

1 Lawrence R. LaPorte (SBN 130003)

2 *laportel@dicksteinshapiro.com*

3 Allan W. Jansen (SBN 81992)

4 *jansena@dicksteinshapiro.com*

5 Charles A. Kertell (SBN 181214)

6 *kertellc@dicksteinshapiro.com*

7 DICKSTEIN SHAPIRO LLP

8 2049 Century Park East, Suite 700

9 Los Angeles, CA 90067-3109

10 Telephone: (310) 772-8300

11 Facsimile: (310) 772-8301

12 Attorneys for Plaintiffs

13 MEGGITT (ORANGE COUNTY),

14 INC. and MEGGITT (MARYLAND), INC.

15 Jaime W. Marquart (SBN 200344)

16 *jmarquart@bakermarquart.com*

17 Christian A. Anstett (SBN 240179)

18 *canstett@bakermarquart.com*

19 BAKER MARQUART LLP

20 10990 Wilshire Blvd., 4th Floor

21 Los Angeles, CA 90024

22 Telephone: (424) 652-7800

23 Facsimile: (424) 652-7850

24 Attorneys for Defendants

25 NIE YONGZHONG and XIAMEN NIELL

26 ELECTRONICS CO., LTD.

Ruixue Ran (*admitted pro hac vice*)

ranrx@junhe.com

Mark H. Chu (*admitted pro hac vice*)

zhuxw@junhe.com

JUN HE LAW OFFICES

China Resources Building, 20th Floor

8 Jianguomenbei Avenue

Beijing 100005 P.R. China

Telephone: (86) 10 8519 1300

Facsimile: (86) 10 8519 1350

27 **UNITED STATES DISTRICT COURT**

28 **CENTRAL DISTRICT OF CALIFORNIA**

29 MEGGITT (ORANGE COUNTY), INC.
30 and MEGGITT (MARYLAND), INC.

31 Plaintiffs,

32 v.

33 NIE YONGZHONG and XIAMEN
34 NIELL ELECTRONICS CO., LTD.,

35 Defendants.

Case No. SACV 13-00239 DOC (DFMx)

**[PROPOSED] PROTECTIVE
ORDER**

Hon. ~~David~~ Douglas F. McCormick

1 1. PURPOSES AND LIMITATIONS

2 Disclosure and discovery activity in this action are likely to involve
3 production of trade secret, confidential, otherwise proprietary, and/or private
4 information for which special protection from public disclosure and from use for
5 any purpose other than prosecuting this litigation may be warranted. Accordingly,
6 because good cause exists, plaintiffs hereby petition the Court to enter the following
7 Protective Order ("Order"). The Parties acknowledge that this Order does not
8 confer blanket protections on all disclosures or responses to discovery, and that the
9 protection it affords from public disclosure and use extends only to the limited
10 information or items that are entitled to confidential treatment under applicable
11 legal principles. The Parties further acknowledge, as set forth in Paragraph 12.4,
12 below, that this Order does not entitle them to file confidential information under
13 seal. Civil Local Rule 79-5 sets forth the procedures that must be followed and the
14 standards that will be applied when a Party seeks permission from the Court to file
15 material under seal.

16 2. DEFINITIONS

17 2.1 Challenging Party: A Party or Non-Party that challenges the designation
18 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 Designating Party: A Party or Non-Party that designates information or
23 items that it produces in disclosures or in responses to discovery as
24 "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY,"
25 or "HIGHLY CONFIDENTIAL – TRADE SECRET SOURCE MATERIAL."

26 2.4 Disclosure or Discovery Material: All items or information, regardless
27 of the medium or manner in which it is generated, stored, or maintained (including,
28 among other things, testimony, transcripts, and tangible things), that are offered for

1 inspection, produced, or generated in disclosures or responses to discovery in this
2 matter.

3 2.5 Expert: A person with specialized knowledge or experience in a matter
4 pertinent to the litigation who: (1) has been retained by a Party or its Outside
5 Counsel of Record to serve as an expert witness or as a consultant in this action; (2)
6 is not a current employee of a Party; (3) is not a current employee of a Party's
7 competitor; and (4) at the time of retention, is not anticipated to become an
8 employee of a Party or of a Party's competitor.

9 2.6 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"
10 Information or Items: Extremely sensitive "Confidential Information or Items,"
11 disclosure of which to another Party or Non-Party would create a substantial risk of
12 serious harm that could not be avoided by less restrictive means.

13 2.7 "HIGHLY CONFIDENTIAL – TRADE SECRET SOURCE
14 MATERIAL" Information or Items (also referred to as "Trade Secret Source
15 Material"): Extremely sensitive "Confidential Information or Items" representing
16 the source of trade secret material (*e.g.*, assembly instructions and computer source
17 code), disclosure of which to another Party or Non-Party would create a substantial
18 risk of serious harm that could not be avoided by less restrictive means.

19 2.8 In-House Counsel: Attorneys who are employees of a Party to this
20 action or a Party's parent company (if the Party is a wholly-owned subsidiary).

21 2.9 Non-Party: Any natural person, partnership, corporation, association, or
22 other legal entity not named as a Party to this action.

23 2.10 Outside Counsel of Record: Attorneys who are not employees of a Party
24 to this action, but are retained to represent or advise a Party to this action and have
25 formally appeared in this action on behalf of that Party.

26 2.11 Party: Any Party to this action, including all of its officers, directors,
27 employees, consultants, retained experts, and Outside Counsel of Record (and their
28 paralegals, patent agents, and secretarial staff).

1 2.12 Producing Party: A Party or Non-Party that offers for inspection or
2 produces Disclosure or Discovery Material in this action.

3 2.13 Professional Vendors: Persons or entities that provide litigation support
4 services (*e.g.*, photocopying, videotaping, translating, preparing exhibits or
5 demonstrations, and organizing, storing, or retrieving data in any form or medium).

6 2.14 Protected Material: Any Disclosure or Discovery Material that is
7 designated as "CONFIDENTIAL " "HIGHLY CONFIDENTIAL – ATTORNEYS'
8 EYES ONLY," or "HIGHLY CONFIDENTIAL – TRADE SECRET SOURCE
9 MATERIAL."

10 2.15 Receiving Party: A Party that inspects or receives Disclosure or
11 Discovery Material from a Producing Party.

12 3. SCOPE

13 The protections conferred by this Order cover not only Protected Material (as
14 defined above), but also: (1) any information copied or extracted from Protected
15 Material; (2) all copies, excerpts, summaries, or compilations (including notes) of
16 Protected Material; and (3) any testimony, conversations, or presentations by Parties
17 or their Outside Counsel of Record that might reveal Protected Material. However,
18 the protections conferred by this Order do not cover any information that is in the
19 public domain at the time of the disclosure to a Receiving Party or becomes part of
20 the public domain after its disclosure to a Receiving Party as a result of publication
21 not involving a violation of the law or this Order.

22 4. DURATION

23 Even after final disposition of this litigation, the confidentiality obligations
24 imposed by this Order shall remain in effect until a Designating Party agrees
25 otherwise in writing or a court order otherwise directs. Final disposition shall be
26 deemed to be the later of: (1) dismissal of all claims and defenses in this action, with
27 or without prejudice; and (2) final judgment herein after the completion and
28 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,

1 including the time limits for filing any motions or applications for extension of time
2 pursuant to applicable law.

3 5. DESIGNATING PROTECTED MATERIAL

4 5.1 Exercise of Restraint and Care in Designating Material for Protection.

5 Each Party or Non-Party that designates information or items for protection under
6 this Order must take care to limit any such designation to specific material that
7 qualifies under the appropriate standards.

8 Mass, indiscriminate, or routinized designations are prohibited. Designations
9 that are shown to be clearly unjustified or that have been made for an improper
10 purpose (*e.g.*, to unnecessarily encumber or retard the case development process or
11 to impose unnecessary expenses and burdens on other Parties) expose the
12 Designating Party to sanctions.

13 If it comes to a Designating Party's attention that information or items that it
14 designated for protection do not qualify for protection at all or do not qualify for the
15 level of protection initially asserted, that Designating Party must promptly notify all
16 other Parties that it is withdrawing the mistaken designation.

17 5.2 Manner and Timing of Designations. Except as otherwise provided in
18 this Order (*See, e.g.*, the second paragraph of Section 5.2(a), below), or as otherwise
19 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
20 under this Order must be clearly so designated before the material is disclosed or
21 produced. Designation in conformity with this Order requires:

22 (a) for information in documentary form (*e.g.*, paper or electronic
23 documents, but excluding transcripts of depositions or other discovery matters),
24 that the Producing Party affix the legend "CONFIDENTIAL," "HIGHLY
25 CONFIDENTIAL – ATTORNEYS' EYES ONLY," or "HIGHLY
26 CONFIDENTIAL – TRADE SECRET SOURCE MATERIAL" to each page that
27 contains protected material.
28

1 A Party or Non-Party that makes original documents or materials available
2 for inspection need not designate them for protection until after the inspecting Party
3 has indicated which material it would like copied and produced. During the
4 inspection and before the designation, all of the material made available for
5 inspection shall be deemed "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
6 ONLY" with the exception of Trade Secret Source Material, where such material
7 shall be deemed "HIGHLY CONFIDENTIAL – TRADE SECRET SOURCE
8 MATERIAL" throughout the inspection. After the inspecting Party has identified
9 the documents it wants copied and produced, the Producing Party must determine
10 which documents, or portions thereof, qualify for protection under this Order.
11 Then, before producing the specified documents, the Producing Party must affix the
12 appropriate legend ("CONFIDENTIAL," "HIGHLY CONFIDENTIAL –
13 ATTORNEYS' EYES ONLY," or "HIGHLY CONFIDENTIAL – TRADE
14 SECRET SOURCE MATERIAL") to each page that contains Protected Material.

15 (b) for testimony given in deposition or in other discovery matters, that the
16 Designating Party identify on the record, before the close of the deposition, hearing,
17 or other proceeding, all protected testimony and specify the level of protection
18 being asserted. When it is impractical to identify separately each portion of
19 testimony that is entitled to protection and it appears that substantial portions of the
20 testimony may qualify for protection, the Designating Party may invoke on the
21 record (before the deposition, hearing, or other proceeding is concluded) a right to
22 have up to seven (7) days to identify the specific portions of the testimony as to
23 which protection is sought and to specify the level of protection being asserted.

24 The use of a document as an exhibit at a deposition shall not in any way
25 affect its designation as "CONFIDENTIAL," "HIGHLY CONFIDENTIAL –
26 ATTORNEYS' EYES ONLY," or "HIGHLY CONFIDENTIAL – TRADE
27 SECRET SOURCE MATERIAL."
28

1 Transcripts containing Protected Material shall have an obvious legend on
2 the title page that the transcript contains Protected Material, and the title page shall
3 be followed by a list of all pages (including line numbers as appropriate) that have
4 been designated as Protected Material and the level of protection being asserted by
5 the Designating Party. The Designating Party shall inform the court reporter of
6 these requirements. Any transcript that is prepared before the expiration of a seven
7 (7) day period for designation shall be treated during that period as if it had been
8 designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" in its
9 entirety unless otherwise agreed, with the exception that any deposition in which a
10 document or thing designated as "HIGHLY CONFIDENTIAL – TRADE SECRET
11 SOURCE MATERIAL" was used or which included "HIGHLY CONFIDENTIAL
12 – TRADE SECRET SOURCE MATERIAL" testimony will be designated
13 "HIGHLY CONFIDENTIAL – TRADE SECRET SOURCE MATERIAL" in its
14 entirety unless otherwise agreed. However, if a Non-Designating Party makes a
15 request before the expiration of a seven (7) day period for designation, the Parties
16 will work together to immediately identify testimony and exhibits that are not
17 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" or "HIGHLY
18 CONFIDENTIAL – TRADE SECRET SOURCE MATERIAL "

19 After the expiration of that period, the transcript shall be treated only as
20 actually designated. Any portion of a deposition transcript that contains
21 information from a document or thing designated as "HIGHLY CONFIDENTIAL –
22 TRADE SECRET SOURCE MATERIAL" shall be separately bound from the
23 transcript.

24 (c) for information produced in some form other than documentary and
25 for any other tangible items, that the Producing Party affix in a prominent place on
26 the exterior of the container or containers in which the information or item is stored
27 the legend "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – ATTORNEYS'
28

1 EYES ONLY," or "HIGHLY CONFIDENTIAL – TRADE SECRET SOURCE
2 MATERIAL."

3 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
4 failure to designate qualified information or items does not, standing alone, waive
5 the Designating Party's right to secure protection under this Order for such material.
6 Upon timely correction of a designation, the Receiving Party must make reasonable
7 efforts to assure that the material is treated in accordance with the provisions of this
8 Order.

9 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

10 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
11 designation of confidentiality at any time. Unless a prompt challenge to a
12 Designating Party's confidentiality designation is necessary to avoid foreseeable,
13 substantial unfairness, unnecessary economic burdens, or a significant disruption or
14 delay of the litigation, a Party does not waive its right to challenge a confidentiality
15 designation by electing not to mount a challenge promptly after the original
16 designation is disclosed.

17 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
18 resolution process by providing written notice of each designation it is challenging
19 and describing the basis for each challenge. To avoid ambiguity as to whether a
20 challenge has been made, the written notice must recite that the challenge to
21 confidentiality is being made in accordance with this specific paragraph. The Parties
22 shall attempt to resolve each challenge in good faith and must begin the process by
23 conferring directly in accordance with Civil Local Rule 37-1. In conferring, the
24 Challenging Party must explain the basis for its belief that the confidentiality
25 designation was not proper and must give the Designating Party an opportunity (not
26 to exceed three (3) days after the Civil Local Rule 37-1 conference of counsel) to
27 review the designated material, to reconsider the circumstances, and, if no change in
28 designation is offered, to explain the basis for the chosen designation.

1 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without
2 court intervention, the Challenging Party shall file and serve a motion disputing the
3 confidentiality designation in accordance with Civil Local Rule 37-2. In addition,
4 the Designating Party may file a motion to retain confidentiality at any time if there
5 is good cause for doing so.

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

12 7. ACCESS TO AND USE OF PROTECTED MATERIAL

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

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;
27 (b) paralegals, patent agents, and secretarial staff employed by the
28 Receiving Party's Outside Counsel of Record in this action, provided it is

1 reasonably necessary to disclose the information to such person for this litigation
2 and they have signed and returned to the Designating Party the "Acknowledgment
3 and Agreement to Be Bound" (Exhibit A);

4 (c) two (2) designated In-House Counsel of the Receiving Party and two
5 (2) other designated employees of the Receiving Party, provided it is reasonably
6 necessary to disclose the information to such person for this litigation and they have
7 signed and returned to the Designating Party the "Acknowledgment and Agreement
8 to Be Bound" (Exhibit A);

9 (d) Experts (as defined in this Order) of the Receiving Party to whom
10 disclosure is reasonably necessary for this litigation and who have signed and
11 returned to the Designating Party the "Acknowledgment and Agreement to Be
12 Bound" (Exhibit A);

13 (e) the Court and its personnel;

14 (f) court reporters and their staff and Professional Vendors to whom
15 disclosure is reasonably necessary for this litigation and who have signed and
16 returned to the Designating Party the "Acknowledgment and Agreement to Be
17 Bound" (Exhibit A);

18 (g) any mediator who is assigned by the Court to hear this matter, and his
19 or her staff;

20 (h) Rule 30(b)(6) witnesses of the Producing Party regardless of whether
21 the witness is the author or recipient of the document;

22 (i) the author or recipient of a document containing the information or a
23 custodian or other person who otherwise possessed or knew the information; and

24 (j) any other person with the prior written consent of the Producing Party.

25 7.3 Disclosure of "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
26 ONLY" Information or Items. Unless otherwise ordered by the Court or permitted
27 in writing by the Designating Party, information, documents, and things designated
28 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY," shall be subject to

1 the provisions set forth in Paragraphs 7.3 and 7.4, and may be disclosed, subject to
2 Paragraph 7.4, solely to the following persons:

3 (a) the Receiving Party's Outside Counsel of Record in this action;

4 (b) paralegals, patent agents, and secretarial staff employed by the
5 Receiving Party's Outside Counsel of Record in this action, provided it is
6 reasonably necessary to disclose the information to such person for this litigation
7 and they have signed and returned to the Designating Party the "Acknowledgment
8 and Agreement to Be Bound" (Exhibit A);

9 (c) Experts of the Receiving Party: (1) to whom disclosure is reasonably
10 necessary for this litigation; (2) who have signed and returned to the Designating
11 Party the "Acknowledgment and Agreement to Be Bound" (Exhibit A); and (3) as
12 to whom the procedures set forth in Paragraph 7.7(a), below, have been followed;

13 (d) the Court and its personnel;

14 (e) court reporters and their staff and Professional Vendors to whom
15 disclosure is reasonably necessary for this litigation and who have signed and
16 returned to the Designating Party the "Acknowledgment and Agreement to Be
17 Bound" (Exhibit A);

18 (f) any mediator who is assigned by the Court to hear this matter, and his
19 or her staff;

20 (g) Rule 30(b)(6) witnesses of the Producing Party regardless of whether
21 the witness is the author or recipient of the document;

22 (h) the author or recipient of a document containing the information or a
23 custodian or other person who otherwise possessed or knew the information; and

24 (i) any other person with the prior written consent of the Producing Party.

25 7.4 Procedures for Disclosure of "HIGHLY CONFIDENTIAL –
26 ATTORNEYS' EYES ONLY" Information or Items. The following provisions
27 apply to the production of information, documents, and things designated "HIGHLY
28

1 CONFIDENTIAL – ATTORNEYS' EYES ONLY," unless otherwise agreed by the
2 Producing Party:

3 (a) Absent express written permission from the Producing Party, the
4 Receiving Party may not create any electronic images, or any other images, or make
5 electronic copies of any information, document, or thing designated "HIGHLY
6 CONFIDENTIAL – ATTORNEYS' EYES ONLY" except as necessary to file,
7 lodge, or otherwise submit documents with the Court (and any such electronic
8 image/copy shall be immediately destroyed by the Receiving Party after the
9 completion of any such filing, lodging, or submission);

10 (b) The Receiving Party may not create more than six (6) physical copies
11 of any information, document, or thing designated "HIGHLY CONFIDENTIAL –
12 ATTORNEYS' EYES ONLY;"

13 (c) When not in use, the Receiving Party's copies of any information,
14 document, or thing designated "HIGHLY CONFIDENTIAL – ATTORNEYS'
15 EYES ONLY" must be kept in a secured, locked area at Outside Counsel of
16 Record's offices in the Central District of California. The Receiving Party may also
17 temporarily keep the copies at: (i) the Court for any proceedings(s) relating to the
18 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" material, but only
19 for the dates associated with the proceeding(s); (ii) the sites where any deposition(s)
20 relating to the "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"
21 material are taken, provided they are in the continental United States, and then only
22 for the dates associated with the deposition(s); and (iii) any intermediate location in
23 the continental United States reasonably necessary to transport the copies for a
24 hearing or deposition in this litigation (*e.g.*, a hotel prior to a deposition). The
25 Receiving Party shall exercise due care in maintaining the security of the copies at
26 these temporary locations. Under no circumstances shall any information,
27 document, or thing designated "HIGHLY CONFIDENTIAL – ATTORNEYS '
28

1 EYES ONLY" obtained by the Receiving Party ever physically leave the
2 continental United States.

3 (d) The provisions of this Paragraph 7.4 apply equally to any information,
4 document, or thing (including any notes) created or derived from information,
5 documents, or things designated "HIGHLY CONFIDENTIAL – ATTORNEYS'
6 EYES ONLY."

7 7.5 Disclosure of "HIGHLY CONFIDENTIAL – TRADE SECRET
8 SOURCE MATERIAL" Information or Items. Unless otherwise ordered by the
9 Court or permitted in writing by the Designating Party, information, documents,
10 and things designated "HIGHLY CONFIDENTIAL – TRADE SECRET SOURCE
11 MATERIAL," shall be subject to the provisions set forth in Paragraphs 7.5 and 7.6,
12 and may be disclosed, subject to Paragraph 7.6, solely to the following persons:

13 (a) the Receiving Party's Outside Counsel of Record in this action;

14 (b) paralegals, patent agents, and secretarial staff employed by the
15 Receiving Party's Outside Counsel of Record in this action, provided it is reasonably
16 necessary to disclose the information to such person for this litigation and they have
17 signed and returned to the Designating Party the "Acknowledgment and Agreement
18 to Be Bound" (Exhibit A);

19 (c) Experts of the Receiving Party: (1) to whom disclosure is reasonably
20 necessary for this litigation; (2) who have signed and returned to the Designating
21 Party the "Acknowledgment and Agreement to Be Bound" (Exhibit A); and (3) as to
22 whom the procedures set forth in Paragraph 7.7(a), below, have been followed;

23 (d) the Court and its personnel;

24 (e) court reporters and their staff who have signed and returned to the
25 Designating Party the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

26 (f) any mediator who is assigned by the Court to hear this matter, and has
27 signed and returned to the Designating Party the "Acknowledgment and Agreement
28 to Be Bound" (Exhibit A);

1 (g) Rule 30(b)(6) witnesses of the Producing Party regardless of whether
2 the witness is the author or recipient of the document;

3 (h) the author or recipient of a document containing the information or a
4 custodian or other person who otherwise possessed or knew the information; and

5 (i) any other person with the prior written consent of the Producing Party.

6 7.6 Procedures for Disclosure of "HIGHLY CONFIDENTIAL – TRADE
7 SECRET SOURCE MATERIAL" Information or Items. The following provisions
8 apply to the production of information, documents, and things designated "HIGHLY
9 CONFIDENTIAL – TRADE SECRET SOURCE MATERIAL," unless otherwise
10 agreed by the Producing Party:

11 (a) All Trade Secret Source Material (*e.g.*, assembly instructions and
12 source code) shall be made available by the Producing Party to the Receiving Party
13 in a secure room located at an office of the Producing Party's outside litigation
14 counsel of record in this litigation located in the Central District of California.

15 (b) No more than a total of four (4) individuals timely identified by the
16 Receiving Party shall have access to the secure room in which the Producing Party
17 produces its Trade Secret Source Material at any one time.

18 (c) For source code, the inspection shall take place on a secured, stand-
19 alone computer equipped with a reasonably current version of Microsoft Windows
20 operating system or Unix system, and an appropriate software platform for viewing
21 the source code. The secured, stand-alone computer shall not be equipped with
22 either Internet access or network access to other computers. With the exception of
23 a keyboard, mouse, and monitor, all access ports on the secured, non-network,
24 stand-alone computer shall be disabled to prevent and protect against any
25 unauthorized copying, transmission, removal, or other transfer of any Trade Secret
26 Source Material outside or away from the secure room and/or computer on which
27 source code is provided for inspection (hereinafter "Source Code Computer"). If
28

1 necessary, the Source Code Computer may be configured by the Producing Party to
2 run another mutually agreed upon operating system.

3 (d) The Producing Party shall install tools that are sufficient for viewing
4 and searching the source code produced and on the platform produced. The
5 Receiving Party's Outside Counsel and/or experts may request on a timely basis that
6 other commercially available software tools for viewing and searching the source
7 code be installed on the Source Code Computer, provided, however, that such tools
8 are reasonably necessary for the Receiving Party to perform its review of the source
9 code consistent with all of the protections herein. The Receiving Party must
10 provide the Producing Party with a storage device containing such licensed
11 software tool(s) or other appropriate mechanism for obtaining the tool at least two
12 (2) days in advance of the date upon which the Receiving Party wishes to have the
13 additional software tools available for use on the Source Code Computer. The
14 Receiving Party or its Expert(s) shall not at any time use any compilers,
15 interpreters, or simulators in connection with the Producing Party's source code.
16 The Producing Party shall not install any keystroke or other monitoring software on
17 the Source Code Computer.

18 (e) The Producing Party shall make the source code available electronically
19 and in text searchable form.

20 (f) Unless the Parties otherwise agree, the secure room and the Source
21 Code Computer shall be made available from 9 a.m. to 7 p.m. local time, Monday
22 through Friday (excluding holidays), until the close of the evidentiary record in this
23 litigation.

24 (g) Prior to the first inspection of a Producing Party's Trade Secret Source
25 Material, the requesting party shall provide the Producing Party three (3) business
26 days' notice of its intent to access the Producing Party's secure room and/or Source
27 Code Computer. This first inspection can take place over as many successive days
28 as the Parties agree to, subject to modification during the inspection. The requesting

1 party shall provide two (2) business days' notice prior to any subsequent inspections
2 of the same Producing Party's Trade Secret Source Material. Subsequent inspections
3 can take place over as many successive days as the Parties agree to, subject to
4 modification during the inspection.

5 (h) The Receiving Party may request copies of those portions of the Trade
6 Secret Source Material (including source code) that are reasonably necessary to
7 facilitate the preparation of court filings, pleadings, and expert reports, as well as
8 for hearing and deposition preparation/exhibits – but shall request copying of only
9 such limited portions as are relevant to the claims and defenses in this case and are
10 reasonably necessary for such purpose. In particular, the Receiving Party shall not
11 print Trade Secret Source Material in order to review pages or blocks of Trade
12 Secret Source Material elsewhere in the first instance (*i.e.*, as an alternative to
13 reviewing that Trade Secret Source Material in the secure room). To that end, the
14 Receiving Party shall not request copies of more than three (3) consecutive pages of
15 any document.

16 (i) If the Producing Party objects that the portions requested for copying
17 are excessive and/or are not being done for a permitted purpose, the Producing
18 Party shall make such objection known to the Receiving Party within five (5)
19 business days. If, after meeting and conferring, the Producing Party and the
20 Receiving Party cannot resolve the objection, the Producing Party shall be entitled
21 to seek the Court's resolution of whether the request for copying of the Trade Secret
22 Source Material in question was in excess and/or for a non-permitted Purpose using
23 the same procedure as set forth in Paragraph 6 (whereby the Producing Party is the
24 "Challenging Party" and the Receiving Party is the "Designating Party"). The
25 burden shall be on the Receiving Party to demonstrate that the number of pages
26 requested for copying is reasonable and not for an improper purpose.

27 (j) The Trade Secret Source Material sought to be copied shall be labeled
28 with "HIGHLY CONFIDENTIAL – TRADE SECRET SOURCE MATERIAL."

1 The Producing Party will keep the originals of the copied documents, and copies
2 shall be made for Outside Counsel within seven (7) days –unless an objection under
3 Paragraph 7.6(i), above, is timely made. If a timely objection is made, the
4 Producing Party will retain the originals and all requested copies until the objection
5 is decided by the Court.

6 (k) Absent express written permission from the Producing Party, the
7 Receiving Party may not create any electronic images, or any other images, or make
8 electronic copies of any information, document, or thing designated "HIGHLY
9 CONFIDENTIAL – TRADE SECRET SOURCE MATERIAL" except as
10 necessary to file, lodge, or otherwise submit documents with the Court (and any
11 such electronic image/copy shall be immediately destroyed by the Receiving Party
12 after the completion of any such filing, lodging, or submission);

13 (l) The Receiving Party may not create more than two (2) additional
14 physical copies of any information, document, or thing designated "HIGHLY
15 CONFIDENTIAL – TRADE SECRET SOURCE MATERIAL;"

16 (m) When not in use, the Receiving Party's copies of any information,
17 document, or thing designated "HIGHLY CONFIDENTIAL – TRADE SECRET
18 SOURCE MATERIAL" must be kept in a secured, locked area at Outside Counsel
19 of Record's offices in the Central District of California. The Receiving Party may
20 also temporarily keep the copies at: (i) the Court for any proceedings(s) relating to
21 the "HIGHLY CONFIDENTIAL – TRADE SECRET SOURCE MATERIAL," but
22 only for the dates associated with the proceeding(s); (ii) the sites where any
23 deposition(s) relating to the "HIGHLY CONFIDENTIAL – TRADE SECRET
24 SOURCE MATERIAL" are taken, provided they are in the continental United
25 States, and then only for the dates associated with the deposition(s); and (iii) any
26 intermediate location in the continental United States reasonably necessary to
27 transport the copies for a hearing or deposition in this litigation (*e.g.*, a hotel prior
28 to a deposition). The Receiving Party shall exercise due care in maintaining the

1 security of the copies at these temporary locations. Under no circumstances shall
2 any information, document, or thing designated "HIGHLY CONFIDENTIAL –
3 TRADE SECRET SOURCE MATERIAL" obtained by the Receiving Party ever
4 physically leave the continental United States.

5 (n) The provisions of this Paragraph 7.6 apply equally to any information,
6 document, or thing (including any notes) created or derived from information,
7 documents, or things designated "HIGHLY CONFIDENTIAL – TRADE SECRET
8 SOURCE MATERIAL."

9 (o) The Receiving Party shall be entitled to take notes relating to the Trade
10 Secret Source Material (subject to all of the restrictions contained herein), but may
11 not block copy the Trade Secret Source Material into the notes. No copies of all or
12 any portion of the Trade Secret Source Material may leave the room in which the
13 Trade Secret Source Material is inspected except as otherwise provided herein. The
14 Producing Party may visually, but not otherwise, monitor the activities of the
15 Receiving Party's representatives during any Trade Secret Source Material review,
16 but only to ensure that no information concerning the Trade Secret Source Material
17 is being created or transmitted in any way. The Producing Party may not observe
18 or inspect the Receiving Party's notes or monitor the portions of Trade Secret
19 Source Material reviewed by the Receiving Party's representative.

20 (p) Other than as provided in this Order, the Receiving Party will not
21 copy, remove, or otherwise transfer any Trade Secret Source Material from the
22 secure room, including, without limitation, copying, removing, or transferring the
23 Trade Secret Source Material onto any recordable media or recordable device,
24 including without limitation sound recorders, computers, cellular telephones,
25 peripheral equipment, cameras, CDs, DVDs, or drives of any kind. The Receiving
26 Party will not transmit any Trade Secret Source Material in any way from the
27 Producing Party's secured facilities or the offices of the Producing Party's Outside
28 Counsel located in the Central District of California;

1 (q) The Producing Party shall provide representatives of the Receiving
2 Party performing the inspection of the Trade Secret Source Material with access to
3 another secure location in the same building as the secure room to store personal
4 belongings. The Producing Party shall not be permitted to observe or record the
5 activities of the Receiving Party's representative(s) while in the secure location, and
6 shall permit the representative(s) to access the secure location on an "as needed"
7 basis. Unless otherwise agreed in advance by the Parties in writing, at the end each
8 day on which inspection is done under this Order, the Receiving Party's Outside
9 Counsel and/or Expert(s) shall remove all notes, documents, and all other materials
10 from the secure room.

11 7.7 Procedures for Approving or Objecting to Disclosure of "HIGHLY
12 CONFIDENTIAL – ATTORNEYS' EYES ONLY" or "HIGHLY CONFIDENTIAL
13 – TRADE SECRET SOURCE MATERIAL" Information or Items to Experts.

14 (a) Unless otherwise ordered by the Court or agreed to in writing by the
15 Designating Party, a Party that seeks to disclose to an Expert (as defined in this
16 Order) any information or item that has been designated "HIGHLY
17 CONFIDENTIAL – ATTORNEYS' EYES ONLY" or "HIGHLY CONFIDENTIAL
18 – TRADE SECRET SOURCE MATERIAL" pursuant to Paragraph 7.3(c) or 7.5(c)
19 must first make a written request to the Designating Party that: (1) identifies the
20 general categories of "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"
21 or "HIGHLY CONFIDENTIAL – TRADE SECRET SOURCE MATERIAL"
22 information that the Receiving Party seeks permission to disclose to the Expert; (2)
23 sets forth the full name of the Expert and the city and state of his or her primary
24 residence; (3) attaches a copy of the Expert's current resume or *curriculum vitae*; (4)
25 identifies the Expert's current employer(s); and (5) identifies each person or entity
26 from whom the Expert has received compensation or funding for work in his or her
27 areas of expertise or to whom the expert has provided professional services,
28

1 including in connection with a litigation, at any time during the preceding five (5)
2 years.¹

3 (b) A Party that makes a request and provides the information specified in
4 the preceding respective paragraphs may disclose the subject Protected Material to
5 the Expert unless, within seven (7) days of delivering the request, the Party receives
6 a written objection from the Designating Party. Any such objection must set forth
7 in detail the grounds on which it is based.

8 (c) A Party that receives a timely written objection must meet and confer
9 with the Designating Party to try to resolve the matter by agreement within three (3)
10 business days of the written objection. No further conference of counsel will be
11 required under Civil Local Rule 37-1. If no agreement is reached, the Party seeking
12 to make the disclosure to the Expert may file a motion as provided in Civil Local
13 Rule 37-2 seeking permission from the court to do so. Any such motion must
14 describe the circumstances with specificity, set forth in detail the reasons why
15 disclosure to the Expert is reasonably necessary, assess the risk of harm that the
16 disclosure would entail, and suggest any additional means that could be used to
17 reduce that risk.

18 In any such proceeding, the Party opposing disclosure to the Expert shall
19 bear the burden of proving that the risk of harm that the disclosure would entail
20 (under the safeguards proposed) outweighs the Receiving Party's need to disclose the
21 Protected Material to its Expert.

22 7.8 Restrictions on the use of Protected Material. The restrictions on the
23 use of "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
24

25 ¹ If the Expert believes any of this information is subject to a confidentiality
26 obligation to a third-party, then the Expert should provide whatever information the
27 Expert believes can be disclosed without violating any confidentiality agreements,
28 and the Party seeking to disclose to the Expert shall be available to meet and confer
with the Designating Party regarding any such engagement.

1 ONLY," and "HIGHLY CONFIDENTIAL – TRADE SECRET SOURCE
2 MATERIAL" Disclosure or Discovery Material established by this Order are
3 applicable only to Disclosure or Discovery Material received by a Party from
4 another Party or from a Non-Party as a direct result of this litigation. A Party is
5 free to do whatever it desires with its own "CONFIDENTIAL," "HIGHLY
6 CONFIDENTIAL – ATTORNEYS' EYES ONLY," or "HIGHLY
7 CONFIDENTIAL – TRADE SECRET SOURCE MATERIAL" Disclosure or
8 Discovery Materials in its sole and complete discretion.

9 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
10 IN OTHER LITIGATION

11 If a Party is served with a subpoena or a court order issued in other litigation
12 that compels disclosure of any information or items designated in this action as
13 "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
14 ONLY," or "HIGHLY CONFIDENTIAL – TRADE SECRET SOURCE
15 MATERIAL," that Party must:

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

18 (b) promptly notify in writing the party who caused the subpoena or order
19 to issue in the other litigation that some or all of the material covered by the
20 subpoena or order is subject to this Order. Such notification shall include a copy of
21 this Order; and

22 (c) cooperate with respect to all reasonable procedures sought to be
23 pursued by the Designating Party whose Protected Material may be affected.²

24
25
26 ² The purpose of imposing these duties is to alert the interested parties to the
27 existence of this Protective Order and to afford the Designating Party in this case an
28 opportunity to try to protect its confidentiality interests in the court from which the
subpoena or order issued.

1 If the Designating Party timely seeks a protective order, the Party served with
2 the subpoena or court order shall not produce any information designated in this
3 action as "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – ATTORNEYS'
4 EYES ONLY," or "HIGHLY CONFIDENTIAL – TRADE SECRET SOURCE
5 MATERIAL" before a determination by the court from which the subpoena or
6 order issued, unless the Party has obtained the Designating Party's permission. The
7 Designating Party shall bear the burden and expense of seeking protection in that
8 court of its confidential material.

9 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE
10 PRODUCED IN THIS LITIGATION

11 (a) The terms of this Order are applicable to information produced by a
12 Non-Party in this action and designated as "CONFIDENTIAL," "HIGHLY
13 CONFIDENTIAL – ATTORNEYS' EYES ONLY," or "HIGHLY CONFIDENTIAL
14 – TRADE SECRET SOURCE MATERIAL." Such information produced by Non-
15 Parties in connection with this litigation is protected by the remedies and relief
16 provided by this Order. Nothing in these provisions should be construed as
17 prohibiting a Non-Party from seeking additional protections.

18 (b) In the event that a Party is required, by a valid discovery request, to
19 produce a Non-Party's confidential information in its possession, and the Party is
20 subject to an agreement with the Non-Party not to produce the Non-Party's
21 confidential information, then the Party shall:

22 1. promptly notify in writing the Requesting Party and the Non-Party that
23 some or all of the information requested is subject to a confidentiality agreement
24 with a Non-Party;

25 2. promptly provide the Non-Party with a copy of the Stipulated Protective
26 Order in this litigation, the relevant discovery request(s), and a reasonably specific
27 description of the information requested; and
28

1 3. make the information requested available for inspection by the Non-
2 Party.

3 (c) If the Non-Party fails to object or seek a protective order from this
4 Court within ten (10) days of receiving the notice and accompanying information,
5 the Receiving Party may produce the Non-Party's confidential information
6 responsive to the discovery request. Absent a court order to the contrary, the Non-
7 Party shall bear the burden and expense of seeking protection in this court of its
8 Protected Material.

9 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

10 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
11 Protected Material to any person or in any circumstance not authorized under this
12 Order, the Receiving Party must immediately: (1) notify in writing the Designating
13 Party of the unauthorized disclosures; (2) use its best efforts to retrieve all
14 unauthorized copies of the Protected Material; (3) inform the person or persons to
15 whom unauthorized disclosures were made of all the terms of this Order; and (4)
16 request such person or persons to execute the "Acknowledgment and Agreement to
17 Be Bound" that is attached hereto as Exhibit A.

18 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
19 PROTECTED MATERIAL

20 Pursuant to Rule 502 of the Federal Rules of Evidence, the inadvertent
21 production of documents subject to the attorney-client privilege, the attorney work
22 product doctrine, or any other applicable privilege or protection from disclosure
23 will not waive the privilege or protection from disclosure. In addition, the Parties
24 agree that if a document subject to the attorney-client privilege, the attorney work-
25 product doctrine, or any other applicable privilege or protection from disclosure is
26 included in documents made available for inspection, such disclosure shall not be
27 considered a waiver of the privilege or protection from disclosure.
28

1 The Producing Party must notify the receiving Party within seven (7)
2 business days of becoming aware of the inadvertent disclosure of privileged or
3 protected information. Upon a request from a Party that has inadvertently produced
4 any document that it believes is subject to the attorney-client privilege, the attorney
5 work product doctrine, or any other applicable privilege or protection from
6 disclosure, each Party receiving said document shall return it and all physical copies
7 to the Producing Party and destroy all electronic copies within ten (10) business
8 days. Nothing herein shall prevent the Receiving Party from preparing a record for
9 its own use containing the date, author, addressee(s), and topic of the document and
10 such other information as is reasonably necessary to identify the document and
11 describe its nature to the Court in any motion to compel production of the
12 document. Such a record of the identity and nature of a document may not be made
13 or used for any purpose other than preparation of a motion to compel in this Action.
14 Any other information in the document may not be used for any purpose in this
15 Action. After the return of the document(s), the Receiving Party may challenge the
16 Producing Party's claim(s) of privilege, protection, or work-product by making a
17 motion to the Court.

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

1 12. MISCELLANEOUS

2 12.2 Right to Further Relief. Nothing in this Order abridges the right of any
3 person to seek its modification by the court in the future.

4 12.2 Right to Assert Other Objections. By stipulating to the entry of this
5 Order no Party waives any right it otherwise would have to object to disclosing or
6 producing any information or item on any ground not addressed in this Order.
7 Similarly, no Party waives any right to object on any ground to use in evidence of
8 any of the material covered by this Order.

9 12.3 Export Control. Disclosure of Protected Material shall be subject to all
10 applicable United States laws and regulations relating to the export of technical data
11 contained in such Protected Material, including the release of such technical data to
12 foreign persons or nationals in the United States or elsewhere. The Producing Party
13 shall be responsible for identifying any such controlled technical data, and the
14 Receiving Party shall take measures necessary to ensure compliance.

15 12.4 Filing Protected Material. Without written permission from the
16 Designating Party or a court order secured after appropriate notice to all interested
17 persons, a Party may not file in the public record in this action any Protected
18 Material. A Party that seeks to file under seal any Protected Material must comply
19 with Civil Local Rule 79-5. Protected Material may only be filed under seal
20 pursuant to a court order authorizing the sealing of the specific Protected Material at
21 issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue only upon a
22 request establishing that the Protected Material at issue is privileged, protectable as
23 a trade secret, or otherwise entitled to protection under the law.

24 13. FINAL DISPOSITION

25 Within 60 days after the final disposition of this action, as defined in
26 Paragraph 4, each Receiving Party must return all Protected Material to the
27 Producing Party. As used in this subdivision, "all Protected Material" includes all
28 copies, abstracts, compilations, summaries, and any other format reproducing or

1 capturing any of the Protected Material. The Receiving Party must also submit a
2 written certification to the Producing Party (and, if not the same person or entity, to
3 the Designating Party) by the 60 day deadline that: (1) identifies (by category, where
4 appropriate) all the Protected Material that was returned; and (2) affirms that the
5 Receiving Party has not retained any copies, abstracts, compilations, summaries or
6 any other format reproducing or capturing any of the Protected Material.

7 **14. RETROACTIVE EFFECT**

8 This Order shall apply retroactively to the date the instant Action was filed.
9 All materials produced during the course of the Action prior to the execution of this
10 Order that were designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL
11 – ATTORNEYS' EYES ONLY" shall be subject to the terms and conditions of this
12 Order.

13
14 **IT IS SO ORDERED:**



15
16
17 Dated: February 19, 2014

By: _____

Hon. David Douglas F. McCormick
United States Magistrate Judge

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

Acknowledgement and Agreement to be Bound

I, _____ [print or type full name] of

_____ [print or type full address] hereby declare and certify,
under penalty of perjury, that I understand that information, documents, and/or
things deemed trade secret, confidential, and/or proprietary may be provided to me
pursuant to the terms and restrictions of the Joint Protective Order in the case of
Meggitt (Orange County), Inc., et al. v. Nie Yongzhong, et al., Case No. SACV 13-
239 DOC (DFMx). I have been given a copy of, and have read the Joint Protective
Order, entered by the United States District Court for the Central District of
California on February ____, 2014. I understand the terms of the Joint Protective
Order, and that the trade secret, confidential, and/or proprietary materials that I
receive and my copies or notes relating thereto may only be disclosed and discussed
with those persons permitted by the Joint Protective Order to receive such
information – and I solemnly promise that I will not disclose in any manner any
information or item that is subject to the Joint Protective Order to any person or
entity except in strict compliance with the provisions of that Order. I agree, under
penalty of contempt and other civil remedies, to be bound by such terms, and I
understand and acknowledge that failure to so comply could expose me to sanctions
and punishment in the nature of contempt.

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

I hereby appoint _____ [print or type full name] of _____ [print or type full name and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of the Joint Protective Order.

Dated: _____

Signature

Name (Printed or Typed)

City and State where Sworn and Signed