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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

1 CEIVA LOGIC, INC.,
2
3 Plaintiff,
4
5 v.
6 AMAZON.COM, INC.,
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8 Defendant.

Case No. 2:19-cv-09129-AB-MAA

**STIPULATED PROTECTIVE
ORDER**

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25 **1. PURPOSES AND LIMITATIONS**

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Stipulated Protective Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 13.3 below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the Court to file material under seal. Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted.

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28 **2. GOOD CAUSE STATEMENT**

This action is likely to involve business, financial, technical and/or other proprietary information for which special protection from public disclosure and from use for any purpose other than prosecution of this action is warranted. Such

1 confidential and proprietary materials and information consist of, among other
2 things, highly sensitive technical documents describing the design and operation of
3 the accused products and/or products alleged to practice and/or embody the patents-
4 in-suit, source code related to these products, confidential business, strategy, and
5 financial information, or other confidential research, development, or commercial
6 information (including information implicating privacy rights of third parties), and
7 other information otherwise generally unavailable to the public, or which may be
8 privileged or otherwise protected from public disclosure under state or federal
9 statutes, court rules, case decisions, or common law. Accordingly, to expedite the
10 flow of information, to facilitate the prompt resolution of disputes over
11 confidentiality of discovery materials, to adequately protect information the parties
12 are entitled to keep confidential, to ensure that the parties are permitted reasonable
13 necessary uses of such material in preparation for and in the conduct of trial, to
14 address their handling at the end of the litigation, and to serve the ends of justice, a
15 protective order for such information is justified in this matter. It is the intent of the
16 parties that information will not be designated as confidential for tactical reasons
17 and that nothing be so designated without a good faith belief that it has been
18 maintained in a confidential, non-public manner, and there is good cause why it
19 should not be part of the public record of this case.

20 **3. DEFINITIONS**

21 3.1. Action: This pending federal lawsuit, Civil Action No. 2:19-cv-
22 09129-AB-MAA.

23 3.2. Challenging Party: A Party or Nonparty that challenges the
24 designation of information or items under this Stipulated Protective
25 Order.

26 3.3. “CONFIDENTIAL” Information or Items: Information (regardless of
27 how it is generated, stored or maintained) or tangible things that
28 qualify for protection under Federal Rule of Civil Procedure 26(c), and

1 as specified above in the Good Cause Statement.

2 3.4. Counsel: Outside Counsel of Record and In-House Counsel (as well
3 as their support staff).

4 3.5. Designating Party: A Party or Nonparty that designates information or
5 items that it produces in disclosures or in responses to discovery as
6 “CONFIDENTIAL.”

7 3.6. Disclosure or Discovery Material: All items or information, regardless
8 of the medium or manner in which it is generated, stored, or
9 maintained (including, among other things, testimony, transcripts, and
10 tangible things), that is produced or generated in disclosures or
11 responses to discovery in this matter.

12 3.7. Expert: A person with specialized knowledge or experience in a
13 matter pertinent to the litigation who has been retained by a Party or its
14 counsel to serve as an expert witness or as a consultant in this Action,
15 and who is not an employee of a party to this Action or an affiliate of a
16 party to this Action.

17 3.8. In-House Counsel: Attorneys who are employees of a party to this
18 Action. In-House Counsel does not include Outside Counsel of
19 Record or any other outside counsel.

20 3.9. Nonparty: Any natural person, partnership, corporation, association,
21 or other legal entity not named as a Party to this action.

22 3.10. Outside Counsel of Record: Attorneys who are not employees of a
23 party to this Action but are retained to represent or advise a party to
24 this Action and have appeared in this Action on behalf of that party or
25 are affiliated with a law firm which has appeared on behalf of that
26 party, and includes support staff.

27 3.11. Party: Any party to this Action, including all of its officers, directors,
28 employees, consultants, retained experts, In-House Counsel, and

1 Outside Counsel of Record (and their support staffs).

2 3.12. Producing Party: A Party or Nonparty that produces Disclosure or
3 Discovery Material in this Action.

4 3.13. Professional Vendors: Persons or entities that provide litigation
5 support services (e.g., photocopying, videotaping, translating,
6 preparing exhibits or demonstrations, and organizing, storing, or
7 retrieving data in any form or medium) and their employees and
8 subcontractors.

9 3.14. Protected Material: Any Disclosure or Discovery Material that is
10 designated as “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL
11 SOURCE CODE.”

12 3.15. Receiving Party: A Party that receives Disclosure or Discovery
13 Material from a Producing Party.

14 3.16. Source Code: Computer code that defines, in an applicable
15 programming language, the algorithms, function or structure of
16 software. Source code includes source code, object code (i.e.,
17 computer instructions and data definitions expressed in a form suitable
18 for input to an assembler, compiler, or other translator), microcode,
19 register transfer language (“RTL”), firmware, and hardware
20 description language (“HDL”), as well as any and all programmer
21 notes, annotations, and other comments accompanying the code. For
22 avoidance of doubt, this includes, but is not limited to, source files,
23 make files, intermediate output files, executable files, header files,
24 resource files, library files, module definition files, map files, object
25 files, linker files, browse info files, debug files, and files containing
26 source code in C, C++, BREW, Java ME, J2ME, assembler, digital
27 signal processor (DSP) programming languages, VHDL, Verilog,
28 other HDL formats, and any other human readable text programming

1 languages. Source code does not include documents that describe
2 algorithms or structure of software but that do not include code in a
3 programming language. To the extent documents (for example,
4 PowerPoints or Word documents) contain lines of source code, the
5 Producing Party may elect to redact the lines of Source Code in the
6 document—labeled “Redacted Source Code”—and will otherwise
7 produce the document in the normal course of discovery. In the event
8 the Producing Party elects to redact Source Code from documents, the
9 non-redacted versions of those documents will be placed on the Source
10 Code Computer for review by the Receiving Party.

11 3.17. “HIGHLY CONFIDENTIAL SOURCE CODE” Information or Items:
12 Protected Material reflecting or comprising non-public Source Code of
13 a producing party.

14 **4. SCOPE**

15 The protections conferred by this Stipulated Protective Order cover not only
16 Protected Material, but also (1) any information copied or extracted from Protected
17 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material;
18 and (3) any testimony, conversations, or presentations by Parties or their Counsel
19 that might reveal Protected Material.

20 Any use of Protected Material at trial shall be governed by the orders of the
21 trial judge. This Stipulated Protective Order does not govern the use of Protected
22 Material at trial.

23 **5. DURATION**

24 The Order applies to pretrial discovery. Nothing in this Order shall be
25 deemed to prevent the Parties from introducing any Protected Material into
26 evidence at the trial of this Action, or from using any information contained in
27 Designated Material at the trial of this Action, subject to any pretrial order issued
28 by this Court. Subject to any challenges under paragraph 7, the Parties will not

1 oppose any reasonable request by the Producing Party that the courtroom be sealed,
2 if allowed by the Court, during the presentation of any testimony, evidence, or
3 argument relating to or involving the use of any Protected Material.

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

12 **6. DESIGNATING PROTECTED MATERIAL**

13 6.1. Exercise of Restraint and Care in Designating Material for Protection.

14 Each Party or Nonparty that designates information or items for
15 protection under this Stipulated Protective Order must take care to
16 limit any such designation to specific material that qualifies under the
17 appropriate standards. The Designating Party must designate for
18 protection only those parts of material, documents, items, or oral or
19 written communications that qualify so that other portions of the
20 material, documents, items, or communications for which protection is
21 not warranted are not swept unjustifiably within the ambit of this
22 Stipulated Protective Order.

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

1 6.2. Manner and Timing of Designations.

2 Except as otherwise provided in this Stipulated Protective Order
3 (see, e.g., Section 6.2(a)), or as otherwise stipulated or ordered,
4 Disclosure or Discovery Material that qualifies for protection under
5 this Stipulated Protective Order must be clearly so designated before
6 the material is disclosed or produced.

7 Designation in conformity with this Stipulated Protective Order
8 requires the following:

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

17 A Party or Nonparty that makes original documents
18 available for inspection need not designate them for protection
19 until after the inspecting Party has indicated which documents it
20 would like copied and produced. During the inspection and
21 before the designation, all of the material made available for
22 inspection shall be deemed “CONFIDENTIAL.” After the
23 inspecting Party has identified the documents it wants copied
24 and produced, the Producing Party must determine which
25 documents, or portions thereof, qualify for protection under this
26 Stipulated Protective Order. Then, before producing the
27 specified documents, the Producing Party must affix the legend
28 “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL SOURCE

1 CODE” to each page that contains Protected Material. If only a
2 portion or portions of the material on a page qualifies for
3 protection, the Producing Party also must clearly identify the
4 protected portion(s) (e.g., by making appropriate markings in the
5 margins).

6 (b) For testimony given in depositions, that the Designating Party
7 identify the Disclosure or Discovery Material on the record,
8 before the close of the deposition, all protected testimony.

9 (c) For information produced in nondocumentary form, and for any
10 other tangible items, that the Producing Party affix in a
11 prominent place on the exterior of the container or containers in
12 which the information is stored the legend “CONFIDENTIAL.”
13 If only a portion or portions of the information warrants
14 protection, the Producing Party, to the extent practicable, shall
15 identify the protected portion(s).

16 6.3. Inadvertent Failure to Designate.

17 If timely corrected, an inadvertent failure to designate qualified
18 information or items does not, standing alone, waive the Designating
19 Party’s right to secure protection under this Stipulated Protective Order
20 for such material. Upon timely correction of a designation, the
21 Receiving Party must make reasonable efforts to assure that the
22 material is treated in accordance with the provisions of this Stipulated
23 Protective Order.

24 **7. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

25 7.1. Timing of Challenges.

26 Any Party or Nonparty may challenge a designation of
27 confidentiality at any time that is consistent with the Court’s
28 Scheduling Order.

1 7.2. Meet and Confer.

2 The Challenging Party shall initiate the dispute resolution
3 process, which shall comply with Local Rule 37.1 et seq., and with
4 Section 4 of Judge Audero’s Procedures (“Mandatory Telephonic
5 Conference for Discovery Disputes”).¹

6 7.3. Burden of Persuasion.

7 The burden of persuasion in any such challenge proceeding shall
8 be on the Designating Party. Frivolous challenges, and those made for
9 an improper purpose (*e.g.*, to harass or impose unnecessary expenses
10 and burdens on other parties) may expose the Challenging Party to
11 sanctions. Unless the Designating Party has waived or withdrawn the
12 confidentiality designation, all parties shall continue to afford the
13 material in question the level of protection to which it is entitled under
14 the Producing Party’s designation until the Court rules on the
15 challenge.

16 **8. ACCESS TO AND USE OF PROTECTED MATERIALS**

17 8.1. Basic Principles.

18 A Receiving Party may use Protected Material that is disclosed
19 or produced by another Party or by a Nonparty in connection with this
20 Action only for prosecuting, defending, or attempting to settle this
21 Action. Such Protected Material may be disclosed only to the
22 categories of persons and under the conditions described in this
23 Stipulated Protective Order. When the Action reaches a final
24 disposition, a Receiving Party must comply with the provisions of
25 Section 14 below.

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¹ Judge Audero’s Procedures are available at
28 <https://www.cacd.uscourts.gov/honorable-maria-audero>.

1 Protected Material must be stored and maintained by a
2 Receiving Party at a location and in a secure manner that ensures that
3 access is limited to the persons authorized under this Stipulated
4 Protective Order.

5 8.2. Disclosure of “CONFIDENTIAL” Information or Items.

6 Unless otherwise ordered by the Court or permitted in writing
7 by the Designating Party, a Receiving Party may disclose any
8 information or item designated “CONFIDENTIAL” only to:

- 9 (a) The Receiving Party’s Outside Counsel of Record, as well as
10 employees of said Outside Counsel of Record to whom it is
11 reasonably necessary to disclose the information for this Action;
- 12 (b) The officers, directors, board members, and employees
13 (including In-House Counsel) of the Receiving Party to whom
14 disclosure is reasonably necessary for this Action;
- 15 (c) Experts of the Receiving Party to whom disclosure is reasonably
16 necessary for this Action and who have signed the
17 “Acknowledgment and Agreement to Be Bound” (Exhibit A).
18 Before access is given, the Expert shall complete the
19 “Acknowledgment and Agreement to Be Bound” (Exhibit A),
20 and the same shall be served upon any producing Party with a
21 current curriculum vitae of the consultant or expert at least ten
22 (10) days before access to the Protected Material is to be given
23 to that consultant.² However, the producing Party may notify

24 _____
25 ² For any such person, the curriculum vitae shall identify his/her (i) current
26 employer(s), (ii) each person or entity from whom s/he has received compensation
27 or funding for work in his or her areas of expertise or to whom the s/he has
28 provided professional services, including in connection with a litigation, at any time
during the preceding five years; (iii) (by name and number of the case, filing date,

1 the receiving Party in writing that it objects to disclosure of
2 Protected Material to a consultant or expert. The producing
3 Party waives objection to disclosure of its Designated Material
4 by a receiving Party to an identified outside consultant or expert
5 of a receiving Party if the Producing Party provides no written
6 objection within ten (10) days of service by a receiving Party of
7 the Exhibit A and current curriculum vitae of the identified
8 outside consultant or expert. Such a waiver shall not preclude a
9 Producing Party from raising an objection at a later time with
10 respect to Protected Material if a party believes in good faith
11 that newly disclosed or discovered information about the expert,
12 had it been known at the time the outside consultant or expert
13 was disclosed, would have warranted such an objection. The
14 Parties agree to promptly confer and use good faith to resolve
15 any such objection. If the Parties are unable to resolve any
16 objection, the producing Party may file a motion with the Court
17 within fifteen (15) days of the notice, or within such other time
18 as the Parties may agree, seeking a protective order with respect
19 to the proposed disclosure. The producing Party shall have the
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21 and location of court) any litigation in connection with which s/he has offered
22 expert testimony, including through a declaration, report, or testimony at a
23 deposition or trial, during the preceding five years; and (iv) and an identification of
24 any patents or patent applications in which the technical advisor is identified as an
25 inventor or applicant, is involved in prosecuting or maintaining, or has any
26 pecuniary interest. If such consultant or expert believes any of this information is
27 subject to a confidentiality obligation to a third-party, then the s/he should provide
28 whatever information can be disclosed without violating any confidentiality
agreements, and the Party seeking to disclose Protected Material to the consultant
or expert shall be available to meet and confer with the designating Party regarding
any such engagement.

1 burden of proving the need for a protective order. No disclosure
2 shall occur until all such objections are resolved by agreement
3 or Court order.;

- 4 (d) The Court and its personnel;
- 5 (e) Court reporters and their staff;
- 6 (f) Professional jury or trial consultants, mock jurors, and
7 Professional Vendors to whom disclosure is reasonably
8 necessary or this Action and who have signed the
9 “Acknowledgment and Agreement to be Bound” (Exhibit A);
- 10 (g) The author or recipient of a document containing the
11 information or a custodian or other person who otherwise
12 possessed or knew the information;
- 13 (h) During their depositions, witnesses, and attorneys for witnesses,
14 in the Action to whom disclosure is reasonably necessary
15 provided: (i) the deposing party requests that the witness sign
16 the “Acknowledgment and Agreement to Be Bound” (Exhibit
17 A); and (ii) the witness will not be permitted to keep any
18 confidential information unless they sign the “Acknowledgment
19 and Agreement to Be Bound,” unless otherwise agreed by the
20 Designating Party or ordered by the Court. Pages of transcribed
21 deposition testimony or exhibits to depositions that reveal
22 Protected Material may be separately bound by the court
23 reporter and may not be disclosed to anyone except as permitted
24 under this Stipulated Protective Order; and
- 25 (i) Any mediator or settlement officer, and their supporting
26 personnel, mutually agreed upon by any of the parties engaged
27 in settlement discussions.

28 8.3. Disclosure of “HIGHLY CONFIDENTIAL SOURCE CODE ”

1 Information or Items.

2 For Source Code designated HIGHLY CONFIDENTIAL
3 SOURCE CODE, access to, and disclosure of, such Source Code shall
4 be limited to individuals listed in paragraph 8.2 above, and the
5 following additional restrictions apply:

- 6 (a) Access to a Party's Source Code shall be provided only on
7 "stand-alone" computer(s) (that is, the computer may not be
8 linked to any network, including a local area network ("LAN"),
9 an intranet or the Internet). The standalone computer shall be a
10 current vintage, Windows-based laptop or desktop computer
11 having at least 4 gigabytes of memory, shall have a mouse, and
12 a screen with a minimum size of fifteen inches, and shall be
13 connectable to a second screen supplied by the receiving party at
14 the receiving party's option. The stand-alone computer(s) may
15 only be located within the continental United States at the
16 offices of the producing Party's outside counsel or another
17 agreed-upon location.
- 18 (b) The stand-alone computer(s) shall have disk encryption and be
19 password protected. Use or possession of any outside electronic
20 input/output device (e.g., USB memory stick, mobile phone,
21 tablet, personal digital assistants (PDAs), Blackberries,
22 Dictaphones, voice recorders, external or portable telephone
23 jack, camera or any camera-enabled device, CD, floppy disk,
24 portable hard drive, laptop, or any device that can access the
25 Internet or any other network or external system, etc.) is
26 prohibited while accessing the computer containing the source
27 code. All persons entering the locked room containing the
28 stand-alone computer(s) must agree to submit to reasonable

1 security measures to ensure they are not carrying any prohibited
2 items before they will be given access to the stand-alone
3 computer(s). The producing Party may periodically “check in”
4 on the activities of the receiving Party’s representatives during
5 any stand-alone computer review and may visually monitor the
6 activities of the receiving Party’s representatives from outside
7 the room in which the stand-alone computer(s) is located, but
8 only to ensure that no unauthorized electronic records of the
9 Source Code and no information concerning the Source Code
10 are being created or transmitted in any way. The producing
11 Party must remain at such a distance as to avoid viewing notes
12 or other work product generated by the receiving Party’s
13 representatives and at such a distance to allow representatives of
14 the receiving Party’s to carry on a quiet conversation without
15 being overheard by the producing Party. The producing Party
16 may not record (visually, audibly or by other means) the
17 activities of the receiving Party’s representatives.

18 (c) Source Code will be made available for inspection between the
19 hours of 9:00 a.m. and 5:00 p.m. (in the time zone where the
20 Source Code is made available) on business days (i.e., weekdays
21 that are not Federal holidays), although the Parties will be
22 reasonable in accommodating reasonable requests to conduct
23 inspections at other times;

24 (d) A list of names of persons who will review Source Code on the
25 stand-alone computer(s) will be provided to the producing Party
26 in conjunction with any written (including email) notice
27 requesting inspection. Prior to the first inspection of any Source
28 Code made available by the Producing Party, the receiving Party

1 shall provide five (5) days' notice that it wishes to inspect
2 Source Code. The receiving Party shall provide three (3) days'
3 notice prior to any additional inspections. Such notice shall
4 include the names and titles for every individual from the
5 receiving Party who will attend the inspection. The producing
6 Party may maintain a daily log of the names of persons who
7 enter the locked room to view the source code and when they
8 enter and depart. To the extent practical and reasonable, the
9 Parties agree to accommodate requests for inspection on a
10 shorter timeframe, particularly when the needs of the case and
11 case schedule require more immediate access by the receiving
12 Party to the requested Source Code. Similarly, the receiving
13 Party shall make good faith efforts to reasonably accommodate
14 scheduling limitations identified by the producing Party;

- 15 (e) The producing Party shall provide the receiving Party with
16 information explaining how to start, log on to, and operate the
17 stand-alone computer(s) in order to access the produced Source
18 Code on the stand-alone computer(s);
- 19 (f) The producing Party will produce Source Code in computer
20 searchable format on the stand-alone computer(s) as described
21 above;
- 22 (g) Access to any Party's Protected Material designated HIGHLY
23 CONFIDENTIAL SOURCE CODE shall be limited to outside
24 counsel and up to four (4) Experts retained for the purpose of
25 this litigation and approved to access such Protected Materials
26 pursuant to paragraph 3.14 above. A receiving Party may
27 include excerpts of Source Code in a pleading, exhibit, expert
28 report, discovery document, deposition transcript, or other Court

1 document (hereinafter, "Source Code Documents") only to the
2 extent necessary, provided that the Source Code Documents are
3 appropriately marked under this Order, restricted to those who
4 are entitled to have access to them as specified herein, and, if
5 filed with the Court, filed under seal in accordance with the
6 Court's rules, procedures and orders;

7 (h) To the extent portions of Source Code are quoted in a Source
8 Code Document, either (1) the entire Source Code Document
9 will be stamped and treated as HIGHLY CONFIDENTIAL
10 SOURCE CODE or (2) those pages containing quoted Source
11 Code will be separately stamped and treated as HIGHLY
12 CONFIDENTIAL SOURCE CODE. However, for clarity,
13 production documents describing how source code operates (for
14 example, architecture documents, program manuals, process
15 flow descriptions, PowerPoint presentations, etc.) may not be
16 stamped as HIGHLY CONFIDENTIAL SOURCE CODE solely
17 for the purpose of limiting access to such documents. To the
18 extent any documents (for example, PowerPoints, Word
19 documents, architecture documents, etc.) contain lines of source
20 code, the producing Party may elect to redact only the lines of
21 Source Code in the document and must otherwise produce the
22 document (including any discussion, analysis or commentary of
23 any Source Code) in the normal course of discovery. In the
24 event the producing Party elects to redact Source Code from
25 documents, the non-redacted versions of those documents must
26 be placed on the stand-alone computer for review by the
27 receiving Party. Further, if the receiving Party elects to print
28 such non-redacted source code documents from the stand-alone

1 computer, only pages containing source code will count toward
2 any printing limitations contained herein. Alternatively, a
3 producing Party may elect to produce the entirety of a document
4 containing lines of Source Code in the normal course of
5 discovery with a designation of “HIGHLY CONFIDENTIAL
6 SOURCE CODE.”

- 7 (i) Except as set forth in this paragraph, no copies of Source Code
8 shall be made without prior written consent of the producing
9 Party. The receiving Party may create an electronic copy or
10 image of limited excerpts of Source Code only to the extent
11 necessary in a pleading, exhibit, expert report, discovery
12 document, deposition transcript, other Court document, or any
13 drafts of these documents. The receiving Party shall only
14 include such excerpts as are reasonably necessary for the
15 purposes for which such part of the Source Code is used. Images
16 or copies of Source Code shall not be included in
17 correspondence between the parties (references to production
18 numbers shall be used instead) and shall be omitted from
19 pleadings and other papers except to the extent permitted herein.
20 The receiving party may create an electronic image of a selected
21 portion of the Source Code only when the electronic file
22 containing such image has been encrypted using commercially
23 reasonable encryption software including password protection.
24 Notwithstanding the foregoing, the receiving Party may file
25 under seal printed Source Code with the Court via the ECF
26 system without encryption. The communication and/or
27 disclosure of electronic files containing any portion of Source
28 Code shall at all times be limited to individuals who are

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authorized to see Source Code under the provisions of this Protective Order. Additionally, all electronic copies must be labeled “HIGHLY CONFIDENTIAL SOURCE CODE.” No person shall copy, e-mail, transmit, upload, download, print, photograph or otherwise duplicate any portion of the designated “HIGHLY CONFIDENTIAL SOURCE CODE” material, except that the receiving Party may request paper copies (“Source Code Printouts”) of limited portions of the Source Code, but only if and to the extent reasonably necessary for the preparation of court filings, pleadings, expert reports, or other papers, or for deposition or trial. The receiving Party shall be permitted to print 500 pages total from the stand-alone computer (per producing Party). Furthermore, the receiving Party may print up to 50 contiguous pages. The receiving Party will only print material that it believes reasonably necessary to the claims and defenses at issue. If the receiving Party reasonably believes that it is necessary to print more than set forth by these limits, the parties shall meet and confer in good faith to resolve the issue. To ensure the proper pages requested by the receiving Party are printed, the producing Party shall provide the ability for the receiving Party to save relevant files for printing as PDFs (preserving the line numbers and formatting using a program such as Notepad++) to a folder on the source code review computer for printing, or any other similar arrangement agreed to by the parties. The receiving Party shall not request paper copies for the purposes of reviewing the source code other than electronically as set forth in this paragraph. Within three (3) business days, the producing Party will mail, or within five (5)

1 business days will deliver, the requested material on
2 watermarked or colored paper bearing Bates numbers and the
3 legend “HIGHLY CONFIDENTIAL SOURCE CODE” unless
4 objected to as discussed below. At the receiving Party’s request,
5 up to three (3) additional sets, for a total of four sets of printed
6 Source Code may be requested and provided by the producing
7 Party in a timely fashion. Printouts of Source Code may be
8 made only by the producing Party, and such printouts must
9 include (1) directory path information and filenames from which
10 the Source Code came, and (2) line numbers. For avoidance of
11 doubt, the receiving Party may make copies of Source Code for
12 service to the Court to the extent requested or required by Court
13 or chamber rules.

14 (j) If the receiving Party’s outside counsel or Experts obtain Source
15 Code Printouts, the receiving Party shall ensure that such
16 outside counsel, consultants, or experts keep the Source Code
17 Printouts under their direct control in a secured locked area in
18 the offices of such outside counsel or Experts. The receiving
19 Party may also temporarily keep the Source Code Printouts at:
20 (i) the Court for any proceedings(s) relating to the Source Code,
21 for the dates associated with the proceeding(s); (ii) the sites
22 where any deposition(s) relating to the Source Code are taken,
23 for the dates associated with the deposition(s); and (iii) if in a
24 secured locked container, any intermediate location reasonably
25 necessary to transport the Source Code Printouts (e.g., a hotel
26 prior to a Court proceeding or deposition); and

27 (k) A producing Party’s Source Code may only be delivered by the
28 receiving Party at the direction of a person authorized to view

1 Source Code, on paper via hand carry. If reasonably necessary,
2 the receiving Party may choose to transport Source Code via
3 courier, including Fedex or UPS. Source Code may not be
4 transported or transmitted over a network of any kind, including
5 a LAN, an intranet, or the Internet. Source Code may only be
6 transported for the purpose of Court proceeding(s) and filings,
7 expert reports, or deposition(s) or trial, as set forth in this
8 paragraph and is at all times subject to the transport restrictions
9 set forth therein.

- 10 (1) The producing Party shall install tools that are sufficient for
11 viewing and searching the Source Code produced, on the
12 platform produced. The receiving Party's outside counsel
13 and/or experts may request that other mutually agreeable
14 commercially available software tools for viewing and searching
15 Source Code be installed on the stand-alone computer, provided,
16 however, that such other software tools are reasonably necessary
17 for the receiving Party to perform its review of the source code
18 consistent with all of the protections herein. The receiving Party
19 must provide the producing Party with a copy of such licensed
20 software tool(s) at least three (3) business days in advance of the
21 date upon which the receiving Party wishes to have the
22 additional software tools available for use on the stand-alone
23 computer. To the extent any requested commercially available
24 software tool(s) can be downloaded from the Internet, the
25 receiving Party will provide the producing Party with a link or
26 URL at least three (3) business days in advance of the date upon
27 which the receiving Party wishes to have the additional software
28 tools available for use on the stand-alone computer.

- 1 (m) The receiving Party’s outside counsel and/or Experts shall be
2 entitled to take notes relating to the Source Code but may not
3 copy any portion of the Source Code into the notes. No copies
4 of all or any portion of the source code may leave the room in
5 which the source code is inspected. Further, no other written or
6 electronic record of the source code is permitted except as
7 otherwise provided above. No notes shall be made or stored on
8 the inspection computer, or left behind at the site where the
9 inspection computer is made available, and any such notes shall
10 be deleted or destroyed by the producing Party, without
11 reviewing the substance of the notes, upon discovery; and
- 12 (n) All copies of any portion of the Source Code Printouts in
13 whatever form shall be securely destroyed if they are no longer
14 in use. Copies of Source Code Printouts that are marked as
15 deposition exhibits shall not be provided to the Court Reporter
16 or attached to deposition transcripts; rather, the deposition
17 record will identify the exhibit by its production numbers;
- 18 (o) For the avoidance of doubt, printing of Source Code shall not be
19 used as a substitute for review of the Source Code in the first
20 instance on the Source Code Computer

21 **9. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
22 **PRODUCED IN OTHER LITIGATION**

23 If a Party is served with a subpoena or a court order issued in other litigation
24 that compels disclosure of any information or items designated in this Action as
25 “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL SOURCE CODE” that Party
26 must:

- 27 (a) Promptly notify in writing the Designating Party. Such notification
28 shall include a copy of the subpoena or court order;

- 1 (b) Promptly notify in writing the party who caused the subpoena or order
2 to issue in the other litigation that some or all of the material covered
3 by the subpoena or order is subject to this Stipulated Protective Order.
4 Such notification shall include a copy of this Stipulated Protective
5 Order; and
- 6 (c) Cooperate with respect to all reasonable procedures sought to be
7 pursued by the Designating Party whose Protected Material may be
8 affected.

9 If the Designating Party timely seeks a protective order, the Party served with
10 the subpoena or court order shall not produce any information designated in this
11 action as “CONFIDENTIAL” before a determination by the Court from which the
12 subpoena or order issued, unless the Party has obtained the Designating Party’s
13 permission. The Designating Party shall bear the burden and expense of seeking
14 protection in that court of its confidential material and nothing in these provisions
15 should be construed as authorizing or encouraging a Receiving Party in this Action
16 to disobey a lawful directive from another court.

17 **10. A NONPARTY’S PROTECTED MATERIAL SOUGHT TO BE**
18 **PRODUCED IN THIS LITIGATION**

19 10.1. Application.

20 The terms of this Stipulated Protective Order are applicable to
21 information produced by a Nonparty in this Action and designated as
22 “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL SOURCE
23 CODE.” Such information produced by Nonparties in connection with
24 this litigation is protected by the remedies and relief provided by this
25 Stipulated Protective Order. Nothing in these provisions should be
26 construed as prohibiting a Nonparty from seeking additional
27 protections.

28 10.2. Notification.

1 In the event that a Party is required, by a valid discovery
2 request, to produce a Nonparty's confidential information in its
3 possession, and the Party is subject to an agreement with the Nonparty
4 not to produce the Nonparty's confidential information,³ then the Party
5 shall:

- 6 (a) Promptly notify in writing the Requesting Party and the
7 Nonparty that some or all of the information requested is subject
8 to a confidentiality agreement with a Nonparty;
- 9 (b) Promptly provide the Nonparty with a copy of the Stipulated
10 Protective Order in this Action, the relevant discovery
11 request(s), and a reasonably specific description of the
12 information requested; and
- 13 (c) Make the information requested available for inspection by the
14 Nonparty, if requested.

15 10.3. Conditions of Production.

16 If the Nonparty fails to seek a protective order from this Court
17 within fourteen (14) days after receiving the notice and accompanying
18 information, the Receiving Party may produce the Nonparty's
19 confidential information responsive to the discovery request. If the
20 Nonparty timely seeks a protective order, the Receiving Party shall not
21 produce any information in its possession or control that is subject to
22 the confidentiality agreement with the Nonparty before a
23

24 ³ If requested information is subject to a protective order entered by another Court,
25 then production will only occur with permission of the nonparty, or upon issuance
26 of an order by the other court that materials covered under that court's protective
27 order may be produced. The party to this case will bear the burden of contacting the
28 nonparty seeking permission, and will not oppose proceedings before the other
court, but the requesting party will bear the burden of seeking approval from the
other court to access the requested materials.

1 determination by the Court. Absent a court order to the contrary, the
2 Nonparty shall bear the burden and expense of seeking protection in
3 this Court of its Protected Material.

4 **11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

5 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
6 Protected Material to any person or in any circumstance not authorized under this
7 Stipulated Protective Order, the Receiving Party immediately must (1) notify in
8 writing the Designating Party of the unauthorized disclosures, (2) use its best
9 efforts to retrieve all unauthorized copies of the Protected Material, (3) inform the
10 person or persons to whom unauthorized disclosures were made of all the terms of
11 this Stipulated Protective Order, and (4) request such person or persons to execute
12 the “Acknowledgment and Agreement to be Bound” (Exhibit A).

13 **12. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
14 **PROTECTED MATERIAL**

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

25 **13. MISCELLANEOUS**

26 13.1. Right to Further Relief.

27 Nothing in this Stipulated Protective Order abridges the right of
28 any person to seek its modification by the Court in the future.

1 13.2. Right to Assert Other Objections.

2 By stipulating to the entry of this Stipulated Protective Order, no
3 Party waives any right it otherwise would have to object to disclosing
4 or producing any information or item on any ground not addressed in
5 this Stipulated Protective Order. Similarly, no Party waives any right
6 to object on any ground to use in evidence of any of the material
7 covered by this Stipulated Protective Order.

8 13.3. Filing Protected Material.

9 A Party that seeks to file under seal any Protected Material must
10 comply with Local Rule 79-5. Protected Material may only be filed
11 under seal pursuant to a court order authorizing the sealing of the
12 specific Protected Material at issue. If a Party's request to file
13 Protected Material under seal is denied by the Court, then the
14 Receiving Party may file the information in the public record unless
15 otherwise instructed by the Court.

16 13.4. Export Control.

17 Absent agreement, a Party's Designated Material must be stored
18 and maintained by a receiving Party at a location in the United States
19 and in a secure manner that ensures that access is limited to persons
20 authorized under this Order. Absent agreement, Designated Material
21 may not be exported outside the United States or released to any
22 foreign national (even if within the United States), unless the foreign
23 national (1) is a Green Card holder, (2) working in the United States
24 pursuant to an H-1B visa sponsored by the receiving Party's law firm,
25 or (3) directly employed by the receiving Party's law firm to provide
26 support or legal representation to the firm's clients and who are
27 otherwise unaffiliated with the receiving Party. Should any
28 Designated Material be subject to export outside of the United States

1 upon agreement of the parties, the receiving party shall comply with
2 such laws and agrees not to knowingly export, re-export or transfer the
3 Designated Material of the producing party without first obtaining all
4 required United States or any other applicable authorizations or
5 licenses.

6 13.5 Preparation or Prosecution of a Patent Application

7 Absent obtaining written consent from the designating Party,
8 any attorney representing a Party and any person associated or
9 affiliated with the Party and permitted to receive the other Party's
10 Protected Material that is designated CONFIDENTIAL and/or
11 HIGHLY CONFIDENTIAL SOURCE CODE (collectively "Highly
12 Sensitive Material"), who actually learns of, in whole or in part, the
13 other Party's Highly Sensitive Material directed to technical
14 information relevant to this case, but excluding financial data or non-
15 technical business information under this Order, unless such Highly
16 Sensitive Material becomes publicly disclosed or otherwise known,
17 shall not prepare, prosecute, supervise, or assist in the preparation or
18 prosecution of any patent application or patent claims pertaining to the
19 claimed subject matter in United States Patent Nos. 6,442,573,
20 9,203,930, and 9,654,562 and any patent or application claiming
21 priority to the patents asserted in this Action (collectively the "Field of
22 Invention") during the pendency of this Action and for two (2) years
23 after its conclusion, including any appeals. For purposes of this
24 paragraph, "prosecution" includes any activity related to (i) the
25 preparation or prosecution (for any person or entity) of patent
26 applications, including among others reexamination and reissue
27 applications or (ii) directly or indirectly participating, drafting,
28 amending, advising, or otherwise affecting the scope or maintenance

1 of patent claims within, for example, original prosecution, reissue,
2 *inter partes* review, post grant review, covered business method
3 review and reexamination proceedings. For the avoidance of doubt,
4 this paragraph does not prohibit any person from challenging a patent
5 in *inter partes* review or other post-grant proceeding nor does it
6 prohibit counsel for a Party from participating in and representing such
7 Party in any *inter partes* review or other post-grant proceeding,
8 provided they do not participate in amending any claims. To ensure
9 compliance with the purpose of this provision, each Party shall create
10 an “Ethical Wall” between those persons with access to Highly
11 Sensitive Material and any individuals who, on behalf of the Party or
12 its acquirer, successor, predecessor, or other affiliate, prepare,
13 prosecute, supervise or assist in the preparation or prosecution of any
14 patent application pertaining to the Field of Invention.

15 **14. FINAL DISPOSITION**

16 After the final disposition of this Action, within sixty (60) days of a written
17 request by the Designating Party, each Receiving Party must return all Protected
18 Material to the Producing Party or destroy such material. As used in this
19 subdivision, “all Protected Material” includes all copies, abstracts, compilations,
20 summaries, and any other format reproducing or capturing any of the Protected
21 Material. Whether the Protected Material is returned or destroyed, the Receiving
22 Party must submit a written certification to the Producing Party (and, if not the
23 same person or entity, to the Designating Party) by the 60-day deadline that
24 (1) identifies (by category, where appropriate) all the Protected Material that was
25 returned or destroyed and (2) affirms that the Receiving Party has not retained any
26 copies, abstracts, compilations, summaries or any other format reproducing or
27 capturing any of the Protected Material. Notwithstanding this provision, Counsel is
28 entitled to retain an archival copy of all pleadings; motion papers; trial, deposition,

1 and hearing transcripts; legal memoranda; correspondence; deposition and trial
2 exhibits; expert reports; attorney work product; and consultant and expert work
3 product, even if such materials contain Protected Material. Any such archival
4 copies that contain or constitute Protected Material remain subject to this Stipulated
5 Protective Order as set forth in Section 5.

6 **15. VIOLATION**

7 Any violation of this Stipulated Order may be punished by any and all
8 appropriate measures including, without limitation, contempt proceedings and/or
9 monetary sanctions.

10 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

11
12 Dated: October 23, 2020

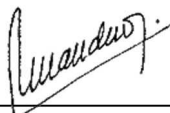
MUNCK WILSON MANDALA, LLP
By: /s/ Gary A. Hecker
Gary A. Hecker, Esq.
Counsel for Plaintiff
CEIVA LOGIC, INC.

13
14
15
16 Dated: October 23, 2020

FENWICK & WEST LLP
By: /s/ Ravi R. Ranganath
Ravi R. Ranganath
Counsel for Defendant
AMAZON.COM, INC.

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20 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

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22 Dated: 10/26/20



Maria A. Audero
United States Magistrate Judge

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [full name], of _____
_____ [address], declare under penalty of perjury that I have read in its
entirety and understand the Stipulated Protective Order that was issued by the
United States District Court for the Central District of California on _____
[date] in the case of _____
[case name and number]. I agree to comply with and to be bound by all the terms
of this Stipulated 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 Stipulated Protective Order to any person
or entity except in strict compliance with the provisions of this Stipulated Protective
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
Stipulated Protective Order, even if such enforcement proceedings occur after
termination of this action. I hereby appoint _____ [full name]
of _____ [address and telephone number]
as my California agent for service of process in connection with this action or any
proceedings related to enforcement of this Stipulated Protective Order.

Signature: _____
Printed Name: _____
Date: _____
City and State Where Sworn and Signed: _____

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CERTIFICATE OF SERVICE

I certify that on October 23, 2020, I electronically filed the foregoing Stipulated Protective Order with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel and parties of record.

Dated: October 21, 2020

By: /s/ Sarabi Rodriguez
Sarabi Rodriguez