever, and may not be Disclosed except to any other person authorized under
20 this Order to receive such materials/information:

21 (i) Officers, directors, or employees of a party who are
22 responsible for instructing and/or assisting counsel in the prosecution or defense of
23 this Action;

24 (ii) Counsel for the parties in this Action, including in-house
25 counsel;

26 (iii) Employees of such counsel engaged in assisting counsel
27 in the prosecution or defense of this Action including secretaries and paralegal
28 assistants;

1 (iv) Court officials involved in the Action, including court
2 reporters and persons operating video recording equipment at depositions;

3 (v) Any person (and such person's counsel) who (1) was an
4 author or recipient of the discovery material in question, (2) is an employee of the
5 producing party, or (3) was an employee of the producing party at the time of the
6 discovery material's creation; provided, however, that, if such person is not a
7 current employee of the producing party, he or she (and his or her counsel) shall be
8 given a copy of this Order, advised that they are bound by it, and sign Exhibit A;
9 and

10 (vi) Independent contractors, outside consultants and experts
11 and their staff consulted or retained by a party for the purpose of assisting in the
12 prosecution or defense of the Action, provided that such persons shall be given a
13 copy of this Order, advised that they are bound by it, and sign Exhibit A.

14 (b) Discovery material designated both "Confidential" and
15 "Attorneys' Eyes Only" shall be subject to all of the restrictions contained in
16 Paragraph 5(a), and may not be Disclosed except to any other person authorized
17 under this Order to receive such information. However, notwithstanding anything
18 to the contrary in Paragraph 5(a), discovery material designated "Attorneys' Eyes
19 Only" may not be Disclosed to any officer, director, or employee of a party other
20 than the producing party.

21 6. Any producing party may designate discovery as "Confidential" by
22 affixing in a conspicuous place the legend "Confidential Pursuant to Protective
23 Order," and may designate discovery as "Attorneys' Eyes Only" by affixing in a
24 conspicuous place the legend "Confidential and Attorneys' Eyes Only Pursuant to
25 Protective Order," on any discovery material that it believes contains information
26 specified in Paragraph 4(a) or 4(b) above. Such designation shall, to the extent
27 possible, be made at the time the discovery is produced. If, however, a producing
28 party determines that discovery materials containing information specified in

1 Paragraph 4 above has inadvertently been produced previously without a
2 “Confidential” or “Attorneys’ Eyes Only” designation, that producing party may so
3 designate such information for going-forward purposes by providing properly
4 marked copies of the materials to all other parties with instructions that such other
5 parties shall either destroy or return all previously produced undesignated copies of
6 the materials they may have.

7 7. Counsel for any producing party may designate any part of the
8 transcript of any deposition as “Confidential” or “Attorneys’ Eyes Only” that
9 contains the types of information specified in Paragraph 4 above by making a
10 statement on the record during the course of the deposition or by giving notice to
11 the court reporter and all other parties in writing served within thirty (30) days of
12 receipt of the transcript of such deposition, provided that the designating party
13 requested a copy of the transcript within 10 days of notification of its existence.
14 Until 30 days after the receipt of the transcript, all parties shall treat the transcript as
15 “Confidential.”

16 8. If deposition testimony, other pretrial testimony or statements are
17 designated as “Confidential” or “Attorneys’ Eyes Only,” the court reporter shall
18 affix the appropriate legend on the face of the transcript and shall indicate in a
19 prominent place the specific transcript pages and/or exhibits that have been
20 designated “Confidential” or “Attorneys’ Eyes Only.”

21 9. A deponent shall not be permitted to retain copies of confidential
22 discovery material unless the deponent is otherwise entitled to receive and retain
23 such copies under the terms of this Order. A deponent’s counsel shall not be
24 permitted to retain any copies of confidential discovery material unless such
25 counsel represents one of the parties in this Action or is otherwise entitled to receive
26 and retain such copies under the terms of this Order. Nothing in this Paragraph
27 shall prevent a deponent or a deponent’s counsel from having reasonable access to
28 the transcript of the deponent’s deposition for purposes of reading and signing the

1 transcript, preparing to testify further in this Action, or for other purposes specially
2 agreed to by the parties.

3 10. At any deposition session, when counsel for a party believes that a
4 question or answer will result in the disclosure of information with respect to his or
5 her client that may legitimately be designated as "Confidential" or "Attorneys' Eyes
6 Only" pursuant to the provisions of Paragraph 4 above, counsel, at his or her option,
7 may request that all persons except the deponent, reporter, counsel for the parties,
8 counsel for the deponent, and other individuals authorized to receive disclosure,
9 leave the deposition room during the portion of the deposition that counsel believes
10 will result in the disclosure of confidential information. The failure of any person
11 other than the deponent, reporter, counsel (including counsel for the deponent), and
12 other individuals authorized to receive disclosure to comply with a request of this
13 type shall constitute substantial justification for the objecting counsel to require that
14 the question be withdrawn pending application to the Court for an appropriate
15 protective order.

16 11. Producing parties may designate discovery material produced in the
17 form of electronic media, such as computer disks and tapes, as "Confidential" or
18 "Attorneys' Eyes Only" in accordance with the provisions of this Order. Any hard
19 copies generated from electronic media designated as "Confidential" or "Attorneys'
20 Eyes Only" shall be treated in the same way they would be treated under this Order
21 if they originally were produced in hard copy designated "Confidential" or
22 "Attorneys' Eyes Only." All persons who use or review the designated electronic
23 media or hard copies thereof shall be instructed to comply with the provisions of
24 this Order. Any party printing hard copies from electronic media and using those
25 hard copies outside the party's own offices shall mark the hard copies as
26 "Confidential" or "Attorneys' Eyes Only."

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OBJECTIONS TO DESIGNATION

12. If any party objects to a designation of discovery material as “Confidential” or “Attorneys’ Eyes Only,” based upon a good faith belief that the discovery material is not entitled to such protection, counsel for the objecting party shall state the objection by letter to counsel for the designating party. Upon receipt of the letter containing such objection, counsel for the designating party shall have ten (10) business days to confer with counsel for the objecting party and respond to the request and objections. If, at the end of the 10-day period, the objecting and designating parties are unable to agree on the propriety of the objected-to designation(s), the objecting party may apply to the Court for an order changing the designation. The designating party shall have ten (10) business days to respond to such application and shall have the burden of demonstrating that the “Confidential” or “Attorneys’ Eyes Only” designation was proper under the terms of this Order. Any discovery material that has been designated “Confidential” or “Attorneys’ Eyes Only” shall be treated as properly designated until such time as the Court rules that such discovery should not be so designated.

13. All signed agreements to be bound by the Protective Order (Exhibit A, attached hereto) including agreements executed by consultants and non-testifying experts of the parties to this Action, shall be deemed the work product of counsel obtaining them and shall not be disclosed unless so ordered by the Court.

14. To the extent any “Confidential” or “Attorneys’ Eyes Only” discovery material is filed with the Court during this Action, it shall be so filed in sealed envelopes marked with the style of this Action and bearing a statement substantially in the following form:

**CONFIDENTIAL
FILED UNDER SEAL PURSUANT TO
A PROTECTIVE ORDER OF THE COURT DATED _____, 2016**

If filed in the Court, the envelopes shall be maintained by the Clerk of the Court as sealed and shall not be opened without further order of the Court.

1 **NO PREJUDICE REGARDING THE ADMISSIBILITY OF EVIDENCE**
2 **OR THE APPLICATION OF RECOGNIZED PRIVILEGES**

3 15. Nothing herein shall be construed to affect in any way the admissibility
4 of any evidence at trial, in any pretrial hearing, or other proceedings.

5 16. Nothing herein shall preclude any party from asserting, if applicable,
6 the attorney-client privilege, a claim of work product protection, or any other
7 applicable privilege or protection as to any discovery material the production of
8 which is sought by any other party, or to assert any defense or objection to the use
9 of such information at trial.

10 17. Nothing in this Order shall prevent or restrict counsel from rendering
11 legal advice to the named parties or any other parties which counsel may represent
12 with respect to this Action and, in the course thereof, referring or relying generally
13 on counsel's examination of discovery material, but without disclosing the specific
14 content of any discovery material the disclosure of which is contrary to the terms of
15 this Order.

16 **REVOCAION OF CONFIDENTIAL STATUS**

17 18. Any party or nonparty that has designated any discovery material as
18 "Confidential" or "Attorneys' Eyes Only" pursuant to this Order may consent that
19 such designation be removed or may revoke such designation by so notifying
20 counsel for all other parties in writing or by so stating on the record at any hearing
21 or deposition, provided that any such removal or revocation shall not prejudice or
22 otherwise affect the right any other party may have to designate the same discovery
23 material as "Confidential" or "Attorneys' Eyes Only".

24 19. If any designation of discovery material as "Confidential" or
25 "Attorneys' Eyes Only" is withdrawn voluntarily or by Order of this Court, all other
26 parties to the Action shall be notified of such change in writing.

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INADVERTENT WAIVER

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20. The inadvertent production of any discovery material by any party shall be without prejudice to any subsequent claim by the producing party that such discovery material is privileged or attorney work product and shall not be deemed a waiver of any such privilege or protection. If, after discovery materials are disclosed, a producing party notifies all receiving parties of a claim that materials are protected by the attorney-client privilege or work product protection, the receiving party shall not make any use of the contested material and shall return to producing party all copies thereof in its possession. Nothing in this provision shall be construed to prevent or restrict any party's right to object to the propriety of any other's assertion that materials are properly protected by the attorney-client privilege, work-product doctrine, or any other applicable privilege or protection.

21. Within ninety (90) days after the conclusion of all proceedings in this Action, whether by judgment, settlement, or otherwise, all documents governed by the terms of this Order and all copies of such documents not on file with the Court shall, upon written request of the producing party, be returned to counsel for the producing party at its expense, or else destroyed. Counsel and any recipient(s) shall provide written notice to the producing party of such return or destruction. Notwithstanding the foregoing, outside counsel for any party may retain copies of any pleading served or filed in this Action, but shall maintain the confidentiality of such documents to the extent required by this Order.

MODIFICATION OF ORDER

22. Nothing herein shall prevent any party, or third party, on notice to all parties, from applying to the Court for a modification of this Order.

CONTINUING EFFECT AND JURISDICTION OVER ORDER

23. This Order shall remain in effect until such time as it is modified, amended, or rescinded by the Court and shall survive the termination of this Action.

1 The Court shall have continuing jurisdiction to modify, amend, or rescind this order
2 notwithstanding the termination of this Action.

3 24. This Order may be signed in counterparts.

4 Dated: February 16, 2016 PARTRIDGE SNOW & HAHN LLP

5
6 By: /s/ Lauren J. Coppola
7 Lauren J. Coppola
8 Attorneys for Plaintiff
9 Free Conferencing Corporation

9 Dated: February 16, 2016 LATHAM & WATKINS LLP

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11 By /s/ Daniel Scott Schecter
12 Daniel Scott Schecter
13 Attorneys for Defendants
14 Comcast Corporation, Comcast Phone,
15 LLC, Comcast Phone II, LLC, and
16 Comcast Business Communications,
17 LLC

16 Pursuant to Local Rule 5-4.3.4(a)(2)(i), I certify that I obtained concurrence and
17 authorization in the filing of this document from all parties whose electronic
18 signatures appear above.

18 Dated: February 16, 2016 /s/ Daniel Scott Schecter
19 Daniel Scott Schecter

21 **GOOD CAUSE APPEARING**, the Court hereby approves this Stipulated
22 Protective Order.

23 *This Order does not authorize the parties*
24 **IT IS SO ORDERED.** *to file documents under seal.*
25 *See L.R. 79-5.*

26 Dated: 2/18/16 Patrick J. Walsh
27 Hon. Patrick J. Walsh

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EXHIBIT A

I have read and understand the Protective Order entered in the matter of *Free Conferencing Corporation v. Comcast Corporation, et al.*, Case No. 2:15-CV-04076-FMO (PJWx), and agree to be bound by and abide fully with the terms of such Protective Order. I further understand that failure to abide fully with the terms of such Protective Order may lead to sanctions being imposed by the Court. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Signature

Name (Printed)

Date